



CITY COUNCIL SUMMARY MINUTES

Special Meeting
January 24, 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

Study Session

1. Report from the Human Relations Commission regarding their project titled "100 Community Conversations on Race and the Lived Experience in Palo Alto."

Community Services Director Kristen O’Kane announced that Human Relations Commission (HRC) will present their work on racial equity. Recent accomplishments for the HRC included their report on black and brown history in Palo Alto and their recommendations regarding the initiative “8 Can’t Wait”.

Human Relations Commission Chair Kaloma Smith explained that after the death for George Floyd, the HRC was charged with making recommendations regarding the “8 Can’t Wait” initiative. Through that process, HRC discovered a deep reservoir of lived experiences from black and brown individuals within the City. HRC facilitated small peer group gatherings with individuals who do not normally meet together to discuss diversity and inclusion issues within the City. HRC provided a format to individuals to help guide the discussion and was successful in facilitating 33 conversations with 212 participants. The majority of the participants were white older females with few Asian American representatives. The initiative’s goal was accomplished by facilitating discussions with 30 percent of the participants who have never had a conversation about race. It was discovered that issues of racism are compounded by increased economic disparity and a loss of sense of place and belonging. Through a discussion with a group of older white females, the participants expressed that they no longer feel a sense of belonging within the City. Another discovery through the conversations was that white privilege is barely understood by the dominant local population. Moving forward, HRC recommended that the City enhance inclusion and sense of belonging through policies, housing, education and community engagement. Through community engagement, HRC encouraged different

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ethnic groups to participate in actives that they normally do not participate in to strengthen the sense of community. Many folks wanted to see the Palo Alto Police Department be more innovative and less reactive. Regarding housing, many folks were concerned that different ethnicities and people of color would not be able to access affordable housing within the City. Folks wanted to see more emphasis on inclusion in schools and less emphasis on test scores.

Mayor Burt inquired if Staff had any other comments they wished to make.

Ms. O’Kane disclosed that there are no other presentations or comments.

Council Member Cormack remarked that she did participate in the training for the initiative, did lead a conversation and found the experience very enlightening. The Four Corners activity was a meaningful way to put oneself in someone else’s shoes and she encouraged the Council to participate in the exercise at their retreat. The plan did not include experiences of the Asian-American and Pacific Islander community members and she believed that was a missed opportunity. Regarding the sense of community being limited, she supported the concept of having the community as a whole engage in other different events to strength the sense of community. She inquired what concepts were HRC recommending when it recommended that Council prioritize belonging as a 2022 Council Priority.

Mr. Smith suggested the Council explore changing who leads the City’s Police Department and strengthen diversity training for City Commissions, Boards and Council.

Council Cormack supported having further in-depth diversity training for all City Commissions, Boards and Council.

Council Member DuBois agreed that the trial for the three officers involved in George Floyd’s death is a reminder that the City must be clear about duty to intervene and other police policies. He asked if the HRC is still requesting to have more members be appointed to the Commission.

Mr. Smith answered that there are seven members on the HRC and the HRC has taken on special Council projects as well as normal duties. With such a heavy workload, he strongly supported having more members on the HRC.

Council Member Dubois recommended that Council discuss whether to expand the HRC. He supported having belonging as a Council priority of 2022 or as a priority for the HRC’s Work Plan. He requested that Mr. Smith elaborate on the comment that folks tend to stick with activities they are comfortable with.

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Mr. Smith explained that it is human tenancy to follow folks who share the same beliefs, background, hobbies etc. It is important for the City to make space or hold events that allows different groups to intermingle with each other.

Council Member DuBois encouraged HRC to place belonging on their Work Plan.

Human Resources Commissioner Adriane Eberle added that folks discussed during the conversations potential events that could bring different groups together.

Valerie Stinger noted that there are many organizations in Palo Alto who want to hold such events and be a part of the community gatherings.

Council Member Stone agreed with Council Member DuBois to reevaluate how many Members are on the HRC. He did not support the Commissioner's having to volunteer 15 to 20-hours a week to carry the HRC Work Plan forward. He stated that the community conversations were long overdue and he really appreciated the work of the HRC. Through the conversations, he was hopeful that the City can draft more concrete proposals and policies to facilitate change within the community. He encouraged the HRC to continue to brainstorm proposals and policies. He supported having more robust diversity training for City Boards, Commissions and Council. He asked if HRC or Staff have followed up with individuals who expressed interest in understanding more about the lived experiences of the community.

Mr. Smith shared that Ms. Stinger has sent out follow up emails to several people. He noted that many folks expressed they wanted to see policies, next steps, actions, and community dialog. The HRC will perform further outreach once those steps are in place.

Council Member Stone believed that the follow up will be helpful to further the initiative forward. He inquired what additional resources would be helpful to hold additional conversations.

Mr. Smith explained that if there was more marketing help and Council expressing support of the conversations.

Council Member Tanaka thanked the HRC for their work and the outreach. He appreciated the comments about the HRC's workload and encouraged Council to reinstate more Members to the HRC. He agreed that not having Asian-American representation and discussions about Asian-American hate

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crimes was a missed opportunity. He recommended that the HRC explore Asian-American hate crimes and identify potential ways to reduce them.

Mr. Smith agreed that Asian-American experiences should have been included.

Vice Mayor Kou echoed the Council's gratitude for HRC's work. She inquired what type of collaboration has there been between Palo Alto Unified School District, other schools and the City on the topic.

Mr. Smith announced that a staff member from the school invited the HRC to participate in the 21 Days of Equity that Palo Alto Unified School District held. HRC invited that same staff member to participate in the conversations. HRC did not have the bandwidth to include all schools in the City.

Vice Mayor Kou asked if HRC reached out to the City/School Liaison Committee.

Mr. Smith proclaimed that it is a goal of his.

Deputy City Manager Chantal Cotton Gaines confirmed that Staff has been working on a training for City Boards and Commissions for the month of March 2022. Staff is exploring how to insert equity into the work of the Boards and Commissions as well as how address equity in the City's different departments.

Mayor Burt saw the initiative as an outstanding effort to reach out to hard to reach community groups. He agreed that the relationship with the City of East Palo Alto is an opportunity to bring together the two communities through churches, schools, organizations, events and more. He inquired if HRC plans to explore additional opportunities to leverage resources and how can the City further institutional change.

Mr. Smith stated that HRC did not have the bandwidth to engage the City of East Palo Alto in the conversations. The focus was to gather folks living within Palo Alto. He restated that Staff has been very helpful and hardworking, but agreed that with more Commissioners. The HRC can engage with more communities, more groups, and more ethnicities. Regarding how to facilitate a change, the first step was diverse hiring, then provide adequate training and education for new hires and finally, intentionally write policies and create work that allowed for diversity and equity to flourish.

Public Comments

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Aram James mentioned that his was happy to hear that the Police Chief was leaving the Police Department. He recommended that the City analyze racism in the Palo Alto Police Department and then draft policies and accountability measures to address it. He explained that the citizens of the City of East Palo Alto have horrendous experiences with the Palo Alto Police Department. He mentioned that there are few residents who attend HRC meetings and he encouraged Council to provide more resources and more marketing to HRC. He concluded that the City should hold an election and allow the community to vote in a Police Chief they support.

Kat Snyder strongly supported the Council making belonging a priority for 2022. She recommended having discussions with Dr. Rona Hu and hear her perspective regarding hate crimes. She encouraged the City to promote bystander intervention trainings. She referenced Albuquerque, New Mexico's Anti-Asian Hate Law and recommended the Council review how they addressed belonging.

Bob Wenzlau appreciated the work the City is doing with sibling cities through Neighbors Abroad, Commissioner trainings and Staff's work on the topic.

Rebecca Eisenberg applauded the report, the constructive measures taken and the thorough Council conversation. She explained that the historical, now eliminated, restrictive covenants within real estate had eliminated the opportunity for most people of color to buy within the City at the time when housing was affordable. Also, the Tinsley Program is not enough to facilitate inclusion and diversity within City schools. She supported the comments made by Mr. James regarding the Palo Alto Police Department.

Mary Sylvester appreciated HRC for their tireless work on behalf of the community. She strongly recommended that Council increase the HRC's capacity in terms of membership, City Staff resources and funding. She found it disheartening to hear that HRC lacked the resources to reach out to the City of East Palo Alto and local private schools. She supported Council Member Tanaka's recommendation of having more Asian-American representation on the HRC.

Ms. Smith thanked Ms. Stinger for continuing to work on the initiative even after her term on the HRC expired. Also, he thanked Council for giving the HRC more responsibility.

Mayor Burt remarked that the City must continue to invest in community inclusiveness and diversity. He looked forward to seeing HRC's proposed Work Plan and additional next steps for "100 Community Conversations on Race and the Lived Experience in Palo Alto."

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NO ACTION TAKEN

Agenda Changes, Additions and Deletions

None

Public Comment

Kerry Yarkin expressed shock to hear that Staff announced at the Planning and Transportation Commission (PTC) meeting where they discussed Castilleja School that the school self-disclosed in 2015 to the City that they were over their allowed enrollment cap. The neighbors were the ones who filed complaints with the City for 15-years that Castilleja School was over enrollment. She strongly recommended that the City use a fair broker and not City Staff.

Aram James wanted to see more than one candidate for the Chief of Police position and that the City allow the community to ask them questions.

Rita Vrhel announced she made a Public Records Request in June of 2021 and did not receive any approval documentation for the Melville Public Utility Easement. She recalled that at the recent PTC meeting, Staff confirmed that the easement was approved. She articulated that she sent an email to the City Manager and the Utilities Department requesting an explanation and status for the Melville Public Utility Easement. She wanted to understand who will be financially responsible if there is damage to the utility lines while Castilleja School is building its underground tunnel to the proposed underground garage.

Mary Sylvester agreed that there were many concerning factors that happened at the PTC meeting where they discussed the Castilleja School Expansion Project. She mentioned that Commissioner Hechtman notified the other Commissioners and the public mid-way through the meeting that he had ex parte communications with Castilleja School's attorney. She wanted to understand who initiated the conversation, what was the content of the discussion and why did Castilleja School's new attorney not speak with every Member of the PTC?

Keith Bennett, a representative of Save Palo Alto's Groundwater, addressed greenhouse gas emission impacts from two proposed projects that requested zoning changes. Both 660 University Avenue and Castilleja School were proposing two levels of underground construction. The amount of concrete for each project was significant and will result in large quantities of carbon dioxide emissions. He urged the City not to provide Zoning Variance to allow the second level underground constructions for both projects.

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Rebecca Ward remarked that the proposed Ground Based Augmentation (GBAS) overlay is an airport project and not a Federal Aviation Administration (FAA) mandate. She recommended the project be paused due to problems with the surfer route, it will result in more aircrafts flying over the City and will increase noise from San Francisco, CA (SFO) flights flying below 3,500-feet. She encouraged the City to formally object to the use of GBAS until it fully understands the ramifications and the project goes through the review process.

Neva Yarkin mentioned that if approved, Castilleja School will have an additional 125 students which will intensify neighborhood traffic. Parents will begin dropping off students further away from the campus to avoid congestion. She agreed with the previous speaker about the carbon dioxide emissions the underground garage will have. She expressed concern that the City will not be able to accommodate future expansions of Stanford University or Palo Alto High School if the project is approved.

Rebecca Eisenberg referenced an article in the Post that disclosed that City Manager Ed Shikada may have engaged in actions that violates the Brown Act. She recommended the violation be investigated by a third-party. She echoed the comments made by previous speakers regarding Castilleja School.

Mark Shull concurred that SFO's GBAS Overlay will significantly impact Palo Alto because the City is directly underneath the flight path. The project will move more flights over the City, increase airplane noise, exacerbate the underlying problems with the surfer route and will continue to allow surfer arrivers to drop below altitude restriction.

Ken Horowitz commented that the Downtown Library was recently closed and the closure has impacted the downtown community. He requested that the library be allowed to be opened at least 8-hours each week. He inquired if the City should do district-based elections for Council Members to encourage better representation of the entire City.

Jonathan Erman appreciated Mr. James' musical performance during his comments. He was frustrated that the City's solution to affordable housing was to only build more housing. The existing system incentivized higher prices for houses and he encouraged a system that incentivizes folks to sell to folks who make less money.

Rob Levitsky announced that he spoke to Council in May of 2015 about the Melville Utility Easement that Castilleja School proposes to acquire. Castilleja School cannot have egress/ingress access to their proposed underground garage without using 15-feet of the easement. No one in the

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City is allowed access to a utility easement and would be denied if they asked for it. He inquired if the City Manager has approved the easement to be shifted by 15-feet to allow Castilleja School to have their underground tunnel. He supported the previous speaker's comments regarding the amount of concrete needed for the underground garage.

Mayor Burt announced that he had no knowledge of the PTC Commissioner Hechtman's meeting with Castilleja School's attorney.

Consent Calendar

Rebecca Eisenberg remarked that Palo Alto is the only city in the State of California that does not have a Business License Tax and that should be considered during any analysis of Development Impact Fees.

Cedric Pitot de La Beaujardiere commented on Item Three of the Consent Calendar. He appreciated that the City decommissioned the sewage incinerator. He mentioned there is space within the City to haul dewatering bio-solids and he encouraged the City to explore it further.

MOTION: Council Member DuBois moved, seconded by Vice Mayor Kou to approve Items 2-10.

2. Approve Minutes from the January 10, 2022 City Council Meeting.
3. Approval of General Services Contract with Denali Water Solutions, LLC for Sludge Hauling Services in an Amount Not to Exceed \$2,427,084 for a 3-Year Term ending March 30, 2025, from the Wastewater Treatment Enterprise Fund.
4. Review and Acceptance of Annual Status Report on Development Impact Fees for Fiscal Year 2021.
5. Acceptance of the Macias Gini & O'Connell Audit of the City of Palo Alto's Financial Statements as of June 30, 2021 and the Management Letter; Approval of the FY 2021 Annual Comprehensive Financial Report (ACFR); and Amendments to the FY 2021 Budget in Various Funds.
6. Adoption of **Resolution 10014** Declaring Weeds to be a Public Nuisance and Setting January 24, 2022 for a Public Hearing for Objections to the Proposed Weed Abatement.
7. Adoption of **Resolution 10015** Scheduling the City Council Summer Break and Winter Closure for 2022.

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8. Adoption of **Resolution 10016** Authorizing Use of Teleconferencing for Council Meetings During Covid-19 State of Emergency.
9. SECOND READING: Adopt Park Improvement **Ordinance 5541** for the Replacement of the Palo Alto Flood Basin Tide Gate Structure in the City's Baylands (FIRST READING: January 10, 2022 PASSED: 7-0).
10. SECOND READING: Adoption of Interim **Ordinance 5542** Amending Titles 16, 18 and 21 in Response to Senate Bills 9 and 478, Including Amendment to the City's Affordable Housing Requirements for SB 9 Projects. CEQA Status: This Action is not Considered a Project or is Exempt from CEQA in Accordance With Government Code Sections 66411.7(n) and 65852.21(j) or Section 15061 of the State CEQA Guidelines. (FIRST READING: January 10, 2022 PASSED: 7-0).

ITEM 4 OF MOTION PASSED: 6-1, Tanaka no

Council Tanaka shared that he is concerned about high rate of Development Fees. It may discourage housing from being built within the City and reduce revenue for the City.

ITEMS 2-3, 5-10 OF MOTION PASSED: 7-0

City Manager's Comments

Assistant City Manager/Finance Director Kiely Nose announced that there are noticeable changes to the City's pandemic response and recovery. City Council meetings have been moved to virtual only meetings and will continue through February 7th, 2022. Also, affected were reduced library hours and library closures. Free testing for COVID-19 continued throughout Santa Clara County and free home COVID test kits could be obtained through the Federal Government or through Santa Clara County. Regarding events happening in the community, Palo Alto Fire Department partnered with Santa Clara County to offer free in-home vaccination program for folks. Aerial mosquito treatment will be happening in the Baylands marshes on January 26, 2022 and the Baylands will be closed during the treatment. Palo Alto Art Center has announced a weekly virtual meditations on Thursday through June 2022. Also, the Palo Alto Art Center will hold a virtual Friday Night at the Art Center on January 28th, 2022. Santa Clara County will host its annual countywide Homeless Census Survey on February 23, 2022 through February 24, 2022. Any folks willing to volunteers for the census can received information on the City's website. The City was in the process of scheduling a series of discussions regarding the Palo Alto Fiber initiative and other engagements. At their next meeting, Council will be discussing

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the proposal for a public gymnasium and the Council will hold their annual retreat on February 5, 2022.

City Council went on break at 6:57 P.M. and returned at 7:07 P.M.

Action Items

11. Discuss Polling Results, Analysis, and Community and Stakeholder Engagement Plan; Recommend Further Refined Parameters for a Possible Local Tax Ballot Measure for November 2022 Election (Business License Tax and Utility Tax Proposals); and Direct Staff on Related Items such as Community and Stakeholder Engagement Plan.

Assistant City Manager/Finance Director Kiely Nose shared that the item was extensively discussed at the Finance Committee at their January 2022 meeting.

Assistant Finance Director Christine Paras reported that the Finance Committee recommended that Council consider adding an addition poll, discuss modifications to governance structure, workplan and the engagement/outreach plan. This recommendation would require full development of the two remaining polls. Finance Committee also directed Staff to continue to review rates for a square footage tax and to develop a proposal for voter ratification for the existing Gas General Fund Equity Transfer (GFET). Staff has completed Parts A through D of Council's motion from the November 8, 2021 meeting. The workplan included community and stakeholder engagement for February 2022, results of the community engagement will be presented to Council in April of 2022 and by June 2022, Council will provide final approval of November 2022 ballot measure. Regarding the Business License Tax based on square footage, the Finance Committee focused their discussion on three target areas; exemptions by Council Policy, taxation level and rate structure. Staff presented four scenarios for a Square Footage Business License Tax. Staff supported Option Three which assumed a flat fee for all businesses for the first 5,000-square feet and apply a monthly rate per square footage beyond the 5,000-square foot threshold. Finance Committee recommended that an exemption be consider for hotels and grocery stores. Initial polling reflected majority support for exemptions for small businesses, small retail and grocery stores. Staff requested Council's direction on the definition for small business exemption. Regarding the Utility Tax (UUT), Staff presented two methods to the Finance Committee. Method One would collect revenue from both the gas and electric utility. Method Two would collect revenue from the gas utility alone. Finance Committee recommended that Council direct Staff to explore Method Two and this recommendation was supported by majority

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polling results. The Finance Committee also recommend that a cap for Method Two be explored in the next round of polling.

FM3 Consultant Dave Metz presented on the initial polling results. The survey was conducted from November 24, 2021 through December 5, 2021. The survey was distributed and received through telephone calls or online interviews with 801 residents. Of the folks who participated, 40 percent felt that the City was on the right track in terms of implementing a Business License Tax while 43 percent did not feel the City was on the right track. Regarding City services, 54 percent felt the City was doing an excellent/good job while 40 percent chose fair/poor. Several key factors that drove voters' concerns included cost of housing, not enough affordable housing, climate change, homelessness, people unhoused and economic impact due to the Coronavirus (Covid-19). Approximately seven out of ten residents supported the Business License Tax. At first the survey questions described a potential Business License Tax in a general sense. When asked, the Business License Tax was supported by 62 percent of participants. With further detailed questions that outlined how the Business License Tax may be structured, the majority of participants supported a tax that would add up to 1.5 percent to rent per square footage. Participants where asked about exemptions and voters strongly supported an exemption for small retail stores, all businesses under a specified size and grocery stores. Regarding how the revenues from a Business License Tax might be used, the majority prioritized homelessness outreach, natural disasters, and emergency response as their top three priorities. Participants were read two proposals for the UUT and 60 percent voted yes, to continue with existing practices. When asked, 46 percent of participants supported an increase to the UTT.

Consultant Shawn Spano shared the City's Community and Stakeholder Engagement Plan. The recommended action was to conduct up to ten stakeholder focus groups to share their views on a potential Business License Tax and one listening session for the entire community. In addition to the focus groups, Staff recommended an online platform for outreach that would include information, elicit feedback and provide an online survey for all residents. Other planned outreach included informational presentations by City Staff, two spring informational mailers, and social and digital media outreach.

Assistant Director Paras remarked that due to the time remaining between now and June 2022, an additional poll required development, review and execution of the two remaining polls be delegated to the City's polling consultant. Another impact would be that the Community and Stakeholder Plan timeline would be extended and would have a reduced number of sessions. Staff recommended that Council provide direction to Staff if an

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additional poll should be initiated and Council's priority for questions. The poll that will launch in May of 2022 will test specific ballot measure language.

Council Member Cormack spoke as Chair of the Finance Committee explained that the Finance Committee chose Option Three because it provided data on potentially replacing the Business Registration Program. Also, it will collect data and eliminate the "stair step".

Council Member DuBois inquired what the options were for residents to ratify the UUT and could it be done in a primary election.

Ms. Nose explained that the UUT replacement was contemplated as a General Tax and would need to be on a general Council election year.

Council Member DuBois asked if the Business License Tax would be applied to the building or individual businesses.

Ms. Paras answered individual businesses.

Council Member DuBois noted that the differences between Option One and Option Two for a Business License Tax is roughly \$1 million in revenue.

Ms. Paras confirmed that is correct.

Vice Mayor Kou wanted to understand why the Finance Committee did not recommend using the electric utility in the GFET.

Ms. Nose explained that the Finance Committee felt that the simplest manner would be the best approach.

Council Member Filseth agreed that restoring what use to be existing is the simplest way and aligned with environmental concerns of using gas.

Vice Mayor Kou understood that the GFET would continue for the electric utility and it was the gas utility that was being challenged.

Ms. Paras concurred.

Council Member Stone asked why Method One would decrease the cost effectiveness of building and vehicle electrification.

Assistant Director for Utilities Resource Management Jonathan Abendschein explained that if the GFET was spread between the gas and electric utility. The charges would be reduced on the gas bill and increased on the electric

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bill. That would create a disincentive for folks to change their gas appliances to electric.

Council Member Stone assumed from the report that there would be an annual loss of a \$3.9 million in revenue for Method Two.

Mr. Abendschein answered yes.

Council Member Stone pressed if that loss would remain consistent for future years.

Mr. Abendschein stated that the \$3.9 million is a rough estimate for full electrification.

Council Member Stone inquired if it is typical that less folks would support a tax when asked again later in a survey.

Mr. Metz remarked yes, but recommended that Council consider the interaction between two or more ballot measures.

Council Member Stone inquired if there are strategies to address the interaction issue.

Mr. Metz explained that as the tax is refined, future polling can help Council understand how the measures interact with each other.

Council Member Stone appreciated the strategy presented regarding outreach. He asked if there are plans to increase outreach to businesses that may not be aware of the City's plans.

Mr. Spano confirmed that the goal is to reach as many businesses as possible.

Council Member Tanaka asked how much funding has been spent on the effort so far.

Ms. Nose could not estimate Staff time and historical costs. She estimated roughly \$200,000 to \$250,000 for Fiscal Year 2022.

Council Member Tanaka wanted to know how much funding is needed for the proposed plan.

Ms. Nose shared \$50,000.

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Council Member Tanaka requested that Staff provide how much was spent in previous years. He asked if the City is allowed to use tax payers' dollars to lobby tax payers to approve a tax.

Chief Assistant Attorney Terence Howzell explained that Council can explore revenue measures and that is well within the right of the City.

Council Member Tanaka restated that Council is allowed to spend tax payers' dollars to campaign for tax payers to pay more taxes.

Mr. Howzell stated no, the Council is exploring a revenue measure.

Council Member Tanaka indicated he is trying to understand the limits. He believed that the City should remain a neutral party. The facts should be presented to the public and then let the public decide.

Mr. Howzell emphasized that Council can explore whether it wants a Business License Tax, what the Business License Tax may look like and how to spend the revenue generated from a Business License Tax.

Ms. Nose clarified that the City is not allowed to use tax payer money to do advocacy in terms of a measure or the like from a campaigning perspective. Council was only considering what the characteristics of a potential tax measure may be for the voter's consideration.

Mr. Howzell confirmed that the City cannot advocate, but only provide information to voters.

Council Member Tanaka inquired what the definition is for advocacy.

Mr. Howzell suggested that Council Member Tanaka discuss it with him offline for he was not prepared to answer the question.

Rebecca Eisenberg requested that Council Members disclose if they work or own a local business. She did not support the conclusions from the survey due to voters being aware of the current Green Case situation and participants of the survey where never asked to share their opinion. She emphasized that there must be a nexus between the tax and social goal. There was no nexus for a Business License Tax that was based on square footage. She concluded that many cities in the State of California use a limited tax that is applied to the largest and most profitable employers in the cities.

Aram James appreciated Council Members Tanaka's line of questioning. He wanted to understand the cost associated with hiring a lobbyist and requested that the conversation between the City attorney and Council

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Member Tanaka be shared with the public. He supported Ms. Eisenberg's comment to target larger employers.

Bill Ross found the survey results confusing and misleading. He explained the difference between a General Tax and a Special Tax. He strongly emphasized that there is high need to address gang and criminal activity in the City. He agreed with a previous speaker that the UUT is still in litigation and should not be discussed at this time. He requested there be more information provided to the public about a General Tax, a Special Tax and how the City will restrict expenditures.

Matt Dolan expressed that he relies on Palo Alto to maintain the quality of life style, quality of services, environment and others. He agreed that the City must use taxes to pay for services so that businesses can thrive. He appreciated the City's survey and work so far on the effort. He recommended that the City adopt a tax that will not be burdensome to businesses that are recovering from the pandemic.

Tiffany Griego, Managing Director of Stanford Research Park, encouraged Council to actively include the business community when considering the Business License Tax measure. She requested that the use of the funds be extremely well defined and have a well understood nexus to the business community. She recommended that the City be reasonable in the amount they charge so that Palo Alto businesses can remain competitive. She reminded the Council that businesses in the community already contribute Sales Tax and other benefits to the City.

Dan Kostenbauer, Vice President for Tax Policy at the Silicon Valley Leadership Group, stated the group represented roughly 400 companies based in Silicon Valley. He requested that the City specify what the revenues generated by the tax measures will be used for. He pointed out that Council discussions did not include the economic impact on the City beyond the tax revenue raised. He declared that in his email sent to Council was a list of businesses interested in participating in the focus groups and other outreach efforts.

Commissioner Cormack specified that the overall context of how folks feel about Palo Alto has diminished significantly over the years. Based on the data from the polls, she encouraged Council to consider a rate of .5 to 1.0 percent of rent per square foot. She disclosed that she is torn on having exemptions for Option Three. Through comparison of surrounding cities, no other city is doing exemptions for their Business License Tax. If the Council chooses Option One with exemptions for retail only, small medical practitioners will be penalized. She believed it would be helpful to have an

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additional poll pertaining to exemptions. She emphasized that the community must understand that the revenue generated from a Business License Tax will not be substantial enough to build large amounts of affordable housing or fund grade separation projects.

Mayor Burt shared that in 2018, an advocacy group hoped that the revenue from a Business License Tax would be used for improving City public transportation, fund the City's share for grade separations and affordable housing. The local resources can be leveraged to obtain state, federal and non-profit funding that can be used towards affordable housing and other high dollar projects. Regarding a General Tax and Special Tax, he agreed that the tax law is confusing. Many cities have accompanied measures that have a political commitment but is not legally binding. He asked if the current UUT that was past several years ago considered a General Fund tax and what was the voter threshold at that time.

Ms. Nose proclaimed that Staff would return with an answer.

Mayor Burt inquired how the Transient Occupancy Tax (TOT) was structured.

Ms. Nose declared that the prior two TOT were placed on general election ballots as a General Tax. Council pledged to dedicate those revenues associated with the rate increases of the TOT towards the Council approved Infrastructure Plan.

Mayor Burt understood that per the Green Case, the annual refund to rate payers was different than the quoted \$12 million.

Ms. Paras believed that the City's annually loses will be \$4 million and the \$12 million being a one-time pay back.

Council Member DuBois acknowledged that there are large projects that need funding like grade separations. He supported having businesses pay into the General Fund. He wanted to understand the scenario of having a larger building that splits into 5,000-square foot units for tax avoidance and how the City plans to address that. He supported the concept of exempting small businesses, but encouraged Council to consider how buildings are managed. Also, how will the City address a company that sub-lease spaces during a given year. He wanted to flesh out how the tax will be administered and can it be administered through the owner of a building to the businesses located within the building. He confessed he struggled with Option Two and Option Three and the difference of approximately \$1 million in revenue. He recommended that the Business License Tax be written in a way that all businesses must register to the Business Registry. He requested that Staff bring back an option that tiered the rate between

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4,000- and 8,000-square feet. He supported minimizing the impact to small businesses, exempt grocery stores regardless of size and supported phasing in the tax over 2-years. Regarding a hotel exemption, he suggested that have a time limit to the first 5-years of the tax. Regarding polling, he recommended the second poll focus on the concept for the Business License Tax and including the UUT on the same ballot. Regarding how to use the revenue, he felt that folks did not fully understand the different pricing questions. He suggested to ask the questions in a broader range and explain that the tax would exclude small businesses. He supported the comment of using the revenue towards criminal activities and medical emergency ambulance response times instead of fire. The concept of using revenues for safe crossings at railroad tracks was to indirect.

Council Member Filseth specified that the TOT is already a business tax that is applied to one specific business. That was the reason to exempt hotels from the Business License Tax.

Council Member Stone agreed with Council Member DuBois about having businesses pay their fair share and support City services. He supported many of the Finance Committee's recommendations. He supported Council Member DuBois's concerns regarding Option Two and Option Three. He revised his support for a Special Tax due to the initial polling results and believed it should be a General Tax. He assumed that Council will be able to continue to discuss what the funds will be used for as the language for the ballot measure is refined. He supported using the funds for traffic enforcement, code enforcement efforts and reinstating City services.

Council Member Tanaka inquired what the breakdown was for phone and online interviews.

Mr. Metz predicted it was a 50/50 split.

Council Member Tanaka pressed if that was deliberate.

Mr. Metz confirmed it was deliberate.

Council Member Tanaka asked if there were any differences between the two methods.

Mr. Metz recalled there being minimal differences.

Council Member Tanaka wanted to understand how the team addressed polls that were not responded to.

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Mr. Metz remarked that repeated attempts were made to contact random individuals until they declined, took the survey or if there were five failed attempts.

Council Member Tanaka asked how many folks declined to take the survey.

Mr. Metz predicted roughly a quarter of folks agree to participate in the survey.

Council Member Tanaka wanted to understand the impact of the decreasing economy market and how that influenced polling responses.

Mr. Metz remarked that folks do not generally respond to stock market fluctuation but more immediate impacts to their household expenditures.

Council Member Tanaka specified that many conversations are stock based and is worth investigating as well as questions regarding inflation. He requested that Staff supply the raw survey results.

Ms. Nose shared that the top-level information was provided in Attachment B in the Finance Committee Packet from the January 18, 2022 meeting. Staff would need the majority of Council to support directing Staff to provide the individual data.

Council Member Tanaka asked what would happen if someone asked for a Public Records Request for the data.

Ms. Nose restated that the information that Staff has provided is in the public record. Public Records Requests do not require Staff to create new records.

Mayor Burt shared that the Silicon Valley Leadership Group agreed to change the question regarding Caltrain to focus on track safety in the polling for the Sale Tax increase for Measure B. This increased voter support and he encouraged to poll on that nuance. Twice the City has raised the TOT and the City's TOT was the highest in the State of California. He believed hotels contribute to the City more than any other business in the City and he supported a hotel exemption. He agreed that a question should be asked to the focus groups whether implementation should happen in two stages. He understood that Staff would be reviewing the polling results for the second poll instead of the Finance Committee.

Ms. Paras clarified that the if a third poll were included, Council would review the results and drafting outlining questions would be done by the consultant.

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Mayor Burt recommended initiating the second poll after the preliminary stakeholder report. He shared that over the long-term, a Business License Tax will slightly mitigate the rate of increase landlords can instill on their tenant's leases. That was another reason why he supported a two-step implementation which allowed filtration of the increase into lease rates.

Council Member Cormack recommended establishing a base line for the Palo Alto Fire Department and the minimum threshold for Staff positions in that department. Also, to possibly fund improvements for Fire Station #4. She asked when will be the earliest that the City can implement the tax and receive funds.

Ms. Paras answered Fiscal Year 2024.

Council Member Cormack restated that would be the middle of year 2024. If implemented in stages, the City would not receive revenue until mid-year of 2025. She found the poll very helpful and encouraged Council to revisit the results at the retreat. She asked if Council must narrow down the rates and if not, when should Council expect to do that.

Ms. Paras strongly encouraged Council to narrow down rates now.

Council Member Cormack stated that some of the larger rates are not justified and are not viable.

Council Member Filseth found the polling results very interesting. He pointed out that the results have indicated time and time again that the cost of living and the perceived derogation of quality of life are the reasons folks are moving out of the City. On the next poll he recommended there be questions gaging if folks are comfortable with both tax measures on the ballot or only one tax measure.

Council Member DuBois requested Staff to provide details on the City of East Palo Alto's Square Foot Business Tax.

Ms. Paras specified that City of East Palo Alto has a Parcel Tax which is assessed on the landlord and Palo Alto's is assessed on the owner of the business.

Council Member DuBois inquired why the City did not want to mimic City of East Palo Alto's tax.

Ms. Nose answered a Parcel Tax requires a 2/3s vote.

Council Member DuBois wanted to know if Staff evaluated the scenarios of folks using loop holes.

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Ms. Nose explained those scenarios are managed through audits and compliance.

Council Member DuBois recommended that the tax state that the primary lease holder is responsible.

Ms. Nose clarified that the tax will be structured based on business owners and businesses that do business in Palo Alto.

Council Member DuBois asked if Mr. Metz had any thoughts on how to better describe rates for a Business License Tax.

Mr. Metz pointed out that the average resident does not know the average square footage of businesses, nor what existing rents are. Turning those data points into a percentage is easier for laypersons to understand the scale of the proposal.

Council Member DuBois suggested using more concrete terms instead of percentages. He agreed that it would be helpful to understand if residents would support having both tax measures on the ballot or only one.

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

- A. Direct Staff to pursue preparation of a square footage business license tax with the following characteristics, as recommended by the Finance Committee:
 - i. Continue to review the rates, adding option 3 (flat fee of \$50 for first 5,000 square footage occupied and apply a monthly tax rate per square foot beyond the 5,000 threshold) as a starting point;
 - ii. Exemptions for businesses subject to the Transient Occupancy Tax and grocery stores;
 - iii. Annual escalator uses CPI as a basis;
- B. Direct Staff to develop a proposal for voter ratification of the existing gas General Fund Equity Transfer and eliminate the UUT option, with exploration of whether to cap growth of the transfer to be explored via polling;
- C. Direct Staff to amend the workplan to three polls, with the second poll developed and executed by the City's polling consultant, and the third to test potential ballot language; and

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- D. Direct Staff to launch the Community and Stakeholder Engagement Plan, as outlined in the staff report.

Council Member DuBois suggested that the second survey be vetted through the Finance Committee. The third survey be Staff driven and focus on ballot language.

Ms. Paras confessed that the proposed approach is not ideal. If the second poll goes through Finance Committee and then Council. That would result in a late launch of the second poll.

Council Member DuBois asked would the second poll results would come to Council.

Ms. Paras answered they would be available at the end of May 2022 which was when Staff was planning to launch the third poll.

Council Member DuBois inquired if Council would have an option to weigh in on the second survey before the third survey was launched.

Ms. Paras answered yes, with Staff's proposed timeline which included skipping the Finance Committee.

Mayor Burt suggested that he appoint two Council Members to work with Staff on polling questions instead of going through a public hearing process. He predicted that those Council Members could not be Members of the Finance Committee.

Ms. Paras agreed that they could not be Finance Committee Members.

Ms. Nose interjected that there is no Brown Act issue so long as the item does not return to the Finance Committee. She recommended that Council include in the motion that two Council Members work with Staff instead of the Mayor appointing them.

Mr. Howzell confirmed that he foresaw there being no Brown Act issue.

Council Member DuBois clarified that his recommendation was to delegate the work to the Finance Committee and not come back to Council.

Ms. Nose confirmed that would have to be included in the motion.

Ms. Paras asked if the Ad Hoc Committee meeting would be a public meeting.

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Ms. Nose answered no. She asked if Council wished to make the workplan a three poll workplan and then delegate the work to the consultant. All results from polling would come to full Council for review.

Council Member DuBois restated his support to have a third poll due to Council not being ready to recommend ballot language. He removed from the motion to work with Finance Committee.

Council Member Filseth agreed to remove work with Finance Committee from the motion. He suggested the poll questions be simplified to say what the average rent is in the City and how would folks feel about adding a Business License Tax on top of that.

Council Member Tanaka agreed with Council Member DuBois in terms of the 1.5 percent and that folks probably did not understand it. He asked if the consultant can add questions about the stock market and inflation and if that influences folks' decisions for the tax measures.

Mr. Metz confirmed there will be questions that assess folks concerns regarding inflation.

Council Member Tanaka pointed out that more folks are concerned about City taxes than they were in year 2021. He inquired if the consultant has data that shows each survey responder's answers.

Mr. Metz answered yes.

Council Member Tanaka inquired if it is legal for the City to be pursuing a tax to cover the shortfall from the Green Case.

Mr. Howzell stated that there has not been a final determination for the Green Case.

Council Member Tanaka asked if retail should be exempt.

Council Member DuBois answered no.

Council Member Tanaka asked if the limit should be raised to 20,000-square feet.

Council Member DuBois stated no because the data did not support that type of increase.

Council Member Tanaka wanted to specify what the revenue will be used for and place those in the motion.

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Council Member DuBois stated that the motion indicates that the money will go into the General Fund, but with an advisory that it be used for affordable housing and grade separations.

Council Member Tanaka argued that the motion was not clear and did not state what the revenue usages are. He agreed that the community is very concerned about crime and suggested the motion include language that the revenue be used to combat crime.

Council Member DuBois understood that the consultant understands to include that in the second poll.

Council Member Filseth interjected that he would not accept that amendment.

Council Member Tanaka inquired if an economic analysis should be conducted on the impact a Business License Tax would have on the City.

Council Member Filseth stated no and that was to broad for the motion.

Council Member Cormack agreed that the second poll should ask if folks are comfortable with having two tax measures on the ballot or only one. She requested that Staff indicate how much .5 percent, 1.5 percent and 2.5 percent rate is in dollar amounts.

Ms. Nose answered that the .5 percent rate equated to \$0.05, 1.5 percent rate equated to \$0.12 and 2.5 percent is \$0.20.

Council Member Cormack could not see the 2.5 percent rate feasible. She put forward a friendly amendment to remove the 2.5 percent.

Council Member DuBois believed that using dollar amounts is more palatable than using percentages. He did not support removing the 2.5 percent from the motion.

Council Member Filseth did not support the amendment.

AMENDMENT: Council Member Cormack moved, seconded by Council member Tanaka to eliminate the .20 cent rate from part A, Part i. of the motion.

Mayor Burt agreed that the poll included percentages that folks cannot relate to. Also, the question was asked during a time when the economy was fluctuating drastically. He suspected those two factors skewed the polling results and for those reasons he did not support the amendment.

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Council Member Tanaka acknowledged that several large companies have moved out of Palo Alto. He was concerned that a high rate would incentivize more folks to leave the City and cautioned Council in supporting a higher rate.

AMENDMENT FAILED: 2-5, Burt, DuBois, Filseth, Kou, Stone no

Vice Mayor Kou wanted to know more details about the community and stakeholder engagement plan.

Mr. Spano explained that the focus groups will contain participants from diverse businesses and community members. They will be asked questions about putting the Business License Tax on the ballot and asked specific questions regarding the structure. The answers to those questions will provide depth into the reasons why folks answered the questions the way that they did.

Vice Mayor Kou inquired how the focus group participants will be selected.

Mr. Spano noted that there will be in-person or virtual focus group sessions as well as an online qualitative survey with mirrored questions that are asked to the focus group.

Vice Mayor Kou asked if Council Members will be informed when that effort begins.

Mr. Spano answered yes.

Council Member Cormack suggested that the focus group compare the total potential revenue from the Business License Tax against the Property Tax.

Mr. Spano mentioned that the focus groups will receive a brief presentation on the proposals.

Council Member Filseth recommended that the focus group include folks from the Stanford Research Park. Also, that Staff include them in any discussions on where to focus the revenues generated from a Business License Tax.

Mayor Burt asked when in the process would Council refine the intended uses of revenues.

Ms. Nose indicated the discussion would happen after the focus groups and second poll.

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Mayor Burt remarked that the City has already built into the budget an anticipated loss of the Green Case. Many of the cuts to services was due to the built-in loss of the Green Case. He acknowledged that there will be folks who oppose a Business License Tax, but the community as a whole will make the ultimate decision on whether to adopt it or not.

MOTION PASSED: 6-1, Tanaka no

The Council took a break from 9:52 and returned at 9:57 PM.

12. Public Hearing: Adoption of Ordinance Clarifying Ambiguities in Height Transitions and Amending the Setback for the RM-40 Zone District.

Assistant Planning and Development Director Rachael Tanner announced that the item was last seen by Council on November 8, 2021. The report focused on the height transitions in the current Municipal Code and adjustments to the setbacks from the RM-40 Zone Districts. Staff continued to work with the Architectural Review Board (ARB) on the other components outlined in the November 8, 2021 Council motion. Staff will conduct community outreach in February of 2022 and will bring the item back to Council in March 2022. Staff was not seeking any action from Council at this time.

Planning Contractor Jean Eisberg stated that the project's objective was to prepare objective design standards to regulate housing development projects undergoing streamlined review as well as clarify ambiguities, remove redundancies and modernize stands elsewhere in Title 18. ARB and Planning and Transportation Commission (PTC) reviewed the objective standards and updated ordinance. The first community meeting will be held on February 1, 2022 and the second meeting will be in March 2022. Height standards are regulated in the development standards table in the Palo Alto Municipal Code. There are two standards within the table, a general standard and then a reduced height limit when adjacent to an abutting lower density residential zone. The reduced height limit applied within a specified distance from the abutting residential zone and then the general height limit applied outside the specified distance. Different uses have different height limits as a general and reduced height standard. The current policy within the Municipal Code had variation by districts with respect to horizontal depth. Also, the Municipal Code had many places where there was an ambiguous standard and ambiguous language that was not objective. This made it problematic for Staff, decision-makers and property owners to implement the Municipal Code. Another problem in the existing language was the term "abut" or "abutting" which most districts define but some districts do not. The final issue with the current Municipal Code was that reduced heights

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were typically not required when abutting RM-40 zones. The Municipal Code does have other existing standards that modulate massing, protect privacy and light access, and several other quality of life concerns that apply to RM-40.

Ms. Tanner reported that the height transition proposal included to change any ambiguous language to the higher height transition threshold of 150-feet. This would apply to zones designated as CN, CC, CC(2), CS and Workforce Housing (WH) Overlay.

Ms. Eisberg shared that the proposal also suggested to allow a reduction by the Director, upon ARB recommendation, from 150-feet to as low as 50-feet for the transitional zone. Lastly, the draft ordinance would clarify that the transition is only required for abutting conditions. By allowing ARB to weigh in on reduced height limits, this would avoid creating non-conforming conditions for previously approved projects. This process would move the projects from an objective process to a discretionary process if an application chose to request for a lower height transition threshold. The proposed ordinance did not propose changes to the height limit when abutting the RM-40 Zone District. Regarding the RM-40 setback proposal, the proposal proposed to eliminate the range, expand the footnote to allow modifications with recommendation by the ARB and make the setback consistent with the RM-20 and RM-30 Zone District with a 20-foot front setback and a 16-foot side setback.

Public Hearing opened at 10:20 P.M.

Jamie Beckett appreciated Council directing Staff to change current policies to protect all residents regardless of what zone they live in. She believed that Staff disregarded the Council's direction in the proposed draft ordinance. She wanted to know what privacy protections are in place for residents in the RM-40 Zone District.

Peter Jon Shuler echoed Ms. Beckett's comments and expressed strong frustration that Staff did not follow Council's direction to protect residents in all zones. He recommended that Council deny the proposal.

Hamilton Hitchings, spoke on behalf of himself, did not support allowing commercial buildings to be built higher and closer to low-density residential neighborhoods. The 150-foot horizontal distance should be maintained and should not be interpreted as 50-feet. He did not support adding the word "abut" to the Municipal Code where a street, alley or property is in between the residential building and the commercial building. He wanted clarification on if the 150-foot limit applied to kitty-corner properties. He did not support using the daylight plan as a substitute for the 150-foot horizontal

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distance. He recommended that transition heights be applied to any tall buildings located in a single-family neighborhood and remove all references to workforce housing from the Municipal Code.

Rebecca Eisenberg believed that the proposal moved against the need to protect the environment as well as provide more housing for the City. Allowing commercial buildings higher heights exacerbated the housing/jobs imbalance. She recommended that the City allow taller residential buildings instead of commercial buildings.

Patience Young urged Council to recognize that residents in RM-40 Zone Districts deserve to have the same citizen rights as folks living in other residential zones. She requested that Council provide a plan for Palo Alto Central in the California Avenue Business District so residents are aware of what new development are coming their way.

Terry Holzemer encouraged Council to take no action on the proposal for there was no public outreach on the proposal, there was no additional protections for residents in high density zones and adding the word "abutt" to the Municipal Code was confusing.

George Thomas stated that RM-40 continued to be discriminated against in terms of sunlight, privacy and other factors. With the move to provide more high-density housing in the City, he argued that protections for RM-40 districts should be better. He stated that the draft ordinance should not have come to Council before the two community meetings.

Jeff Levinsky strongly supported Council's direction they made at the November 8, 2021 meeting and agreed with previous speakers that Staff disregarded those directions. He did not support any of the proposals made for the draft ordinance.

Public Hearing closed at 10:40 P.M.

Council Member Filseth stated that using the word "abutt" for everything is too much.

Ms. Tanner clarified that the definition of abutting does include corners and properties touching.

Vice Mayor Kou recommended that the language "if you are within 150-feet of a residential district" remain in the ordinance. The definition of abutting provided by Ms. Tanner may be misinterpreted in future years. The language should be very clear. Also, allowing ARB and the Director of Planning discretion to reduce the 150-foot threshold based on daylight plane

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and other factors is not sufficient. She strongly recommended that Council be the body that can decrease the transition height, not ARB and the Director of Planning. She emphasized that Council's direction was that Staff provide standards for privacy and other protections for all residents. RM-40, and other zones, were not addressed in the proposed draft ordinance.

Ms. Tanner clarified that abutting was defined in the Municipal Code and Staff does not rely on institutional memory to define what is abutting. Council would have to change the definition if corners touching was no longer part of the definition for abutting. There were no changes proposed to daylight plan. Staff's proposed that 150-feet from the abutting property lines and the low-density district would remain the same distance for the transition zone. Staff did not address Council's motion regarding privacy and did not conduct community outreach due to the time constraint.

Planning Manager Jodie Gerhardt explained that daylight plane is calculated by going up 10-feet and then going to a 45-degree angle. Typically, there is a maximum height limit that is reached when two 45-daylight planes meet each other.

Council Member Kou shared that from the Municipal Code, abutting was defined as having property or district lines in common.

Ms. Tanner restated that a corner is a part of each property line and if two adjacent corners are touching. Then the buildings are abutting each other.

Council Member Kou stated that has to be very clear.

Ms. Tanner announced that clarification can be added to the Municipal Code.

Council Member Stone questioned whether the photo on slide 15 would be considered abutting buildings.

Ms. Tanner explained that if the walk way was private, then the buildings were abutting. If the walkway was a public walkway or public right of way, then the buildings would not be abutting.

Council Member Stone recommended that the definition be refined. He shared the public and Vice-Mayor's concerns regarding using abutting as a blanket term. He asked if the minimal transitional zoning after an ARB reduction could only be up to 100-feet.

Ms. Gerhardt clarified that Staff was proposing that where in the Municipal Code the commercial zone standard was ambiguous, the transition height would be changed to 150-feet. If a developer wanted to go through the

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discretionary process, ARB could recommend as low as a 50-foot transition zone.

Council Member Stone understood the desire to have ARB address contextual issues, but allowing them to lower the transition height to 50-feet made him uncomfortable. He agreed with the public speaker that allowing the Director of Planning to reduce the height, with ARB recommendation, was no longer an objective standard.

Ms. Tanner restated that if a project wanted a reduction in the transition zone. They no longer would be following the Objective Standards process and would be required to follow the discretionary process.

Council Member DuBois agreed that Council's November 8th motion was very dense and could easily have been misunderstood. He thought Staff would be returning with a whole section from the motion, but Staff only returned with a small subsection of one piece of the motion.

Ms. Tanner confirmed that is correct.

Council Member DuBois felt that the existing language in the Municipal Code is clear. He asked why Staff did not drop the word abutting altogether.

Ms. Tanner remarked that Staff was trying to make the Municipal Code more consistent. She noted that removing the word "abutting" from the Municipal Code where it exists now could be perceived as down zoning.

Council Member DuBois asked if using abutting as a blanket term made other parts of the Municipal Code looser.

Ms. Tanner agreed.

Council Member DuBois stated that Staff's proposed language makes the ordinance looser than the existing ordinance. He mentioned that reading through the existing ordinance, he did not see any ambiguous language.

Ms. Gerhardt mentioned that there is one sentence that used 150-feet and 50-feet in the same sentence. Staff has interpreted that language in many different ways.

Council Member DuBois recommended Staff provide specific language for the ambiguous language only. He found the existing ordinance already an objective code section.

Ms. Tanner stated that ambiguity is not subjectivity.

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Council Member DuBois asked what the issue was for not creating non-conforming conditions while in the transition.

Ms. Gerhardt explained that with non-conforming conditions it was more difficult for those properties to renovate or receive maintenance work.

Council Member Filseth summarized that the City has its Municipal Code, there are state mandates and now Staff was trying to merge the two together. This will result in inconsistencies; more non-conforming properties and the City will have to tolerate that.

Council Member Cormack pointed out that the Mayor introduced the item as a continuation of the Objective Standards but the Staff report indicated that the information is tangential to the Objective Standards.

Ms. Tanner explained that Staff was trying to clean up the areas that surfaced during the Objective Standards conversation.

Council Member Cormack asked if Staff considered the proposed changes minor or significant.

Ms. Gerhardt answered that they were intended to be minor conservative changes.

Ms. Tanner agreed. She acknowledged that many of the comments did not pertain to what was in the Staff report and Staff already stated that the proposals were addressing a small subsection of Council's motion.

Council Member Cormack acknowledged that there has been a misunderstanding. She inquired if Staff was requesting that Council provide direction on faith-based institutions.

Ms. Tanner mentioned that many faith-based institutions are located on residential zoned land and they would have the same development standards as neighboring properties.

Council Member Cormack asked if Staff agreed that the proposed language was looser than the existing language in the ordinance.

Ms. Tanner agreed that using the word "abutt" or "abutting" could be considered as a looser requirement.

Council Member Cormack believed that the proposed setback requirements from RM-40 zones was now stricter than the current ordinance.

Ms. Tanner agreed.

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Ms. Gerhardt clarified that currently, a developer could pick any front setback between 0 and 25-feet. By placing the specified 20-foot language in the ordinance, that made it clear what the City expected for front setbacks.

Mayor Burt asked if the 0 to 25-foot setback was discretionary.

Ms. Gerhardt answered yes.

Mayor Burt described the changes as more partitive than tangential.

Council Member DuBois believed that many of the RM-40 zone standards were Context-Based Standards and Context-Based Standards were not currently in effect.

Ms. Tanner clarified that streamlined projects do not have to comply to Context-Based Design Standards.

Council Member DuBois inquired if the entire project would go through the discretionary process if the applicant requested a reduced transition zone.

Ms. Gerhart answered yes.

Council Member DuBois recommended that the ordinance be clearer about that component. He wanted to know if a height transition could be applied to non-residential buildings near the RM-40 zones.

Ms. Gerhardt confirmed that for commercial buildings that are adjacent to RM-40 zones, the City could change the zoning standards.

Council Member DuBois recalled that Council stated they were not interested in the WH Overlay. He wanted to know if that is the only location in the City that has the WH Overlay.

Ms. Gerhardt clarified that Council was not interested in the by-right component, but the WH Overlay can be used should Council approve it for individual properties.

MOTION: Council Member DuBois moved, seconded by Vice Mayor Kou to direct Staff to:

- A. Amend the proposed Ordinance to a 150 ft height transition zone, while leaving the abutting conditions where they already exist;
- B. Clarify if projects want to reduce the horizontal transition zone, they are opting into the discretionary process;

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- C. Extend the height transition rules in Part A to RM 40 adjacent non-residential buildings; and
- D. Investigate 18.38.150 section (b), and to incorporate RM-D into the language.

Council Member DuBois stated that using abutting for everything is too restrictive.

Vice Mayor Kou restated that resident need protections in place to protect against the new state mandated law. She proposed a friendly amendment to include the PC zones and mixed-use projects that contain housing into Item C of the motion.

Council Member DuBois did not accept the amendment.

Mayor Burt announced that there is no second to the amendment.

Vice Mayor Kou proposed a friendly amendment to incorporate into the motion RM-D into Section 18.38.150 (b). She pointed out that there is no explanation how RM-4 became RM-30 and RM-5 became RM-40 in the Municipal Code.

Ms. Gerhardt confirmed that Staff has discovered areas where RM-4 and RM-5 are still used and has tried to clean those up.

Vice Mayor Kou wanted all RM zones to be protected in the same manner, including RM-D properties.

Ms. Tanner restated her concern of down zoning properties that currently do not have the proposed restrictions.

Council Member DuBois accepted the friendly amendment and requested that Staff investigate Section 18.38.150 (b).

Council Member Filseth found the ARB and Director proposal to be reasonable.

Council Member Cormack requested that Staff bring the item back to Council for another review. She wanted to know what the definition of radius is in the motion.

Ms. Gerhardt clarified that the 150-feet would be from the subject property line.

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Council Member Cormack found the word radius to be ambiguous because radius implied a circle. She wanted to understand the impact of Item C of the motion.

Ms. Gerhardt explained it would add an extra transition zone from RM-40 to commercial properties.

Council Member Cormack stated that without another review of the proposal, she could not support the motion.

Mayor Burt agreed with Council Member Cormack that the term "radius" was incorrect. He understood it as the distance from the property line.

Ms. Tanner clarified that for Item B of the motion, Staff would be reducing the horizontal height transition zone. She predicted that the ordinance would come back for another reading with the proposed changes.

Mayor Burt asked if PHZ discretion preempted the proposed changes.

Ms. Tanner confirmed that PHZ has a section of the Municipal Code that pertains to only PHZ.

Ms. Gerhardt agreed that PHZ is a discretionary process but there are special conditions that must be met.

MOTION PASSED: 5-2, Cormack, Tanaka no

Council Member Questions, Comments, Announcements

Council Member Cormack shared that as of January 18, 2022, the regions water supply system was at 75 percent of total system storage which was below normal range. San Francisco Public Utility Commission (SFPUC) in November 2021 adopted a 10 percent system wide voluntary water use.

Council Member Tanaka shared his sentiments regarding the loss of John Arrillaga.

Mayor Burt shared that Council will be reviewing a draft at an upcoming Council meeting of the Council's response to the Grand Jury report on housing. Due to the time constraint, he requested that Council Member DuBois and Council Member Filseth work with Staff on a draft response. He summarized a list of John Arrillaga accomplishments.

Adjournment: The meeting was adjourned at 11:44 P.M. in honor and memory of John Arrillaga, who contributed enormously to the Silicon Valley as a developer, a philanthropist, and a pioneer.