



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
January 27, 2020

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

Present: Cormack, Filseth, Fine, Kniss, Kou; Tanaka arrived at 6:07 P.M.

Absent: DuBois

Closed Session

1. CONFERENCE WITH CITY ATTORNEY-POTENTIAL LITIGATION
Subject: Implementation of California Assembly Bill 5 Effective January 1, 2020, Regarding Worker Classification
Authority: Potential Exposure to Litigation Under Government Code Section 54956.9(d)(2) (Multiple Potential Cases, as Defendant).

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

MOTION PASSED: 5-0 DuBois, Tanaka absent

Council went into Closed Session at 6:04 P.M.

Council returned from Closed Session at 7:05 P.M.

Mayor Fine announced no reportable action.

Agenda Changes, Additions and Deletions

None.

Oral Communications

Jack Morton remarked that Palo Alto needed to openly oppose State densification. Within Palo Alto, housing for low-income people was a challenge. He urged the Council to pull the plans for 2423 and 2453 Webster and use them as a test example of development in Palo Alto. Some action needed to be taken soon to stop the seceding of Palo Alto to offshore billionaires.

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Minutes Approval

2. Approval of Action Minutes for the January 13, 2020 Council Meeting.

MOTION: Council Member Kniss moved, seconded by Council Member Cormack to approve the Action Minutes for the January 13, 2020 Council Meeting.

MOTION PASSED: 6-0 DuBois absent

Consent Calendar

Michael Shonafelt, Crown Castle legal counsel addressing Agenda Item Number 3, referred to his January 24, 2020 letter and requested removal and continuance of the item so that the design could be modified to better comply with design standards.

Bill Ross, addressing Agenda Item Number 3 had no substantive comment in light of Mr. Shonafelt's request.

MOTION: Council Member Kniss moved, seconded by Council Member Cormack to approve Agenda Item Numbers 3-10.

3. QUASI-JUDICIAL: Deny Appeal by Crown Castle and Uphold the Director's Decisions to Deny Wireless Communication Facilities on Wood Utility Poles in the Public Right of Way (For Lease to Verizon, Known as Crown Castle Cluster 3) in six Locations Within the Downtown North Neighborhood [File 17PLN-00450], Zoned Public Facilities. Locations are Adjacent to These Zones/Addresses: RM-30 (205 Everett/251 Emerson, 243 Hawthorne, and 258 Waverley); RM-D (NP) (482 Everett and 301 Bryant); RM-15 (201 High). The Project is Exempt from the Provisions of the California Environmental Quality Act (CEQA) in Accordance with Public Resources Code Section 21080.
4. Review and Acceptance of the Annual Status Report on Development Impact Fees for Fiscal Year 2019.
5. Finance Committee Recommends the City Council: 1) Approve the Fiscal Year (FY) 2019 Comprehensive Annual Financial Report (CAFR); 2) Approve Amendments to the FY 2019 Budget in Various Funds; 3) Approve Recommended use of Excess General Fund Budget Stabilization Reserve Funds; and 4) Accept Macias Gini and O'Connell's Audit of the City of Palo Alto's Financial Statements as of June 30, 2019, and Management Letter.

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6. Resolution 9878 Entitled, "Resolution of the Council of the City of Palo Alto for the City of Palo Alto to Participate With the City of Sunnyvale in the Planning and Development of Cost Estimates for Potential Future use of the Sunnyvale Materials Recovery and Transfer Station (SMaRT Station) for Processing Solid Waste."
7. Policy and Services Committee and Staff Recommend the City Council Accept the Status Updates of the Audits of: 1) Citywide Cash Handling and Travel Expense; 2) Cable Franchise and Public Education and Government (PEG) Access Fees; 3) Continuous Monitoring: Overtime; and 4) Continuous Monitoring: Payments.
8. Authorization to Amend the Existing Legal Service Agreement With the Law Firm of Colantuono, Highsmith & Whatley, PC (Contract S17167696) to Increase the Contract Amount by an Additional \$125,000, Bringing the new Not-to-Exceed Amount of the Contract to \$295,000, and Increase the Term by one Year; and to Approve a Budget Amendment in the General Fund.
9. Authorization to Increase the Existing Legal Services Agreement (Contract S18170470) With Meyers Nave, a Professional Law Corporation by an Additional \$15,000 for a Total Not-to-Exceed Amount of \$205,000 and to Extend the Term to March 30, 2020.
10. Authorization to Amend the Existing Agreement for Litigation Defense Services with the Law Firm of Jarvis, Fay & Gibson (Contract S15159508) to Increase the Contract Amount by an Additional \$125,000 for a Total Not-to-Exceed Amount of \$820,000; and Approve a Budget Amendment in the General Fund.

MOTION PASSED: 6-0 DuBois absent

City Manager Comments

11. City Manager's Year in Review.

Ed Shikada, City Manager reported the Council Priorities for 2019 were Climate Change, Transportation and Traffic, Grade Separations and Fiscal Sustainability. For the first time, Staff had prepared a Work Plan for each Council Priority. Ordinances and measures that became effective in 2020 and that supported the Climate Change Priority included plastics reduction, REACH Code, decommissioning the sludge incinerator, an agreement with Valley Water and the City of Mountain View, the Reuse Zone, expansion of the Cool Block program, Bike Palo Alto Day and Electric Vehicle (EV) adoption. Projects supporting the Transportation and Traffic Priority included completion of the

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Charleston-Arastradero Corridor Project, a Ross Road after Study, a bike and scooter-share program and the shuttle program. In 2019, the Grade Separation Priority involved technical work, extensive communications and multiple community meetings. The Council took a number of steps in support of the Fiscal Sustainability Priority, including a City Services Guide and a potential revenue ballot measure. Ongoing multiyear efforts pertained to the Animal Shelter, art exhibits and programming, and community resiliency. Capital projects related to Fire Station 3, the Junior Museum and Zoo, pickleball courts, and the Highway 101 Bike Bridge. Projects for the Baylands Boardwalk and the Cubberley running track had been completed. In 2019, the Public Works Department achieved American Public Works Association reaccreditation; the Library received the Innovation Award; the Fire Department obtained Fire Service recertification; and the Utilities Department received the Smart Energy Provider Award and the Energy Innovator Award. Ten accomplishments anticipated in 2020 were planning for the Rail Corridor, opening the California Avenue Parking Garage, constructing the Public Safety Building (PSB), opening the Junior Museum and Zoo, updating the Sustainability and Climate Action Plan (S/CAP), replacing Fire Station 4, expanding the Bicycle Boulevard initiative, opening the Bike Bridge, expanding electrification options and launching a new City website.

Mayor Fine noted the new Baylands Boardwalk was a huge improvement. Recertification of the Fire Department was quite important.

Council Member Kniss asked which of the 2020 projects had the most challenges.

Mr. Shikada indicated grade separation would be challenging given the difficulty of choosing from the options.

Council Member Kniss inquired about new and innovative sustainability changes the City could initiate in 2020. Perhaps Greta Thunberg was able to visit the City.

Mr. Shikada advised that a visit from Ms. Thunberg could inspire the community.

Council Member Kniss suggested the Council host a night with Phil Bobel to discuss recycling. She asked if the City purchased recycled Products from Green Waste.

Mr. Shikada was not familiar with products the City might buy. As part of updating the S/CAP, the Public Works team was available for discussion.

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Council Member Kniss expressed interest in learning the details of recycling waste as China was no longer purchasing recyclable materials.

Mr. Shikada planned on asking Staff to prepare for discussion of recycling during the Council Retreat.

Council Member Cormack remarked that the Public Works team would be extremely busy with Construction Projects in 2020. The Council needed to provide them with the necessary support to accomplish the projects.

Council Member Kniss added that the Construction Projects were a good use of Transient Occupancy Tax (TOT) revenues.

Mayor Fine concurred with the statement that the view of the correct transportation or mobility improvements was subjective. The Council and Staff had many ideas of what could be done, but understanding which would positively affect parking and traffic was difficult. Goals were reducing travel time from South Palo Alto to University Avenue or reducing the amount of time searching for parking or the number of bike lanes paved or painted. Grade separations were one of the biggest challenges for the Council and required discipline and focus. He encouraged residents to review the City Services Guide.

NO ACTION TAKEN

Action Items

12. Staff Update and Council Consideration Regarding Polling Results, Analysis, and Public Outreach and Potential Direction Regarding a Possible Local Tax Ballot Measure for the 2020 Election.

Steve Guagliardo, Administrative Services Management Analyst reported the Council provided direction to Staff on September 16, 2019 regarding a ballot measure. During the fall of 2019, Staff, the Council and the Finance Committee (Committee) worked through the directions, and the Council discussed polling on December 2, 2019. On December 17, 2019, the Committee reached broad consensus regarding a number of elements of a Business Tax and referred some items to the Council for discussion. The Committee recommended the Council consider a Business Tax by employee headcount, a Parcel Tax by square footage, and Business Tax by square footage. A tax needed escalators, not a sunset provision, it needed to be implemented online, be administratively feasible and to be enforceable. The Finance Committee recommended the Council determine characteristics such as Specific or General Tax, the effected taxpayers, tiered or flat rate, tiers based on business use, and exemptions based on business use. The

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Committee requested Staff work on a metric for the average dollars by number of employees in comparable cities and develop proposed uses of the funds. Results of the initial public opinion poll was to be presented to the Council. Staff requested direction to continue progress on the topic and feedback regarding the type and metric of a tax, the target magnitude of revenues and tiers and exemptions. The Council needed to consider the structure, revenue and modeling and administration of a tax. He reviewed the voter passage rate, legally required exemptions, rate structure, Council policy exemptions, annual revenue, data source and administration of a Parcel Tax by square footage, a Business Tax by headcount, and a Business Tax by square footage.

Dave Metz, FM3 Research designed a Two-phase Survey Research Project. The initial phase made understood the broad parameters of public opinion regarding a Business Tax and identify preferences for structural elements of a tax. The initial survey was not designed to assess the viability of a tax. A second polling focused on the viability of potential tax measures. The survey interviewed 514 Palo Alto voters between January 13 and 20, 2020. The margin of error for the survey was 4.9 percent. About a third of voters indicated some need for additional funding while 38 percent indicated little need or no real need for additional funding. The numbers were similar to polls conducted over the past decade. In contrast to prior polls, a sizeable proportion of voters indicated they did not know enough to offer an evaluation. This difference was likely the result of the question being asked first rather than fourth or fifth as in prior polls. Seventy-seven percent of voters rated the cost of housing as a very serious problem, and 51 percent rated it as an extremely serious problem. Traffic and congestion on local streets and roads were also rated as very serious by 53 percent of voters. A modest number of issues were rated as very serious problems by less than three in ten voters. Only 13 percent of voters rated the amount local businesses pay in City taxes as a very serious problem; however, 48 percent indicated they did not have a clear opinion on the issue. The concern about homelessness had doubled since 2016 but was rated vastly lower in Palo Alto than in most parts of the Bay Area. Concern about the cost of housing had not changed over the past four years. Overall, the support for the concept of a Business Tax was broad with two-thirds of voters willing to support such a concept, but more than twice as many indicated they would be inclined to vote against it. Slightly more than one-quarter of voters indicated they would definitely vote yes. The lack of details was probably the reason for voters not indicating definite support or opposition to a Business Tax. Democrats were supportive. A majority of independents were also supportive but by a much narrower margin. Republicans opposed a tax by a margin of approximately 2:1. Women voters favored a tax by a 46 point margin, men by a 27 point margin. Age differences were relatively modest with voters under 50 supporting a tax at approximately the 70 percent level. About 60 percent of voters over 50

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supported a tax. Among voters who also owned businesses, support was comparable to voters who did not own businesses. Among the voters who saw a great need for additional funding, more than nine of ten supported the concept. The voters who expressed uncertainty about the need for additional funding were fairly supportive of a tax. About half of yes voters focused on the use of tax revenues. A sizeable amount of yes voters indicated businesses were undertaxed and needed to pay more. The dominant concerns expressed by opponents to a tax were taxes were already too high and the tax would have a negative impact on small businesses. After hearing a brief exchange of pro and con statements, the yes vote increased from 64 percent to 65 percent; the no vote increased from 27 percent to 30 percent, and the undecided vote was cut roughly in half. The issue of providing affordable housing was divisive for voters with 40 percent rating it extremely important and 19 percent rating it not important. The highest priorities were emergency communications, traffic congestion, seismic safety, and street and road improvements. Fifty four percent of voters rated providing subsidized housing for low-income residents as extremely important or very important. Maintaining City buildings was ranked as the lowest priority. A legal requirement that all funds be used as promised in the measure received the most support followed by a requirement for annual independent audits. A Parcel Tax based on square footage was the most popular tax structure with 70 percent support. A Business Tax based on headcount received 65 percent support. A Payroll Tax based on salaries received 53 percent support. Sixty-nine percent of voters supported an exemption for small businesses. An exemption for medical businesses received 53 percent support. Lower tax rates for small businesses received broad support, and lower tax rates for retail businesses received majority support. Forty-three percent of voters preferred a General Purpose Tax while 45 percent preferred a Special Purpose Tax. After hearing the pros and cons for a General Purpose Tax and a Special Purpose Tax, 42 percent favored a General Purpose Tax, and 50 percent favored a Special Purpose Tax. Use of the funds for improving transportation, providing more housing, and improving safety at railroad crossings received 84 percent support, 71 percent support, and 67 percent support respectively. When choosing one of the three uses, 41 percent of voters chose housing. Generally, younger voters prioritized housing. Voters preferred a tax with tiered rates over a flat-rate tax by a margin of 78 percent to 15 percent. After hearing the pros and cons of tiered rates and a flat rate, the numbers remained constant. Forty-eight percent of voters supported tax rates comparable to those in other cities while 30 percent supported tax rates higher than other cities' rates. After hearing pros and cons for higher rates, comparable rates, and lower rates, the preference for comparable rates held steady. After hearing pros and cons for the three mechanisms of a tax, support for a Parcel Tax based on square footage decreased from 70 percent to 48 percent; support for a Headcount Tax decreased from 65 percent to 57

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percent; and support for a Payroll Tax increased from 53 percent to 58 percent. Overall, voters seemed to be open to a Business Tax in concept, were split between a General Purpose Tax and a Special Purpose Tax, supported a tiered tax rate, supported a lower tax rate or exemption for small businesses, opposed a Parcel Tax based on square footage, and supported a tax rate comparable to that in surrounding communities.

Charles Heath, TBWB indicated an online survey would launch later in the week for businesses. The goals of the survey were to obtain a broad-based understanding of the variety of businesses in the community and to open a dialog with business leadership groups. The survey was to remain open for three weeks. Follow-up targeted businesses that seemed underrepresented in the survey. Information needed to be ready to share with the Committee in mid-February, 2020 and the Council in March, 2020 and prior to the next round of polling.

Mr. Guagliardo related that Figure 1 of the City Manager's Report (CMR) represented an initial step in addressing the Committee's request for a comparison of business taxes by employee. Numbers in the column entitled "Projected Total Employment in the City" were taken from projections prepared by the Association of Bay Area Governments (ABAG). Staff is working with the California Employee Development Department (EDD) to generate data for each city. A number of positions were legally exempted from a Headcount Tax. One percent of bonded revenue totaled \$21.1 million, 5 percent \$105.6 million, and 10 percent \$211.1 million. Choices for the Council were the tax method, taxation level and rate structure.

Kiely Nose, Director of Administrative Services and Chief Financial Officer cautioned that the projected average tax per employee could create a false narrative because it included exempt employees.

Charlie Weidanz, Palo Alto Chamber of Commerce noted there had been little outreach to the business community. A Headcount Tax was too much of a variable to be applied fairly and would affect small businesses too harshly. A Parcel Tax was unfair because it was passed to tenants. The discussion of using revenues for housing was slightly misleading in that two Affordable Housing Projects were approved in the prior six years, developers were not eager to build Affordable Housing Projects, land was not available, and developers were not able to afford land or renovation costs for Below Market Rate (BMR) housing.

Bob Moss commented that businesses were responsible for traffic congestion and the jobs/housing imbalance. A tax needed to be based on the number of employees because employees created the jobs/housing imbalance and traffic

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congestion. A Business Tax was fair if there were exemptions for nonprofits, educational services and businesses with less than 5 or 10 employees. The tax needed to be a General Tax.

Dan Kostenbauder, Silicon Valley Leadership Group felt support was limited for the idea that the City needed additional revenue. Silicon Valley Leadership Group supported a tax if it was a Special Tax. A study conducted approximately ten years ago found that businesses paid approximately 60 percent of City revenues. The absence of a Business Tax was a competitive advantage for the City of Palo Alto.

Tiffany Griego, Stanford Research Park requested the City prepare a fiscal impact analysis. Companies in Stanford Research Park generated approximately \$20 million per year in revenues for the City. Only 7 percent of survey respondents saw a great need for additional funding. Respondents believed the tax should be a Special Tax. Small business needed to be defined. If small businesses were exempt, a small minority of businesses were going to pay a Business Tax.

Keith Reckdahl urged the Council to institute a Business Tax and to consider all rail crossings, including Palo Alto Avenue, when determining the amount of revenues needed to fund grade separations.

Council took a break at 8:37 P.M. and returned at 8:49 P.M.

Mayor Fine requested comments from the Committee.

Council Member Cormack encouraged the Council and community to read CMR Number 10655 to understand the issues and the Committee's recommendations.

Mayor Fine added that the Committee felt a Headcount Tax would be the easiest to administer and would have the greatest nexus between uses and needs. The Committee was interested in an escalator and ease of administration and recommended the Council decide between a Specific or a General Tax.

Council Member Tanaka requested the data source file for the survey.

Mr. Metz agreed to provide it.

Council Member Tanaka asked if the survey included a question of whether the respondent worked in Palo Alto.

Mr. Metz advised that the question was removed from the survey.

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Council Member Tanaka felt more Palo Alto residents worked than owned a business.

Mr. Metz agreed to include the question in the next survey.

Council Member Tanaka noted Attachment A and requested the number represented by the language of "a growing number of successful businesses."

Ed Shikada, City Manager clarified that the phrase was not intended to be a statement of fact. It paraphrased an argument that a supporter might make.

Council Member Tanaka believed such statements should be true and quantifiable and wanted to know the source of the misconception that emergency communications needed updates and improvements.

Mr. Shikada explained that the option was intended to obtain a sense of voters' priority for emergency communications. The statement did not indicate there was a problem with the existing system.

Council Member Tanaka remarked that the reasons for needing additional tax revenues should be true. The City had one of the best emergency communications systems. Making statements solely to obtain voter approval of a tax seemed to be deceitful. If money was needed for grade separations, the statements needed to reflect that; the statements needed to represent the truth. He hoped ballot language would contain true statements. The Council ought not impose a tax just because the voters were for it. The Council did not know the amount of funds needed for grade separations; he thought the Council should identify the problem first and then find funds to solve the problem. He noted the decline in voters who believed the City needed additional funding and the increase in voters who believed the City was inefficient. The Council had to focus on transportation, identify the problem, determine the cost and then propose a tax. Some companies told him they would leave the City if the City imposed a Business Tax. The Council needed to direct Staff to conduct a Fiscal Impact Study. The polling seemed to indicate support for a lower or no tax on smaller businesses, but that shifted the tax burden to larger businesses.

Council Member Cormack asked if the question about public safety was included in the survey in order to compare it to prior polls.

Mr. Metz answered yes. The question included a range of uses for tax revenues that had been tested in prior surveys. The base case ballot measure concept used in the survey did not mention public safety or 9-1-1 communications as part of the package.

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Council Member Cormack did not believe lying or deceit had occurred in the survey.

Council Member Filseth inquired regarding the degree of prescriptiveness of a Special Purpose Tax.

Molly Stump, City Attorney advised that the Council could determine the specificity.

Council Member Filseth asked if a tax designated for housing and transportation could be a Special Purpose Tax.

Ms. Stump indicated a Special Purpose Tax could be described at a fairly high level of generality.

Council Member Filseth inquired whether a General Purpose Tax with an advisory measure was an option.

Ms. Stump replied yes. At one point, the two were discussed as a way to propose a General Purpose Tax with a clear and solid intention for its use. However, general intentions were typically incorporated into the ballot question.

Ms. Nose added that some level of reporting on the use of revenues could be required in the measure.

Ms. Stump reported the Council had the option to adopt a Resolution or Ordinance to express their intentions for a General Purpose Tax. The Resolution or Ordinance was able to be amended at a later time.

Council Member Filseth asked whether headcount or payroll was easier to measure.

Ms. Nose related that payroll was extremely difficult to measure.

Council Member Filseth inquired whether building square footage was easy to measure.

Ms. Nose stated each of the proposed tax structures had issues. Cities had figured out ways to implement each structure. A Business Tax based on square footage was more difficult to measure than a Parcel Tax based on square footage.

Council Member Kniss requested comment on the statement that Palo Alto was the only City in California without a Business Tax.

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Ms. Nose needed to research the matter.

Council Member Kniss asked if the changes reflected in polling since 2016 were also reflected in other cities polls.

Mr. Metz reported the conceptual support found in Palo Alto was probably the same across the Bay Area.

Council Member Kniss requested comment regarding the difference between affordable housing and subsidized housing.

Mr. Metz clarified that half of voters heard the question about affordable housing and half the question about subsidized housing. Subsidized housing was ranked slightly lower than affordable housing.

Council Member Kniss expressed concern that people viewed the two descriptions quite differently. If a ballot measure mentioned housing, the intention was subsidized housing. She questioned the perception a voter had of a Special Tax for housing and transportation.

Mr. Metz explained that a second round of polling identified the public's perception. In the first round, the voters' reaction to subsidized housing was neither negative nor as positive as affordable housing. The two descriptions yielded significantly different results.

Council Member Kou asked if the survey gauged the community's interests and needs.

Mr. Metz advised that the viability of a tax measure could not be determined from the results. The goal of the data was to provide a sense of the community's enthusiasm and understanding for a tax measure.

Council Member Kou noted public safety and emergency preparedness continued to be primary concerns. Perhaps the language of "due to a growing number of successful businesses" was to be revised to "high growth of large tech businesses." She inquired whether a second round of more focused polling or a business survey was to occur next.

Ms. Nose reported the Work Plan included the option for a second round of refined polling. In order to conduct a second round, the focus of polling had to be narrowed.

Council Member Kou asked if a survey of businesses was to occur next.

Ms. Nose clarified that stakeholder outreach to businesses was to occur.

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Council Member Kou requested Staff include Midtown and Charleston Plaza businesses in outreach. She inquired whether voters knew that hotels were highly taxed when responding to survey questions.

Mr. Metz indicated that type of information would be included in a second poll if the Council wanted to include hospitality businesses in a tax measure.

Council Member Kou asked if survey respondents knew that Palo Alto did not have a tax and that surrounding cities did have a tax.

Mr. Metz reiterated that that would be included in a second round of polling.

Council Member Kou suggested polling include the fact that companies paid only a one-time Development Impact Fee. She inquired whether a survey question included the types of housing from luxury to BMR.

Mr. Metz related that a second survey gauged interest in types of housing if the Council focused a measure on housing. Most research around the Bay Area showed that voters were enthusiastic about providing more housing at all levels, particularly for middle-income and BMR families.

Council Member Kou wanted to ensure the community understood that BMR housing was funded by the City.

Mayor Fine believed there was a tension between responding to and taking advantage of polling and advancing the community's and City's interests. He inquired whether the next step of polling was to test the approximate ballot language of a Business Tax.

Mr. Metz reported a second round could indicate whether a tax model was viable for the November, 2020 election.

Mayor Fine asked if Staff would begin working with the Business Stakeholder Group.

Mr. Guagliardo clarified that stakeholder engagement was to begin prior to a second round of polling and continue with discussion of polling results.

Mayor Fine asked if a Citizen Oversight Committee had been used previously and how it functioned.

Ms. Nose advised that the Council could determine whether oversight was annual reporting or formation of a committee.

Mayor Fine asked if the language of the Stormwater Measure included the structure of the oversight committee.

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Ms. Nose did not recall whether the ballot language set out the structure.

Mayor Fine inquired whether other cities used an escalator equal to the Bay Area Consumer Price Index (CPI) with a cap.

Ms. Nose responded yes.

Mayor Fine felt a definition of small business and rate tiers were primary concerns for the Council. The Council needed to understand the size of Palo Alto businesses and the consequences of rate tiers on small businesses. He inquired whether other cities were considering a tax measure for November.

Ms. Nose advised that a survey of cities' proposed ballot measures was underway, and Staff could provide information from it at the appropriate time.

Mayor Fine inquired regarding the possibility of proposing a 2020 or 2022 Parcel Tax to fund affordable housing.

Ms. Nose indicated the Council could decide to explore such a Parcel Tax; however, Staff workload and ballot saturation needed to be considered.

Mayor Fine interpreted the polling data as "housing was a priority." The Committee discussed a Business Tax as a nexus to transportation. A Headcount Tax with an exemption or discounted rate for small businesses was preferable. Transportation and grade separation had the clearest nexus to a Business Tax and had good support among the community.

MOTION: Council Member Tanaka moved, seconded by Council Member Kniss to direct Staff to develop a potential local tax ballot measure including but not limited to:

- A. Business Tax by Employee Headcount;
- B. Tiered tax rate; and
- C. A specific tax.

Council Member Tanaka remarked that transportation had a clear nexus to a Business Tax. A Headcount Tax was easiest to administer. Tiered rates were logical given the number of small businesses in the community.

Council Member Kniss inquired about prior engagement with the business community. Approval of a Business Tax required the support of the business community.

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Mr. Shikada reported little engagement had occurred with the business community. Based on Council direction, Staff had sufficient details to engage the business community.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part C. "... related to transportation.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part C. "... and housing."

Council Member Tanaka expressed concern about a nexus between a Business Tax and housing.

Council Member Kniss asked if the Motion should contain language regarding ease of administration and payment of a tax.

Ms. Nose suggested the Council provide feedback for all elements of the Committee's recommendation.

Council Member Tanaka agreed with using an escalator; however, the amount of the escalator needed to be determined annually.

Council Member Kniss asked if a Business Tax typically included a sunset provision.

Mr. Guagliardo reported many recent Business Taxes did not include sunset provisions. The Council had options for an escalator.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion "consider an escalator as a preference." (New Part D)

Council Member Kniss agreed to not including a sunset provision.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Online and administratively easy filing available, including having some ability to enforce the filings." (New Part E)

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Direct Staff to do a fiscal impact study." (New Part F)

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INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion as new Part G, "0.5 percent of the General Fund."

MOTION AS AMENDED RESTATED: Council Member Tanaka moved, seconded by Council Member Kniss to direct Staff to develop a potential local tax ballot measure including, but not limited to:

- A. Business Tax by Employee Headcount;
- B. Tiered tax rate;
- C. A specific tax related to transportation and housing;
- D. Consider an escalator as a preference;
- E. Online and administratively easy filing available, including having some ability to enforce the filings;
- F. Direct Staff to do a fiscal impact study; and
- G. 0.5 percent of the General Fund.

SUBSTITUTE MOTION: Council Member Cormack moved, seconded by Council Member Filseth to direct Staff to develop a potential local tax ballot measure including, but not limited to:

- A. General Business Tax based on Employee Headcount;
- B. Raises approximately \$10 million per year;
- C. Used for transportation projects and services;
- D. Tiers with no additional exemptions that charges small businesses a flat minimal amount; and
- E. Includes an annual reporting requirement and an escalator clause.

Council Member Cormack referred to the nexus and ease of administering a Headcount Tax. Five percent of the General Fund needed to be the upper limit for tax revenues. \$10 million was 4.3 percent of the General Fund and 7.6 percent of the current amount of tax revenues. San Francisco was an outlier rather than a comparable city. The tax was able to provide \$100 million over time toward transportation needs, which were significant. A tiered tax rate was progressive. The Council needed data before determining exemptions. Small businesses needed register and pay a small fee in order to provide the

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City with data. The earliest tax revenues were able to be collected was two years from now. A Specific Tax restricted funds and allowed the community to see inflows and outflows; however, the City's future needs were possibly different. A Parcel Tax was a great and stable means to produce affordable housing.

Council Member Filseth noted grade separations would improve traffic rather than safety. The Council probably wanted to hear the business community's priorities. At this point, use of the revenues for housing needed not be precluded. He thought the Council should not rely on the State or region to balance housing and jobs. The 4 percent range was able to be adjusted as data was collected. A Nominal Tax on small businesses was logical. The tax was probably not likely to drive many companies away from Palo Alto.

Council Member Kniss felt \$10 million a year was high. She inquired about a mechanism to ensure revenues were used for Transportation Projects and services.

Council Member Cormack indicated the Motion included an annual reporting requirement. With transportation as a community priority, the future Council was likely to utilize revenues for large Transportation Projects.

Council Member Kniss did not support a General Tax. Businesses were likely more comfortable with a Specific Tax.

Council Member Tanaka proposed adding a Fiscal Impact Study to the Substitute Motion.

Council Member Cormack requested Staff comment regarding the work involved in such a Study.

Mr. Shikada reported a Study could be very elaborate and include a Consultant's Report. The conclusions of any consultant was expected to be attacked. Staff discussed holding a forum of experts with a variety of perspectives and then providing the experts' opinions to the Council. The Council was going to have to draft a scope of work for a Fiscal Impact Study.

Council Member Cormack asked if Mr. Shikada's comments were interpreted as a Fiscal Impact Study and they may not be helpful to the Council.

Mr. Shikada clarified that Staff would have to establish credibility for an analysis and potential impacts on the business environment.

Council Member Cormack inquired whether data from other cities' experiences was helpful.

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Mr. Shikada advised that preparing an economic model that included data from other cities was a significant undertaking.

Ms. Nose indicated the City was unique in that other cities had revised an existing Business Tax.

Council Member Filseth added that the usefulness of a Fiscal Impact Study depended on the scope of work.

Council Member Cormack recalled a statement that this type of information could be identified during stakeholder outreach.

Council Member Filseth did not object to some understanding of the impacts.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Substitute Motion, "direct Staff to do a fiscal impact study." (New Part F)

Council Member Tanaka concurred that \$10 million was too high because many Palo Alto businesses were small or were startups. Other cities had large companies that generated high profits. Mr. Levy, an expert in fiscal issues, had not recommended exceeding 2 percent.

Council Member Kou asked if the item would return to the Committee or the Council.

Mr. Shikada thought the Council should determine next steps.

Council Member Cormack suggested the Fiscal Impact Study and rate tiers return to the Committee in February, 2020, and the remaining items return to the Council in March, 2020.

Mr. Guagliardo reported preparing a Fiscal Impact Study to present to the Committee in February, 2020 would be more than ambitious.

Council Member Kniss remarked that a ballot measure had to be filed in August, 2020.

Mr. Guagliardo indicated the last date to file a ballot measure was August 7, 2020.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Substitute Motion, "bring this back to Council directly." (New Part G)

Council Member Kou noted small business had to be defined.

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Ms. Nose advised that Staff define small business as part of the modeling.

Council Member Kou asked if Staff or an independent party would prepare annual reporting.

Council Member Cormack replied Staff.

Ms. Nose related that the annual reporting could be a Staff Report, an internal audit or a component of the Comprehensive Annual Financial Report (CAFR).

Council Member Kou requested a portion of tax revenues be used for BMR housing.

Council Member Cormack asked if Council Member Kou wished to designate a dollar amount or a percentage.

Council Member Filseth proposed reviewing the second round of polling before adding housing.

Council Member Cormack commented that learning whether support increased or decreased would be interesting. Comments about the description of affordable housing were incredibly important.

Council Member Filseth indicated there was some nexus between employment and demand for affordable housing.

Mr. Shikada asked if the Council wanted business community feedback on the inclusion of housing.

Council Member Filseth replied yes.

Council Member Cormack concurred. She inquired whether polling questions could refer to transportation or transportation and affordable housing.

Mr. Metz advised that it would be manageable. As long as each model contained some specificity, the two models were able to be compared.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Substitute Motion Part C, "... or transportation and affordable housing."

Mr. Shikada requested Part F be revised to direct Staff to study fiscal and business impacts through the stakeholder engagement process.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to amend the Substitute Motion Part F to

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state “direct staff to study fiscal and business impacts through the stakeholder engagement process.”

Mayor Fine asked if a Business Tax on a utility would be passed to ratepayers.

Ms. Nose explained that the City of Palo Alto Utilities, as an agency of a municipal government, was exempt from a Business Tax.

Council Member Cormack noted another city, perhaps Cupertino, had exempted utilities from a Business Tax.

Ms. Stump advised that few cities offered all public utilities.

Ms. Nose indicated Staff would investigate the issue.

Mayor Fine felt a General Tax supporting grade separation today and potentially climate change in the future made some sense. An advisory provided some confidence that revenues would be spent responsibly. The \$10 million was higher than he had considered but was reasonable. If the Council advanced a Business Tax, business development services were necessary.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Substitute Motion Part F, “... and recommend an economic development program.”

Council Member Kniss requested a timeline for next steps.

Mr. Guagliardo reported the Council would discuss polling in February, 2020.

Ms. Nose indicated the Council discussion would probably occur in March, 2020.

Council Member Tanaka proposed a subcommittee discuss polling and make recommendations to the Council.

SUBSTITUTE MOTION AS AMENDED RESTATED: Council Member Cormack moved, seconded by Council Member Filseth to direct Staff to develop a potential local tax ballot measure including, but not limited to:

- A. General Business Tax based on Employee Headcount;
- B. Raise approximately \$10 million per year;
- C. Used for transportation projects and services or transportation and affordable housing;

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- D. Tiers with no additional exemptions that charge small businesses a flat minimal amount;
- E. Include an annual reporting requirement and an escalator clause;
- F. Direct Staff to study fiscal and business impacts through the stakeholder engagement process, and recommend an economic development program; and
- G. Bring this back to City Council directly.

SUBSTITUTE MOTION AS AMENDED PASSED: 4-2 Kniss, Tanaka no, DuBois absent

- 13. Approval of: 1) Agreement Between the City of Palo Alto Representing the Cable Joint Powers and Midpeninsula Community Media Center, Inc. for Public, Education, and Government Access (PEG) Channel Support Services; 2) Memorandum of Understanding (MOU) Between the Cable Joint Powers Covering the use of PEG Fees; 3) Contribution Agreement With Midpeninsula Community Media Center, Inc. in the Amount of \$511,536, Equivalent to PEG Fees Used for Council Chambers Upgrade Project; and 4) Amendment to the Fiscal Year 2020 Budget Appropriation in the Technology Fund.

David Ramberg, Assistant Director of Administrative Services reported the Council governed the Cable Joint Powers Authority (JPA). Cable franchise holders paid Public, Education, and Government (PEG) Access Fees of approximately \$300,000 for the use of right-of-way for cable distribution infrastructure. The Midpeninsula Community Media Center (Media Center) was the designated provider of PEG and the recipient of PEG Fees. In 2019, the Council directed Staff to pursue a building purchase. However, the current structure of the JPA was not able to hold title to real property, and PEG revenues were declining. Staff proposed a grant process whereby JPA cities would provide PEG revenue to the Media Center in the amount of PEG Projects within the individual cities. In this way, PEG revenues were provided to the Media Center more quickly. A grant process was able to be implemented under the existing JPA. This was a good short-term solution while Staff learned about future PEG revenues. The grant process was available to any entity in the JPA service area, and any PEG-related Project was eligible for a grant. The project had to have approved funding by the entity. PEG revenue equivalent to the value of the project was sent to the entity, and the entity sent unrestricted funds in the same amount to the Media Center. The Media Center utilized the funds to support operations. JPA members had either approved the process or were scheduled to approve it pending City of Palo

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Alto approval. The Media Center's Board of Directors had approved the process.

Sue Purdy Pelosi, Midpeninsula Community Media Center believed support of community creativity built a vital and vibrant community and economy. Everyone needed the opportunity to learn to use the latest technologies. Media literacy helped people interpret and respond effectively to messages. The Media Center offered numerous classes, and its 300 volunteers created hundreds of programs. The agreements allowed the Media Center to form stronger bonds with JPA cities.

Mayor Fine commented on the great service the Media Center provided the community. The long-term viability of PEG revenues was an issue.

MOTION: Mayor Fine moved, seconded by Council Member Kniss to:

- A. Approve a five-year agreement between the City of Palo Alto, representing the Cable Joint Powers (cities of Palo Alto, East Palo Alto, and Menlo Park, the Town of Atherton and portions of San Mateo and Santa Clara counties), and Midpeninsula Community Media Center, Inc., for public, education, and government (PEG) access channel support services;
- B. Approve and authorize the City Manager to execute a Memorandum of Understanding (MOU) between the Cable Joint Powers covering the use of PEG support fees paid by Comcast, AT&T, and any other State Franchisee;
- C. Approve and authorize the City Manager to execute a contribution agreement between the City of Palo Alto and the Midpeninsula Community Media Center, Inc., in the amount of \$511,536, equivalent to the amount in PEG support fees to be expended by the City on the Council Chambers Upgrade project;
- D. Amend the Fiscal Year 2020 Budget Appropriation Ordinance for the Technology Fund by:
 - i. Recognizing \$511,536 in Revenue from Other Agency for the City Council Chambers Upgrade (TE-19001) capital project; and
 - ii. Appropriating \$511,536 for Inter-Agency Expenses for Media Center operations.

Council Member Kniss concurred with Mayor Fine's comments.

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Council Member Filseth agreed that a five year agreement was preferable to a 20 year agreement given the changing market and technology.

Council Member Cormack appreciated the creative proposal.

MOTION PASSED: 6-0 DuBois absent

State/Federal Legislation Update/Action

None.

Council Member Questions, Comments and Announcements

Council Member Cormack reported the Bay Area Water Supply and Conservation Agency water transfer did not occur. The San Francisco Creek Joint Powers Authority was preparing an amendment to the agreement based on a name change. The Ad Hoc Committee for City Boards and Commissions presented a report at the end of February. The new Art Center exhibit was excellent.

Council Member Kou advised that the Santa Clara/Santa Cruz Community Roundtable had adopted a good Strategic Plan and Work Plan. The Local Policy Makers Group (LPMG) received a presentation from High Speed Rail and Caltrain. The Caltrain Business Plan was going to be complete in the spring.

Council Member Kniss indicated the Silicon Valley Leadership Group's housing solutions summit was held the prior week. She announced she had been reelected to the Bay Area Air Quality Management District.

Mayor Fine noted the Council Retreat was scheduled for Saturday at 8:30 A.M.

Adjournment: The meeting was adjourned at 10:49 P.M.