



CITY COUNCIL SUMMARY MINUTES

Special Meeting
May 15, 2023

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:30 P.M.

Present In Person: Burt, Kou, Lauing, Lythcott-Haims, Stone, Tanaka, Veenker

Present Remotely: None

Absent: None

CALL TO ORDER

Mayor Kou called the meeting to order. The meeting was being held in honor of Older Americans Month.

City Clerk Lesley Milton called roll and noted that all were present.

SPECIAL ORDERS OF THE DAY

1. Proclamation Recognizing National Police Week – May 14-20, 2023, and National Peace Officers' Memorial Day – May 15, 2023

Council Member Burt read the proclamation recognizing National Police Week and National Peace Officers' Memorial Day. All citizens were asked to join in honoring past and present police officers. On behalf of Mayor Kou and City Council, the week of May 14-20, 2023, was proclaimed Police Week, and all citizens were urged to observe Monday, May 15, as Peace Officers' Memorial Day.

Police Chief Andrew Binder thanked the community, Council, and Police and City staff for attending the annual Memorial Grove event. He hoped that another Palo Alto name would not be added to Police Officer Memorial Wall in Washington, DC. He was grateful for the fallen officers' sacrifice and for the current police officers' service.

PUBLIC COMMENT

There were no public comments.

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Mayor Kou stated the memorial was very moving, and she appreciated the fallen officers being recognized every year. She thanked the police officers for their work. She invited Chief Binder to take a photograph with Council.

AGENDA CHANGES, ADDITIONS AND DELETIONS

There were no changes.

PUBLIC COMMENT

1. Andres Mediavilla spoke of an alleged convicted felon who was living in the park adjacent to their home, which was a safety concern. He had sent an email to Council concerning the issue. He asked Council to work with PRC to find a solution.
2. Rani Fischer, a volunteer with the Santa Clara County Audubon Society, provided slides and spoke of local birds, focusing on the Bewick's Wren, and asked that climate change be addressed and that there be an end to the release of feral cats.
3. Matt Schlegel discussed climate change and Palo Alto's goal to reduce carbon pollution and emissions. He claimed that 20 gas water heaters per week needed to be converted to heat pump water heaters to reach the pilot program goal and 65 per week to meet the 80 x 30 goal. He wanted an understanding of the hurdles the program was facing and what actions were being proposed to overcome the hurdles. He asked Council to host a status report of the program that the community could access.
4. Wathik Labidi addressed the same issue Andres Mediavilla had spoken of. Safety around the Timothy Hopkins Park concerned him. A letter had been sent to the Council yesterday regarding the seriousness and sadness of the situation. He asked Council to find a solution to the problem, which had been going on for a year.
5. KC Hetterly, an intern with the Santa Clara County Audubon Society, shared slides and spoke of local birds, focusing on Anna's hummingbirds. She indicated that climate change and roaming cats posed threats. She asked that climate change and the release of feral cats be addressed.
6. Anne Meyer addressed those posing safety issues at the Timothy Hopkins Creekside Park area, which frightened her. She asked that camping not be allowed in the area and that a fence be put back up near the creek side.

Mayor Kou asked City Manager Ed Shikada to investigate the Timothy Hopkins Creekside Park issue and give Council a full report.

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City Manager Ed Shikada acknowledged that Staff had received the email and they were looking into what could be done about the situation.

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Vice Mayor Stone commented that he had attended the recent Turkish Heirloom Textile Arts & Craft exhibit and encouraged all to attend next year. He had attended the Palestinian Culture Day and delivered the proclamation on behalf of the City of Palo Alto.

Council Member Lauing had attended the Affordable Housing workshop and was encouraged by the attendance.

Council Member Veenker associated herself with Council Member Lauing's comments and thanked Staff for the fair.

Mayor Kou had attended an emergency exercise involving Palo Alto Airport and was thankful to have been invited. She encouraged Council members to familiarize themselves with CaldART and perhaps contact them and join their exercise next year.

STUDY SESSION

2. Study Session to Discuss Next Steps Following Letter Received on March 13, 2023, from Palo Alto Unified School District titled "Invitation for Cubberley Development Proposals"

City Manager Ed Shikada announced that it was the first opportunity for public discussion of the invitation from PAUSD to receive a proposal regarding the Cubberley property. He provided groundwork for the discussion. Any preliminary feedback Council could provide Staff on the core interest of the City would be valuable.

Community Development Director Kristen O'Kane shared slides and gave a brief history and overview of Cubberley, which details were included in the Staff Report. She highlighted the current physical conditions of Cubberley, which needed daily maintenance to keep it functional. She clarified that Cubberley served a significant amount of organizations and individuals. A slide was supplied related to Cubberley finances. The purpose of this meeting was to discuss next steps following the letter that had been received from PAUSD. Key components of the letter included the school district retaining 20 acres for future use, which was negotiable. PAUSD was open to transferring at least seven acres to the City. Staff suggested that Council discussion focus on the process for communications with PAUSD. Staff recommended communications begin on a staff-to-staff level using the City-School Liaison Committee to report back to governing bodies and the public. She asked Council to discuss what should be included in the proposal related to primary interests and financial considerations and who should be

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designated to work with Staff, if it should be the Cubberley Ad Hoc Committee or others. The next steps Staff suggested were a closed session to discuss financial matters, finalize a proposal to present to PAUSD, and then for the City and PAUSD to engage in negotiations and that public reporting be done at the appropriate times.

Council Member Lauing asked if there was a specific proposal of who would be the representatives.

City Manager Shikada did not have anyone specifically assigned as representatives. He would be the primary negotiator likely with Director O’Kane and with real estate staff providing support. He presumed the representative for PAUSD would be the superintendent but did not know that for certain.

Council Member Lythcott-Haims spoke of operating expenses and current revenue and operating at a loss, and she questioned where the monies would come from.

Director O’Kane answered that the expenses were related to managing the facility, which included utilities, landscaping, etc. Revenues included the long-term leases and the rental rooms.

City Manager Shikada believed the monies would come from the General Fund. He noted that Cubberley had never been considered an enterprise and, like most programs, operated at a loss, and the City provided ongoing operational support.

Vice Mayor Stone asked the minimum acreage needed for a community center. He inquired if there was anything preventing a community center being on the eight acres the City currently owned. He thought it would be helpful to have information related to why previous master plans did not come to fruition. He believed there would be several check-ins with PAUSD to ensure that the City would be on the proper path. He wanted to better understand what could be done in various scenarios. He agreed with the next steps Staff recommended. He thought it was critical that something be done at Cubberley, and he was looking forward to conversations with PAUSD.

Director O’Kane expressed that the minimum acreage needed for a community center would depend on the facilities and amenities. She understood that some minor things in the 1991 Master Plan were completed and that some things were not done due to budget constraints. She recalled that the report completed by the Cubberley Community Advisory Committee did not provide a plan but provided recommendations for next steps. She thought the 2019 Cubberley Concept Plan was too big a vision, and there was not understanding of PAUSD’s limitations on financing related to shared community spaces, and she noted that the pandemic and funding were factors. She thought the 2019 version provided great baseline information with a lot of community feedback and data to inform the next process.

City Manager Shikada explained that building a community center on the City’s parcel would have some effect on PAUSD’s parcel as far as utilities, etc.

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Council Member Veenker asked if the cost to the City to run Cubberley in its current state was \$5M a year. She thought it was important to streamline the process so a decision could be made and to determine how much land there would be and the degree of shared infrastructure.

Director O’Kane acknowledged that \$5M was a good starting point and a good estimate.

Council Member Burt discussed the 2019 Master Plan being dependent on a shared use of facilities and PAUSD’s future needs, which could not be determined at that time, and it was dependent on PAUSD sharing in funds for the Capital Project, and it had been determined that their bond funds could not be used for purposes other than school purposes. He inquired if the difference between the operating expenses and the revenue would be made up through the Cubberley Capital Infrastructure Fund. He described what had been described by the Finance Committee. He remarked that the City needing to control and own more than eight acres had been a linchpin in moving forward. He was excited that the letter addressed their openness to a land swap and thought it was an opportunity to go forward with the balance of the Fletcher Middle School athletic fields swap acre for acre.

Director O’Kane voiced that she would have to get back to Council regarding the difference between the operating expenses and the revenue being made up through the Cubberley Capital Infrastructure Fund.

Council Member Tanaka suggested there be a joint meeting with the PAUSD, rather than sending letters back and forth, to expedite the process.

Mayor Kou inquired how the covenant not to develop came to be; how much was in the Cubberley Infrastructure Fund; and if the City continued maintenance on the City’s parcel.

Director O’Kane believed there were several schools closed, financial constraints due to Proposition 13, and low enrollment. She did not know what prompted the agreement, but there was agreement between the City and PAUSD to not sell those school sites. The information she had was from past documents. She would return to Council with information as to the balance of the Cubberley Infrastructure Fund. She explained why the City continued maintenance on both parcels and discussed a cost share, which was identified in the lease.

Council Member Lythcott-Haims queried as to the estimated acreage being contemplated for a community center in previous years and if PAUSD’s offer met that vision. She asked if transferring seven acres would be enough and if there needed to be conversation of more acreage.

Director O’Kane thought the Cubberley Concept Plan included almost the entire site for community use, which included fields. She thought the full site was contemplated in all previous plans. A community center could be built on eight acres, but there would not be a pool, etc. She outlined that acreage needed would depend on what would be included in the community center and whether space would continue to be leased from PAUSD.

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City Manager Shikada mentioned that PAUSD's letter indicated they wanted to retain roughly 20 acres for a potential future school. Planning would need to take land area and sequence of involving different parts of the parcel into account.

PUBLIC COMMENT

1. Ken Horowitz was disappointed in the Staff Report for the Study Session, and he claimed there was no gameplan. He noted that there were plan recommendations on Page 20 of the 2013 report. He opined that the facility had safety issues. He quoted Yogi Berra: When you come to a fork in the road, take it.
2. Penny Ellson had previously served on both Cubberley Committees that had been discussed. She expressed her frustration related to both processes, and indicated there had not been good guidance from Staff, housing being added made people angry, and that sharing space was a barrier. She agreed with Ken Horowitz's comments. She did not see a plan or a strong recommendation related to use. She hoped there be space for those who would reside in the new housing, which needed to be walkable and bikeable.

Mayor Kou asked what the size of the parcel was for the Jewish Community Center. She questioned if the playing fields accommodated afterschool sports. She asked if the athletic groups could lease directly from the school district.

Director O'Kane did not know the size of the parcel for the Jewish Community Center. She would provide that information for the closed session. She explained that the City rented out the athletic fields for mostly youth athletic groups. They did not accommodate afterschool sports. Potentially the athletic groups could lease directly from the school district.

Council Member Lauing voiced that this needed to be thought about in sections. PAUSD being open to Palo Alto acquiring land was a new opportunity, and a process for doing that was needed. Regarding the community center, he stated that existing benefits needed to be emphasized. He thought negotiations should focus on how much land to acquire, and then a plan could begin. He suggested two or three staff members and a council member participate in negotiations.

Council Member Veenker associated herself with Council Member Lauing's comments. She stated that ideally there would be a large enough parcel to plan all at once, but it may have to be staged.

Council Member Tanaka suggested meeting with PAUSD. He did not think there should be a purchase until there was a use plan.

Council Member Lythcott-Haims asked about how many housing units were proposed in the 2019 report and if they were reflected in the Housing Element.

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Director O’Kane specified that the 2019 Plan had several housing scenarios, and she would have to research the number of housing units in that plan. She assumed those units were not included in the Housing Element.

Council Member Burt agreed that land was needed for a community center to serve the community and thought housing should be on private land. He thought more than seven acres should be considered if PAUSD was open to that, but he did not believe they were offering more than seven acres. He thought 15 acres would be enough to move forward with a plan. He noted that the City-School Liaison Committee did not lend itself to negotiations. He thought having a council policy presence, a PAUSD presence, and a staff presence in negotiation with school administration and board members would be valuable, and he thought it should be the Cubberley Ad Hoc. He would be interested in being added to the Cubberley Ad Hoc from the City-School Committee standpoint.

Mayor Kou suggested there be a discussion in closed session related to long-term lease. She thought infrastructure and cost should be addressed when next meeting with PAUSD. She wanted the public to be included in discussion regarding Terman Park and thought a covenant not to develop should be explored. With regard to participation in negotiations, she suggested the Cubberley Ad Hoc and adding Council Member Burt to it.

Council Member Lythcott-Haims specified that Council was trying to figure out the process. She was a member of the Ad Hoc and the City-School Liaison Committee. She thought the Ad Hoc should be a part of negotiations and agreed with Council Member Burt being a part of that.

Mayor Kou wanted the process to be transparent and the public to be included in development of the plan and moving forward.

Director O’Kane, after investigating, remarked that the Cubberley site included 3 options with 64, 112, and 164 housing units.

City Manager Shikada followed up with information related to the balance of the Cubberley property infrastructure fund, which was about \$4M.

CONSENT CALENDAR

3. Approval of Minutes from May 1, 2023, Meeting
4. Approval of a 3-year General Services contract with Johnson Controls Fire Protection, totaling \$423,830, for Automatic Fire Extinguishing Systems Inspection, Testing, and Repair Services; and Approval of a Budget Amendment in the General Fund.

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5. QUASI-JUDICIAL. 151 S California Avenue {22PLN-00363}: Ratification of Director's Approval of Waiver from the Retail Preservation Ordinance for an Alternative Viable Use to Allow for a Medical Office Use to Occupy a 3,500 Square Foot Tenant Space. Zone District: CC(2). Environmental Assessment: Exempt from CEQA in Accordance with Guidelines Section 15061(b)(3) and 15301.
6. Approval of a Design-Build Contract with Parking Guidance Systems, LLC in the Amount of \$4,180,217 with Authorization for the City Manager to Negotiate and Execute Change Orders up to a Not-to-Exceed Amount of \$418,022 for the Downtown Automated Parking Guidance System, Access Controls & Revenue Collection Equipment Project, Capital Improvement Program Project PL-15002; and Approval of a Budget Amendment in the Capital Improvement Fund; CEQA status – exempt under CEQA Guidelines Section 15301(c)
7. Adoption of **Resolution 10108** Authorizing the City Manager or their Designee to sign Grant-Related Documents with Caltrans for the Newell Road/San Francisquito Creek Bridge Replacement Capital Improvement Program Project PE-12011; CEQA: Environmental Impact Report for the Newell Road Bridge (Resolution No. 9889)
8. Approval of Amendment No. 3 with RossDrulisCusenbery Architecture, Inc. (Contract No. C17165953) to add \$687,500, increasing the not to exceed amount to \$9,725,108, for additional Professional Services for the Public Safety Building Capital Improvement Program Project (PE-15001); CEQA: Environmental Impact Report for the PSB and New California Avenue Area Parking Garage (Resolution No. 9772)
9. Amendment No. 5 to the Agreement between the City of Palo Alto and the Friends of the Junior Museum and Zoo for Mutual Cooperation and Support to Extend the Agreement through June 2024 and Accept a \$75,000 Grant for a Community Engagement Specialist; CEQA status – not a project
10. Approval of Professional Services Agreement Contract Number S23184570 with Foster & Foster Consulting Actuaries, Inc. in an Amount Not to Exceed \$147,180 to Provide Actuary Services for a Period of Five Years: CEQA Status – Not a Project
11. Authorization for approval of a Blanket Purchase Order with Granite Rock Company in the Amount of \$500,000 Annually for a Three-Year Term, beginning July 1, 2023 through June 30, 2026, for a Total Not-to-Exceed Amount of \$1,500,000 for Hot Mix Asphalt Materials for Public Works and Utilities Departments; CEQA Status – Not a Project

PUBLIC COMMENT

There were no requests to speak.

Council Member Tanaka registered a no vote on Agenda Item Numbers 6, 8, 10, and 11.

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Council Members Tanaka and Lythcott-Haims requested to pull Item 8.

MOTION: Council Member Burt moved, seconded by Council Member Kou, to approve Agenda Item Numbers 3-11.

MOTION PASSED Items 3, 5, 7, 9: 7-0

MOTION PASSED Items 6, 10, 11: 6-1, Tanaka no

MOTION PASSED Items 8: 5-2, Tanaka, Lythcott-Haims no

Council Member Tanaka noted three items, perhaps more, had only a single bid and voiced that there was a systemic problem with the procurement process. He noted that Item 6 was 27% more than the prior year. He noted that the contractor, not the City, should have covered expenses for mistakes they had made related to Item 8. He remarked there were typos related to Item 10 and that there was an increase in cost that was not explained. He thought the requirements of the radius from job site for Item 11 should have been 20 miles, not 10 miles, which would have allowed more bids. He also noted there had been a 35% increase in price.

Council Member Lythcott-Haims was concerned with the extent of the deficits related to Item 8, and she had hoped the item would have been pulled so there could have been a conversation.

The Council took a 12-minute break.

CITY MANAGER COMMENTS

City Manager Ed Shikada acknowledged and appreciated the comments related to the events over the weekend, particularly the Affordable Housing Resource Fair and the disaster exercise. He thanked Council members for their participation in the activities. He noted that the 2022 RIPA data was available, and he looked forward to further discussions. The information was available at cityofpaloalto.org/PAPDripa. He provided information regarding forthcoming nighttime road closures. Upcoming community meetings included a remote Budget Informational Session on May 16 and an in-person open-house-style event on May 17 related to the Palo Alto Airport Long-Range Facilities and Sustainability Plan. There would be a Third Thursday on California Avenue event on May 18 and an event each third Thursday in June and July, and there were discussions to extend it beyond. The next Breaking with the Law event would be on May 22. The California Avenue Murals Festival would be June 1 through 9, and the public was invited to watch and invited to participate June 5 through 9. Information could be found at cityofpaloalto.org/MuralsFestival. He noted that the Council would recess in July. Tentative upcoming Council items included the Finance Committee Budget Report Out, which would be a study session, and action related a Firearms Sales Limitation Ordinance on May 22. There would be no Council meeting on May 29 in observance of Memorial Day. On June 5,

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there would be a study session with Valley Water regarding the Water Purification Project and action items related to Project Homekey and the S/CAP plan. On June 12 would be the Term Sheet with Pets In Need for the operation of the Palo Alto Animal Shelter and Council discussion with the Independent Police Auditor. In advance of that session, Council would receive the next report from the IPA. On June 19 would be the adoption of the budget, and hopefully there would be time for a study session related to the Tree Ordinance implementation.

ACTION ITEMS

12. PUBLIC HEARING: Adoption of a Resolution Providing that the City will Not Levy Assessments for the Downtown Business Improvement District for FY 2024.

Assistant Director Administrative Services David Ramberg outlined that Council had been asked to hold a formal public hearing and adopt a resolution for the suspension for the Downtown Business Improvement District assessment for FY 2024. Council approved the resolution of intent to not levy an assessment on April 24, and this meeting was the second step in the process.

PUBLIC COMMENT

1. Charlie Weidanz, on behalf of the Palo Alto Chamber of Commerce, spoke in support of the staff recommendation to adopt the resolution. He discussed the establishment of the Downtown Business Improvement District and the current economic landscape being different and the model not being sustainable. He hoped Council would support their efforts to develop alternative funding sources and continue to prioritize revitalization of downtown.

MOTION: Vice Mayor Stone moved, seconded by Council Member Veenker, to adopt a **Resolution 10109** declining to levy assessments for Fiscal Year 2024 for the Downtown Business Improvement District (BID).

Vice Mayor Stone commented that he agreed with Charlie Weidanz's comments related to not levying assessments for FY 2024.

Council Member Burt supported the motion. He spoke of the past functions of the bid, which included promotion of downtown, etc., and thought such functions remained important. Council would receive a budget update from the Finance Committee, and he recalled that the Finance Committee unanimously supported a special events manager/coordinator position. He thought Council's review of the budget should consider [inaudible] the staff position but also possible needed out-of-pocket expense. He discussed the upcoming Third Thursday event and indicated that downtown needed something comparable. He discussed the HBID and thought abandoning that investment was a mistake and thought the City needed return of the program. He suggested considering rejuvenating that approach as part of a down plan and capital

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investments in the downtown physical infrastructure. He was more supportive of the City financially supporting events.

Mayor Kou appreciated Council Member Burt's comments regarding the Finance Committee. She was concerned that not having an assessment could impact events, and she supported an events coordinator. She was concerned about the City possibly funding all the events and thought it should be a shared cost. She supported the motion.

MOTION PASSED: 7-0

13. Update, Discussion, and Potential Direction regarding State and Federal Legislation

Deputy City Manager Chantal Cotton Gaines introduced consultants from the advocacy firms. Staff had intended for the meeting to focus on the state a lot. Staff was looking for Council actions on about six bills with recommended actions. They would also provide information on the monitoring list. Since the last presentation, they had submitted a few letters related to bills, which fell within legislative guidelines, that Council had given Staff clear direction through the legislative guidelines that would support taking positions on those bills.

Townsend Consultant Niccolò De Lucca supplied slides and gave a State legislative overview. He explained that the Senate and the Assembly Appropriations Committees would meet on May 18, which would block much legislation. He outlined Townsend's advocacy strategy. He explained the difference in priority legislation and legislation monitoring. He provided a summary of legislation that was being monitored. He addressed the state budget reflecting a deficit and two bonds the governor called out but noted there was no current legislation. He discussed why the budget would be in framework until November due to personal income tax and expected there would be formal reconciling of the 2023/2024 budget.

Townsend Public Affairs Consultant Carly Shelby furnished slides and discussed bills the City had taken the formal positions on, which included AB 1505 and SB 43. They recommended the City take positions on SB 423, AB 12, AB 1637, AB 1598, SB 2, and ACA 1, and she provided Townsend's recommended positions. Related to the Federal Appropriations Fund, she commented that the Buena Vista Mobile Home Park rehabilitation funds were likely to be incorporated into the final appropriations bill.

League of California Cities Deputy Executive Director of Advocacy Melanie Perron furnished an overview of the League overall and announced how Cal Cities set policy. She encouraged Council's participation in their board or policy committees. She outlined Cal Cities budget requests. She highlighted that the Governor's May Revision Budget largely did not redirect city funds to address the state budget shortfalls for homelessness, housing, public safety, infrastructure, or climate change, which they were focused on. She addressed the advocacy priorities for Cal Cities in 2023. She spoke of homelessness, housing, mental health, and public safety and bills they supported and opposed. They were releasing a letter to the Assembly

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legislative leadership regarding fentanyl response and asked Council to contact her if they were interested in joining the letter. She presented the nine bills Cal City was sponsoring, although positions had been taken on dozens of bills regarding impacts to cities ranging from environmental quality, housing, etc. She highlighted that they were sponsoring two Brown Act bills, one of which an extension of AB 361 requirements. They were doing a lot in the public contracting space, and they would be happy to have a conversation with Council offline. She provided a list of bills Cal Cities had been directly involved with, which were victories. On the Federal side, they were very focused on ARPA Fund acts, and she expressed that they may reach out to Council for assistance. She remarked that Cal Cities had updated the handling of the annual conference, and she could provide Council with information related to that. She specified that they were involved in the SB 9 litigation, and there would be material regarding that in Cal Cities newsletter later in the week. She requested Council let her know if they needed her to provide the information. She provided an update on the California Business Roundtable ballot measure, which Cal Cities opposed.

Deputy City Manager Cotton Gaines requested Council confirm their opposition of SB 423 and AB 1637 and their support of AB 12, AB 1598, SB 2, and ACA 1.

Council Member Veenker wondered if this should go to P&S for feedback to Council. She supported SB 2 and asked how to call on state officials regarding that resolution.

Consultant De Lucca suggested there be a letter to Senator Portantino and that the letter be shared with all Assembly members. He suggested making personal phone calls, attending Sacramento Advocacy Days, and working with other regional leaders to let it be known other cities were working on this. He had other ideas that he would be happy to speak about offline.

Council Member Veenker encouraged Council to take those suggestions.

Council Member Lythcott-Haims wanted to understand the concern regarding Cal Cities General Assembly and how it was being addressed. She questioned why Council should oppose SB 9 and SB 423.

Director Perron explained why there had been concern related to Cal Cities General Assembly and how changes and enhancements were being made to address that.

Consultant Shelby provided details related to SB 423 revising some approval processes, and Townsend's recommendation to oppose SB 423 related to the sunset removal date, and they thought the bills should be revisited every few years.

Deputy City Manager Cotton Gaines remarked that staff used the legislative guidelines as a guide for supporting or opposing pieces of legislation, which allowed drafting of a letter if the guidelines were clear. As there had been contention around SB 423, Staff wanted Council to have an opportunity to discuss it. She asked Council to share any nuances that should be included in the position letter.

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Vice Mayor Stone asked for information regarding financial aspects for the City and cyber security related to AB 1637. He queried if unbundling parking in AB 1317 would extend to BMR units and if it would require tenants to pay extra for parking. He questioned when Council would receive a bill monitoring update.

Consultant Shelby answered that the bill was proposed in response to cyber security attacks on cities, and the bill would require IT departments to recode, reprint material, etc., but there was no funding mechanism. She explained that there was concern that this may not be fully implemented by 2026 and there was concern that a domain shift may not equate to additional security benefits. They recommended opposing the bill as it would be burdensome for cities to implement by 2026.

Consultant De Lucca indicated that this legislation could possibly slow security breaches but would not stop them entirely. He would follow up with Council concerning AB 1317 and parking for BMR units, but he noted that they would not know if it would move forward until May 18. They were working closely with the administration on the bills being monitored, and they would know on May 18 which bills the Appropriations Committee would move forward and which bills would be held. He did not expect to see the amendments until next week. From there, they could move some bills from monitor to suggest support or recommend opposition.

Deputy City Manager Cotton Gaines noted that direction could be given to Staff today related to bills Council may want to reflect on, and then Staff could make a discernment in collaboration with the Mayor and Vice Mayor.

Council Member Burt asked if there had been polling related to the Business Roundtable measure or if polling was planned. He questioned the role of the Chambers of Commerce, including the local Chamber of Commerce, in supporting or opposing the bill. He suggested the participants in the Business Roundtable be considered and their political accountability. He inquired why RHNA mandates were not characterized as unfunded mandates. He asked if the League would bring forward an argument regarding RHNA allocations being unfunded mandates. He noted that the League sponsored legislation and the priority monitored legislation did not seem to align, and he wanted to know how the lists would be reconciled going forward.

Director Perron stated polling would be done if it had not already been and it would be done over the course of the ballot measure. She recalled that the State Chamber of Commerce had contributed about \$100K, which was a small interest, and they were not taking a true proactive roll. She explained what they considered to be an unfunded mandate. SB 9 was considered a matter of statewide concern, which could sometimes eliminate the need for it being an unfunded mandate. They would not bring forward an argument regarding RHNA allocations being unfunded mandates. She understood the need for additional resources, and she would take the issue back to her team and follow up with Council. She added that Cal Cities had also taken an opposed position on AB 1637 and SB 423, so there was overlap. She would be happy to coordinate with Townsend related to that.

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Consultant De Lucca commented that they had flagged commonalities in League sponsored legislation and priority monitored legislation. He explained that the League worked on some larger efforts and Townsend worked on more direct, specific efforts. He would be happy to work with the League, CSAC, and other associations to reconcile the lists.

Mayor Kou clarified that Townsend was also working based on Palo Alto's foundational principals, which was somewhat different than Cal Cities'.

Council Member Tanaka voiced why he supported the Taxpayer Protection and Government Accountability Act. He also supported SB 423. He opposed AB 12. He detailed why he did not agree with the recommendations for SB 423 and AB 12. He did not support ACA 1, as he did not believe the voter threshold should be lowered. Regarding the Brown Act and open meetings, he wanted to continue open meetings.

Mayor Kou was encouraged by Cal Cities' direction and the change in terms of taking measures to promote local decision-making and lobbying against policies that would erode local control. She appreciated President Ali Sajjad Taj's leadership and Executive Director Carolyn Coleman's letter addressing the budget shortfall and homelessness. She queried if ACA 1 included a possible parcel tax to fund affordable housing and infrastructure and if AB 309 passed. She had funding concerns related to staffing regarding AB 1633. She thanked Townsend for monitoring and providing updates for SB 423. She addressed why she considered Broadband Permit Applications unreasonable and hoped it would continue to be monitored but that there be a very clear opposition. Concerning SB 252, she questioned how investments would be affected if there were divestments in fossil fuel companies. She outlined that SB 405 would pose more work for City staff and requested it be monitored. She asked why AB 12 referenced furnished and unfurnished rentals, and felt furnished rentals may need to involve a higher deposit.

Consultant Shelby answered that AB 309 was on the Appropriations Suspense File. It would be determined what would happen with that on May 18. She understood that AB 1633 would be acted upon on May 18. They would send updates as they knew more. She did not have quantifiable metrics related to divestments in fossil fuel companies and the effect on investments. She noted that a large portion of the portfolio was invested in fossil fuel and divesting would contribute to the destabilization of the fund. That would be monitored.

Consultant De Lucca understood ACA 1 to include bonds, a local sales tax measure, and parcel tax, but he would confirm that. As for AB 12, the author's office indicated they wanted the deposit to be the same whether furnished or unfurnished.

Council Member Lythcott-Haims stated that there were different perspectives on the term local control and thought it was dangerous to be in favor of or against it. She wanted Cal Cities to comment on their opposition to SB 9. She wanted to know specifically what the \$2M was to be allocated for related to Buena Vista.

Director Perron specified that SB 9 interfered with the home rule and clarified that SB 9 was not an affordable housing bill. She would be happy to provide Council with the Amicus Brief.

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Deputy City Manager Cotton Gaines remarked that a Federal earmark request had been submitted for the electrification of the Buena Vista site, which aligned with the City's goals. There had been mixed reactions from the public in terms of the future site being all electric.

City Manager Shikada replied that the electrification for Buena Vista would be significantly more than \$2M.

Council Member Lauing was willing to accept all the oppose and support recommendations, and he would include supporting SB 2. He noted that the discussion of SB 35 had referred to vague sunset dates, etc. He supported ACA 1. He agreed with Mayor Kou concerning the security deposit for rental units.

Council Member Veenker thought current views may be different from the previous City Council, and she wondered if positions should be taken on the bills that did not have current consensus and if there should instead be further discussion by Council. She requested more detail regarding the Governor's May Revision Budget and shifting to a 2024 bond measure related to climate change and for a description of AB 698.

Director Perron responded that AB 698 would not move forward. She described what the bill would have done. The Governor's May Revision Budget indicated that climate change funding should go to a bond measure in November 2024, and there were three bond measures pending in the legislature, which totaled over \$20B, and one of the measures would be in play next year.

Vice Mayor Stone asked if the California Housing Authority would also be able to provide state funding for affordable housing production. He asked how much funding the State was proposing in the revised May budget for actual affordable housing construction.

Consultant De Lucca stated that was part of the goal. BCSH is the state agency working on funding, so if this were to move forward with a funding component, it would need to be addressed. He did not have the state budget information available but was willing to get that and clarified that the May revise was the governor's proposal back to the legislature. There has been some support from the Senate and Assembly to maintain \$1B for homeless services. The issue was what the deficit looked like and where there was room for flexibility. The legislature has said it was a priority depending on how much was still available.

Vice Mayor Stone supported the list as noted and agreed on adding SB 2. He spoke about the issue of local versus state control and hoped to find a better partnership with the State regarding housing.

Council Member Lythcott-Haims proposed that it be recorded in the letter when the vote on an item was not unanimous.

Council Member Veenker felt it was not necessary to choose support or oppose on issues that were split to a significant degree. She believed there was near consensus on all but SB 423 and that it should be recorded that the City does not take a formal decision on that item.

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Council Member Burt felt SB 423 was very problematic and endorsed opposing it.

Council Member Tanaka supported the suggestion of having the vote recorded or alternatively not including the ones there was opposition on.

Council Member Lauing asked what the usual approach is.

Consultant De Lucca stated it was up to the will of the Council.

Mayor Kou stated SB 450 appeared to take away local control even more and asked to keep an eye on that. She wanted to add SB 634 to the recommended action list as a support. The bill creates a new type of low-barrier navigation center called opportunity housing. She also wanted to add to the monitor list SB 4, SB 341, SB 393, SB 440, and SB 532. She wanted to add AB 965 to the list of recommended action, to oppose. She wanted to vote on the issues that were believed to have consensus (AB 1637, AB 1598, and SB 2).

MOTION: Council Member Veenker moved, seconded by Council Member Lythcott-Haims, to direct Staff to take direction on the following bills:

Support

- **AB 1598 (Berman)**
- **SB 2 (Portantino)**

Oppose

- **AB 1637 (Irwin)**

MOTION PASSED: 7-0

ORIGINAL MOTION: Council Member Kou moved, seconded by Council Member Burt, to direct Staff to take direction on the following bills:

Oppose

- **SB 423**

SUBSTITUTE MOTION: Council Member Tanaka moved, seconded by Council Member Veenker, to vote “no position” on SB 423.

MOTION FAILED: 3-4, Burt, Kou, Lauing, Stone no

ORIGINAL MOTION PASSED: 4-3, Lythcott-Haims, Tanaka, Veenker no

MOTION: Council Member Lythcott-Haims moved, seconded by Council Member Tanaka, that if there is not a unanimous position on a legislative item, then the vote be recorded on any resulting letter to contain the vote count.

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Council Member Burt stated he would not support listing individual council members' votes.

Council Member Lythcott-Haims was more interested in the concept than the names being recorded and was happy to have the vote be reflected by number only.

The wording of the motion was revised.

MOTION PASSED: 7-0

ORIGINAL MOTION: Vice Mayor Stone moved, seconded by Council Member Burt, to support AB 12.

Vice Mayor Stone felt it was critical to protect renters across the state. This would not place an undue burden on landlords and could provide a safety net for renters trying to enter the rental market.

Council Member Tanaka opposed this and felt it made no sense for furnished apartments.

SUBSTITUTE MOTION: Mayor Kou moved, seconded by Council Member Tanaka, to add AB 12 to the monitor position.

Mayor Kou stated there was still a concern about the furnished part of it and it should be brought back after speaking to the author for consideration.

MOTION FAILED: 2-5, Burt, Lauing, Lythcott-Haims, Stone, Veenker no

ORIGINAL MOTION PASSED: 6-1, Tanaka no

MOTION: Council Member Lauing moved, seconded by Council Member Veenker, support ACA 1.

MOTION PASSED: 5-2, Tanaka, Kou no

MOTION: Mayor Kou moved, seconded by Council Member Lythcott-Haims, to support SB 634.

MOTION PASSED: 7-0

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Mayor Kou requested to add SB 450, SB 4, and AB 965 to the monitor list. She asked if there was anything to be concerned about on the ARPA Funds. She requested to find out earlier about the next lobbying day.

Consultant De Lucca explained it was a proposal from the House Republicans as part of the debt ceiling discussions, nothing in a formal bill. They could share with the Congresswoman and both Senators any recent reports as to drawing down those funds so they know Palo Alto has been a good actor with the funds.

14. PUBLIC HEARING/LEGISLATIVE: Adopt an Ordinance That Changes Palo Alto Municipal Code Chapters 18.04, 18.09, 18.10, 18.12, and 18.40 related to Accessory Dwelling Units and Accessory Structures. Environmental Assessment: Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305.

Planner Garrett Sauls described the current ADU ordinance adopted in 2020, two additional motions to continue working with the community and design professionals to consider additional regulations to incentivize ADU development and to direct the PTC to look at a deed restricted affordable ADU program. He reviewed the timelines of these policies, including HCD letters and responses. The purpose of this discussion was to respond to HCD's feedback and further establish policies that would help encourage, clarify, or resolve any potential conflicts. The HCD comments were described. The proposed areas for regulatory changes were basements, noise-producing equipment, parking attached to an ADU, privacy, retracting prior deed restrictions, reconstruction/expansion of nonconforming structures, removing existing garage requirement, conversion/relocation of uncovered parking stalls, and alignment of ADU and tree ordinance. The corner lot incentives focus primarily on what benefits the City could potentially provide to the primary home in order to encourage an individual to develop an ADU at a greater setback than what would typically be allowed. He explained the policies considered for inclusion in the draft ordinance and the code modifications to definitions, sanitation facilities, and accessory structures. He explained the recommended motion and next steps.

PTC Vice Chair Bryna Chang stated it was a disappointment that the PTC decided not to continue to pursue the affordable ADU item all, but almost every commissioner had doubts about whether the program would be effective for various reasons, which bore out when Staff spoke to the experts. She concurred with everything Planner Sauls said.

PUBLIC COMMENT

1. John Kelley stated he had spoken to Director of Planning and Development Services Jonathan Lait and felt Staff was in better understanding of concerns regarding the way ADUs are sometimes asked to pay marginal electrical distribution upgrade costs and also the advisability of allowing J/ADUs to have, at the homeowner's option, separate sewer

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and utility services. He felt there was a misconception when talking about the alignment of ADUs and the tree ordinance as the tree ordinance is not a form of ministerial review and trying to apply that ordinance to state exemption ADUs is mistaken. He asked Council to direct discussion on what is really necessary to provide financial incentives to stimulate ADU production back to the PTC. He urged the Council to have a single standard for detached two-story ADUs throughout the City.

Council Member Lythcott-Haims asked when an analysis of the tree ordinance could be expected.

City Manager Ed Shikada stated a study session was expected on June 19.

Council Member Burt asked if the noise-producing equipment locations was only for more significant noise.

Planner Sauls stated the policy considered tonight was relative to the City's existing noise ordinance, which has limit of 66 dB for most properties. Often, the type of mini split systems used to facilitate hot and cold air within the J/ADUs have a noise level between 50 and 60, already complying with that ordinance.

Director of Planning and Development Services Jonathan Lait stated they will be coming to the Council in August with an ordinance that would address the broader site location of heat pumps on a property for a principal building.

Council Member Burt also wanted to ensure that the language clearly referred applicants to the right place with simplicity and clarity.

Director Lait stated there was a reference back to the noise ordinance.

Vice Mayor Stone referenced that the HCD recommended adding "when feasible" to the language regarding the entryway for J/ADUs and Staff recommended removing the language altogether. He questioned whether it created a subjective standard for Staff to review on a case-by-case basis and whether that was allowed under state law. He stated there was language in other items, egress windows and skylights, regarding feasibility.

Planner Sauls stated feasibility was not defined and can be more subjective. Though there have not been a lot of issues with this policy, HCD noted it as one of concern related to compliance with the state law. Egress was better understood from a building code context.

There was further discussion about this.

PTC Vice Chair Chang stated the PTC was sympathetic to the Staff concern about the feasibility language but wanted to honor the intent of the ordinance. The result was to suggest that it was encouraged but not required that the unit not have an entranceway, which was the same

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thing as saying "when feasible." The PTC also felt that homeowners would want to do what is more aesthetically pleasing anyway.

Council Member Lauing questioned the reasoning behind giving in on this particular item and not items ii and iii. He stated the daylight planes item seemed like the most murky as the perspectives did not square.

Director Lait explained that HCD stated in their letter that the entry requirement may be unduly restrictive. It was possible to push back on that if the Council wished. Regarding the daylight plane, he stated HCD was unambiguous that the standard did not comply with state law. He stated if Staff made an argument against a change, it was because there was a lot of information to substantiate the position.

Council Member Veenker suggested putting "when feasible" since that was what HCD asked for. It would encourage people to try to comply, and if they do not want to, there did not need to be a very rigorous review.

Director Lait had no concerns with that approach.

Mayor Kou asked if the bonus floor area and lot coverage exemption gave more floor area than allowed in the code. Regarding the setback, she asked if there was a limit on equipment on the side of the house, in order not to impede emergency response.

Planner Sauls stated the bonus would have the normal calculation for the site based on size and the homeowner would have the option to build an 800-sq ft ADU or 500-sq ft JADU on top of that number. The Fire Department had noted that HVAC systems could be placed in different locations to allow for ingress and egress.

Council Member Lauing asked if there would be some sort of audit function in place regarding the tree ordinance.

Director Lait stated there were two tables in the tree ordinance. The first was by right standards, which Staff cannot do anything about. For table two, the Forestry team would review for any concerns.

Council Member Burt questioned where in the issues independent utility falls.

Director Lait believed that was in the City Utilities policies and procedures rather than the zoning ordinance. The State preempts the City from requiring additional meters, but separate meters are allowed for electricity and water if the homeowner chooses. It is not currently allowed for sewer.

MOTION: Council Member Lauing moved, seconded by Mayor Kou, to approve section A and modify language in section 18.09.040(k)(1) Except on corner lots where feasible.

There was discussion about the wording of the motion.

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MOTION PASSED: 7-0

Mayor Kou asked for further explanation on item B vii and then item E i.

Planner Sauls gave an example of a layout with a current requirement of one covered parking space and then one uncovered space next to it. The City and State provide that in converting a garage to an ADU, those covered parking spaces do not need to be replaced; however, uncovered parking spaces are not discussed. The suggested language was to effectively allow for the uncovered space to be replaced in the front yard setback in the driveway area. It would mirror the rule for a garage being converted to a JADU currently, allowing the covered space to be replaced as an uncovered space in the driveway. This would also apply to a new build. Regarding E i, he explained how floor area was currently calculated in the zoning code and how that would be affected by adding an ADU.

Council Member Tanaka asked if basements were now allowed under ADUs. He also questioned the reasoning for the current policy. He felt that basements had no negative impacts on the neighbors and may allow more housing for the City. He supported allowing basements under any structure with a foundation.

Planner Sauls stated basements were allowed under Table 1 units if there was no other option to develop on the site above ground, but basements were not allowed underneath ADUs that encroach into the setbacks for the main house. The current policy was a carryover from the ordinance before 2020, which was not as permissive for that type of development, and primary homes are also not able to have a basement within the setback area.

Council Member Tanaka asked about the policy for floor area ratio and wondered why it was not consistent with current rules because, again, it does not impact the neighbors. One pushback on ADU conversions was parking, and he felt this would also help relieve off-street parking.

Planner Sauls stated there was a specific square footage limitation for these units and the way to properly capture the limitation would be to include the habitable space of a basement toward the square footage.

Director Lait stated the discussion about parking in basements was not a part of this proposal, but Staff could come back at a later date to talk about a code change.

Council Member Veenker asked if there was a status update on the issue of two-story ADUs.

Director Lait stated Staff would need the direction to pursue that change if Council wished to explore it. It was not currently a part of the work plan to extend the two-story height limit for ADUs beyond what the State has established.

Council Member Veenker asked for elaboration on the concerns about the affordability program, including the eight-year period being shorter than the typical length affordable

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housing tenants remain and tenants who might later exceed the income threshold having to move because there are not alternative units for higher-income people.

Planner Sauls stated those items were all discussed in the PTC on how to make this program possible. There were 8 to 10 different policies considered to be a part of this program, and most were pulled out because it was not felt to solve the issue of having deeper levels of affordable units available. Based on the available market data, the rents for ADUs were comparable to those of traditional rentals, so the planned range was partially already being met by the market. In order for it to be a more affordable unit, it would have to be a lower level of income, which could be challenging for someone hoping to recoup the cost of building the ADU.

Council Member Veenker hoped to continue to find a way to have an affordability program.

Director Lait believed this was an area to collect more information and there were plans to do so with surveys as set forth in the housing element.

PTC Vice Chair Chang sympathized with the desire to want to make something work but the amount of incentive needed for one unit of housing was a lot. It was different for an entire apartment building with different tax incentives and financing than a single homeowner can access. The owner living on the property usually wants more power over who their tenant is, possibly related to noise, pets, children, etc., and with affordable housing, the landlord does not have that option.

Vice Mayor Stone was not quite ready to drop the idea of affordable housing. He stated if someone builds an ADU, they cannot be forced to use it for housing and asked if Staff had looked into incentives for that as well.

Planner Sauls stated there was not a capability to monitor whether the ADU is being used for housing. The monitoring would be more related to whether the tenant would still qualify for the income category.

Vice Mayor Stone discussed potential incentives that might be offered to use ADUs for housing. He felt it was critical to have the rental registry because the data was so important. He asked if Staff anticipated any additional dewatering requirements with ADU basements. He also mentioned discussing in the future creating streamlining processes for ADUs with companies that create pre-fab structures.

Director Lait stated there were no additional rules proposed in relation to how it might affect the water table. He stated there had been discussion about creating additional incentives for affordable J/ADUs

Council Member Lythcott-Haims was also curious to figure out the right incentives for people to develop these units for affordable housing. She would like to consult someone on what would have to be offered to make this work. She also wanted the issue of two-story ADUs to come back at some point. She did not want the tree ordinance to get in the way of building ADUs and

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asked when the review of that was coming. She did not want to see that ordinance enforced against the creation of J/ADUs. She appreciated the letter from the Palo Alto ADU Task Force regarding the differing impact fees based on the size of the main house and wanted to look more closely at that.

ORIGINAL MOTION: Vice Mayor Stone moved, seconded by Council Member Burt, to approve sections B, C, D, and E and adopt the draft ordinance amending Palo Alto Municipal Code Title 18 (Zoning) to amend regulations for Accessory Dwelling Units (ADUs), Junior Accessory Dwelling Units (JADUs), and Accessory Structures, including provision to respond to direction from the department of Housing and Community Development (HCD) and refer D back to the PTC for further refinement and discussion the following:

- Create incentives including exempting or reducing impact fees and plan review fees from affordable units
- Develop incentives for ADUs to be used for housing

There was discussion on the wording of the motion and the incentives previously explored by the PTC.

Council Member Veenker suggested there may be some way to discount things like sewer, gas, electric, water hookups if they are intended to be used for affordable units.

Council Member Tanaka wanted to look at reducing impact fees for all ADUs, whether affordable or not.

Vice Mayor Stone was not interested in that as he wanted to be able to incentivize affordability and housing.

AMENDMENT TO MOTION: Council Member Tanaka, seconded by Council Member Lythcott-Haims, moved to add to the motion: exempt basement floor area from ADUs and JADUs.

Council Member Tanaka felt it was important to use all the tools to solve the housing crisis. Basements do not cause big neighborhood impacts and can add more housing without bigger structures above ground.

Mayor Kou questioned if this would mean the basement of an ADU could go the full extent of the main house.

Planner Sauls stated it would be just for J/ADUs and the City code and state law have very specific size limitations.

Director Lait clarified that it would double the amount of usable floor area, increasing a JADU from 500 to 1000 sq ft and an ADU from 1000 to 2000 sq ft.

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Vice Mayor Stone stated Council Member Tanaka often speaks to smaller units being less expensive. With an affordability issue, this motion would make the units larger and therefore more expensive.

Council Member Burt added that basements were inherently more expensive to construct than above ground. In addition, there was no parking requirement for what could potentially be a 2000 sq ft home.

Council Member Tanaka felt the community needed more housing of all types and that this would free up more space for other people. He added that a basement could potentially be broken into smaller spaces, creating additional units.

Council Member Veenker questioned whether there was a CEQA impact.

Planner Sauls stated these projects were reviewed ministerially and exempt from CEQA. He also pointed out how exempting basement from square footage area could affect impact fees.

Director Lait stated the enacting legislation would be subject to CEQA but he believed it would be exempt.

AMENDMENT TO MOTION FAILED: 2-5, Lauing, Veenker, Stone, Burt, Kou no

There was further discussion on the wording of the original motion.

ORIGINAL MOTION PASSED: 7-0

ADJOURNMENT: The meeting was adjourned at 11:44 P.M.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Action minutes are prepared in accordance with Palo Alto Municipal Code (PAMC) 2.04.160(a) and (b). Summary minutes (sense) are prepared in accordance with PAMC Section 2.04.160(c). Beginning in January 2018, in accordance with [Ordinance No. 5423](#), the City Council found action minutes and the video/audio recordings of Council proceedings to be the official records of both Council and committee proceedings. These recordings are available on the City's website.