



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
June 16, 2020

The City Council of the City of Palo Alto met on this date via Virtual Teleconference at 5:03 P.M.

Participating Remotely: Cormack, DuBois, Filseth, Fine, Kniss, Kou, Tanaka

Absent:

Oral Communications

Jeremy Erman proclaimed that City Council (Council) exercised no effort over Staff regarding the Cubberley Lease and was frustrated that Council did not push back on Staff's recommendations or Staff's actions.

Jonathan Erman emphasized that the School Board and Council were not happy regarding the Cubberley Lease but were given no other choice by Staff but to sign it.

Action Items

- A. Adoption of Amendments to the City of Palo Alto Tobacco Retailer Permit Ordinance (Palo Alto Municipal Code Chapter 4.64) to Further Restrict Electronic Cigarette Products and Flavored Tobacco Products (CONTINUED FROM JUNE 8, 2020).

Lori Khoury stated that the new Tobacco Ordinance would decimate small businesses. She requested that an exemption be instilled in the Ordinance that grandfathered in businesses that sold flavored tobacco.

Naoko Fujii advised the City Council (Council) to adopt the Ordinance without exceptions. She believed only a complete ban would reduce access for teenagers.

Rachel Mesia reported that new evidence linked cigarette smoke and nicotine to H2 receptors which increased the binding sites for the Coronavirus (COVID-19). For this reason, she supported the proposed Ordinance.

Peter Rosenthal mentioned that Mac's Smoke shop is one of the oldest retail establishments in Palo Alto (City) and is the only store that sells the New York Times paper. He supported Mac's Smoke Shop statement to discontinue selling vaping products but sell flavored tobacco. He did not

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support the adoption of the Ordinance and requested that exceptions be put in place for flavored tobacco.

Erin McGauley Hebard urged the Council to adopt the Ordinance without exceptions. She mourned the loss of long-time businesses like Mac's Smoke Shop but wanted to see the youth of the City protected.

Raw Smoke Shop requested that the Santa Clara County Ordinance clarify that the Ordinance applies to unincorporated areas. He disclosed that flavoring and flavored tobacco are roughly 80 percent of all smoke shop's business and by banning it, those shops would be put out of business.

Nitya Marimuthu announced that she was a member of the Stanford Tobacco Prevention Advisory Board and that the Council should adopt the Ordinance with no exemptions.

Blythe Young asked the Council to pass a comprehensive flavored tobacco policy. Adult only exemptions were not the best practices, they were hard to enforce, and they did not work. She wanted to see public health put first.

Alan Eng remarked that Council should adopt the Vape Shop Ban without exemptions. He believed closing vape shops would bring better and more family-friendly businesses to the City.

Rebecca Eisenberg supported the proposed Vape Shop Ban. If restrictions were relaxed, Palo Alto was going to become the destination of youth looking for vaping and tobacco products.

Patricia McDaniel encouraged the Council to adopt the proposed Ordinance with no exemptions. Regarding the concerns about smoke shops going out of business, they were already declining in sales due to declining tobacco use in the State.

Bonnie Halper-Felsher had been studying tobacco use in youth for over 25 years and urged the City to adopt the Santa Clara County Department of Health Tobacco Permit Ordinance without exemptions. If it was not passed, teenagers were going to continue to buy products within the City without having their IDs checked.

Erwin Morton reported that the Parent-Teacher Association (PTA) Council was working for over a year on a Resolution regarding vaping and it was voted for adoption by 99 percent at the Annual Statewide Convention. He asked that Council protect children and adopt the Ordinance without exemptions.

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Roni Selig articulated three reasons why the Ordinance should be passed; flavors hooked kids, flavors masked tobacco-related risks, and flavors did not help adults quit smoking.

Jen Grand-Lejano affirmed that Council adopt the policy as written without any exemptions. She did not believe the Ordinance would cause businesses to close.

Eileen Kim encouraged Council to adopt a strong Ordinance that mirrored the Santa Clara County Ordinance without exemptions.

Jade Chao was the president of Palo Alto Council PTAs and reported that the community was suffering in terms of teen tobacco addiction. The City needed to take a stand in protecting youth.

Jessie Singh owned a smoke shop in the City for over 10 years and had a clean record regarding tobacco laws. He did not understand why the City would adopt an Ordinance that would shut down his business. He argued that flavored alcohol was also addictive for teens.

Annie Tegen testified in strong support of the Ordinance without exemptions to protect public health.

Amaya Wooding explained that indoor use of flavored and unflavored hookah was banned at the National level across much of the middle east. Flavored hookah needed to be banned from the City.

David Zoumut thought that kids were the parent's responsibility and adults should not be punished because kids were abusing the products. He noted that many people smoked hookahs because it was part of their culture.

Mayor Fine reiterated that at a prior Council meeting the Council voted 4-3 but several Council Members pulled the item for further review.

Council Member Kou interjected that there were more public speakers and Mayor Fine did not mention a limit on public speakers.

Mayor Fine clarified that it was mentioned who the final speaker would be.

Council Member Kniss recognized that vaping was a City-wide problem and did not see flavored tobacco rising to that same level of concern as vaping.

MOTION: Council Member Kniss moved, seconded by Vice Mayor DuBois to direct Staff to create an Ordinance with the following:

A. A complete ban on vaping;

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- B. To exempt adult-only stores to sell flavored tobacco products including cigar pipe, chewing, and paper cigarettes; and
- C. To exempt the onsite use of flavored tobacco products for currently permitted businesses.

Council Member Kniss visited Mac's Smoke Shop and she left there feeling confident that they checked IDs very carefully. Vaping was able to be controlled easier than flavored tobacco.

Vice Mayor DuBois clarified that there was majority support for a vaping ban, Mac's Smoke Shop supported a vaping ban, and this discussion was about vaping products. He believed that adults should be able to purchase tobacco products.

Molly Stump, City Attorney requested that the Council revise the Motion.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to change Motion, Part A to read, "...complete ban on the sale of vaping products".

MOTION AS AMENDED RESTATED: Council Member Kniss moved, seconded by Vice Mayor DuBois to direct Staff to create an Ordinance with the following:

- A. A complete ban on the sale of vaping products;
- B. To exempt adult-only stores to sell flavored tobacco products including cigar, pipes, chewing, and paper cigarettes; and
- C. To exempt the onsite use of flavored tobacco products for currently permitted businesses.

Council Member Tanaka agreed with Council Member Kou that more public speakers should be allowed to speak.

SUBSTITUTE MOTION: Council Member Tanaka moved, seconded by Council Member Cormack to adopt amendments to the City of Palo Alto Tobacco Retailer Permit Ordinance (Palo Alto Municipal Code Chapter 4.64) to further restrict electronic cigarette products and flavored tobacco products.

Council Member Cormack announced that Council has not discussed flavored tobacco. Flavored tobacco was not consistent with a healthy City. Adults had the right to buy tobacco products, but they should be able to buy them

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in the City. She referenced Annie Tegan's letter which stated menthol was a popular flavor among youth.

Mayor Fine reopened the public comment period.

Tricia Barr requested that Council adopt the Ordinance as written to prohibit the sale of flavored tobacco and e-cigarettes. This was about putting public health and youth first.

Carol B. was in favor of adopting the same language that was in the Santa Clara Council Ordinance, without exceptions or exemptions.

Xander Koo believed that tobacco products should be strongly regulated, but he wished to understand what was meant by adult only stores and whether that encompassed other smoke shops in the City. He suggested a phase-out plan be implemented so that stores would not be put out of business.

Grace Mah reminded the Council about a study that was done by the County Health Department. The study reported that the acquisition of e-cigarettes and e-liquids among teens was bought, 32 percent from someone else; 27 percent from the store themselves; and 14 percent from the internet. She supported a complete ban of flavored tobacco, no exceptions.

Lama Rimawi emphasized that smoke shops located close to schools were associated with tobacco use initiation and sustained tobacco use among adolescents.

James Hindery disclosed that he grew up in Palo Alto and that he had started using nicotine products at 14 years old. He completely supported the ban on flavored vaping and phasing out tobacco sales completely within the City. He concluded that alcohol was equally as dangerous.

Brian Davis was in favor of ending the sale of all flavored tobacco products and e-cigarette devices with no exemptions. He explained that hookah was popular in college towns and that hookah was more addictive than cigarettes.

Vanessa Marvin stated her disappointment in the Council regarding the exemptions that the Council was considering.

Karin Felsher strongly supported the complete restriction of flavored tobacco products, including in all retail locations. She noted that the flavor mint was very popular among her friends and that it was easy to walk into a smoke shop and obtain products as a teen.

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Bob Gordon reiterated that Ms. Felsher's comments were from someone who witnessed youth obtaining products from smoke shops illegally. He listed several health concerns and issues that were associated with hookah smoking.

Karina foresaw youth turning to black market sales and alcohol to cope with the ban of flavored products. She wanted to see a ban on alcohol if there was to be a ban on flavored tobacco products.

Council Member Kou repeated that enforcement was a nightmare, youth needed to have a healthy pathway as they grew up, and vaping was targeting younger ages. She supported the Substitute Motion.

Mayor Fine agreed with Vice Mayor DuBois's previous comments. He expressed concern around long time businesses being shut down and believed that adults should be able to buy products

SUBSTITUTE MOTION PASSED: 4-3 DuBois, Fine, Kniss no

Council took a break at 6:35 P.M. and returned at 6:43 P.M.

1. Direct Staff to Continue With the 2020 Sustainability and Climate Action Plan (S/CAP) Update and Evaluate the 2020 S/CAP Potential Goals and Key Actions (CONTINUED FROM JUNE 8, 2020).

Mayor Fine reminded the City Council (Council) as well as the public that sustainability and climate change was one of the Council's priorities.

Brad Eggleston, Director of Public Works shared that on April 13, 2020, the Council had a Study Session to review the Sustainability and Climate Action Plan (S/CAP) update process. At the Study Session, the public as well as Council Members expressed interest in making sure that Palo Alto (City) had proposed key actions that were robust enough that the City was able to achieve the 80 percent by 2030 Carbon Reduction Goal.

Christine Luong, Public Works Management Analyst remarked that the presentation was focused on high impact goals and key actions related to Greenhouse Gas (GHG) emissions and reductions. Energy, Mobility and Electric Vehicles were three components within the S/CAP that made a large impact when it came to GHG emissions. The Utilities Advisory Commission (UAC) reviewed the key actions for GHG emission reduction on May 20, 2020. All UAC Commissioners supported the continuation of the Carbon Neutral Gas Program. The main sources of GHG emissions were natural gas consumption in buildings and from gasoline and diesel vehicles. Carbon offsets were being purchased in an amount equal to the GHG emissions, but

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to reach the 2030 goal the City needed 300,000 metric tons (MT) of carbon dioxide equivalent reductions. Both the Energy Goal and the Mobility Goal were to reduce transportation GHG emissions by 80 percent by 2030. Areas with the highest potential of reducing GHG emissions included electrifying most residential buildings, significantly reduce fossil fuel use in large commercial buildings, significantly reduce Vehicle Miles Traveled (VMT), and electrify the majority of remaining vehicle trips. Once Council gave direction to Staff, AECOM was allowed to estimate the GHG reduction potentials, costs, and sustainability co-benefits. Staff planned to use AECOM's analysis to formulate options and funding that could be used to reach the 80 percent by 2030 goal. For Energy, Staff proposed 18 key actions, for Mobility Staff proposed 11 key actions, and for Electric Vehicles Staff proposed 15 key actions. Some key actions required legal review, voter approval, policy or ordinance changes and code changes. Staff's recommended Motion was for Council direct Staff to continue to work on the 2020 S/CAP updates.

Dan Adams requested that the S/CAP state that the people of the City are fully committed to a sustainable future.

Don Jackson urged the Council to read his letter regarding the proposal and suggestions regarding updated S/CAP goals. He urged Council to educate all residents about the need to reduce natural gas consumption.

Sandra Slater supported Mr. Jackson's comments and encouraged the Council to make the programs that AECOM studies as robust as possible.

Tom Kabat announced that he was on the City of Menlo Park's Environmental Quality Commission and looked forward to working with Palo Alto on the common issue of climate change.

David Coale pointed out that the City had flat-lined since 2013 in regard to working on S/CAP goals. He advised the Council to move away from incentives and not continue buying offsets for natural gas.

Justine Burt shared that all the infrastructure changes, building conversions, and traffic changes were to create jobs.

Kevin wanted to see aggressive actions taken by Council to combat climate change.

Bret Andersen expressed his appreciation regarding Staff's proposed actions and that those actions aligned with the 80 percent by 2030 goal.

Dashiell Leeds strongly supported the 80 percent below 1990 level by 2030 goal as well as supported Staff's Reach Goal. He predicted that the City was

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able to reach their target sooner than 2030 of electrifying 80 percent of existing City-owned buildings.

James Hindery did not believe lifestyle change was a reliable solution. He echoed Mr. Leed's comment regarding City-owned buildings.

Star Teachout strongly supported Council's continued work on the S/CAP and encouraged Council to be true leaders for other Cities. She believed the COVID-19 Pandemic has shown residents that driving patterns can change.

Kelsey Banes appreciated Staff for adding public comments and feedback into the S/CAP. Climate goals were not going to be reached unless the City's housing goals were reached. She wanted to see the potential impacts regarding land being used for people versus land being used for cars.

Alice Kaufman noted that the S/CAP should include adaptation strategies along with GHG emission reduction.

Tina Chow requested that Council take steps in helping homeowners convert their homes to all-electric appliances by improving the permitting process.

Shani Kleinhaus echoed the comments made by Mr. Leeds and Ms. Kaufman. She emphasized that native trees and plants were critical to achieve and sustain a natural environment. She requested that Council retain the goals that were within the original plan that Staff had removed.

Josie Gaillard remarked that the City of Menlo Park has come to the same conclusions that City Staff has presented to Council.

Julia Zeitlin urged the Council to find more sustainable and actionable ways to reach goals instead of buying natural gas offsets. Palo Alto needed to engage with other organizations and other City Councils.

Council Member Filseth agreed that emissions were not the only environmental axes the City needed to worry about. He asked if the steps made by Council thus far were considered as a low intervention.

Mr. Eggleston agreed with that assumption.

Council Member Filseth did not foresee the City hitting the goal of 80 percent carbon dioxide reduction by 2030 and that aggressive steps needed to happen. He pointed out that the only way the City was going to reach their goal was to ban cars and turn off natural gas.

Ms. Luong concurred with that assessment.

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Council Member Filseth declared there were three options the City could take. One was to move toward higher interventions like banning cars, the second option was to modify the 80 by 2030 goal or three, continue with low intervention items.

Mr. Eggleston added that because of the Reach Goals, the City was moving quickly in the right direction.

Ed Shikada, City Manager noted that carbon-neutral electricity was a moderate intervention.

Council Member Filseth agreed with that statement.

Vice Mayor DuBois inquired where the City needed help and what ideas could be moved forward immediately.

Mr. Eggleston answered that the consultants would help the City understand how far along the spectrum the City needed to go and model the impacts and carbon reductions the City would see from taking specific actions.

Vice Mayor DuBois encouraged Staff not to underestimate their expertise. He wanted to see a current draft of the key actions and key indicators.

Ms. Luong disclosed that the document online was the updated Report and included public suggestions.

Vice Mayor Dubois shared that in terms of mobility, the City needed to consider the impacts of the Coronavirus (COVID-19) Pandemic. He saw an opportunity to move forward with remote work options and focus more on those strategies. He liked the idea of becoming known as an Electric Vehicle City and encouraged electric vehicle ownership. He questioned what type of barriers there were for City-owned buildings reaching 100 percent electrification.

Mr. Eggleston disclosed that the goal was not mentioned until recently, but Staff planned to explore it more thoroughly in an upcoming Report they were going to be working on.

Council Member Cormack applauded the Staff for their hard work. She agreed that the City needed to take more aggressive actions. She requested that Council remember who the major industries were within the City before moving toward teleworking. In terms of funding, she wanted to review long term funding in the context of all the needs and not make that decision individually.

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Council Member Kniss wanted clarification on the City's permit system for all-electric homes as well as how much it would cost to convert a house to an all-electric.

Mr. Eggleston clarified that Staff would have to review the City's current infrastructure and see if all-electric homes Citywide could be supported by the City's grid.

Mr. Shikada agreed that the reinstallation of personal infrastructure was a huge issue, but incentive programs could be put in place to encourage the change to all-electric.

Council Member Kniss thought that a common complaint made by the public was that there were not enough electric chargers around the City for the number of electric cars. She reiterated that the City should provide a list of how much it costs to convert a home to all-electric.

Mr. Shikada disclosed that Council would be receiving figures on how much it was going to cost to convert an entire block to all-electric at a future meeting.

Council Member Tanaka commented that there must be a smooth ramping up for residents if there was to be a push to move homes to be all-electric. He suggested that Staff investigate offering rebates for residents that convert to a heat pump water heater. He agreed with Vice Mayor DuBois's comments regarding telework.

Council Member Kou was interested in investigating teleworking as well. She wanted to know more about how the City could use native plants and trees to reduce carbon.

Mayor Fine agreed that the City needed to move toward higher interventions to achieve the 80 percent by 2030 goal. Bill financing and an electrification mandate warranted broader community discussion. He agreed that transportation and housing needed to be explored more in terms of GHG emissions. He wanted to know if mandating all-electric homes was going to challenge the City's goal to build more housing. He asked if the City needed more tactical goals to achieve broader goals.

Sylvia Star-Lack, Transportation Manager answered that Staff would take suggestions for additional metrics.

Council Member Tanaka inquired if Staff had investigated providing incentives for buying electric bikes or scooters.

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Mr. Eggleston was not aware of any incentives.

Shiva Swaminathan, Senior Resource Planner interjected that there was funding for electric rebates and utilities that were considering providing incentives for electric bikes.

Council Member Tanaka wanted to encourage all forms of electric mobility.

Mr. Shikada added that the City was going to move forward with a scooter sharing program once the COVID-19 pandemic was over.

Council Member Tanaka suggested mitigations be made to help with electric bikes that were stolen. He predicted that protected bike lanes would encourage more casual bicyclists to use their bikes more.

Ms. Star-Lack responded that Staff planned to update the Bike Plan as well and mentioned there was a Grant Project underway that looked at protected or buffered bike lanes in South Palo Alto.

Vice Mayor DuBois restated that teleworking was thought to become part of normal life and he foresaw incentives that could be implemented to encourage more teleworking. He added that the City has slowed down on advanced metering and wanted to see a key indicator for biodiversity.

Mr. Eggleston shared that Staff would be open to having language about biodiversity and could explore that more.

MOTION: Vice Mayor DuBois moved, seconded by Mayor Fine to direct Staff to continue with its work on the 2020 Sustainability and Climate Action Plan (S/CAP) Update and the evaluation of 2020 S/CAP Potential Major Goals and Key Actions related to greenhouse gas emissions reduction and direct Staff to look at a key indicator for biodiversity.

Council Member Kniss supported the Motion but suggested that Staff come back with a list of items that could be implemented right away as well as the cost for those items and timing.

Council Member Cormack appreciated Council Member Kniss's comment regarding cost. She believed the next step included communication with residents regarding electrification.

Council Member Filseth thought the addition of communication to residents was good as well as Council Member Kniss's observation on costs.

Council Member Kou inquired if Staff had spoken to the business community regarding electrification.

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Mr. Eggleston shared that there had been outreach when it came to the Reach Code.

Ms. Luong added that a targeted outreach did not happen, but there were small business owners who attended the virtual workshop the City held.

Council Member Kou advised Staff to conduct targeted outreach toward businesses.

Ms. Luong disclosed that Staff was looking at proposing a Reach Code Ordinance for non-residential buildings which entailed further outreach to the business sector.

MOTION PASSED: 7-0

Council took a break at 8:33 P.M. and returned at 8:46 P.M.

2. Review of the Third Quarter Financial Report and Approval of Various Fiscal Year (FY) 2020 Budget Adjustments to Address Projected COVID-19 Impacts.

Kiely Nose, Chief Financial Officer and Director of Administrative Services acknowledged that the Report included year-end projections for the General Fund (GF) and specific recommended adjustments. Targets continued to move due to uncertain times, but the Third Quarter financials were still within expected conditions. In the Third Quarter Financial Report, 15 days reflected the Shelter in Place Order that went into effect on March 17, 2020, due to the Coronavirus (COVID-19). Initial findings for Transit Occupancy Tax (TOT) showed a dropped of 95 percent which resulted in a drop from \$2 to \$2.5 million received in monthly revenues to \$100,000 to \$200,000. For Documentary Transfer Taxes (DTT) there was a drop of 45 to 50 percent from prior-year levels. Staff did not know any more information regarding Sales Tax. Activities that generated a fee were dropping, but overall expenses were tracking below budget. Departmental expenses were 65 percent of the 2020 Budget and for 2019 the Budget was 67 percent expended. Overall, there was a \$23.7 million reduction in the GF Budgeted Revenues and that brought the total recommended budget estimates to \$210 million compared to the original 2020 adjusted budget of \$233.7 million. Staff was working hard to mitigate and manage the Budget so that the \$20 million reductions did not come from the Budget Stabilization Reserve (BSR). Included in the Report was a recommended \$12 million reduction in budgeted expenses to help offset the \$23.7 million reductions in revenues. With the proposed savings, the BSR was to endure a draw of \$11.7 million. Staff's recommended action was to review the Financial

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Report and amend the 2020 Budget Appropriation for the GF, the Capital Improvement Project Transfer and the Downtown BID.

James Hindery was concerned about funding being used for housing for the City Manager.

Xander Koo wanted to see more done by the City in terms of racial equities and saw that funding to the Police Department could be cut to help stabilize the Budget.

Onaiza agreed with Mr. Koo that funding should be pulled from the Police Department and used in other areas.

Vice Mayor DuBois explained that the City Manager was returning his housing stipend to the City and that funding was pulled from all departments, including the Police Department.

MOTION: Vice Mayor DuBois moved, seconded by Council Member Cormack to amend the Fiscal Year 2020 Budget Appropriation for various funds and various capital projects.

Council Member Cormack was comfortable with the most aggressive scenario that Council chose for the next Fiscal Year. She commended the Fire Department on managing their vacancies down and that 55 percent of the expense reductions came from the Capital Budget. She asked what the BSR looked like for the Fiscal Year 2021 if the BSR fell below the 15 percent mark for Fiscal Year 2020.

Ms. Nose divulged that the City would need an additional \$3.6 million to reach the Council recommended 18.5 percent target for the BSR.

Council Member Kniss inquired how many hotels accounted for the 95 percent reduction in TOT revenues.

Tarun Narayan, Manager of Treasury Debt & Investments answered that of the open hotels, 70 percent of the rooms were available but most of them had a 95 percent vacancy rate.

Council Member Kniss felt uneasy about where the City would be in December 2020. She assumed that with everyone working from home and City Hall partially occupied, that saved money.

Council Member Filseth thanked Staff for reducing the impacts to the BSR.

Mayor Fine asked if Staff was tracking COVID-19 impacts on a month to month basis.

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Ms. Nose explained that Staff formulated month by month projections.

Mayor Fine thought it would be helpful to have more frequent updates than just quarterly updates.

Council Member Tanaka inquired what the last Sales Tax numbers were for the last two weeks of the quarter.

Ms. Nose explained that the table showed the receipts that the City received for the Third Quarter for Sales Tax. That did not indicate the Sales Tax activity through Quarter Three.

Council Member Tanaka asked what Adjusted Budget meant.

Ms. Nose shared that the Council adopted a Budget and throughout the year the Council adjusted the Budget.

Council Member Tanaka requested how much money was spent on buying hotel rooms for employees.

Ms. Nose did not know that information.

Council Member Tanaka was concerned that the budget projections were way higher than the current situation for the TOT and the DTT.

Mr. Shikada noted that the projections were not before the Council and that the 5 percent for TOT was only for the last month of the quarter.

Council Member Kou questioned if there were new State proposals in place that affected the Educational Revenue Augmentation Fund (ERAF).

Ms. Nose explained that there was a formula on how to distribute ERAF funds but the formula was under question between several counties and the State.

Council Member Tanaka expressed that hotels had a hope that the City would align their TOT rate with surrounding Cities because hotel occupants were more price-oriented patrons than business travelers. He asked Staff to explain the increase in police overtime. He mentioned that he was sensitive to the public comments regarding the purchase of the City Manager's house at a time when many residents were going through hard times.

Ms. Nose claimed that the police overtime increase was due to backfill for workers' compensation vacancies, additional patrol services in the shopping districts and unforeseen incidences.

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MOTION PASSED: 6-1 Tanaka no

3. Discussion and Direction to Staff Regarding the: 1) Establishment of a Pension Funding Policy, 2) Approval of Contract Number C15159278 With Bartel Associates for a Six-year Term for Actuary Services in the Amount Not-to-Exceed of \$132,325, and 3) and Authorization to the City Manager to Execute a Contract Amendment Number 1 to Contract Number C15159278 to Increase Funding by \$97,675 for a Revised Total Not-to-Exceed \$230,000 for Additional Actuarial Consultant Work Related to Long-term Obligations for Pension and Retiree Health Liabilities (CONTINUED FROM JUNE 8, 2020).

Kiely Nose, Chief Financial Officer and Director of Administrative Services reported that Palo Alto (City) maintained the full 6.2 percent additional contributions to the 115 Trust Fund as well as the City's supplemental contributions.

Steve Guagliardo, Principal Management Analyst for Administrative Services disclosed that the Finance Committee discussed the item on October 15, 2019 meeting. Staff was seeking approval of the Contract and Amendment with Bartel Associates. Also, Staff planned to return to the City Council (Council) in the fall of 2020 for the final adoption of the Pension Policy. Staff reviewed the key principles of the Pension Policy and applied them through various elements that were discussed with the Finance Committee. The elements included funding goal and timeframe, funding components, allowable uses of funding, service delivery outcomes, and fiscal impacts. There was broad consensus among the Finance Committee to continue to pay the California Public Employees Retirement System (CalPERS) Actuarial Determined contribution, continue to use the lower Discount Rate to calculate the lower cost, and then transfer those funds over to the 115 Trust Fund on an annual basis. Finance Committee was interested in amending the Budget Stabilization Reserve (BSR) Policy and a onetime 1-year funding was reached in the 115 Trust Fund, the funds were transferred over to CalPERS as an additional discretionary payment. Staff continued to monitor CalPERS investment return year to date daily. Staff provided an example Pension Funding Policy for Council to consider and discuss.

Council Member Filseth reviewed the graph showing fiscal impacts for Miscellaneous if the Pension Plan was funded at a 6.2 percent Discount Rate for Normal Cost with a purpose to fund the pension to 90 percent within 10 years. He asked if the gray bar included both CalPERS calculation of the Normal Cost and payment towards amortizing the Unfunded Accrued Liability (UAL).

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Mr. Guagliardo confirmed that was correct.

Council Member Filseth stated that the UAL was calculated at 7 percent which meant that the true UAL was higher than was expressed by CalPERS.

Mr. Guagliardo restated that the graphs assumed that CalPERS would meet the 7 percent rate of return.

Council Member Filseth restated that the extra cost the City paid ensured that the future Liability did not grow bigger in the future. He inquired why extra money was sent to CalPERS and not put in the 115 Trust Fund.

Mr. Guagliardo noted that Council could direct Staff to go that route.

Council Member Filseth questioned if there were reasons to think that CalPERS investment returns were higher than the returns on the 115 Trust Fund.

Mr. Guagliardo explained that Staff predicted that the returns for the 115 Trust Fund were going to be 4.5 to 5.5 percent per year.

Ms. Nose indicated that the City would have to change the Risk Profile for the 115 Trust Fund if Council wished to see the same return that CalPERS did. She emphasized that Staff was seeking guidance from Council on what the intent was of the 115 Trust Fund and when did the City want that money to be available.

Council Member Filseth summarized that Council moved in a direction of separating from CalPERS because the City's money might not be safe with CalPERS.

Council Member Cormack requested Staff to explain what a Fresh Start meant.

Mr. Guagliardo shared that one option was a Fresh Start that looked at what the different bases were and figuring out how to do a Fresh Start without altering the CalPERS Contract. A Contractual Fresh Start locked the City in by resigning the contract with CalPERS; the Fresh Start determined what the new level would be, which was paid on an annual basis.

Council Member Cormack advised Staff to reexplain the stacked table graphs.

Mr. Guagliardo gave a brief recap of the graphs that were provided in the Council's Packet.

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Vice Mayor DuBois summarized that the Finance Committee agreed on a target funding level of 90 percent, there was support for additional cost-sharing from employee's overtime, and additional funding through the Budget process.

Council Member Kniss noted that the City was never going to catch up and was never going to be fully funded.

Council Member Tanaka questioned why new employees were not able to have 401k's.

Molly Stump, City Attorney declared that State Law prohibited new employees from having a 401k.

Council Member Tanaka specified that another way was for the City to contract work out as much as possible and limit City Staff.

Mr. Shikada clarified that changes in State Laws no longer allowed for core services to be contracted out for any organization.

Council Member Tanaka requested to know why the Finance Committee chose a mix between what the City was currently doing and a more aggressive approach.

Mayor Fine believed that the Finance Committee was concerned about Fresh Starts but leaned more towards the more aggressive approach with a targeted 90 percent funded.

Vice Mayor DuBois added that the Finance Committee agreed it should be funded over several years with a 90 percent funding target and no Fresh Start.

Council Member Tanaka questioned what the issue was with the concept of a Fresh Start.

Mr. Guagliardo articulated that targeting specific bases could have the same effect, without implementing a contractual Fresh Start.

Council Member Tanaka wanted to know what specific bases meant.

Mr. Guagliardo explained that any year CalPERS exceeded or fell short of their target investment return a new base was accumulated. That base was factored into the UAL, and it then was amortized over the CalPERS schedule.

Mayor Fine summarized that Staff's presentation was exactly what the Finance Committee had recommended, with the exception of the change

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that the BSR funds would be at the City Manager's discretion. He wondered if there should be more specificity regarding the BSR.

Ms. Nose articulated that Staff had included the City Manager's discretion to move contributions because of the flexibility of it. She emphasized that only when the BSR was over the 18.5 percent target was the City Manager able to make changes.

Vice Mayor DuBois specified that the percentage for the UAL matched the CalPERS rate.

Ms. Nose reported that in terms of the funding ratio, that was correct. She cautioned the Council to keep in mind the balance between being financially responsible and keeping an eye on where the rest of the State was with regard to employment.

Vice Mayor DuBois pointed out that cost-sharing with employees was not included in the Pension Policy example.

Mr. Guagliardo affirmed that it had to do with labor negotiations and Staff wanted to explore it more.

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

- A. Approve the example pension funding policy as outlined in Attachment C of Staff Report Number 11407;
- B. Approve and authorize the City Manager or his designee to execute Contract Number C15159278 with Bartel Associates, dated September 1, 2015, for an amount not to exceed \$132,325 for OPEB and pension actuary and analysis services; and
- C. Approve and authorize the City Manager or his designee to execute Amendment No. 1 to Contract Number C15159278 with Bartel Associates to increase the funding by \$97,675 for a revised total amount Not-To-Exceed \$230,000 for additional actuarial consultant work related to long-term obligations for pension and retiree health liabilities.

Council Member Cormack felt that the balance was right between paying off the debts but also preparing for the future.

Council Member Filseth mentioned that the big question was how big the 115 Trust Fund needed to get before the money was transferred back to

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CalPERS. He suggested Staff follow the Finance Committee's suggestions regarding that question. He disclosed that the target time to amortize 90 percent of the UAL and how much of the surplus was to be put into the 115 Trust Fund related to each other. He asked if the Miscellaneous Plan and Safety Plan needed to be treated differently.

Mr. Guagliardo reported that no decision was required.

Council Member Filseth inquired if the City was ever going to have to split the Miscellaneous Plan and the Safety Plan into two different 115 Trust Funds.

Mr. Guagliardo explained that the 115 Trust Fund was separated by fund and all funds from the GF as well as the Enterprise Funds were there. Staff was tracking the 115 Trust Fund from the safety units.

Council Member Filseth supported the concept of a Fresh Start, but not a Contractual Fresh Start.

Council Member Kniss was troubled by who was on the Board for CalPERS and supported the route that the City was moving forward with.

Council Member Tanaka questioned if Staff and the Council looked at what other Cities were doing.

Council Member Cormack noted that the City was leading in this area and there were no other examples.

Mary Beth Redding, Bartel Associates agreed with Council Member Cormack's comment.

Council Member Tanaka wanted to know what happened to the City's money if other cities were not able to make their payments to CalPERS.

Mr. Guagliardo stated that the City's funds were separate from other City's funds.

Ms. Nose added that under current laws and current contracts with CalPERS the City's money could not be funneled to other agencies.

Council Member Filseth emphasized that there was a moral hazard problem with CalPERS investments that the City needed to watch.

Council Member Tanaka did not understand why the City would not keep the money in a City fund and go for riskier returns.

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Ms. Nose commented that Council could revisit the policy and the investment strategy regarding the 115 Trust Fund at timed intervals.

Council Member Tanaka inquired if the Bartel Contract rates had changed.

Mr. Guagliardo confirmed that the rates have escalated over the years because of the Consumer Price Index (CPI) increases.

Ms. Redding added that the contract had not been requoted since the CPI rates had dropped.

Council Member Tanaka requested that the Motion be split into components.

Ms. Stump advised that the Motion could be split into sections.

MOTION SPLIT FOR THE PURPOSE OF VOTING

MOTION PART A PASSED: 7-0

MOTION PARTS B AND C PASSED: 6-1 Tanaka no

Adjournment: The meeting was adjourned at 11:12 P.M.