



CITY COUNCIL SUMMARY MINUTES

Special Meeting
May 22, 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 in honor of Jewish American Heritage Month.

SPECIAL ORDERS OF THE DAY

1. Proclamation Honoring Thomas Foon Chew
2. Proclamation Honoring Birge Clark

Vice Mayor Stone read the Proclamation recognizing the contributions made by Thomas Foon Chew and Bayside Cannery to the history and development of our City. Mayor Kou encouraged the community to learn more about Thomas Foon Chew and Bayside Cannery and to appreciate the contributions made by Chinese immigrants to the development of Palo Alto.

Council Member Veenker read the Proclamation recognizing Birge Clark's contribution to Palo Alto's architectural history on the 100th anniversary of the founding of his architectural practice. Birge Clark stated the City endowed a very great honor upon his father. Dean Clark echoed Birge Clark's comments. Mayor Kou commented on Birge Clark's amazing architecture in Palo Alto and thanked his family for attending.

PUBLIC COMMENTS

Terry Holzemer thanked Council for the Proclamation and recognition of Thomas Foon. This region was one of the world's most fertile fruit and vegetable growing areas in the early 20th century. Thomas Foon made his father's cannery the third largest in the world.

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Amie Ashton, Executive Director of Palo Alto Forward, addressed Council regarding climate and housing. Building higher-density, in-fill housing was one of the top three ways to reduce Bay Area pollution and emissions. Over 1M acres of California's open space was lost in the last 20 years due to sprawl. She invited everyone to an event at The Hub at Stanford Research Park on June 15 at 6 p.m. Nature Conservancy, Green Foothills, and Greenbelt Alliance will also be speaking. 350 SV Palo Alto, Acterra, Menlo Spark, Sustainable Silicon Valley and the League of Women Voters sponsored the event. She will email the event details to Council.

Aram James enjoyed learning more about Birge Clark and Thomas Foon. Council also honored people during Black History Month and it was a tradition he hoped would continue. He read a letter to the editor printed in the May 22 newspaper regarding taxpayers paying \$680,000 to repair mistakes made by the architect and contractor on the Palo Alto Police Station. Mr. James thanked Council Member Tanaka for being the only council member to vote no. He also spoke about 600,000 people released yearly from prison without being rehabilitated.

KC Hetterly, Santa Clara Valley Audubon Society intern, showed a slide presentation on the killdeer, a local bird. We should protect killdeer because their insect-heavy diet helps with pest control. They feed on pests such as locusts, mosquitoes and ticks. Killdeer forage and nest on the ground and, as a result, are easy prey for cats. Methods such as trap, neuter and release contribute to growing populations of free-roaming cats, which could have a disastrous effect on killdeer populations.

Annie Yang, Chair of the Environmental Action Committee of the Santa Clara Valley Audubon Society, delivered a slide presentation on the black-tailed jackrabbit. Black-tailed jackrabbits were endangered in Washington and threatened by increasing habitat destruction due to development and introduced predators. Cars, increase in human development, and free-roaming cats kill jackrabbits. Wildfires can make their habitat uninhabitable. Jackrabbits rely on foliage for food and shelter. With rising global temperatures and increasing occurrence of wildfires, black-tailed jackrabbits could be facing a rapid loss of habitat. We should care about black-tailed jackrabbits because they play an important role in balancing the Baylands ecosystem. They feed on invasive plants and native foliage. They are a major food source for their natural predators, including red-tailed hawks, Northern harriers, owls and snakes. We can do our part to prevent wildfires and stop releasing cats into the Baylands and our city.

CLOSED SESSION

3. PUBLIC EMPLOYEE APPOINTMENT Authority: Government Code Section 54957(b) Titles: City Clerk
4. CONFERENCE WITH LABOR NEGOTIATORS Unrepresented Employee: City Clerk City representatives: Sandra Blanch Authority: Government Code Section 54957.6

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MOTION: Council Member Lythcott-Haims moved, seconded by Vice Mayor Stone to go into Closed Session.

MOTION PASSED: 7-0

Council went into Closed Session at 6:01 p.m.

Council returned from Closed Session at 7:35 p.m.

Mayor Kou announced no reportable action.

STUDY SESSION

AA1. FY 2024 Proposed Operating and Capital Budget – Finance Committee Update and Council Budget Discussion

Assistant City Manager Kiely Nose stated that staff provided their recommendations and support needs to Council. On May 30, the Finance Committee will consider Council's comments from this evening for their formal recommendation for budget adoption. City Council budget adoption will be on June 19.

Budget Manager Jessie Deschamps presented an overview of the tentative adjustments recommended by the Finance Committee. Budget Manager Paul Harper discussed FY 2024 proposed budget investments and the revised General Fund balancing strategy for FY 2024 through FY 2026.

City Manager Ed Shikada pointed out that with the additional expenses preliminarily recommended by the Finance Committee, our ability to execute on these additional priorities over the course of this fiscal year was uncertain. The Tier 2 proposals presented to the Finance Committee reflected an assumed level of expenditure of about \$2.25M.

Council Member Burt, Chair of the Finance Committee, commented that the Finance Committee had two days of in-depth discussions and unanimously agreed on their recommendations. The issues were whether we had the funds and staff capacity available for some of the Tier 2 projects. Including the totality of those recommendations would result in an additional 2.5% expenditure in the General Fund budget. Discussion ensued on the anticipated staff vacancy savings.

Council Member Veenker was very excited about the budget. Budgets were statements of values and she believed the proposed budget better reflected our values as a City. She requested additional information on pensions.

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Council Member Burt explained there is a budgeted amount to put into the Section 115 Pension. At the end of the year, the established policy was to divide any surplus between the capital fund and paying down the underfunded pension liability. Last year, a sizable portion of surplus funds went toward midyear restorations of positions.

Assistant City Manager Nose remarked that they divided the 2022 surplus of funds in thirds (about \$5M) between the Section 115 Pension Fund, the capital fund, and restorations or other service needs, including rebates.

Council Member Burt noted that our projections were conservative. He looked at more than 15 years of long-range financial forecasts and they started with significant deficits but reduced later for various reasons, such as better performance than projected or we made adjustments. The new Cubberley Community Center in all likelihood was not going to come out of our existing revenue stream

Council Member Veenker was excited to see the San Antonio Coordinated Area Plan included. She thought it was critical to start on Coordinated Area Plans. She offered her support because she had a lot of background in consensus building activities.

Council Member Lythcott-Haims pointed out that the \$50,000 for the San Antonio Coordinated Area Plan was only for an initial conversation with Cal Poly. The budget did not include an actual San Antonio Coordinated Area Plan because staff told the Finance Committee they did not have the ability to take on such an arduous process at this time.

Director of Planning/Community Environment Jonathan Lait spoke about the cost of the Coordinated Area Plan. As an example, the North Ventura Coordinated Area Plan, which is a small geographic area, was running about \$1.4M-1.5M. Staff estimated it would cost an average of \$2M per plan. The funds requested to have conversations with Cal Poly were for supplies, travel, and accommodations.

Director Lait mentioned that we received \$800,000 in MTC funding for the downtown housing plan. Bids were coming in between \$800,000 and \$1.3M but it was not included in the budget recommendations.

Council Member Lauing asked staff what measures were in place to recuperate quickly if there were a revenue headwind. Staff responded that Council allocated over \$600,000 through contract increases or new initiatives. Staff consolidated all reserves, so they would use the BSR (Budget Stabilization Reserve).

With the possible revision, Council Member Lauing wanted to know how much less we would fund the pension compared to last year. Council Member Burt replied that the end-of-year bonus funding was around \$5M.

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Council Member Lauing would like to address the staffing problem. He inquired if the proposed budget included funds for an outside consultant to provide us best practices and make recommendations. Human Resources Director Sandra Blanch answered yes; there was money available for a third party to do a recruitment assessment of our processes and resources. She welcomed any new ideas the external resource could provide for streamlining or making improvements. Last week, an additional hourly employee was hired to help with the vacancy rate. Staff is in communication with a third external recruiter. Council Member Burt added that staff told the Finance Committee that vacancy rates were diminishing. He requested that staff update the full Council.

Council Member Lythcott-Haims queried why Tier 2 did not include the downtown housing plan. Staff responded that Director Lait did not identify it as a top priority. If not funded, the project will stop and staff would redirect resources to another priority. Director Lait added that we received an \$800,000 grant but we needed more money. The Council earmarked \$150,000/year for three or four years to manage the project. The RFP ranges suggested we need another half million dollars to support this initiative. In August, staff planned to return to Council with additional information. Council Member Lythcott-Haims felt it should be included on the budget request because she did not want to lose the funds. Director Lait agreed it would have been better to have it as part of the base proposal but the RFP closed after the budget document was prepared.

Council Member Tanaka asked about CalPERS numbers because they depend on good stock market returns. Staff replied that they do not have the final numbers; however, there was a preliminary 6.1% investment loss following a significant return. Expectations were for it to boomerang back to where it was. The Council assumed a lower discount rate than CalPERS did. We proactively contribute the normal cost at a rate of 5.3.

Mayor Kou requested clarity on the HSRAP funding mentioned in the staff report on Packet Page 181. Staff explained that the current proposal was \$851,000, which included an additional \$200,000. The Finance Committee discussed bringing the HSRAP funding level to 1% of the General Fund. If Council agreed, it would require an additional incremental increase of \$150,000 on top of the \$851,000 to equal \$1M.

Members of the public told Mayor Kou that patrons of the Lucie Stern Theater cannot use the bathroom and she wanted to know what needed to be done to have it staffed. Director of Community Services Kristen O'Kane was aware of the problem. When they switched to exclusive-use rentals at Lucie Stern Community Center, they began having conflicts between theater patrons using the restrooms and renters at the Community Center. Staff was working with the theater partners to confirm they had the schedule for community center events. Staff included an hourly position in the proposed budget. Once that position was in place as well as some other adjustments, we would be able to bring that usage back to the community center.

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Mayor Kou asked for an explanation on behalf of a member of the public regarding the three deleted Office of Transportation employee parking permit fees. Chief Transportation Official Philip Kamhi responded that they were not using the three deleted fees. They limited how many employee permits were in the RPPs. The daily garage and lot permit parking fees were where parking was encouraged. The three eliminated daily employee parking permit fees were in downtown, Mayfield RPP and Southgate RPP.

Regarding the yellow portion in Attachment A, Community Health and Safety, under Mental and Physical Health and Belonging, the last line was to increase support and funding for youth mental health. In response to Mayor Kou's question on who the recipients were, Director O'Kane replied they did not have an identified plan for usage of those funds. It might have a process similar to the HSRAP grant but specifically for youth mental health, providing funding directly to teens for programming or events but they were still contemplating where those funds might go.

Public Comment:

Aram James asked how much the City owed PERS. He commented on an article on California Globe from May 20 regarding the use of police canines. Since this budget was a statement of our values, we should not violate the Nuremberg Principles. The City should not close their eyes to the fact that these dogs kill disproportionately the vulnerable and people of color.

Jill Asher is a Palo Alto Art Center Foundation Board Member, Magical Bridge Foundation Cofounder, and former President of the Palo Alto and Menlo Park Parents' Club. She addressed the Council on behalf of the Palo Alto Art Center Foundation. The Art Center was under consideration for Tier 2 funding. They request the allocated \$113,000 for a 0.75 FTE K-1 program assistant and \$30,000 for temporary hourly installation staffing. This funding would allow them to restore pre-pandemic public open hours, provide public exhibition access on Sundays, host revenue-generating family workshops on Sundays that are in high demand, and hire temporary employees for their exhibit installation. Currently, they hire foundation staff members but they were installing art works insured by the City of Palo Alto.

John Kelley was impressed with the detail that all Council Members acquired on the budget. He expressed his respect for what Council was doing and for the work of City staff. He was concerned that the country was entering a period of greater financial uncertainty and stated there was a need to be very careful with this year's budget as well as future budgets.

Staff reminded Council that the FY 2024 adopted budget was not the last time they were able to allocate funds. Council could postpone items to FY 2024 midyear or FY 2025.

Council Member Lauing suggested being cautious and reevaluating less priority budget items in six months. Staff likely would not get to some new projects until midyear, such as regulating short-term rentals.

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Council Member Veenker agreed with delaying short-term rentals. She asked if the zoning code update was urgent. Director Lait responded that there would be many changes to our code next year, so it was fine to delay it. It cost the same amount as the downtown housing plan. The zoning code and Coordinated Plan need additional staff resources. Staff wanted to redo the zoning code but the standards would stay the same. They wanted to simplify and organize the existing regulation and use graphics to illustrate complex topics to improve readability.

Vice Mayor Stone reminded Council of the option of an 18% gas equity transfer instead of 15.5%, which provides an additional \$1M in revenue, approximately \$0.60 for the average customer. Director of Utilities Dean Batchelor confirmed it was \$0.60 for a 1% increase to cover \$1M.

Council Member Burt suggested a straw vote on Council Member Lauing's suggestion on the downtown housing expense. Council Member Lauing suggested deferring items from the Tier 2 list by net \$1M to midyear.

Straw poll vote 6-1, Tanaka no.

Council Member Tanaka commented on an article in the *Palo Alto Daily* stating we owe \$476M for the pension, an average of \$7000 per every Palo Alto resident. He heard from people who were concerned about utility rates, so he was against the \$0.60 gas rate increase.

Housing planning straw poll vote 6-1, Tanaka no.

In reply to Council Member Veenker's question of the size of the pension deficit, Assistant City Manager Nose responded it was \$392M in 2021 and estimated to be \$528M in 2022. The difference was due to gains and losses in investment returns.

Council Member Burt suggested removing the following because of their lower level of urgency: The new therapeutic recreation program, zoning update, bird-safe glass, short-term rentals, new fire utility task vehicle, eucalyptus tree removal, and sea level rise adaptation plan. Council Member Veenker agreed with Council Member Burt on all except sea level rise. She wanted to start it sooner because it would take a long time. Mayor Kou opined that we need bird-safe glass because of new large developments. We do not have a fire utility task vehicle for tough terrain and that is where there is fire potential, so she also wanted to keep it in the budget.

NO ACTION

CONSENT CALENDAR

Mayor Kou registered a no vote on Agenda Item Number 8 for the Parklet Program. She stated she voted no when it was before Council previously. The program was placing merchants,

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especially small businesses, in limbo, which was unfair to them. She thought that California Avenue needed more order and enforcement.

MOTION: Council Member Lauing moved, seconded by Vice Mayor Stone to approve Agenda Item Numbers 5-10.

MOTION PASSED ITEMS 5-7, 9-10: 7-0

MOTION PASSED ITEM 8: 6-1, Kou no

5. Approval of Minutes from May 8, 2023 meeting.
6. Approve the Services Agreement between the City of Palo Alto and the Peninsula Corridor Joint Powers Board (Caltrain) for the Connecting Palo Alto Grade Separation Projects and authorize the City Manager to execute the agreement; CEQA status – Not a project.
7. Approval of Amendment No. 1 to Contract No. S20178516 with Hohbach-Lewin, Inc. to increase compensation by \$10,000 and to extend the contract term through March 30, 2026 for on-call structural engineering services for various public art installations; CEQA Status – Not a project.
8. SECOND READING: Adopt an Ordinance continuing the Interim Parklet Program until March 31, 2024 (FIRST READING: May 8, 2023 PASSED 6-1, Kou no)
9. Amendment to Palo Alto Municipal Code Title 18, Chapter 18.42, Standards for Special Uses, to codify Firearms Sales Limitations Ordinance; CEQA status – Exempt under CEQA Guidelines Section 15061(c)(3).
10. Adoption of a Permanent Ordinance amending Titles 18 and 21 to implement State Housing Legislation from the 2021 Legislative Session, Including SB 9. Environmental Analysis: Exempt from Environmental Analysis under CEQA Guidelines Section 15061(b)(3) and Government Code Sections 66411.7(n) and 65852.21(j). The Planning and Transportation Commission (PTC) has recommended Council adopt the ordinance.

CLOSED SESSION

AA2. CONFERENCE WITH CITY ATTORNEY – EXISTING LITIGATION; Subject: Yes In My Backyard, et al. v. City of Palo Alto; Santa Clara County Superior Court Case No. 23-CV-410811 (One Case, as Defendant); Authority: Government Code Section 54956.9(d)(1)

Public Comment:

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Bill Ross hoped Council had extensive due diligence on this litigation from staff and would continue to vigorously oppose the allegations in this petition. The petition was preceded by a December 16 form letter that dozens of Bay Area agencies received. He hoped the matter before Council tonight was not for purposes of a monetary settlement to terminate this litigation. Several City Managers invited the three signatories to the letter to investigate issues about how affordable housing was to be met but they refused, indicating they were too busy with the litigation. This was almost identical to ones filed in Cupertino, Pinole, Contra Costa County, Belvedere and Marin County.

Aram James read from an article in the *San Francisco Daily Journal* from Monday, May 15. The Fourth District Court of Appeals panel unanimously affirmed a \$3.5M attorney fee award to an affordable housing advocacy organization that sued Huntington Beach, alleging Fair Housing Law violations. Mr. James opined there should be transparency on judgements if the City paid more than \$1M. He stated closed sessions were overused. He wanted the City to exercise more discretion in labor negotiations because paying staff hundreds of thousands of dollars resulted in a deeper hole in the City's budget.

Terry Holzemer urged the Council to defend the work of Palo Altans who spent many months developing the City's Housing Element Plan. The City should defend itself against frivolous lawsuits and countersue if necessary.

MOTION: Council Member Veenker moved, seconded by Council Member Lythcott-Haims to go into Closed Session.

MOTION PASSED: 7-0

Council went into Closed Session at 10:15 p.m.

Council returned from Closed Session at 11:09 p.m.

Mayor Kou announced no reportable action.

ADJOURNMENT: The meeting adjourned at 11:10 p.m.