



# CITY COUNCIL SUMMARY MINUTES

Special Meeting  
August 10, 2022

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 6:00 P.M.

Present In person:      Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Present Virtually:      None

Absent:      None

## PUBLIC COMMENT

Aram James requested Public Records for details and documents regarding the current status of the Palo Alto Police Department K-9 Unit. He expressed concern that there was no functioning K-9 Unit due to retiring K-9s and the removal or absence of two K-9 Unit handlers. Also, he remarked the businessmen earlier were treated poorly by the Council after being told they were not negotiating in good faith.

## Agenda Changes, Additions and Deletions

Mayor Burt announced that Item 1 will be taken before Item AA1.

## Closed Session

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION Authority: Cal. Gov. Code section 54957(b) Titles: City Manager, City Attorney, City Clerk

## PUBLIC COMMENT

Aram James reiterated previous sentiment that City Manager Ed Shikada be removed for lack of transparency. He expressed City Attorney Molly Stump is a very capable and deserving public employee and her salary should reflect that with a raise. Also, he voiced concern over City Clerk Lesley Milton's lack of prompt communication.

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

**MOTION PASSED:** 7-0

Council went into Closed Session at 6:08 P.M.

Council returned from Closed Session at 8:20 P.M.

Mayor Burt announced there was no reportable action.

## Action Items

AA1. November 2022 Ballot Measures: (1) Repeal of a Resolution Adopted on August 8, 2022, and Adoption of a Revised Resolution Placing a Business Tax on the November 2022 Ballot; (2) Adoption of a Resolution Placing a Measure Affirming the Natural Gas Utility Transfer on the November 2022 Ballot

City Manager Ed Shikada expressed the ad hoc committee and business coalition representatives engaged in an ultimately unsuccessful further mediation after Monday's Council meeting by drawing out interests and areas of flexibility. Staff had engaged in follow-up conversations resulting in a proposal for the Council regarding a step to address where the ad hoc committee left off.

Mayor Burt remarked there was an extensive effort at mediation led by former Mayor Larry Klein where significant progress was made on a series of remaining issues. Both parties had significantly narrowed their differences but an agreement was not reached.

City Manager Shikada presented a proposal to allow both the business tax and gas transfer to proceed without opposition from the business coalition. The proposal addressed a variety of issues including public safety, housing, and transportation while allowing continual advancement of sustainability efforts and the restoration of city services beyond 2-years. He provided context on the interdependence of the local economy and how a robust business environment can benefit residents, small and large businesses, and visitors. Staff proposed a business tax ballot measure of a monthly rate of \$0.075 per square feet per month for all non-exempt businesses above 10,000 square feet, an annual cap of \$500,000 for any single year, and a flat 2.5% annual increase to the monthly rate and tax cap beginning fiscal year 2026-2027. This as an alternative to CPI provides greater certainty of

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cost associated for those paying and future revenues. There was terminology for commitments to annual reporting of proceeds and expenditures as well as minor clerical corrections to the ordinance. He noted a net revenue of \$9.6 million to fund general government services and programs as a result of the proposal. Also, the affirmation of natural gas transfer ballot measure would generate an additional \$7 million or a net \$4 million over existing revenue streams. The Council recommendation approved Monday would apply to the latest alternative presented. Categories of services that would be enabled through the new proposal include \$5.2 million for public safety, \$3.2 million for train crossing safety, \$3.2 million for affordable housing, and roughly \$2 million for other service restorations.

Mayor Burt added the rate the ad hoc committee was willing to support was very close to the proposal number but slightly below it. He asked Staff to clarify the dollar difference of a half cent. He noted there would be damage and risk if there was a battle between sides on the issue. Also, the tax would not begin until 2024 and is not fully implemented until 2025, addressing concerns on timing. He hoped the business coalition would have no opposition to the tax.

Council Member DuBois clarified his line was at \$0.09 with a 3% escalator. He urged the Council to consider the value of the tax over 30-years and that the difference between a CPI 2%, 2.5%, and 3% escalator is a huge impact.

## PUBLIC COMMENTS

Cow for No Taxation played a song featuring an unhappy cow as a metaphor for animal-like treatment of businessmen by the City of Palo Alto. They urged the Council to wait 3-years before taxing the business community and to not add any taxes.

Nadia Naik supported funding for public safety, affordable housing, services for the unhoused, improved track safety, and fund grade separations as well as Staff's proposal. She expressed the public is excited and ready to fund the identified priorities. She supported the phasing-in of the proposal over 3-to 4-years.

Aram James believed Council should explain why they want a gas and business tax to the public rather than the business community. He echoed Ms. Naik's sentiment over the immediate need for funding for City services. He raised questions on the legal legitimacy of the gas tax. He suggested a stronger proposal directly targeting the business community.

Liz Gardner supported the business tax for public safety, affordable housing, and sustainability regarding transit. She noted all other 9 Bay Area Cities

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were already paying a business tax. She urged the Council to pass the proposal.

Dan Kostenbauder shared he was the Vice President of Tax Policy for the Silicon Valley Leadership Group, a part of the Palo Alto Community & Business Alliance. He noted he engaged in an unsuccessful mediation session with the Council ad hoc committee and City Manager Shikada to come to an agreement. He supported Staff's proposal as it contained compromises for both sides and noted the alliance will not oppose the proposal.

Charlie Weidanz voiced the position of the Chamber Board of Directors by expressing neutral alignment and dropping opposition to Staff's proposal.

Adina Levin supported public funding for transportation and affordable housing as provided by the proposal. She expressed a need for educating the community on the proposal without opposition through the compromises in Staff's recommendations.

Winter Dellenbach voiced concern over proposal discussions and the direction of compromises. She encouraged the Council to keep the business tax at \$0.11.

Mayor Burt noted the proposal is higher revenue than what the parties involved wished, while being less than the majority of the Council and public hoped. He expressed the opportunity to unitedly move forward without opposition from the business community as well as address important needs in the City. The funds from the proposal would qualify the City for regional, state, and federal funds on grade separations and affordable housing as well as accelerate processes.

Council Member Cormack noted the evolution of the business tax proposal brings recognition to the complex ecosystem of the City. She highlighted the importance of the gas transfer tax by noting 50% of the City's revenue comes from the business community. She echoed earlier sentiments regarding the need for government and City services funding. Also, she noted the Council will be running a campaign for the tax.

City Attorney Stump reviewed the elements of the motion.

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

1. Repeal Resolution 10062, adopted on Monday August 8, 2022, which placed a business tax on the November 8, 2022 at a rate of 11 cents per square foot, capped at \$1 million per business, raising approximately \$16.5 million annually.

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2. Adopt the Resolution (Attachment A) calling an election for November 8, 2022 for submittal to the qualified electors of the City a measure amending Title 2 of the Municipal Code to add Chapter 2.37 to establish a tax on businesses operating in the City of Palo Alto, which includes a revised business tax at a rate of 7 ½ cents per square foot of occupied space, capped at \$500,000 per business, with annual 2.5% increases in the tax rate and cap, raising approximately \$9.6 million annually.
3. Adopt the Resolution (Attachment B) calling an election for November 8, 2022 for the submittal to the qualified electors of the City a measure affirming the City's natural gas utility general fund transfer.
4. Direct staff to return to Council with a revised Advisory Spending Resolution that includes additional language on fiscal reporting and transparency, to be placed on the Consent agenda in August.

Mayor Burt reiterated the improved chance of success with voters regarding the measures as a result of no opposition from the business community after proposal compromises were reached.

Council Member Cormack urged Council to make the right decision for the community.

Council Member DuBois emphasized the importance of the escalator. He expressed concern that there is no guarantee some businesses will not oppose the tax or a campaign in opposition will not be organized. Also, concerns over insufficient funds for project costs associated with the proposal. He proposed an amendment to Item 4, the Advisory Spending Resolution, in that the numbers be adjusted to \$5.2 million for affordable housing and \$3.2 million for grade steps and public safety.

Mayor Burt supported the increase in affordable housing but emphasized current allocations are only Staff proposal.

Administrative Services Director Kiely Nose stated the proposed allocation of funds for services was just an example of investments. Staff proposal is a reflection of potential proceeds from both the natural gas transfer and business tax, going beyond the Advisory Spending Resolution.

Mayor Burt asked City Attorney Stump to clarify how defined the Council can legally be on Staff proposal breakdown uses currently.

City Attorney Stump noted the Council has an Advisory Spending Resolution that provides the funds are for the City's general fund and that Council

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intends to spend 1/3 on each of the 3 key areas of concern. It was proposed to add a sentence to commit the City to clear reporting each year regarding proceeds amount and what they are spent on. She urged Council to have caution and respect that the proposed measure is a general tax without refinement or precision relating to budget.

Mayor Burt noted previously Council had talked regarding allocation of the business tax but now the discussion is focused on the combined allocation of the gas fee and business tax. Also, expressed he was receptive to Council Member DuBois' previous remarks on amending the Advisory Spending Resolution.

Council Member DuBois stated the numbers of allocation towards services in Staff's proposal were misleading. He asked for clarification on the actual numbers regarding the 1/3 split of total services funds out of \$10 million.

Administrative Services Director Nose clarified Staff's proposal is to bring forward the revised business tax at \$0.075 per square foot per month as well as the natural gas utility transfer. She emphasized the numbers allocated towards services are what Staff's proposal could be invested in in totality of the two measures and associated revenues.

Council Member DuBois asked for clarification regarding what would be on consent in terms of the use of funds.

Administrative Services Director Nose noted communication around how business tax proceeds are utilized, allocated currently at \$3.2 million for each key area, would be on consent. She emphasized the extra \$4 million is reflective of Council's adopted budget for fiscal year 2023 as well as the adopted 2-year funding strategy.

Council Member DuBois asked based on the 2-year funding plan if the \$4 million would be allocated as shown in Staff's proposal.

Administrative Services Director Nose reiterated the funds allocated in Staff's proposal are based on Council's currently adopted proposal and 2-year funding plan. She emphasized it is up to Council's discretion on how to allocate funds through next year's annual budget process and once the 2-year funding plan is over.

Council Member DuBois asked if the consent item, the Advisory Spending Resolution, would remain silent on the gas transfer as it usually does.

Administrative Services Director Nose stated Council Member DuBois was correct.

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City Attorney Stump noted the consent item was unchanged except for one sentence to commit reporting receipts and expenditures of the business tax.

Council Member DuBois stated his difficulty supporting Staff's proposal. He stated he would like more discussion on putting 2 measures on the ballot simultaneously.

Council Member Filseth asked what would happen regarding the Council meeting scheduled for the next day if Council approves Staff's proposal.

City Attorney Stump noted if approved, the scheduled Council meeting would not be held.

Vice Mayor Kou expressed disappointment over mainly involving and discussing with the business coalition over residents of the community. She stated she was unsure where she stood on the proposal. She echoed previous sentiment over concerns of insufficient funds for services.

Mayor Burt asked if there was an approximation of dollars per year directed to the affordable housing fund. Also, he encouraged Council to reflect on their willingness to negotiate and the lack of reciprocity to do the same from the business coalition for a length of time. He noted this is a different circumstance of mutual agreement and the business community has negotiated in good faith. Also, emphasized both ballot measures would be in jeopardy if there were opposition. He stated if Council does not support the compromise, they need to reflect on how public sentiment would change and hurt chances of success at the ballot box.

City Manager Shikada reported the perspective of their consultant, the Lew Edwards Group, on voters becoming more concerned over inflation, current gas and food prices, and other economic factors. Conflict or opposition will affect viability in the City's support because voters want to see leaders and stakeholders working together. Proceeding with the City's originally conceived business tax proposal in the face of opposition will render one or both measures unviable. He noted that with respect to the City's long-term goals for affordable housing, transportation, grade separations and other City services, even 2x the proposed amount would not be sufficient. He emphasized the City would be in a stronger position to advocate for additional funding when specific projects and designs are advanced. He noted Staff will continue to assist the Council and community in the process of advancement of projects and proposals.

Mayor Burt noted sites for affordable housing have been identified as well as an analysis started for identifying the process of utilizing surface parking lots for affordable housing as well as air rights. He expressed access to regional,

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state, and federal funds requires a local share and leverage, which would be provided by Staff's proposal.

Administrative Services Director Nose stated there was about \$800,000 per year in funds allocated toward affordable housing from the two available, current sources.

Mayor Burt emphasized compared to what the current revenue for affordable housing is, the proposal is about 3x higher. Also, he stated it was inaccurate to say how many units could be directly built due to the funding being highly leveraged.

Vice Mayor Kou stated the percent for affordable housing would be 80% AMI and something the City would have to do themselves. She echoed her previous sentiment regarding concerns over insufficient funds and asked if the business coalition would donate money toward moving the measure's campaign forward.

Mayor Burt stated the business coalition had agreed to not oppose but also not support the business tax measure. He noted the Chamber of Commerce is looking at possibly endorsing the gas transfer fund but have not made a commitment. Also, he asked if there was a status on the opponent's engagement with a campaign consulting firm.

City Manager Shikada confirmed the opponent's consultant would be disengaged subject to the approval of Staff's proposal. He noted the Chamber of Commerce and Silicon Valley Leadership Group had been invited to have their individual members support either or both measures. Suggestion by Staff has been to revisit the question in the next couple of weeks and ultimately leave the decision to the Palo Alto voters.

Mayor Burt noted there was a third partner to the coalition, NAIOP, the trade association of commercial property developers, which had in writing committed to not oppose the ballot measure.

Council Member Cormack acknowledged Council Member DuBois' concern over putting 2 measures on the ballot simultaneously but stated it was a risk the community could take on. She noted it would be easier for the business community to support the measures if Council has a consistent and unified message.

Council Member DuBois called to question.

Council Member Tanaka asked to split the vote.

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Mayor Burt noted Council Members Stone and Tanaka had requested to speak.

Council Member DuBois stated he would withdraw.

Council Member Tanaka asked to split the vote in two separate ways.

Mayor Burt asked for clarification from Council Member Tanaka on how to split the vote.

Council Member Tanaka answered by voting on Items 1, 3, and 4 separate from Item 2.

Administrative Services Director Nose stated Items 2 and 4 go together.

Mayor Burt confirmed Administrative Services Director Nose's statement and added Item 3 is the resolution on the gas transfer.

City Attorney Stump emphasized the mover and seconder intended in the Staff recommendation that the items not be split and instead be adopted altogether. Also, noted if Council were not to approve the package by 4 votes, there would be opportunities to make individual motions on the items.

Mayor Burt reiterated the items are not separable as proposed.

Administrative Services Director Nose further clarified regarding allocation of funds for affordable housing that most recently, there was a one-time \$4 million payment associated with the Maybell development.

Council Member Stone expressed discontent over the current proposal and reiterated previous sentiment that \$0.11 was a fair rate. He stated his position had evolved and he realized the original \$0.11 rate would create challenges in passing the measures. He emphasized more could be done for the community if Council passes the proposal than if there were nothing and noted Staff's proposal had a higher likelihood of public support.

**MOTION PASSED:** 6-1, Tanaka no

Mayor Burt noted the need to work on a community grassroots effort to help the measures get passed.

## Council Member Questions, Comments and Announcements

None.

Adjournment: The meeting was adjourned at 9:51 P.M.