



CITY COUNCIL DRAFT SUMMARY MINUTES

Special Meeting
January 31, 2022

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

Participating Remotely: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Absent: None

Closed Session

1. CONFERENCE WITH LABOR NEGOTIATORS City Designated Representatives: City Manager and his Designees Pursuant to Merit System Rules and Regulations (Ed Shikada, Kiely Nose, Rumi Portillo, Sandra Blanch, Nicholas Raisch, Tori Anthony, Molly Stump, and Terence Howzell); Employee Organization: Service Employees International Union (SEIU) Local 521, Utilities Management and Professional Association of Palo Alto (UMPAPA), Palo Alto Police Officers' Association (PAPOA), Palo Alto Police Management Association (PMA), International Association of Fire Fighters (IAFF) Local 1319, Palo Alto Fire Chiefs' Association (FCA), Management and Professional Employees (MGMT); Authority: Government Code Section 54957.6 (a).

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

Council Member DuBois stated Council passed by a 9-0 vote in 2018 an intention to move to open and transparent labor negotiations, and he hoped that would be implemented soon. While closed session would still be held to discuss negotiations, written offers would become public 2 days after being received. Decisions on wages, benefits, and future pensions are significant to the community from a fiscal perspective and to the ability to recruit and retain employees. The goal of this policy was appropriate transparency to provide timely and meaningful data while protecting the fairness and integrity of the bargaining process.

MOTION PASSED: 7-0

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

DRAFT SUMMARY MINUTES

Council returned from Closed Session at 7.22 P.M.

Mayor Burt announced no reportable action.

Agenda Changes, Additions, and Deletions

There were none.

Public Comment

Ivan Kissiov of Altaire Walk stated his neighborhood has been experiencing a crime wave, with 3 different occurrences in January. He stated there are over 100 families affected by their property being attacked and their safety being compromised. He urged the Council to put safety as a priority in the City.

Bill Burch asked the Council how engaged citizens should proceed regarding comments on Castilleja. He suggested directing citizens to submit comments regarding Castilleja in written form to be included in the weekly packets on those nights the school is not on the agenda, in order to allow the Council to focus on other important decisions.

James Dai, also of Altaire Walk, proposed that these were not random crimes and described ransacking of bike cages, theft from the mailroom and mailboxes, suspected identity theft. He urged the City Council to put more urgency to public safety and not just improving the businesses in the community. He supported raising public funding for the police and giving the community more public safety.

Scott Yoo, also a resident of Altaire Walk, related an incident in which his wife found a stranger sitting in the driver's seat of her vehicle with mask on, in the parking lot of the complex. The man ran when confronted. Mr. Yoo stated the police were unable to do anything because of a lack of resources and information. He echoed comments by the neighbors urging the City Council to take strong measures to stop this crime and felt those stealing from the community were confident they would not be caught because of a lack of resources.

Andrew, also living at Altaire, stated the safety of the complex has changed in the past 2 years. He stated the community has been victimized by thieves and added that it has been getting worse as the criminals have become confident they will not face consequences. He described robberies from the mailroom 3 consecutive weeks and break-ins even when there was nothing in the mailroom to steal. He also urged the City Council to make safety a top priority.

DRAFT SUMMARY MINUTES

Paige Cook, resident of Altaire Walk, described an incident on January 6 at 7:40 a.m. while preparing to walk her children to school in which an individual took 2 packages from the locked mailroom and then begin to look at the bicycles. Two days later at 2:30 in the afternoon, the same gentlemen were upstairs in a locked portion in the community. She asked for an increased investment in safety for the community and an increased presence.

Chase Garber, another resident of Altaire Walk Complex, related that his son's bike had recently been stolen. He stated properties crime can very easily escalate into violent crime and that the greater harm is not the loss of property but the loss of the psychological safety of the community. He urged the Council to prioritize investing in solving the problem and giving the police the resources they need to try to improve the situation.

Rebecca Eisenberg quoted California Government Code Section 54959, "A public official who intentionally deprives the public of information that he has reason to know the public is entitled to is guilty of a misdemeanor," and discussed that City Manager Ed Shikada has been providing 2 city manager updates, one to the City Council for their only and the other for the community at large. She felt this was worthy of an investigation.

Atul stated that if crime was not stopped, it was only a matter of time that it will spread and impact every Palo Alto resident and family. Not taking swift action erodes trust in the public system and elected resources. He believed this sent a message that it was okay to commit petty thefts and also emboldened thieves who may not hesitate to escalate because they believe it is their right to take others' property. He asked to make crime fighting a top priority for the City.

Sharon Lee-Nakayama spoke about the need for crime prevention at Altaire Walk. Since 2020, there have been seemingly weekly or daily thefts and break-ins, including the theft of a set of duplicate keys to all of Altaire Walk, requiring replacement all of door locks and residence keys. Thieves have jumped over the gates as well as cut holes in the metal fences to gain access into Altaire, terrorizing residents. Alta Torre, the senior residence next door, has also experienced higher amounts of theft. She urged the Council to consider providing funds and resources to combat the level of crime at Altaire and Alta Torre.

Chuck Jagoda stated Palo Alto is quite advanced in many ways and hoped the protections for renters and residents would be passed as a permanent condition. He described a regulation in San Jose that people who buy or own guns are responsible for self-indemnifying and have an insurance policy

DRAFT SUMMARY MINUTES

in case something happens as a result of it. He stated police violence is a problem and suggested requiring police to get insurance policies on themselves.

Lynn Chiapella requested that the council packets, including the informational reports, be distributed to at least 2 libraries. She stated for those who still read the printed page, it is very difficult to go through these packets online. She stated the housing report was very difficult to read online and very hard to compare information to previous reports.

Mayor Burt stated that the Council was not able to discuss items that were not agendaized but asked the City Manager to speak on the issues discussed in public comment.

City Manager Ed Shikada did not have information available on the packets being sent to libraries. He stated that the Palo Alto Police Department had reviewed the circumstances at Altaire Walk and were in communication with at least 1 resident. Residents were welcome to contact Mr. Shikada at citymgr@cityofpaloalto.org for more information about the police department review and recommendations. This was an evolving issue, and he wanted to ensure communication lines remain open. He appreciated the difficult issues residents were experiencing and would bring all existing resources to bear.

City Clerk Lesley Milton confirmed that Staff stopped sending council packets to the libraries because of COVID. The library staff had kept track of how many times people came in to look at the packets previously, and the number was not significant enough to continue it. She would be meeting with the library director the next day and would discuss possibly reinstating this and return back with an answer.

City Manager Shikada stated the library computers were another means by which to review the packets and felt the librarians would be happy to assist patrons to access the system.

Consent Calendar

2. Foothills Fire Mitigation and Safety Improvement Strategies, Staff Recommendations to City Council.

Vice Mayor Kou, Council Member Stone, and Mayor Burt registered a no vote on Agenda Item Number 2, and it will be agendaized for a future meeting.

Jonathan Erman was frustrated that tonight's meeting had not kept to the schedule because it was difficult to determine when public comments would

DRAFT SUMMARY MINUTES

be allowed. He stated the labor negotiations should not be a surprise and that Staff should be able to handle it in under the expected time. He felt this poor time management made it hard to have confidence in how the City is run.

Mayor Burt noted that Council had scheduled a break coming out of the labor session and deferred that because important discussion matters in closed session took longer than the scheduled time.

City Manager Comments

City Manager Ed Shikada provided an update on COVID-19 testing options and availability of test kits. He described a new website in beta with near-real-time information to provide community awareness of ongoing police response to calls for service. He listed several upcoming Lunar New Year celebrations and some tentative upcoming council items, including a virtual City Council retreat, midyear budget review, street closures, Cubberley update, Pets in Need, and the Grand Jury response on affordable housing.

Action Items

3. PUBLIC HEARING: Adoption of an Emergency Ordinance and Regular Ordinance Amending Palo Alto Municipal Code Section 9.68 (Relocation Assistance for No-Fault Evictions) by Reducing the Threshold for Applicability from 50 Units to 10 Units or a Lower Threshold. Environmental Assessment: Exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Council Member Stone recused himself from the item.

City Attorney Molly Stump suggested the recused member turn off his camera until the item is over.

Partnership for the Bay's Future Fellow Lauren Bigelow stated this was a simple amendment changing 1 number, and there was a demonstrated need in the community. The PTC recommended the City Council adopt the proposed ordinance to amend tenant relocation assistance to apply to structures or lots containing 10 or more units instead of 50 or more units. The PTC additionally suggested adding the definitions of "at-fault" and "no-fault" evictions from AB 1482 to the ordinance. The existing language was part of Chapter 9.68, Rental Housing Stabilization, which includes requirements for offering a 1-year written lease and relocation assistance for no-fault evictions. Tenant relocation assistance was currently applicable to lots with 50 or more units and was defined as monies paid to tenants who have been evicted through no fault of their own. She presented a chart

DRAFT SUMMARY MINUTES

showing the amount of rental units covered with the current versus draft ordinance. Amending this ordinance fall into alignment with several policy goals. Renter protections are an example of Affirmatively Furthering Fair Housing (AFFH), which has been named as a priority for the Housing and Community Development Department (HCD), and increasing community stability is a goal of the Comprehensive Plan. Tenant relocation assistance provides greater community stability by incentivizing keeping tenants in their homes. The PTC and Staff recommend the Council adopt the emergency and/or permanent ordinance lowering the threshold for relocation assistance from 50 units per property to 10 units per property for qualifying tenants as defined in the municipal code.

Mayor Burt asked City Attorney Stump to provide clarification on the voting requirements for passage of an emergency ordinance.

City Attorney Stump stated that under the municipal code, an emergency ordinance requires 4/5 of council members present and voting. With 6 members present, the Council would need 5 affirmative votes to pass the emergency ordinance. That would go into effect immediately. The regular ordinance was identical, and it was recommended, if Council was interested in these policies, to adopt both. The regular ordinance would act as a backstop if the emergency ordinance did not pass or if there were found to be a technical challenge to the emergency ordinance. It required a simple majority of all council members, which was a vote of 4, and a second reading in 30 days to go into effect.

Public Comment

Liz Gardner asked who at the City would oversee the rent ordinance and whether the City Council would review the progress of this ordinance yearly. She explained her difficulty in moving to a new rental because of strict requirements by landlords who claim to accept Section 8 renters. She stated she and her 2 school-age sons were active in the community, but the oppressive cost of rents in Palo Alto prohibited her family from evolving out of their current low-income demographic situation. She wanted the Council to understand what it is like to be very low income and trying to find safe, fair housing in Palo Alto.

Anil Babbar of the California Apartment Association stated the California Apartment Association was opposed to this shortsighted policy. Over the past 2 years, owners have suffered from a great amount of loss, and this proposal would compound an already difficult financial situation. He stated the PTC recommended the proposal reluctantly due to the lack of data

DRAFT SUMMARY MINUTES

demonstrating the need for this program, and he urged the Council to reject this measure.

Rebecca Eisenberg stated she is a landlord renting out a single-family home and strongly supported this ordinance and urged the Council to extend the ordinance to single-family homes, which constitute as many as 25% or more of the City's current tenants. This ordinance supports stability in communities. She objected to the requirement that Council Member Stone recuse himself. She stated a tenant finally exists on City Council and was removed from the ability to deliberate on and vote on the very issues he was elected for. She felt all council members who were landlords should also recuse themselves in that case.

Emily Ann Ramos spoke on behalf of SV@Home in support for the recommendation to adopt both the emergency and permanent ordinance. SV@Home advocated for a similar ordinance in 2018 when the residents of the President Hotel faced eviction without adequate relocation support and for a local urgency ordinance during the implementation of AB 1482. They were excited that this is the first of many tenant protection ordinances Council moved forward from November's council meeting and looked forward to seeing many more.

Julie Beer stated she was a disabled senior living in a 1-bedroom apartment with her husband. She favored the adoption of the relocation assistance program for no-fault evictions. She asked the Council to consider going down to 6 units instead of 10.

Christian Beauvoir, Palo Alto Renters Association, stated policies like this ordinance were a statement of values. Last week, hundreds of people rallied around a Palo Alto teacher who was getting evicted at no fault of his own because policy did not go far enough. Many people wished they could do more, and this vote was an opportunity to do more. Waiting on this could force more people out of the community away from their children's school, childcare that they have a waiver for, support systems, doctors, families, neighbors. In previous public comments, people said it was important that they felt safe in their community, but it was not possible to feel safe when the housing situation is insecure.

Winter Dellenbach supported the reduction to 10 units and felt an owner of 10 apartments could well afford relocation payments to no-fault tenants. She felt this would probably be more needed in the future and felt 50 units was way too much.

Katie Causey, renter and organizer for the Palo Alto Renters' Association, supported tenant relocation assistance. She stated it was not just urgently

DRAFT SUMMARY MINUTES

needed but was the appropriate and pragmatic next step for supporting the Palo Alto community.

Anna Toledano spoke in favor of renter protection and supported reducing the number of required units in the building to be covered. She thanked Ms. Bigelow for the work she has done for Palo Alto.

Jennifer Michel supported Mr. Beauvoir's comments and agreed with adopting the emergency ordinance and extending it to single-family dwellings. She stated not being able to come back into these neighborhoods was disappointing and devastating. Regarding previous comments, she stated that public engagement was time consuming and messy, required attention, and should not be taken for granted. She stated she has also been impacted by local crime increase but felt that the historically exclusionary practices of the City led to an increase of crime.

Vice Mayor Kou thanked Ms. Bigelow, Ms. Tanner, and Staff for the work done on this ordinance. She asked how criminal activity mentioned in Items F and I in AB 1482 would apply in the case of something allowed under state law but not federal law, for example marijuana use, when the tenant could be arrested and the property seized.

City Attorney Stump suspected mere use of marijuana, which was lawful under California law, would not allow a landlord to evict a tenant and avoid paying relocation. She was not aware of a situation in which a rental property owned by another party not involved in the alleged criminal activity would be seized.

Vice Mayor Kou wanted to have assurances for owners regarding risk of losing property due to somebody else's action. She asked someone from the PTC to speak about their discussion about evictions for which there is no specified cause.

Planning and Transportation Commission Chair Doria Summa stated there was a robust discussion because the PTC members needed clarification on many issues.

Assistant Director Tanner thought the way the ordinance was currently set up was that no specified cause would be considered a no-fault eviction. She noted that the reasons for an at-fault eviction were broad and quoted, "The tenant has violated a lawful obligation or covenant of the tenancy." If a

DRAFT SUMMARY MINUTES

tenant breaks any local, state, or federal laws, it could be grounds for an at-fault eviction.

Vice Mayor Kou wanted to discuss 5 units instead of 10. She gave the example of eviction proceedings under way for some residential properties located at Lane Court, 3 of which have 6 or 7 units. In the lending world, a lot of 1 to 4 units is considered residential, while anything above 5 units is considered a commercial property and qualified under different guidelines.

Council Member Cormack asked for clarification on the recommendations from the staff memo.

Assistant Director Tanner stated there was concern at the PTC regarding possible conflict on the definitions of "at-fault" and "no-fault" between the state level and local ordinance. A landlord may have an eviction considered at fault at the state level but no fault under the local ordinance or vice versa. The PTC thought there might be a benefit in aligning the definitions.

Council Member Cormack asked for examples of something that is not covered under the proposed ordinance but would be covered under AB 1482 definitions.

City Attorney Stump stated the words of the state and local ordinance were not identical but the intent and the topics covered were very similar. She stated the PTC might have been concerned about a situation in which a tenant decided at the end of a lease that they were ready to move and also tried to collect relocation assistance, claiming a no-fault eviction. It was difficult to see that any court would agree that relocation assistance would be owed by the owner in a situation in which the tenant was offered a new lease and elected to leave instead. She felt it was more straightforward to simply change the number and that the difference in language did not make a difference. There was no conflict between AB 1482 and this ordinance.

Council Member DuBois stated 1482 talks about minor versus substantial remodeling and asked what would constitute a residence being uninhabitable.

Assistant Director Tanner stated it would be that someone was unable to live there and the landlord was asking them to leave. It would tend to be larger-scale renovation related to the major systems or a level of safety.

DRAFT SUMMARY MINUTES

Council Member DuBois asked about the reverse situation of something minor like painting taking more than the 31 days in the ordinance.

City Attorney Stump stated this ordinance set up a regulatory requirement for everyone's behavior but did not make the City an administrative investigator and enforcement agency of this set of rules. The tenant needed to inform themselves about their rights, communicate with the landlord, and get assistance when they felt they needed it. She stated the City maintains a list of available resources to help tenants who are in distress or who have questions.

Mayor Burt asked about potentially financially strong landlords requiring each tenant to individually go through the courts to protect their rights.

City Attorney Stump stated the inequities and imbalance in resources, power, and knowledge were an issue. Cities can enter this with investigative and enforcement resources, involving a department with multiple staff people, investigators, attorneys, and administrative law judges. It was a resource question, and the resources could be somewhat intensive.

Mayor Burt suggested engaging with the County to prospectively provide resources and/or building into the ordinance a way in which tenants can group their cases together if they are being subjected to the same action by the same landlord.

City Attorney Stump stated landlord-tenant disputes were individual contractual matters and the City could not change the rules of civil procedure that govern what happens in court. A class action might be possible if the prerequisites were satisfied. That sometimes happens in large jurisdictions, but Palo Alto does not have that authority.

Assistant Director Tanner stated the County offers a similar mediation to that mandated through the City of Palo Alto, but Staff could see if the County has any resources available to Palo Alto residents.

Mayor Burt mentioned a case with a landlord flouting the current regulation regarding what constitutes a major remodel and was concerned that a stronger regulation that a landlord still flouts would not give much protection for tenants. He was interested in collaborating with the County to strengthen enforcement.

DRAFT SUMMARY MINUTES

Assistant Director Tanner stated the Council directed Staff to work on supporting tenant right to counsel efforts at the county level. That is not in place but is being pursued.

MOTION: Vice Mayor Kou moved to:

- A. Adopt the emergency ordinance lowering the threshold for relocation assistance from 50 units per property to 5 units per property for qualifying tenants as defined in the municipal code
- B. Adopt the permanent ordinance lowering the threshold for relocation assistance from 50 units per property to 5 units per property for qualifying tenants as defined in the municipal code
- C. Add AB 1482 definitions of at-fault and no-fault evictions to the ordinance.

MOTION STALLED for lack of a second.

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

- A. Adopt **Emergency Ordinance 5543** lowering the threshold for relocation assistance from 50 units per property to 10 units per property for qualifying tenants as defined in the municipal code
- B. Adopt the permanent ordinance lowering the threshold for relocation assistance from 50 units per property to 10 units per property for qualifying tenants as defined in the municipal code.

Council Member DuBois thought 10 units was a reasonable level. Respecting the City Attorney's opinion, he was comfortable with the current language.

Council Member Cormack looked forward to more data from the rental registry to help Council arrive at a different threshold. In the supplemental report, the PTC believed the ordinance was balanced in considering landlord and tenant concerns by choosing this number of units.

Vice Mayor Kou supported the motion. She did not want to see less stability for tenants in the City, even those in properties with lower numbers of units. She commented on an owner holding 3 different parcels with 6 or 7 units each being able to evict even though the total amount of units was more than 10 but felt 10 was better than 50. She hoped to revisit this in the future.

DRAFT SUMMARY MINUTES

Mayor Burt stated that the struggle with the threshold of 10 or 5 units is due to not wanting to impact mom-and-pop landlords and attempting to draw a line that would make that distinction. In other instances, large corporate entities own many units but some in individual properties. He asked if it would be permissible legally to require relocation assistance for individual 5-unit properties if the property owner owns, in aggregate, a defined number of units.

Assistant Director Tanner stated the law was currently structured around the number of units per property, and that suggestion would be both the per-property unit number and per owner. Sometimes owners of rental properties have an LLC for each property, and it could be a challenge.

City Attorney Stump did not want to regulate based on the identity or characteristics of the owner but did not have an answer regarding the aggregate number of units in the jurisdiction. She suggested Staff could look at it from a legal authority and administrative ability standpoint.

Mayor Burt asked if that could be done at the second reading of the permanent ordinance.

City Attorney Stump stated the municipal code allows no substantive change to the topic or coverage of the ordinance between the first and second readings. She asked Assistant Director Tanner to add that to the list of things for Staff to look at before coming back to Council.

Council Member Tanaka was concerned that, in the face of an affordable housing supply issue, this would actually raise the cost of housing. Landlords have mortgages and maintenance expenses and will necessarily pass the cost of the renter protection along. This would not increase the supply of affordable housing in the City and actually make it difficult for new families to come in. He did not see much outreach done to landlords and asked what has been done in terms of reaching out to property owners.

Assistant Director Tanner responded the understanding was Staff would come back expeditiously with this item and additional outreach would be carried out for the other items, several of which specifically indicated more outreach. Staff made sure that everyone who emailed the Council or gave contact information was aware this was coming to the PTC and to Council.

Council Member Tanaka felt if more people knew about this, there would have been more people calling and was concerned there was not good public outreach done. He wanted to hear from the smaller landlords. He asked when the ordinance would go into effect and asked what recourse landlords would have on this.

DRAFT SUMMARY MINUTES

Assistant Director Tanner stated the urgency ordinance would go into effect immediately if passed and the regular ordinance would go into effect 30 days after the second reading. She suggested people could lobby their council members to have the law reversed and the Council could agendaize that or not pass the second reading.

Council Member Tanaka stated there was not a lot of data on the need to go down to 10 units and felt this was premature. He wanted to hear from both sides and make a better decision rather than rushing into it.

Council Member Filseth thanked Staff and Ms. Bigelow for their work on this.

Mayor Burt responded to Council Member Tanaka's concerns. He stated a property with 10 one-bedroom units would generate \$360,000 around a year in gross, not survival income. This ordinance only applied to landlords doing major remodels and evicting good tenants not in violation and warranting legal eviction. There was no expense to a landlord unless they wished to evict tenants, upgrade the property, and, in doing so, make the property less affordable. This had gone through multiple public hearings and been widely publicized, with letters and public comments from both tenants and property owners.

Vice Mayor Kou commented that there was a way for landlords to request a waiver should they have a hardship and asked Staff to elaborate on that.

Assistant Director Tanner replied the waiver allows a property owner to assert there has been a taking of their property in certain circumstances. She believed it would be a court proceeding with the landlord providing evidence indicating the amount of relocation assistance reaches the level that is an unconstitutional taking of their property.

City Attorney Stump stated that providing an avenue for a waiver makes sure that if a landlord intends to make that argument in an extraordinary case, they make it first to the City, which then has an opportunity at the Council level to make an adjustment on a one-off basis. If there was still a dispute, they could go to court.

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

4. ~~Parks and Recreation Commission (PRC) Recommends that Council Direct Staff and the PRC to Assess and Conduct Public Outreach on a New Community Gymnasium Project in Palo Alto~~

This item was continued to March 7, 2022.

DRAFT SUMMARY MINUTES

5. Colleagues Memo: Consider sale of up to 1 millions gallons per day (MGD) of Individual Supply Guarantee (ISG).

Council Member Cormack, representative for the City of Palo Alto at the Bay Area Water Supply and Conservation Agency, stated the ISG was an agreement the 26 member agencies have amongst themselves, not a contract with the San Francisco Public Utilities Commission. Palo Alto's ISG was over 16 MGD, meaning the City could purchase up to that amount each year from the SFPUC. She presented a chart showing Palo Alto's has decreased water usage over time, with the projected usage for the future well below the ISG, demonstrating that the City will have enough water even with selling up to 1 MGD of the ISG. There was interest from multiple parties in BAWSCA if the City chooses to sell some of this. Expensive things will be required at the regional water quality control plant for the City to become more self-sufficient, and this was an opportunity to consider a policy allowing the City to make an investment in those things.

Mayor Burt addressed some concerns raised. In droughts, there are statewide mandates and directives to reduce water use, which apply whether or not Palo Alto's water supply system has ample water. The Hetch Hetchy system has the strongest drought resiliency of any water system in the state. Regarding the consideration of how the water would be used, he stated that cities have development plans and he welcomed using as an aspect of screening prospective acquirers that it not be predominantly for office development and not exacerbate the jobs-housing imbalance. He would welcome that as one aspect of how to screen prospective acquirers of the ISG.

Council Member Filseth stated the RHNA target calls for an increase in housing in the next 8 years of between 20% and 25% and asked how it is possible to grow the population that much and not use any more water.

Council Member Cormack explained that extending the trend for the reduction in conservation that continues to happen, there was an assumption that the per-capita use of water will continue to go down.

Mayor Burt pointed out that the graph shows a fairly significant reduction in water use following the last significant housing growth period around 2005 to 2008. A change to the architectural review ordinance in 2016 mandated that any major remodels or new development would have low-water-use indigenous landscaping as the preferred alternative. Those trends have led to significant decline in water use. The rebuild of the Hetch Hetchy system drastically increased water costs per gallon.

DRAFT SUMMARY MINUTES

Assistant Director of Utilities Karla Dailey agreed that per-capita water use was going down and overall water use was going up because of added population. The water use for landscaping becomes a smaller percentage of overall water demand in the more densely populated future.

Vice Mayor had concerns that building and RHNA will continue to increase. Even with reassurances, she worried about a shortage of water in the future.

Mayor Burt asked Staff for clarification on the graph on what assumptions are made past the current RHNA period.

Assistant Director Dailey stated the graph was based on Comp Plan population numbers. For 2030 and beyond, the graph was extended linearly from what was in the Comp Plan.

Mayor Burt clarified that it assumes the Comp Plan housing growth rate would continue at that growth rate all the way through 2045.

Assistant Director Dailey added that even if the full RHNA allocation were realized in Palo Alto, there would still be quite a bit of ISG left over.

Council Member DuBois asked if this was anticipated to be a permanent transfer for a one-time price.

Council Member Cormack stated that was the initial concept but added that no one has done this before and Staff might learn something while negotiating. There was further discussion about past transfers to East Palo Alto and Mountain View.

Council Member Stone asked if other agencies in California were doing this and could be used as a model.

Assistant Director Dailey stated the contract the agencies have with San Francisco requires that any transfer of ISG be permanent. She added that ISG was a unique feature and not a common tradable asset. There were not many players in California or across the country that can negotiate for this.

Council Member Stone was concerned about the permanency. He asked if Palo Alto's ISG would possibly be reduced in the future. because according to the chart, it had already been reduced one time.

Assistant Director Dailey answered it was guaranteed to remain at the same level unless the City transferred some. The dip on the graph was because of the 2017 transfer executed to East Palo Alto. This transfer would allow another party to buy more water from San Francisco; Palo Alto would be transferring the right to buy more water, not the water itself.

DRAFT SUMMARY MINUTES

Council Member Stone asked what the City could expect to make from the transfer. of 1 MGD.

Assistant Director Dailey explained that would be part of the research Staff would undertake and come back to Council with.

Council Member Cormack believed tens of millions of dollars was a ballpark for this pristine, high-quality water.

Council Member Tanaka asked how much water Mountain View transferred to East Palo Alto and how much they sold it for.

Assistant Director Dailey stated they sold 1 MGD for \$5M but that Mountain View has a different arrangement, with a minimum take obligation. They use less than that requirement and pay for water they cannot use, so that \$5M was to make up for some of the fees paid to San Francisco.

Council Member Tanaka inquired about the cost of the 120 hours of senior resource planner time needed, in order to assess the potential return on investment.

Mayor Burt stated at a rough level, it would be thousands of dollars in expense to potentially get tens of millions of dollars in income.

Council Member Tanaka stated that in 2018 when the City transferred 0.5 MGD to East Palo Alto, it was not worth anything. He wanted to understand how 1 MGD was now worth tens of millions of dollars.

Council Member Cormack stated the transfer to East Palo Alto was to rectify a problem that existed from decades before and was the neighborly thing to do. There was not a value at the time because there were no interested parties. Price will be determined by supply and demand, with demand potentially quite different now. Multiple BAWSCA agencies are interested in purchasing ISG. Much of the work involved in addressing the ISG transfer would be complementary to what the senior resource planner is already doing on One Water.

There was further discussion on the current and past value of the ISG.

Public Comment

Bill Ross stated it was difficult to comment on this colleagues memo because it did not have enough detail. He felt there was a need for full correspondence on the RHNA issue to make it accurate. He cited Code 56133, that a city may provide new or extended services outside its

DRAFT SUMMARY MINUTES

boundaries only if it first requests and receives approval from the commission of the county in which the affected territory is located. He asked for the list of potential water supply projects to understand what is actually proposed and felt residents did not engage in water conservation practices only to have the water transferred to another jurisdiction for mixed-use development.

Keith Bennett stated he has made significant financial efforts over the years to reduce personal water consumption in order to leave more water available for environmental needs, such as the Bay-Delta water flows and protection of fisheries, not supporting development somewhere else. He felt this one-time transaction was not sustainable and that the City had no recourse to get the water back if needed. He believed it was a bad idea and should end here.

Rebecca Eisenberg felt there were many other options for revenue generation beyond this. She believed water usage in the City was increasing, not decreasing. She felt if the Council encouraged using more low-water irrigation systems for landscaping, there would be a public policy to reward it. With the obligation to increase housing by 25% over the next years, demand will go up, which would also decrease supply, and she asked if this would increase cost for residents.

Lynn Chiapella wondered if water rates would go down or continue to go up and believed the increased rates have made people more conservation conscious than they would have been. She discussed trees being cut down and not replaced, faux grass going in to avoid paying for water, and trees in the City dying from lack of watering. She would not support this until the City dealt with the current water problems.

Assistant Director Dailey listed some things contributing to water conservation in Palo Alto, the water landscape ordinance, water conservation requirements built into the Green Building code, and water conservation programs administered by Valley Water, including a landscape replacement program.

Mayor Burt reiterated that the colleagues memo was a referral to begin to study deeper, not a comprehensive evaluation offering conclusions. He stated the only way this would impact water rates was if the dollars were used to further invest in the capital funding for advanced water recycling, which would potentially then reduce water costs modestly.

DRAFT SUMMARY MINUTES

Assistant Director Dailey added that Staff communicates frequently with Canopy and makes sure to include messaging about proper care of trees when putting out calls for using water efficiently. She explained that the water rates were driven by the need to maintain and upgrade the distribution system (not affected by ISG sale) and the rate paid for actual water from SFPUC. The more water San Francisco sells to the 26 agencies, the lower the commodity rate is. Buying less water from San Francisco actually results in higher rates.

Mayor Burt emphasized that the canopy and lawns in the parks had nothing to do with this. This proposal did not affect those things in any way.

Council Member Cormack added that in the event Palo Alto sold 1 MGD and it was used by someone else, that would increase the amount of water the SFPUC is selling, meaning the fixed costs were spread over a larger base, but it would be a minor change. She described some conservation programs noted on the City's website.

Council Member asked for Staff's opinion on the value of water rights currently and also asked how much the 120 hours of senior resource planner time would cost.

City Manager Ed Shikada stated the market is developing and it was unknown how this would ultimately play out.

Staff Utilities Director Dean Batchelor estimated it would be roughly \$12,000 to \$15,000 just for labor.

Council Member Tanaka stated this could be a very valuable asset given the increase in value over 4 years. With the current inflation rate and the systemic drought situation, he believed water would become even more valuable. He would only be in favor of this if there were an option to take it back, which he realized was not possible. He felt it was important to be cautious and felt less water was being used because it was a less comfortable environment.

Council Member DuBois asked if there would be a reduction in allocation during a drought.

Assistant Director Dailey stated that was correct and that during a water supply shortage, there was only a certain amount of water to be divided among the 26 agencies.

DRAFT SUMMARY MINUTES

Council Member DuBois felt it was important to look at what happens in a severe drought. This would be a permanent transfer, and he felt having this insurance in the case of a severe drought was important. He also felt the value might increase over time and did not see the urgency when there were already discussions about staff workload. He felt this should be deferred. this and not spend staff time on it right now.

Council Member Cormack explained that selling this and using the money to invest in recycled water would allow the City to prepare for future droughts. She did not think that 120 hours, 3 weeks of work, was a reason not to do this tonight. She did not see a scenario under which the City would get to this ISG level.

Council Member Stone questioned if this was the correct time to be selling water, especially in perpetuity, with population on the rise and a mega drought likely in the near future. He thought it was important to look long term, 50 to 100 years from today, especially given mandates that will continue to add greater demand and growth without any additional state resources to help cities accommodate that growth. He thought it was wise to be prudent with the water supply, not selling those rights.

Vice Mayor Kou felt that what Palo Alto residents see is they are conserving water, yet water rates continue to go up. Regarding the sale of water to East Palo Alto that allowed them to build more, she wondered how much of it was office space, how much their land increased, and what that did to displacement in East Palo Alto. She felt it was important to take care of Palo Alto and its residents first.

Mayor Burt stated the transfer of water to East Palo Alto was a social and racial justice decision. He believed the use of the water was East Palo Alto's decision to make. He thought the long-term future in water would be based on efficient use in agriculture, landscaping, and homes and in reuse from recycling and advanced recycling, which was an identified prospective use of these funds. That opportunity would remain out there if this did not move forward tonight. In a severe drought scenario, a 25% reduction would leave Palo Alto with 12.375 MGD. During the last drought, use was down to 8 MGD because use goes down in a drought, so the allocation was still 50% above the use in that severe drought. He felt this was an emotional issue and that lot of the concerns were not connected to the pragmatic impacts but more emotional associations. Palo Alto utilizes its water allocation at a lower percentage than any of the other BAWSCA agencies, so every one of

DRAFT SUMMARY MINUTES

them would be in trouble before Palo Alto would. He stated it was clear this was not the time to move forward on this and would not request a vote at this time. at which this would be well received by the Council or the community, so he would not support moving forward with requesting a vote on the colleagues memo at this time.

The Council deferred action on this item for future consideration.

Council Member Questions, Comments and Announcements

Council Member Cormack appreciated the Staff's informational report for Item 6 and felt it would be more helpful if it included a map. She mentioned order of voting as something for the Mayor, City Manager, and Clerk to consider making a decision on now that the Council is back remote.

Mayor Burt would work with the Clerk on that.

Council Member Tanaka wished everyone a Happy Chinese New Year.

Mayor Burt stated he represented Palo Alto at the Santa Clara County Cities Association and proposed that climate protection be one of the priority areas this year, with unanimous support. One thing this could mean for Palo Alto was looking at collaborations on different programs and efforts the City could do with other cities in the county. It could also mean collaborating on pursuing state legislation. An issue that has recently come up was that the City and Greenways do not have the leverage to force brokers to disclose the uses and final destiny of recycled materials, but the State would have such an ability as well as the ability to build in-state capacity for recycling and diminish the off-shoring of those materials. He shared concern on the violence and burglaries occurring in the community. The police department was being asked to respond to a significant uptick in incidents with significantly less staffing, which was a constraint on their ability for investigations and preventative measures. Mayor Burt asked the City Manager for a more in-depth report on the response to this ongoing wave of serious incidents and what it would take to have resources to respond more effectively. He finally spoke about Leonard Mello of the Public Works Department, who passed away this weekend. Mr. Mello will be greatly missed, and condolences were offered to his family.

Adjournment: The meeting was adjourned at 11:11 P.M in Honor of Public Works Engineering Department Staff Leonard Mello.