



CITY COUNCIL SUMMARY MINUTES

Regular Meeting
September 18, 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:

Absent:

Call to Order

Mayor Kou convened the meeting.

Interim City Clerk Mahealani Ah Yun called roll and declared six were present.

Mayor Kou called the meeting to order in honor of Hispanic Heritage Month, California Native American Day, and National Preparedness Month.

Special Orders of the Day

1. Appointment of Candidates for the Architectural Review Board

Interim City Clerk Mahealani Ah Yun announced that she had emailed Council the SurveyMonkey link to allow the casting of votes. She clarified that four votes were needed to appoint a candidate, and if additional rounds were needed, the lowest vote-getters would be removed.

Mayor Kou asked if the office was to fill the office for the remainder of the term of a resigning commissioner.

Interim City Clerk Mahealani Ah Yun acknowledged that was correct. She specified the number of votes each candidate received.

First round of voting for Architectural Review Board one (1) partial term ending 3/31/2024

Alex Lew – Burt, Kou

John Kunz – Tanaka

Mausam Adcock – Lauing, Stone, Veenker, Lythcott-Haims

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Naveen Govind –

Sam Zucker –

Stephen Sun –

MOTION: Council Member Lauing moved, seconded by Council Member Lythcott-Haims to appoint Candidate Mausam Adcock to the Architectural Review Board for one partial term ending March 31, 2024.

Candidate Mausam Adcock receiving 4 votes was appointed to a partial term expiring March 31, 2024.

Agenda Changes, Additions and Deletions

City Manager Ed Shikada noted there were no changes.

Public Comment

Penny Ellson announced that Bike Palo Alto had returned, and she invited all to join the free event on Sunday, October 1 at Fairmeadow School. Maps would be provided, and there would be bike tune-ups, a popup traffic safety garden for children, helmet safety fittings, etc. She provided a slide and registration instructions. She asked Council members for their help in serving as diplomats.

Helene Grossman thanked Council for their service. She discussed a traffic safety issue for bikes, pedestrians, and vehicles at the roundabout/intersection of East Meadow and Ross Road and requested there be a four-way stop. Her son also shared his experience with biking in the intersection.

Liz Gardner, in reply to Ms. Heilig's comments, claimed that four-way stops did not always work. She provided an update related to a Palo Alto family residing in a parking lot. She had found finding resources for them difficult and asked that the housing website be more cohesive and detailed with guidelines and directions and that there be outreach to the unhoused.

Julia Zeitlin, Co-Founder of PASCC, spoke of the electrification program passed in 2022 related to heat pump water heaters and there being a lack of completed installations. She asked that the permitting process be streamlined and that the program aid residents in emergency installations. She asked what was needed by the Sustainability staff members to finish 1,000 installations ASAP. She urged City Council to fill in needed gaps and expedite the process.

Aram James had sent Council a Fox News piece titled *Tear Gas in Santa Clara County Jails Doesn't Work More than Half the time: Auditor*. He discussed his opposition to the use of tear gas. He requested that representatives attend the Board of Supervisors Meeting on September 19 for Items 9 and 10. He spoke of Item Number 11 and asked Council to read the report by the Independent Police Auditor that would be out in October.

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Council Member Questions, Comments and Announcements

Council Member Lythcott-Haims congratulated the Sibling Cities team for the effective Bridging the Divides event that was held yesterday. She spoke of the conversation that had taken place. She provided information related to the orientation for the Palo Alto Youth Council and the Teen Council and the Young Minds Celebrated event that she had attended.

Council Member Veenker thanked Council Member Lythcott-Haims and others for attending the Town Hall meeting yesterday. She was grateful for the brave students who had spoken. She invited all to the Climate meeting on October 8 and Race and Belonging on November 12. She congratulated Council Member Lythcott-Haims for her successful work in connection with the Palo Alto Youth Council and the Teen Council.

Mayor Kou noted there had been traffic accidents last week that involved young students, and she asked the community to adhere to traffic laws and to keep safety in mind. She had attended the Santa Clara County Cities Association, and there had been discussion of a Joint Powers Authority, which she thought should be sunshined to the Palo Alto community and that Council members should decide how to move forward, which should be on the agenda in October. She congratulated Council Members Veenker and Lythcott-Haims for their successful events.

Consent Calendar

2. Approval of Minutes from September 5, 2023 Meeting
3. Approval of Amendment No. 1 to the Lease Agreement Between the City of Palo Alto and the County of Santa Clara (Contract No. 1557819) at 2000 Geng Road for Safe Parking to Extend the Term for Three Years; Prioritize Local Populations; and Clarify City's Landscaping Duties; CEQA Status – categorically exempt.
4. Approval of Construction Contract C24187742 with OBS Engineering Inc., in the Amount Not-to-Exceed \$383,400 for Cameron Park Improvements, Capital Improvement Project PG-14002; Authorization of Contract Contingency in an Amount Not-to-Exceed \$38,340 for Related, Additional but Unforeseen Work Which May Develop During the Project; and Approval of a Budget Amendment in the Capital Improvement Fund; CEQA status - Categorically exempt per regulation 15301 (existing facilities).
5. Approve the Appointment of Caio A. Arellano to the Position of Chief Assistant City Attorney; CEQA Status- not a project.

Council Member Lythcott-Haims noted an error in the Minutes of September 5, 2023, and declared that she had voted no only on Item 4 on the Consent Calendar, not Items 4 through 6.

City Manager Ed Shikada commented that the electronic version had already been corrected to reflect that.

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Council Member Tanaka registered a no vote on Agenda Item Number 3.

MOTION: Mayor Kou moved, seconded by Council Member Veenker to approve Agenda Item Numbers 2-5.

Public Comment

Aram James asked, related to Item Number 3, why only those with a Palo Alto connection would be prioritized and not those from other towns. He explained why he thought the unhoused should be visible in Palo Alto. He requested there be more low-income housing and thought it should also be provided to police officers so they could live in the community.

MOTION PASSED ITEMS 2, 4-5: 7-0

MOTION PASSED ITEM 3: 6-1, Tanaka no

Council Member Tanaka, regarding Item 3, stated he supported safe parking in general, but he was expecting a report on efficacy before it was placed on consent. He wanted metrics of success to determine if it was working or if something else needed to be done.

Chief Assistant City Attorney Caio Arellano thanked Council for their confirmation and for the support of the City Attorney and City Manager and for their confidence in him. He looked forward to working with all and serving the community for many years to come.

City Manager Comments

City Manager Ed Shikada congratulated Chief Assistant City Attorney Caio Arellano. He hoped folks were planning on attending events scheduled over the next several weeks. He remarked that there had been two auto collisions with injuries over the span of about one week, and Mayor Kou and Police Chief Andrew Binder had shared a community message related to safety. Traffic enforcement was continuing around schools, and the Transportation Office was continuing to work with the school district and individual schools to review traffic controls and regulations. He noted that the 2023 Annual Community Survey was open to all community members. There were neighborhood Town Hall meetings planned for Sunday, September 24 and Sunday, October 15. He outlined upcoming community events, which included Palo Alto Airport community meetings, Palo Alto Airport Day, Third Thursday, Palo Alto Arts Center Boom Oaxaca exhibit, the Palo Alto Community Health Fair, the Moonlight Run and Walk, the Great Glass Pumpkin Patch, and Bike Palo Alto. Upcoming Council meetings were schedule for October 2 and comprised a prescreening related to 260 Homer, the HRC Dates of Significance Recommendations, and an action item related to residential electrification requirements; October 16 involved the semiannual meeting with the Independent Police Auditor, Cubberley discussion, and the Proposed Cities Association Joint Powers Authority; October 23 included the Stanford University Development Agreement Amendment; and on November 6 there would be an update on the Rental Registry Program and Car-Free Streets, specifically California Avenue. The Indigenous Peoples Holiday would be on October 9.

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Action Items

6. PUBLIC HEARING: Adoption of Resolution to Establish a New Priority Development Area (PDA) in South Palo Alto and Support for the Nomination of one Parcel as a Priority Site. Environmental Assessment: Not a 'Project' and Exempt from California Environmental Quality Act (CEQA) Review.

Director of Planning and Development Services Jonathan Lait furnished slides. He indicated the PDAs were growth geographies used in broader regional planning initiatives required by the sustainable community strategy. He specified what PDAs provided and noted that the proposed PDA addressed a number of items in the Housing Element. The action taken by Council was primarily to receive funding for the creation of local plans or plan amendments and implementation or technical assistance that could be offered to local jurisdictions. He noted that the City already had two PDAs, and two grants had been applied for, and he hoped to bring the Downtown/University Avenue topic to Council shortly. He explained why Staff had taken the initiative and filed a draft PDA plan on behalf of the City, and asked Council to affirm the decision or decide not to pursue it. The deadline for Council to adopt a resolution to memorialize the request for the PDA was September 30. He presented a map of the two PDAs currently located within Palo Alto and the proposed PDA boundaries. He specified why the proposed PDA boundary was larger than previous boundaries. The request was to identify the parcel in the City Sobrato Development Agreement as an area eligible for future funding between \$3M and \$5M to enable planning, design, or construction for the site, which also had a deadline of September 30. Staff recommended Council support the PDA boundary as presented in the report and to identify the one property as a priority site. He noted there would be nothing binding on the City in taking this action and would not result in any local zoning changes, and the City would retain control over that.

Public Comment

Herb Borock clarified why he was requesting nothing be done regarding this agenda item except to direct Staff to re-notice the public hearing with a proper Agenda description as required by law.

Lee Pfab (Zoom) from PACCC thanked Council for their thoughtful planning of housing development in South Palo Alto. PACCC encouraged partnership with the community in terms of child care needs. She asked to be contacted regarding child care gaps.

Penny Ellson had organized a Town Hall meeting in May to address development issues, and she indicated that the topic was not raised. She did not think the public understood this issue because of the lack of outreach. She requested information concerning MTTC project funding and for details of the project and for information related to plans for Cubberley. She asked that there be a meeting in South Palo Alto. She noted that the fire engine was missing in Mitchell Park.

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Council Member Burt asked if the noticing of this Item had been legally adequate and whether the title of the item should have been more detailed. He asked if the one new parcel was the Sobrato site, which he stated was not within the PDA. He thought titles should be simple but not opaque. He asked why the San Antonio Corridor PDA map boundaries included parcels along Alma that were faith institutions. Regarding the Toyota site, he asked if all parcels in the area would be upzoned.

City Attorney Molly Stump confirmed that that the notice met the minimum required under the Brown Act to alert the community, and if they were interested in the item, they could look more closely at the materials. The title of the item could be a policy discussion.

Director Lait answered that the one new parcel was the Sobrato site. He outlined why the item was presented on the Agenda as it was. He stated that in hindsight the address could have been published on it. He remarked that the boundaries, including parcels along Alma that were faith institutions, were based on existing State law and additional changes that were anticipated. Regarding the Toyota site, he explained that the map showed boundaries identifying areas that may be eligible for future development. He commented that the area was broadened to address amenities for future housing residents in the area and that the boundaries would not change any zoning nor did it state that a specific parcel would be redeveloped, but it would make the City eligible for funding, especially to improve a complete street access along San Antonio and perhaps along Alma.

Council Member Lythcott-Haims queried if the BASA PDA boundary included the Project Homekey site and how the City would accomplish there being 100+ homes and 10,000+ square feet for civic, cultural, or community facilities.

Director Lait answered that the Project Homekey site was included. He explained how the 10,000+ square foot for facilities would be met, and he believed it would be eligible for meeting the criteria for 100 units and perhaps including townhomes, but he would research it.

Vice Mayor Stone referenced Page 131 of the Staff Report indicating the City could receive up to \$5M per priority site and questioned if that would be additional funding to incentivize the project being constructed quickly and if there were any cons to the City designating these areas as PDAs and priority sites related to funding being awarded.

Director Lait believed part of the \$5M could be used for construction. They had not identified any cons to the City designating these areas as PDAs and priority sites; however, the City had the ability to withdraw a boundary from consideration if needed.

Council Member Veenker stated it would have been helpful if the title of his item had been more precise. She was eager to have community involvement during the evolution of this. She supported this.

Council Member Lauing stated there was no downside, that it had worked before and that the City had total flexibility related to the grants.

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Mayor Kou was concerned with expansion into the Adobe Meadow neighborhood and East Medow Circle and of it going further into a neighborhood on Fabian Way, and she thought that should be reviewed. She voiced that moving forward, residents should be reassured of traffic issues. She did not see that MTC would be involved in addressing such traffic issues in terms of public transportation, and she thought they needed to return to Transportation planning. She believed the public should receive ample time to address items. She did not support this item. She asked the date of the next grant application. She queried if identifying the PDA was part of the Housing Element.

Director Lait specified this was not securing a grant but only submitting PDA boundaries and the one priority site to MTC. Staff would continue to look for opportunities for future grant funding as available, and then it would be applied. Identifying the PDA would allow for grant application but was not part of the Housing Element.

MOTION: Vice Mayor Stone moved, seconded by Council Member Lythcott-Haims to:

1. Adopt a Resolution (Attachment A) designating a new Priority Development Area in South Palo Alto, named the Bayshore Alma San Antonio (BASA) Priority Development Area; and,
2. Support the nomination of one property as a Priority Site located at 3200 Park Blvd., as reflected in Attachment B; and,
3. Direct staff to include San Antonio Corridor neighborhood outreach upon the initiation of the Concept Plan.

Vice Mayor Stone did not see a downside to this. He wished the language in agendizing this had been clearer, but being on a strict deadline, he did not want to miss the funding opportunities.

Council Member Lythcott-Haims added that she saw this as a procedural gate that would make the City eligible for bigger grant monies. She voiced that community input would be essential as to what would be built, parks, etc. She thought this furthered the possibility of being deliberate and coherent.

Council Member Burt asked if Staff would normally come to Council and have a public hearing before applying for a grant. It did not appear that neighborhood groups had been notified, and he thought they should be a communication tool. He requested that grants being applied for be agendized, which would give the community an opportunity to engage. He wanted to ensure community engagement ASAP.

Director Lait answered that coming to Council and having a public hearing before applying for a grant would depend on the situation. Staff might pursue a grant, but it would not be accepted until presented to Council. He noted that grant timing was an issue and may not allow for dialogue. They were not applying for grants inconsistent with Council's priorities or specific direction given to Staff. As for community engagement, on the housing side, they were working

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with San Luis Obispo to develop a Concept Plan, and outreach needed to happen, and HCD had some revisions to the Housing Element, so there would be changes to it.

Council Member Burt thought the Concept Plan may be an appropriate time to engage the community, and he proposed an amendment that on initiation of the Concept Plan there would be full notification and engagement with the surrounding neighborhoods.

Director Lait replied that was reasonable and was Staff's intent and that interface would be before the public or the City engagement piece.

Discussion ensued related to the address listed in the motion, and it was decided to list the address as 3200 Park Blvd.

Director Lait noted that the future parcel did not actually have an address and that the address would eventually change, and listing the address in the motion was for the benefit of the public.

MOTION PASSED: 6-1, Kou no

[Council took a 10-minute break]

7. LEGISLATIVE: Adopt an Ordinance Amending Community 2343 zoning for 2901-2905 Middlefield Road and Adopt an Ordinance Establishing a new Planned Community Zoning Designation to Enable the Development of a new Single-Story, Single-Family Residence on 702 Ellsworth Place.

Chief Planning Official Amy French supplied a presentation to forward the Applicants' request to amend prior legislation with legislative action to reflect the current status and ownership of the different properties. PTC had held several public meetings and recommended supporting an amendment to the existing PC to establish a new Planned Community Zoning for 702 Ellsworth Place for a single-family residence. Staff previously shared the history of the property with Council at a prescreening, which she rehashed. In front of Council this evening were two prescreen ordinances – one for the apartment site and one for the single-family residential parcels. There was no requirement for architectural review for the single-family home, and there was no subdivision and no request to change the comprehensive plan land-use designations. The request was to remove 702 Ellsworth from PC-2343. Each property carried with them front, side, and rear properties and associated setbacks. She displayed a slide showing the development plan for the apartment building PC. Related to widening the street, she noted there was an article there. She discussed the history of the parking. She stated that Mr. Dewey had offered a location for deliveries on his parcel as well as the widening of the street to a total of 24 feet, along with Mr. Handa. She furnished a map showing the parking spaces created as part of this PC. The Commission had considered the legislative history and other factors, and they recommended a 26X42-foot spot for deliveries. She presented slides showing the proposed building envelope, elevations, floor plan for the one-story home, fencing, the asphalt area, and pavers. She presented a slide outlining comments received from area residents. The neighbors had raised concerns about the initial sale that came forward through a

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Code Enforcement Complaint. There were concerns of safety, visibility, ingress and egress, and street widening, and residents of Ellsworth were interested in the City taking over ownership of the street to improve its condition and address problems. She voiced that it was a private street and too narrow for the city's standard streets, and Staff had not recommended the City acquire the street. Easement records showed that Ellsworth Place served 13 residential properties and that 702 Ellsworth had easements across it to serve the other parcels. She noted there were no proposed modifications to Mr. Dewey's parcel other than widening of the street and the delivery and parking spaces. She shared slides showing pavement widening and extension of Ellsworth as proposed. The PTC recommended a one-foot tall fence, at most, be placed within the site triangle on Mr. Handa's parcel. She supplied a slide displaying the City's code regarding corner lots and fences, which she detailed, and the Applicant had proposed a three-foot tall fence. She shared photos showing existing conditions.

PTC Commissioner Barton Hechtman confirmed that the PTC had heard this agenda item on three occasions and there had been some discussion related to the envelope for the proposed home but most of the discussion had been centered on the safety of Ellsworth, particularly where it met Middlefield. The safety discussion included the subjects of visibility and a widened private roadway to 26 feet. The majority of the PTC approved a recommendation for 1-foot tall fencing in the 35-foot triangle area and a 26-foot easement.

Hayes Group Architects Ken Hayes detailed that this hearing was for a modification to PC-2343, including amending a PC ordinance, rectifying the zoning map, creating an opportunity for a new single-family home, consolidating apartment parking, modifying the existing ingress/egress easement, and increasing pedestrian and bicycle safety. Since the Council's prescreening in March, the Hayes team had met with neighbors and the PTC. They understood the neighbors' main concerns were safety at the intersection of Ellsworth and Middlefield and the accommodation of a delivery truck space. He provided a history of the PC. He expressed that the PTC had provided a solution that the Applicant could almost work with. They objected to two recommended modifications – the 26-foot width of the new easement and the fence height limitation of 12 inches. He explained how City staff had concluded the PTC-recommended increase would constitute an unwarranted extraction with which the Applicant agreed, and he asked Council to reference a letter from their attorney submitted September 15. He indicated that Hexagon Transportation concluded in its April 14 report that the existing 20-foot entrance was safe and compliant, and Palo Alto's Transportation Staff had agreed. He mentioned that Commissioner Hechtman, at the August 9 hearing, pointed out that the project's impact on Ellsworth Place would be beneficial as it would improve vehicular, bicycle, and pedestrian safety. He provided slides and discussed the site triangles and the City's standards. He thought the site triangle should allow for a 36-inch tall fence and not be limited to 12 inches. He expressed that a previous city mapping area had been relied on by all parties and that the situation could be rectified with the proposed PC Amendment. He requested Council adopt the recommended Staff ordinances, including the 24-foot easement with the exception of the site triangle fence height limitation, amend the Developed Plan of PC-2343 to right size the parking, and create an opportunity for a new single-family home. He requested an opportunity to speak to any public comments.

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Owner of 702 Ellsworth, Nitin Handa, reiterated what Hayes Group Architect Hayes had voiced. He requested that the fencing be at least three feet tall, which had been approved by the Transportation Department. It could possibly be open-concept fencing with a condition to have no plantings in the area. He commented that he would be giving the City land to widen the street and hoped Council would accept the proposal to widen the street to 24 feet.

Public Comment

Bill Ross spoke of the analysis being incomplete. He stated there was no compliance with PC Zoning Ordinance Section 18.38.060 C and that the August 3, 2023, letter from HCD indicated that the City's Housing Element did not comply with State law, and so the consistency analysis required for the PC zones was not present. He spoke of the environment analysis and the exemptions being new and different from the Planning Commission, and that there was substantial evidence in the form of neighboring testimony as to continuing impacts related to safety, access, and circulation, and he voiced that the categorical exemption failed with respect to those. He requested Staff accomplish an initial study on that basis and other topics that had been previously raised and not addressed by Staff. He requested the application be denied.

Kristen Van Fleet speaking on behalf of (6) Tsing Xue, Shan Wang, Mimi Wolf, Robyn Ziegler, and Karen Mangum, a resident/homeowner on Ellsworth Place for over 19 years, reminded Council that Ellsworth Place existed before the apartments, which were built in 1969. They were asking for a clear line of sight to Matadero Creek and a drive width of 26 feet. She discussed and provided slides of current and proposed driveway conditions and parking. They asked for clarification of the plans for the driveway. She provided a couple options for the 26-foot wide driveway. She had contacted Palo Alto Utilities regarding the utility pole, and she indicated that further planning needed to be done. She had contacted Comcast, and they stated there had not been an application to move the box but she expected to hear from them this week. She had sent the City a video link related to a delivery truck having difficulty in the delivery space. She had received a letter from UPS indicating the delivery space was not safe, which she would forward to Council. They wanted to further address ownership of the road.

Gala Beykin speaking on behalf of (5) On Chon, Chai Chin Chong, Andrea Alberson, and Daniel Alberson furnished slides and commented that they understood the proposal might significantly compromise visibility and safety at certain intersections. She shared a slide highlighting traffic safety concerns. She discussed the downward slope of the walkway being unsafe and the line of sight being compromised. They detailed why they opposed a fence height of 3 feet and why they were requesting a clear line of sight to the creek fence. She presented a slide of the Hexagon traffic review done April 14, which addressed vehicles having to almost come to stop when turning onto streets with 30 to 40 MPH traffic, which she found dangerous. She also noted there was a problem with the stopping sight distance. They requested there be a clear line of sight to Matadero Creek, with no fencing, and she remarked that the current orange netting was an impediment. They also requested that Ellsworth Place have an asphalt approach with widened entrance corners for safety reasons. She mentioned that private streets that joined busy roads had this design throughout Palo Alto.

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Paul Bigbee, a resident and homeowner on Ellsworth Place, indicated that the current circulation around and into Ellsworth was currently dangerous. He noted that the proposal presented risks, which he explained included a raised creek crossing, obscured sightlines, and ingress/egress problems. He opined that strong governance of sightlines, an asphalt approach, and drivable width would diminish the chance of harm. He voiced that delivery vehicles parking on Middlefield would block the sightline. He opined that the proposal was not responsible.

Bhang Iyer expressed that safety was the biggest concern and that the proposal presented safety concerns. She questioned if safety was a concern for the developer and the Applicant. She requested Council not rush this project through and to be fair and treat all parties equally.

Susan had moved to Ellsworth Place 11 years ago. She was concerned with safety as had been discussed by previous speakers. She remarked that delivery trucks needed to enter and leave Ellsworth Place safely and that the current delivery truck parking plan would be detrimental to all residents on Ellsworth. She questioned if the City would be setting a precedent if a homeowner was allowed to set rules for a street at the detriment of other residents. She remarked that the City may need to revisit ownership of the street.

Annette Glanckopf (Zoom), speaking for Midtown residents, asked that Council support concerns expressed by the Ellsworth Place residents concerning safety. She requested it be returned to PTC for a safer plan. Midtown residents recommended a traffic light and/or a lighted crosswalk be installed at Matadero Creek Bridge. She voiced that the proposed site triangles with no fences or other obstructions taller than one foot was logical. She noted that the ordinance did not specify a site triangle on the north side of Ellsworth, even though it was shown on the plan and recommended on the PTC. She asked that thought be given to safety during construction of the proposed house.

Interim City Clerk Mahealani Ah Yun requested public speaker Jake Margolis (on Zoom) email his comments to city.council@cityofpaloalto.org as there were problems with the audio.

Owner of 702 Ellsworth Handa voiced that an independent transportation consultant and the City's Transportation Department had done complete studies and that the street and fencing were deemed safe. He noted that they were widening the street from 20 to 24 feet. He clarified that his property was a private lot, and there was no right to trespass.

Hayes Group Architects Hayes expressed that neighbors were losing the right to use the private property. He thought the safety issue had existed since the creation of Ellsworth as a street. He mentioned that they were not exacerbating the safety concern but reducing the number of vehicles using Ellsworth and that the proposal was not impeding cars entering Ellsworth by cars backing out of the guest spaces to any greater extent than current conditions, and they were voluntarily creating a delivery space. He outlined that they had moved the trash and recycling enclosure and they were increasing the easement and the driveway width.

Vice Mayor Stone stated that under California law the seller and the buyer had a duty to perform due diligence on the property, and he asked what level of due diligence was sufficient

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to satisfy that requirement and if relying on a zoning map was sufficient. He understood that the parcel was shown as a parking lot on the County website, which would negate it being R1. He thought due diligence should go beyond investigating zoning maps and the County website. He had issues with safety concerns residents had brought up. He queried why Staff was not treating the width of Ellsworth Place as a private street as under the City's code of 32 feet and why the word "perceived" was used in the proposed ordinance related to the 3½ foot paving.

Director of Planning and Development Services Jonathan Lait stated that the zoning map represented the property as an R1 property and not designated with PC zoning. There had been inquiry as to the ability to develop on the parcel, and Staff indicated a single-family home could be built on the lot, which had relied on the zoning map and in communication with the City's planning professionals. Regarding the width of Ellsworth, this was not considered a new private street but instead an easement across an existing parcel.

City Attorney Molly Stump declared that they had advised Council in a confidential form how they thought a Court would deal with such a set of facts.

Chief Planning Official French, related to the parcel being shown as a parking lot on the County website, explained that City data was drawn from County information. Concerning the word "perceived" in the proposed ordinance related to the 3½ foot paving, there were easements that could be defined and pavements that could be placed without easements, so she thought the proposal was a perceived width to pave it as part of the PC condition or benefit as opposed to an easement.

Director Lait did not think there was a distinction and that it was a 26-foot wide easement for the first number of footage. He did not know why the word "perceived" was used, and the word could be stricken.

Vice Mayor Stone was interested in removing that language. He requested that Staff review the traffic safety report. He was concerned about the sightline being insufficient for ingress and egress. He asked if the Winter Lodge was near where vehicles would have to start slowing down to turn into Ellsworth Place, which was a unique and narrow entrance.

Director Lait commented that a traffic safety report had been prepared by the Applicant's traffic engineer, which had been reviewed by City Staff.

Manager Transportation Planning Sylvia Star-Lack spoke of the report being analyzed from the perspective of cars exiting Ellsworth and that drivers on Middlefield would know to slow down if they were going to turn into Ellsworth, so she was not sure what the concern was. However, because of pedestrian and bicycle activity on the sidewalk, there was a two-part stop involved in exiting. According to code, drivers must stop before crossing the sidewalk. Staff had visited the site related to that condition, and because of the grades at that exit, the first stop was important and a different condition than the normal condition. Because of the grades, some of the City's standards had to be adjusted. Staff felt that fence placement handled the condition for the first stop before drivers could stop positioned over the sidewalk to enter Middlefield.

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Vice Mayor Stone indicated that people did not always follow rules of the road and that the report assumed traffic was going 30 MPH, but he had observed traffic moving faster. He thought traffic slowing down for this intersection was wishful thinking, and he was not willing to make a decision based on wishful thinking. He questioned how Staff envisioned delivery trucks entering and exiting the space without using a private driveway. He thought there needed to be greater negotiation to ensure public benefit would be maintained. He thought the proposal was inadequate.

Manager Star-Lack indicated that the Applicant had provided a turning template for usual delivery trucks, which would require a multiple point turn, and Staff had accepted it.

Director Lait added that there was also an existing condition related to private property, which for many years had been used by neighbors for parking and delivery trucks. It was difficult to plan around because the new property owner's rights had to be respected. This was Staff's best recommendation.

Council Member Burt asked if 702 Ellsworth had served as a maneuvering spot for common carriers. He noted that the apartment complex had also used the parcel for parking. He asked if the width of 11 feet would be adequate for carriers to maneuver with the utility pole in place; if it was typical that carriers used 19-foot trucks; regarding the fence, if a rounded radius versus sharp corners had been considered as opposed to dealing strictly with fence heights; and concerning the Applicant stating they would not have shrubbery higher than three feet, if that could be enforced.

Manager Star-Lack confirmed that 702 Ellsworth had served as a maneuvering spot for common carriers as shared with the neighbors. She noted that there was parking on Sutter, which was the front property of the apartment complex. They did not study Sutter as a common carrier delivery dedicated location. She did not have an exhaustive study related to carriers using 19-foot trucks. Regarding the fence, Staff had a conversation with Mr. Handa, and there could be a fence with a cut corner or there could be no fence with very low ground cover. As for enforcing shrubbery height, that stipulation could not be placed on an R1 parcel, but with a PC, there were a number of regulations that could be included with the legislative act.

Director Lait clarified that Hexagon had shown maneuvering around the utility pole. He reiterated that Staff had challenges in processing the application, and there were limits in what could be imposed. He noted that Council may want to make some policy decisions that differ from the Staff recommendation. As for deliveries, in looking at Google Street View, it appeared that there may be opportunities for a designated loading zone on Sutter. He noted also, regarding shrubbery height, that Packet Page 149 of the PC stated there was a requirement that there not be obstruction of plants, fences, etc., taller than one foot, which would be enforced as an ordinance and Code Enforcement could cite the property owner.

Council Member Lauing agreed with Vice Mayor Stone's comments regarding deleting the word "perceived" in the proposed ordinance related to the 3½ foot paving. He asked if

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Transportation had considered widened corners at the exit and an overhead flashing light to alert those traveling on Middlefield to the intersection being a street, not a driveway. He thought there were many risks and that Council had to be very diligent regarding safety. He asked if Staff had received the report sent in by Jeff Levinsky with Palo Alto Neighborhoods suggesting corrections on the actual ordinance, which could maybe be addressed later in the meeting.

Director Lait noted there were pros and cons with widened corners, which could allow for a faster entry onto the property, so a rounded radius may not be desirable. He confirmed that Staff was reviewing the report sent in by Jeff Levinsky with Palo Alto Neighborhoods.

Manager Star-Lack voiced that an overhead flashing light was not normally installed for a driveway entrance. She understood this was a private street, but it functioned as a driveway. She explained why she would not recommend installing a signal.

Council Member Lythcott-Haims commended the residents on Ellsworth for identifying the mapping error, the owners of the Middlefield Apartments and 702 Ellsworth for trying to help solve a problem they did not create, and Staff and the PTC for trying to sort this out and being clear this was a problem the City made. She spoke of due diligence performed by the owner and stated she would have relied on the City's zoning map. She registered her interest in having a future conversation as to whether this should be a public versus a private street. She noted that trees had previously been improperly removed from 702 Ellsworth, and she asked Staff if that was a violation of City code. She found the term "perceived width" troubling with regard to widening the entry to Ellsworth, and she inquired if there would be asphalt or pavers. She discussed safety for those using the sidewalk and queried if the sidewalk should be improved with speedbumps, etc., to alert bikers, pedestrians, etc., of vehicles entering or exiting Ellsworth. She asked, as a matter of City code, if cars were allowed to stop on the sidewalk and if there would be speedbumps or other traffic calming efforts on Middlefield and on the multiple properties that had entrances on this busy road. With respect delivery vehicles and space for maneuverability, the utility pole concerned her. She liked the idea of a designated drive and parking on Sutter, but she was not sure the City had the right to an easement for such. Regarding fencing, she thought the site line may need to be widened to avoid enforcing plantings, etc., by the property owner.

Manager Star-Lack understood that a full permit had not been received for the removal of the trees, that they had consulted with Urban Forester, and they had since remedied the situation by submitting an Architectural Review Application showing replacement trees on the apartment site. Concerning asphalt versus pavers, the application initially came in as pavers but morphed during the PTC review to asphalt. She outlined how far back the asphalt would go. She explained why the word "perceived" was in the proposed ordinance. Municipal Code 10.24.020 allowed vehicles to stop on the sidewalk.

Council Member Veenker acknowledged the frustrations of all parties involved. She questioned if the fence on Middlefield was to be set back four feet from the sidewalk; the width of the

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sidewalk and the planting strip; and how far back from the street the fence would be. She did not think visibility at the first stop would be much different than many places in town. She commented that Ellsworth Place would not be high volume or high speed, so she was not concerned about that. She thought the City should be concerned with the second stop in terms of entering and exiting the street. She asked the City Attorney to speak to the public comment regarding the alleged legal issues with the PC's consistency with the Comprehensive Plan and the HCD rejection of the Housing Element causing a problem for approval of this PC. She asked for clarification of "modify the driveway to Middlefield Road" referenced on Packet Page 147. She commented that she found the delivery truck situation confounding, and she did not know if the property owner should have to be the source for solving the issue.

Manager Star-Lack confirmed the fence on Middlefield was to be set back four feet from the sidewalk. There would be four feet from back of sidewalk from fence, four to five feet to the plantar strip, and maybe another five or five and one-half feet to the edge of the plantar strip facing the road. The fence would be approximately 13 feet from the street. Concerning the statement "modify the driveway to Middlefield Road," she shared a slide related to PC 18.10 and provided an explanation, which did not indicate widening of such. She noted the meaning of modify was not exactly clear and originally referred to a driveway to a commercial development.

City Attorney Stump, regarding the alleged legal issues with the PC's consistency with the Comprehensive Plan and the HCD rejection of the Housing Element causing a problem for approval of this PC, stated that their office took a different view. The Comprehensive Plan consistency was not a formulaic activity, and the plan had many policies, programs, etc. It was Council's discretion to read and interpret the document. Staff believed it was consistent with the Comprehensive Plan. She indicated that their office believed Council's position was legally sound and that the Housing Element was compliant with State law; however, they had yet to convince HCD of that and would be coming soon.

Council Member Tanaka requested the view of Applicant's attorney on the property in terms of the case for widening the street. He questioned how this compared to other nearby streets and driveways in terms of visibility, width, etc.; if there were nearby complexes with 20-foot entrances serving more units than was on Ellsworth; if the grades were comparable; and if Staff was recommending a wider width because of the grades. He remarked that Council had the ability to increase entitlements. He stated that all parties were trying to untangle the historical data, and he encouraged all to work together to find a solution. He requested data related to other entrance widths, grades, and unit counts for a comparison.

The applicant's attorney answered that the rules applicable to private streets stemmed from the City's Subdivision Ordinance, and this was not a Subdivision Application, so the City's private street width requirements did not apply. She noted that the Applicant had offered to increase the paved width and to grant a private easement, and she believed anything further than that would be an unwarranted exaction and essentially a taking of private property.

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Chief Planning Official French specified that Manager Star-Lack had looked at other driveways and there were minimal driveway widths for apartment complexes, which she believed were 14 to 16 feet, 14 feet paved. A maximum driveway width to apartment complexes was 20 feet. She stated that there were complexes with more than 13 units that had 20-foot entrances. Through personal experience, it appeared to her that there were nearby complexes with 20-foot entrances serving more units than was on Ellsworth, but she did not have actual evidence. She voiced that the 20-foot width could stem from the code required maximum width of 20 feet for apartment complexes.

Manager Star-Lack added that were multiple 20-foot driveways on Middlefield Road, which was not unusual, although these grades were unusual and was why Staff recommended what they did. Concerning complexes with 20-foot entrances, she declared there were several apartments and housing developments on Middlefield Road with this configuration and probably had more units than Ellsworth. She mentioned that driveway widths going to multifamily properties on Middlefield were measured, but she did not have the unit count. She was not aware of other properties with a similar grade condition.

Director Lait commented that this site was unique in regard to grades. He confirmed that Staff recommended a width wider than the current width to address visibility concerns, etc.

Mayor Kou questioned how the floor area ratio (FAR) had been measured for the property. She noted that she had previously asked for public records requested by the public, but she did not receive those. She discussed letters submitted by Attorney William Ross answering questions asked by the planners to make determinations, and she inquired how that information was verified. She queried if all PCs were discretionary. She thought PC-2343 and the previous one was codified, and she wanted that put in the record. She agreed that [inaudible] due diligence by the Applicant. She discussed the parcels being PCs. She had an issue with it being split and sold the way it had been. She believed that Mr. Handa had indicated in one of his correspondences that he realized there was no guarantee City Council would approve this, so she thought that was understood. She discussed traffic safety and Keys School being across the way. She addressed the slope from the creek being dangerous and the line of sight needing to be investigated further. She believed there should be a guarantee of carrier deliveries to these residents. She mentioned that the Applicant had worked around the rules in extracting the property from the PC, which she had an issue with. She thought Mr. Handa was well versed in Palo Alto's building rules.

Chief Planning Official French explained how the FAR had been calculated based on R1 standards, and the easement was not included. She explained that her correspondence with Attorney Cara Silver, who represented the Applicant, was to seek additional description, which was verified by City records as well as working with the Public Works Department and was how she proceeded to clarify that this was a private street.

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Director Lait added additional information related to the FAR calculation. He explained that PCs were legislative and typically Council would have broad discretion on how to address legislative policies in the city. He thought the City Attorney had addressed some limits in this case.

City Attorney Stump, concerning PCs, clarified that there was broad discretion from a local zoning standpoint, but the City needed to comply with preeminent State and Federal laws. In this case, the Applicants had asserted that some of those bared here.

Council Member Lauing indicated that public benefit should be considered in authorizing each of these parcels. He noted that Council was not asking for a parking upgrade. He specified that a 32-foot drive was in the Subdivision Section and also referenced other divisions of land for 5 or more lots, so he suggested the PTC request for a 26-foot easement was a compromise. He suggested there be amendments to this item or that it be referred back to PTC.

Council Member Lythcott-Haims appreciated the property owners' offering to expand the road to a 24-foot width, which they were not required to do. She questioned if Staff had considered a package delivery box for carrier delivers.

Chief Planning Official French answered that a package delivery box had not been contemplated by the Applicant or Staff.

Council Member Veenker voiced that the Applicants were willing to provide property for an easement. She asked if an independent public benefit was needed from the subdivided parcel and if donation of a portion of the parcel to widen the street was a public benefit. She wanted to support this and thought the carrier delivery issue could be resolved, that the fence could accommodate safety, and that the ingress and egress from Middlefield could be explored at a later date.

City Attorney Stump replied that Council had wide discretion in how to account for the public benefit. She understood that with a small project, such as a single-family home, public benefit would scale to that. An easement and a portion of the property dedicated to that was definitely a public benefit.

Council Member Lauing asked if Staff had reviewed Mr. Levinsky's letter.

Chief Planning Official French responded that the letter had been reviewed in part and many of the corrections could be done.

Council Member Lauing moved to adopt the PTC's recommendation, but those points needed to be reviewed to ensure correctness. He proposed a 26-foot easement, not 24 feet. He wanted to ensure Packet Page 149, Item (d)(iv) recognized what currently existed there, including the tree; that the word "perceived" be deleted from Packet Pages 149 and 151; and that the lot sizes be corrected in the Staff Packet. He wondered if Packet Page 151 should read package delivery space instead of truck delivery space.

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Director Lait, regarding truck/package delivery, thought vendors, such as UPS, etc., should be contacted to identify sizing, location, and parking needs.

Council Member Lauing thought a 26-foot space might accommodate package delivery.

Director Lait noted the end product might be a 10X30 space, as shown on the plans, or a bank of package delivery boxes.

Council Member Lauing stated he was asking for a 26-foot easement because it was a compromise from 32 feet and because it would contribute to addressing safety concerns.

Vice Mayor Stone was concerned about the current line of sight and it not being sufficient, so he wanted it to be extended, and he wanted the Middlefield side of the sight triangle to be extended to the southernmost corner of the property.

MAIN MOTION: Council Member Lauing moved, seconded by Vice Mayor Stone to:

1. Adopt an ordinance amending ordinance Planned Community 2343 (Attachment A) for 2901-2905 Middlefield Road and adopt a new Planned Community ordinance (Attachment B) to enable the development of a single-family residence at 702 Ellsworth Place.
2. 26-foot width for Ellsworth Place as recommended by the PTC with no additional landscaping on the sight triangle at 2901 Middlefield and delete “perceived” as to the width of Ellsworth in both Ordinance(s), and check the lot sizes to make sure accurate in the Ordinance(s), and provide for package delivery on 2901 Middlefield with specifications to be determined in coordination with the Owner and package delivery vendors.
3. Extend the Middlefield side of the sight triangle to the southernmost corner of the property.

Council Member Veenker asked what would occur if the Applicants did not agree to a 26-foot easement.

Council Member Lauing answered that negotiations would have to be reopened.

Discussion ensued concerning the width of the easement and the City having or not having authority to require the Applicants agree to the 24-foot easement.

Council Member Veenker wanted to amend the motion to reflect 24 feet instead of 26 feet.

It was seconded by Council Member Lythcott-Haims.

Council Member Veenker wanted to encourage applicants in general to volunteer to make situations better for all, and she wanted to avoid the exaction issue.

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Council Member Lythcott-Haims added that she was not clear on the benefit of adding an additional two feet. She was interested in this item being resolved. The Applicants were not obligated to increase the easement to 24 feet, which she voiced was a compromise.

Council Member Tanaka agreed with the easement being 24 feet for the reasons mentioned and because the City's maximum width was 20 feet. He voiced that the compromise was reasonable.

Mayor Kou asked if the City's maximum street width was 20 feet. She noted that according to the Ordinance it was supposed to be 32 feet.

Director Lait clarified that this was not seen as a street intersection with Middlefield, but it was considered a driveway with an easement connecting to a private street. There was a maximum width of 20 feet for driveways and 32 feet for private streets. He clarified that this was not a subdivision.

Council Member Burt remarked that it was described as a private street with an easement to Middlefield. He commented that the hump created an egress safety issue, and he recalled that it was different from other multifamily driveways. For that reason, he supported requiring 26 feet.

Council Member Lauing noted that the only place in the Code describing private streets was under the Subdivision Section and was discussed as 32 feet for 5 or more lots, which could be reduced to 26 feet in certain circumstances, which was the Code PTC used for their recommendation.

Director Lait suggested continuing the item because of the package delivery box issue, which he thought would require coordination and discussion with the Applicants and the residents to reach a conclusion. He was concerned that whatever might be approved would not be satisfactory for the residents.

Council Member Veenker supported that in whole, including her amendment, and asked if grading solutions could be explored.

Mayor Kou explained there would be a cost associated with exploring grading options, and she questioned if the City would pay for that.

Director Lait asked if the grading topic was related to visibility and traffic safety concerns when exiting Ellsworth Place and going on to Middlefield and that possibly the safety concern would not exist if that were more level and, therefore, there could be a 24-foot easement.

Council Member Veenker asked if the grading and delivery box topics could come back to Council for discussion.

Mayor Kou asked Council if the amendment and the motion should be postponed.

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Council Member Lauing did not see a reason to delay the amendment. He was also concerned about the grading taking two years to be assessed.

Director Lait thought assessing the grading would be costly and may be cost prohibitive from the Applicant's perspective because the Applicant would be responsible for it. He did not know if that would cause a delay in returning to Council.

Council Member Tanaka was in favor of taking Staff's recommendation and delaying this, so perhaps both sides could come to an agreement. There was some unknown information related to driveway widths, units served, and package delivery.

Council Member Lythcott-Haims was in favor of this. She believed the overarching issue was that the present parties were not responsible for historical events that had occurred and that the City was somewhat responsible for the situation. She was surprised that grading would be done at the Applicant's expense. She was interested in what that would cost and whether the City could pay for it.

Vice Mayor Stone supported continuing the delivery truck issue, but he did know why the rest of the motion needed to be continued.

Council Member Veenker asked how the voting would proceed.

Mayor Kou clarified that there would be a vote on the amendment and the main motion, and the package delivery item would return to Council. Other than the package delivery piece, she did not see a need to delay.

City Attorney Stump expressed that Staff was recommending not voting on the main motion but rather allowing discussions on the package delivery piece before coming back to Council.

Council Member Veenker withdrew her amendment.

AMENDMENT: ~~Council Member Veenker moved, seconded by Council Member Lythcott-Haims to support a 24 foot wide easement for Ellsworth Place.~~

Mayor Kou thought there needed to be understanding of who would pay for a package delivery box.

City Manager Ed Shikada thought the package delivery box issue was not being voted on tonight and that Council would provide additional specificity at a later date. He stated that taking a vote may complicate Staff's follow up with the various parties.

Council Member Burt asked if the package delivery item would be continued.

Mayor Kou answered that the package delivery item would be continued with the understanding of the motion.

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Director Lait requested time to figure out the delivery package issue.

No vote was taken on the main motion or amendment.

MOTION: Council Member Burt moved, seconded by Mayor Kou to continue this Item to a date uncertain, with the main motion discussed tonight on the table, and with direction to Staff to attempt to resolve the package delivery issue.

Mayor Kou asked City Attorney Stump to speak about communications with the public since the item was to be continued.

City Attorney Stump responded that the item was a legislative item and Council was being asked to make a zoning amendment, and the City did not have restrictions around that.

MOTION PASSED: 5-2, Lauing, Kou no

8. Public Hearing: Adoption of a Resolution Approving Capped-Price Winter Natural Gas Purchases for Winter 2023-24 and Amending the FY 2024 Gas Fund Budget to Fund These Purchases; Amending the Gas Utility Long-term Plan Objectives, Strategies and Implementation Plan; and Amending Rate Schedules G-1 (Residential Gas Service), G-2 (Residential Master-Metered and Commercial Gas Service), G-3 (Large Commercial Gas Service), and G-10 (Compressed Natural Gas Service); CEQA status: not a project under Public Resources Code 15378(b)(5) and exempt under Public Resources Code 15273(a)

Assistant Director of Utilities Karla Dailey discussed a potential change in the purchasing strategy for natural gas for the winter of 2023/2024. She also discussed longer term policy changes that Council may or may not want to consider for future years, but they were focused on this winter this evening. The Finance Committee heard this item in August. The UAC did not hear the item because the July meeting was cancelled. They told UAC that Staff would return to them with an informational report informing them of Council's decision. She provided some background related the purchase of natural gas. Today the purchase of gas tied to a monthly market index, and that charge was passed to customers. She discussed gas prices increasing dramatically in January 2023, which could not be completely explained, and the State and the Federal Energy Regulatory Commission had opened inquiries as to the cause of such price spikes. As Utilities had heard about the price spike from customers, Staff was offering an alternative for this winter for Council's consideration. One choice was to continue with the current purchasing policy and buying at the monthly market index and passing that through to customers and using reserves if prices should go above the Council-approved cap, which was \$4/therm. She pointed out they had gone over that number (even the \$2/therm price cap) only one before, which was in January 2023. A longer term variation of the strategy may be to build a special reserve to cover cost increases over the Council-approved maximum, which was what occurred in January 2023, but the money came out of the Operating Reserve. There could be a policy created to build a special reserve over time that would self-insure against extraordinary price events, which would require discussion related to the amount in the reserve, etc., so that

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was not an option for this winter. They offered the current status quo as one potential course of action. Considerations for staying the course included energy markets being volatile.

Utilities Resources Planner Jason Huang spoke of the alternative option. He noted that gas prices had dropped since March and stabilized under \$1/therm, and future forecasts remained under the \$1/therm level. The CPUC and the Federal Energy Regulatory Commission had been investigating the prices, but given customer complaints and high bills, Staff started exploring alternatives to help mitigate some of the market impacts. They identified a procurement called the Gas Winter Cap Price, which could limit the risk and impact of an unexpected surge and could be implemented by the upcoming winter. He explained what was involved in Capped-Price Winter Gas purchasing, and they were requesting a price cap of \$2/therm. He clarified that it would essentially function as an insurance policy that would limit the price paid by the City to a maximum of \$2/therm. He clarified that they were requesting this be done for the December, January, and February months because they were typically the coldest and most volatile months, and they recommended buying the price caps just for these three months, which was estimated at \$2M to \$3M, and they were trying to spread the cost impact to the customer bills over 12 months. He detailed how the City's cost would be recouped, and Staff recommended Council approve a maximum customer commodity rate impact of 15 cents/therm. He supplied a slide and discussed the cost of price cap/customer bill impact. Capped-price winter gas purchasing would protect reserves and customers from price spikes; however, it would be a higher cost to customers if implemented over many years. The policy could be reviewed annually. He noted that the capped-price product was uncommon and may not be available from suppliers, so they had reached out to suppliers to create a custom procurement, but there was no guarantee they would be available or that they would have the full quantity of that. The cost of the product could be higher than estimated if the market was very volatile. Staff also explored other potential alternatives for the future.

Assistant Director Dailey remarked that Staff was asking Council to make a decision about this winter. They were researching other alternatives of establishing a special reserve to manage extreme events. They could consider returning to the laddering strategy the City had prior to 2012 or a more modest, modified version of that. The City owning its own gas production assets may be a strategy, which was unlikely to fit in the City's risk profile, but they wanted to provide that as an option. Gas storage was another option, which tended to be expensive, and Staff had shied away from it in the past because it generally would not work out for price overcharge reasons. Whatever direction Council should choose, that strategy would be implemented for the gas year starting in October, so in early October, Staff would purchase whatever Council should direct for the gas year starting in November. She displayed a slide outlining the recommended motion. When the Finance Committee heard the item last month, they voted 3-0 to implement the capped-purchase strategy for this winter. She noted that the language needed to be refined related to the description of the commodity charge and the rate schedules, and she included the updated language on the slide.

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Council Member Lythcott-Haims noted that the maximum of 15 cents had not been presented to the Finance Committee, that 7 to 11 cents had been presented. She asked what transpired between August and this report.

Assistant Director Dailey answered that there had not been a fully developed Staff Report at the Finance Committee meeting. She explained how they arrived at the 15 cents. It could be different than 15 cents, but 15 cents seemed in the range.

Council Member Burt asked if PG&E's lower spike seemed to be due to some form of hedging. He spoke of this resolution potentially reducing disruptions in the future, and the Finance Committee thought it was the wiser thing to do. He mentioned that it would not be out of line with PG&E because they appeared to be doing something similar.

Assistant Director Dailey acknowledged that PG&E's lower spike seemed to be due to some form of hedging. She added that over the course of several years PG&E's prices tended to be 6% higher than Palo Alto's commodity prices.

Council Member Lythcott-Haims voiced if this was not put in place there would be potential for a major expense in the reserves, so she felt it was a solution that would protect the City and residents, and she liked the equitable nature of that.

Public Comment

Interim City Clerk Mahealani Ah Yun declared there were no requests to speak and no hands were raised.

Council Member Lauing stated that Packet Page 234 contained about 10 warnings. He inquired if proposals should be received before passing this resolution. He mentioned that this item was not presented to UAC, so there were no recommendations from them. He suggested there may be time to get their input. He discussed this being another increase. He asked for an explanation Packet Page 234 showing an annual increase of 4% to 6% and 8%. He commented that the City could spend this money and not get it back, and it could be at a cost greater than \$2M to \$3M. He spoke of there being a lot of risks relative to the gain. He asked if this year was the year to do it or if it should be postponed a year.

Assistant Director Dailey noted that there was no time to get proposals before passing the resolution as prices in the commodity market were good for literally five minutes and then they would move again. The Risk Management Program was in place because transactions were time sensitive. They did not know how much could be purchased or how much it would cost, but they would purchase as much as possible within the customer rate impact set by Council. The UAC cancelled their July meeting, so it was not presented to them. As for the annual increase shown on Packet Page 234, the 8% corresponded to the 15-cent maximum impact proposed.

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Council Member Burt commented that this resolution was a question of whether it was thought to be prudent versus a much higher risk that had been a crisis for much of the community last winter.

Council Member Lythcott-Haims stated the Finance Committee had factored community perception into the analysis. She thought the City was trying to protect its gas users against the volatility that was not predicted last year. This was a conversative approach to protect residents and the City. The Finance Committee thought it should be tried this year.

Assistant Director Dailey noted this was an additional cost and different than a traditional rate increase. The City could take advantage of lower market prices, so it was conceivable that with the extra cost customers could see lower rates if the drop in market prices was as much or more than the cost of the insurance.

Council Member Lauing asked if there could be lower rates even if the City was purchasing the higher priced.

Assistant Director Dailey explained they would be buying a maximum price – an insurance policy. If the price dropped, the City would still take advantage of the lower price. It was a little different than a traditional rate increase.

MOTION: Council Member Burt moved, seconded by Council Member Lythcott-Haims to adopt a resolution (Attachment A):

1. Implementing capped-price winter natural gas purchases for winter 2023-24 with a maximum commodity rate impact of 15 cents per therm;
2. Amending the FY 2024 Budget Appropriation in the Gas Fund (requires 2/3 approval) by:
 - a. Increasing the Gas Operating Budget for Commodity Purchases by \$2,000,000; and
 - b. Increasing the Gas Operating Retail revenue estimate by \$2,000,000
3. Amending the Gas Utility Long-term Plan (GULP) Objectives, Strategies and Implementation Plan (Attachment B) to implement the capped-price winter gas purchases intended to manage potential winter 2023 gas price spikes; and
4. Amending Rate Schedules G-1 (Residential Gas Service), G-2 (Residential Master-Metered and Commercial Gas Service), G-3 (Large Commercial Gas Service), and G-10 (Compressed Natural Gas Service) (Attachment C), effective November 1, 2023.

Council Member Veenker noted there was risk either way. She liked being able to take advantage of a drop in the market rate if that should happen. She supported this and thanked all involved for their work.

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Council Member Tanaka mentioned that he had advocated to use such instruments to buffer volatility. He asked if long-call could be purchased for December, January, and February to protect against price spikes. He asked what unit of measure was used.

Assistant Director Dailey explained that Council Member Tanaka was referring to financial instruments and they were forbidden from transacting with financial instruments, so they were doing something similar, but it would be physical gas with a maximum price associated with it. They had a Council-approved set of counterparties who they were allowed to transact with, and there were very strict contract terms in the agreements with them. She explained the purchasing process. The unit of measure in purchases was MMBtu, and the rate setting was therms.

Council Member Tanaka asked how many MMBtu's would be for December and what would be the cost difference compared against the Chicago Mercantile Exchange (CME). He asked why not go out of the money (OOT), like \$3, so premiums would not be so expensive. He asked what the current price was. He suggested going more OOT. He discussed a collar strategy and asked why not do such.

Resources Planner Huang answered that it was about 1.1 million MMBtu for the 3-month period. The current price was about 90 cents.

Assistant Director Dailey answered that the cost should be similar to the CME. She remarked that \$2 was OOT. She stated that collars were an option, but she did not know what a costless collar currently looked like, and the bottom end compared to a \$2 maximum. She would argue if prices cratered that customers would not be able to take advantage of the low prices. It was a strategy that could be implemented if Council desired.

Council Member Tanaka proposed amending the motion to consider a collar strategy.

Council Member Burt noted this needed to be enacted in weeks and asked Staff if this alternative could be implemented as an alternative in short order or should it be something to consider for next year. He asked Assistant Director Dailey for her opinion regarding a collar strategy.

Assistant Director Dailey answered that a collar strategy would be viable to implement if Staff had the flexibility to implement it without coming back to Council. It was another product that could be purchased. They were trying to ensure that customers could take advantage of a price decline, and a collar would not do that, but it was an option. Of a \$2 cap, she did not know what the corresponding lower end of a collar would be.

Council Member Burt declined the amendment.

Council Member Tanaka requested it be a friendly amendment and that Staff write it out to see if he could get a second. The amendment he voiced was to allow Staff to look at a collar strategy, which would allow the City to limit price spikes.

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Mayor Kou declared she did not see a second.

Council Member Lythcott-Haims thanked Council Member Tanaka for his suggestion, but she did not think there was capacity to study this thoroughly enough given the time constraints. She was interested in learning more about it and considering it for a strategy next year.

MOTION PASSED: 6-1, Tanaka no

Adjournment: The meeting was adjourned at 10:57 P.M.