



FINAL UTILITIES ADVISORY COMMISSION MEETING MINUTES OF DECEMBER 10, 2014

CALL TO ORDER

Vice Chair Waldfogel called to order at 7:05 p.m. the meeting of the Utilities Advisory Commission (UAC).

Present: Commissioners Cook, Eglash, Foster (arrived at 7:10 p.m.), Hall, Melton, and Waldfogel
Absent: Council Liaison Scharff and Commissioner Chang

Note that Commissioner Hall excused himself and left the meeting at 10:03 p.m., just after the non-water part of New Business Item #3 (Staff Recommendation that the Utilities Advisory Commission Recommend that the City Council Adopt a Resolution Approving the Amended City of Palo Alto Utilities Legislative Policy Guidelines, discussion of part one, everything except for Water) due to his self-identified conflict of interest on water issues.

ORAL COMMUNICATIONS

Margaret Atkins - safety concerns due to engineering's decision to hire outside contractor to work on live gas. "Your homes are their pilot program." It could be many years before the problems come forward. It could lead to the problems as at San Bruno and Carmel. The employees are long-term and care about the system.

Eglash: are these workers employees of Utilities or Public Works

Marshall: Utilities

Lynn Krug - representing WGW SEIU operations workers who have years of experience and training, number one concern of employees is safety. If you are hiring a contractor to perform live gas work, would give them unspecified parts, not require training. Workers concerned about cavalier attitude of management to hire these contractors

APPROVAL OF THE MINUTES

Commissioner Eglash moved to approve the minutes from the October 1, 2014 UAC meeting as presented and Commissioner Melton seconded the motion. The motion carried unanimously (6-0 with Commissioner Chang absent and Commissioner Hall abstaining on the items he was absent for: New Business items 4 and 5).

AGENDA REVIEW AND REVISIONS

Chair Foster decided to change the order of the items under New Business on the agenda. The agenda order will be Item #4 (connection and capacity fees), Item #1 (CLEAN program), Item 2

(Community Solar program), Item #5 (topics for next meeting), Item #3, part one (legislative guidelines, everything except Water), Item #3, part two (legislative guidelines, Water) and Item #6, impact of drought).

REPORTS FROM COMMISSION MEETING/EVENTS

None.

UTILITIES DIRECTOR REPORT

1. Communications Update

- **Palo Alto Named Public Power Utility of the Year** – In October, Palo Alto was named the “Public Power Utility of the Year” for 2014 by the Solar Electric Power Association (SEPA). The City is the only agency to receive this award and was honored at the Solar Power International Conference for its long-term leadership and innovation in promoting solar energy.
- **New El Camino Solar Streetlight Pilot Project** – New solar photovoltaic modules were installed on El Camino Real between Embarcadero Road and Park Blvd. The pilot project will help power the streetlights, send extra electricity back to the grid, allow the City to remotely control lighting and improve maintenance. The technology will increase renewable energy production at no cost to the City and could help transform streetlights into a network of “smart” distributed solar generating assets. Community members are invited to provide feedback through an online survey at cityofpaloalto.org/ElCaminoSolarTest
- **Ribbon Cutting Ceremony for New Landfill Gas-to-Energy Project** – On November 13, local officials and industry leaders commemorated completion of a new landfill gas-to-energy project at Foothills landfill in San Joaquin County. This is the fifth and last City project with Ameresco, Inc. to purchase clean, renewable energy generated through landfill gas capture. The project will generate 4.3 megawatts of electricity, enough to serve 3% of the entire City’s electric usage and power nearly 3,000 homes each year. Mayor Shepherd helped cut the ribbon in celebration of another successful milestone in the City’s commitment to long-term renewable energy supplies.

2. Community Outreach Events and Workshops

- October 25 – Utilities staff attended a neighborhood emergency preparedness fair, providing educational materials and information on resources for utility safety and emergency preparedness.
- November 18 – Utilities participated in a public sustainability workshop hosted by Chief Sustainability Officer Gil Friend to help showcase achievements and initiatives the City has engaged in to assist in meeting goals for its Sustainability and Climate Action Plan.

3. Staff Speaking Engagements: Staff has been asked recently to speak at several events recently, including:

- On October 22, Utilities Marketing Engineer Lindsay Joye made a presentation at the Solar Power International conference in Las Vegas on Palo Alto’s Solar Programs
- On November 21, Lindsay Joye and Senior Resource Planner Jim Stack participated on a Utilities panel for a Stanford University graduate class, the Energy Transformation

Collaborative on Palo Alto's solar programs and renewable power procurement. The students are seeking utilities to partner with to for various pilot projects.

- On December 4, Senior Resource Planner Karla Dailey spoke at the Renewable Energy Markets conference in Sacramento on a panel focused on developments in renewable fuel markets, green gas and gas offset products, and electricity offset products. Karla discussed the design and development of the PaloAltoGreen Gas program.

4. **PaloAltoGreen Gas Update:** CPAU is finalizing print and outreach materials for a soft-launch this month. Previous PaloAltoGreen participants will have the first opportunity to enroll and will receive letters this month encouraging them to participate. In January, we will mail letters to all customers about the new program and include outreach in the February utility bills.
5. **Georgetown University Energy Prize Update:** Georgetown will announce the competition semifinalists this month and host a webinar to share outreach resources. CPAU plans to issue a press release in mid-December announcing our participation and the official start of the competition on January 1. Staff is finalizing outreach materials, including a new website that will allow customers to pledge to conserve energy, share their ideas with CPAU and access efficiency resources.

Commissioner Melton asked if the solar streetlight system has a battery backup? Marketing Engineer Lindsay Joye replied that the system is grid connected and has no battery backup.

Chair Foster stated that it was great to know about the staff speaking engagements and that he would like to continue hearing about those.

UNFINISHED BUSINESS

None.

NEW BUSINESS

ITEM 1 (Original Agenda New Business Item 4): ACTION: Staff Recommendation that the Utilities Advisory Commission Recommend that Council Adopt a Resolution Amending Water, Gas and Wastewater Connection and Capacity Fees and Miscellaneous Utility Charges (Utility Rate Schedules G-5, W-5, S-5 and C-1)

Tomm Marshall, Assistant Director for Engineering, said that it has been at least 5 years since the fees in question have been updated; therefore there may be a substantial increase. The fees are based on the time and materials it takes to recover the cost to do the work.

Vice Chair Waldfoegel said that he'd like to get a sense of before and after impact of the fees. He asked what the change is in the total cost due to the proposed change in fees for a homeowner. Marshall said that every service is different, but for a typical residential customer needing new gas, water, and sewer services, the cost would change from \$13,700 to \$17,400, a 27% increase.

Chair Foster asked how long it has been since the fees were changed. Marshall replied at least 5 or 6 years.

Commissioner Hall asked how these fees compare to those for other entities, such as PG&E for gas and other agencies for sewer, and if the other entities' fees are based on time and materials too. Marshall said that on PG&E's website, gas service fee schedule provides a range from \$2,000 to \$12,000 and it appears to be prepared by their Estimators on a case by case basis. He said that Palo Alto uses a fixed price. Commissioner Hall asked the same question for sewer. Marshall said that Palo Alto is different since the City owns the lower sewer laterals. For most of the other agencies, the customer owns the entire sewer lateral. Commissioner Hall asked if there would be a cost saving to the City if we transfer the ownership of the lower laterals to the customers. Marshall said that the City has evaluated the possibility but we received strong push back because the customers didn't want to take on the additional cost. We may re-evaluate that option and go through the policy change process, after the laterals have been examined and/or repaired as a result of the cross-bore inspection program.

Commissioner Hall asked what the excess length fee for gas services greater than 40 feet is, and who covers the additional trenching cost. Marshall said that it's the incremental cost of boring to get to a distant meter location and that trenching is not usually needed.

Commissioner Eglash asked if there was a concern about customers who have been planning a project, but would suddenly be facing a large fee increase. He asked if the fee increase could be adopted, but be delayed until 2016, to allow adequate time for notices to customers. Marshall said that when fees change, the City sends a letter to those with projects on file and provides a 90-day notice during which they can pay the fees under the old rates. Commissioner Eglash asked if there are issues with this approach, for example, in the case of the project not being far enough along in the planning phase so that the fee estimate cannot be firmed up. Marshall said that generally, if there is a project on file, the City has already provided an estimate.

Vice Chair Waldfogel asked if the fees could be based on labor costs and changed administratively so that they wouldn't have to wait for the lengthy review process to be updated. Marshall said that there was a legal issue for how these fees can be changed.

Commissioner Cook asked if it could be setup for an annual automatic renewal approved by the City Manager. Senior Deputy City Attorney Jessica Mullan stated that the fees can't be automatically renewed, but most go through a public review and hearing process and it requires the Council's approval.

Vice Chair Waldfogel noted that the gas commodity rates are changed based on market conditions within a Council-established range and do not go back for Council approval each month. Mullan said that the applicable law is different for gas rates.

Commissioner Hall noted that the fees show an encouragement for cost savings for folks with combined fire service and domestic water service, but it looks like there are actually two

charges. Marshall replied that a residential customer can have one pipe to serve both fire and domestic water services. For commercial customers, it's usually one larger pipe for fire service with a pipe tapped off from it for potable water service; therefore two charges would apply.

ACTION:

Commissioner Eglash made a motion to approve staff's recommendation. Commissioner Cook seconded the motion. The motion carried unanimously (6-0 with Chair Foster, Vice Chair Waldfoegel, Commissioners Cook, Eglash, Hall and Melton voting yes, and with Commissioner Chang absent).

ITEM 2 (Original Agenda New Business Item 1): ACTION: Staff Recommendation that the Utilities Advisory Commission Recommend that Council Continue the Palo Alto Clean Local Energy Accessible Now (CLEAN) Program at the Rate of 16.5 cents per Kilowatt-hour for a 20-Year Contract and a Program Cap of 3 Megawatts, Add a 25-Year Contract Term Option, and Expand CLEAN Program Eligibility to Non-Solar Renewable Energy Resources

Senior Resource Planner Jim Stack summarized the history of the Palo Alto CLEAN program from when it was first adopted in March 2012 to the last updated price and program cap in February 2014. Stack indicated that the City released a Request for Proposals for lease agreements for City-owned parking structures and has selected a finalist who is expected to participate in the program at five facilities for a total of about 1.5 megawatts (MW).

Stack explained that the value of local solar has fallen since the program was first launched, but has increased slightly since last year's evaluation. He said that staff recommends that the current price of 16.5 cents/kilowatt-hour (¢/kWh) and program participation cap of 3 MW be recommended to Council. He also said that staff recommends allowing participants to choose either a 20-year or 25-year contract term, noting that some developers had requested a longer contract term given that it would align better with the solar module lifetime and product warranties.

Stack also said that staff recommends expanding the CLEAN program's eligibility to include non-solar local renewable resources, while offering these resources a contract price that is equal to their avoided cost (9.3 ¢/kWh for a 20-year term or 9.4 ¢/kWh for a 25-year term). He noted that expanding the program to non-solar resources has been discussed since the program's inception, but that it was initially not done due to the fact that the City already had a competing program (the Power from Local Ultra-clean Generation Incentive, or PLUG-In, program) in place for such resources. However, this program was terminated by Council earlier this year. Stack noted that the potential anaerobic digester facility that has been discussed for the wastewater treatment plant has been mentioned as a possible non-solar participant in the CLEAN program. Finally, Stack stated that staff recommends that there be no participation cap on non-solar resources participating in the CLEAN program, given that these resources will be compensated at their avoided cost and therefore not have any impact on ratepayers.

Commissioner Eglash asked if resources are paid only for the energy that is delivered, not based on their nameplate capacity. Stack said that this was the case; that payments are made only for energy received, as with a regular power purchase agreement (PPA). Commissioner Eglash

noted that this means the City does not have to worry about degradation of the solar panels over time.

Commissioner Eglash commented on the types of non-solar resources that would be eligible for the program, and asked about a hypothetical example of a system of lead-acid batteries that are charged at night using electricity from the grid, and whether that would be eligible to participate in the program. Stack stated that the program Eligibility Rules and Requirements stipulate that a resource must be deemed an “eligible renewable” resource under the California Public Utilities Code in order to participate.

Commissioner Eglash asked whether there are any risks that the City should consider in opening the program up to non-solar renewable energy resources, and also asked whether there are any other utilities that are allowing non-solar renewable energy resources to participate in their feed-in tariff programs. Senior Deputy City Attorney Jessica Mullan mentioned that the Los Angeles Department of Water and Power has a feed-in tariff program that is open to wind and biomass projects.

Commissioner Eglash asked whether a customer who wanted to install a small wind turbine on their property would have to go through a zoning review process in order to do that. Assistant Director Jane Ratchye stated that such a project would have to go through a regular City review process—possibly including an architectural review process and an environmental review process—just like any other development project.

Vice Chair Waldfoegel asked whether a fuel cell using “green gas” would be considered a renewable resource by the California Energy Commission (CEC). Stack stated it would be considered a renewable resource, while Ratchye noted that it would likely be difficult to get physical “green gas” delivered to the City. Commissioner Eglash asked whether a fuel cell such as a Bloom Box that simply used a regular natural gas supply would be deemed eligible, and Stack stated that it would not. Vice Chair Waldfoegel asked whether a Bloom Box that used gas from the City’s PaloAltoGreen Gas program would be eligible. Stack stated that it would not, because that program uses environmental offsets to “green up” a regular natural gas supply, whereas the state Public Utilities Code requires that fuel cells use actual green gas in order to be deemed a renewable electricity supply.

Commissioner Eglash asked Stack for his opinion on whether the staff recommendation to open the CLEAN program to non-solar renewable energy resources was wise and well thought out. Stack responded that he thought it did make sense to open the program to non-solar resources rather than discriminate against them, and that as long as they can pass through the City’s regular permitting and review processes they should be eligible to participate.

Commissioner Eglash stated his concern that opening the program up to any type of renewable resource, for a 20- or 25-year term, with no participation cap (for non-solar resources) exposed the City to risks that it may not have considered. However, he also noted that the City regularly signs long-term PPAs, locking in a contract price for an extended period of time.

Ratchye agreed that opening the CLEAN program to non-solar resources would not be significantly different from the City's regular PPA process. She also noted that staff would be returning to Council every year to review the program and its contract price, so the prices and terms being proposed right now would not be available forever. She also noted that staff does not expect significant participation from non-solar resources. She stated that the only real concern with the staff proposal was for a non-solar price that was based on the avoided cost of a baseload type of resource, such as an anaerobic digester, and that it might not accurately reflect the value of a renewable resource with a different generation profile such as a wind resource. Finally, she pointed out that one way to address the concern about participation of non-solar resources in the CLEAN program would be to impose a program participation cap on those resources.

Commissioner Eglash noted that in the case of regular PPAs, each project is reviewed by the UAC, the Finance Committee, and the full City Council. Whereas with the CLEAN program the City would be committing itself to projects of unlimited size without any additional review. He suggested that the UAC might want to consider requiring Council approval of larger projects. Ratchye responded that the UAC could certainly make that recommendation; however, it would defeat the purpose of a feed-in tariff program, which is to establish a known price and a standard contract and a set of participation criteria, and allow projects to participate in the program without going through the typical thorough review process. She also noted that the chances of a giant locally-sited project are incredibly remote.

Vice Chair Waldfoegel commented that large projects would have long lead times to develop and that it would not be unreasonable to expect some negotiations to occur for such large projects.

Commissioner Hall stated that he has problems with the anaerobic digester being part of this program due to the fact that it could be a very large project and it should have to go through the regular PPA negotiation and review process. He also said that since the anaerobic digester would likely be a City-owned project (but not owned by Utilities) and therefore it would be a transfer price and this could be an issue for the public. However, he likes the idea of having a feed-in tariff program in place, and that in the future fuel cells could be a good technology to participate in the program as their prices come down.

Commissioner Foster noted that although there has not been any uptake for the program yet, he is supportive of continuing the program for solar at the 16.5 ¢/kWh price and that he supports adding a 25-year contract term option. He also noted that for solar projects, the incremental cost of those projects participating is very small for residential customers (he calculated the rate impact as 12.5 ¢/month for the median residential customer, assuming the CLEAN program was fully subscribed).

Commissioner Foster noted that the anaerobic digester is a large motivation for expanding the program to non-solar projects, and that it is a complicated project for the City. He noted that if that project participates in the CLEAN program it will bring certainty to one aspect of the project (the revenue it will receive for the power it generates) that is currently up in the air. He also stated that because the project will be compensated at its avoided cost he feels that the

arrangement is reasonable and therefore he supports the non-solar portion of the staff recommendation in addition to the solar portion.

Commissioner Melton stated that he is also comfortable with the staff proposal and that he is convinced that there will not be any off-the-wall projects coming out of this program, since any resource that wishes to participate must be defined by the state as an eligible renewable energy resource.

Commissioner Cook stated that he also likes the staff recommendation, but he would put a cap on the non-solar projects, such as 3 MW, in order to have more control on the City's exposure. For a compelling project that is larger than 3 MW, the developers would come to staff to discuss the project and staff could seek Council approval of the project or seek Council approval to raise the 3 MW cap. He also stated that he is not concerned about the transfer pricing issue, since the price is set at the avoided cost of the energy.

Commissioner Eglash commented that Commissioner Cook's recommendation did not signal that the City would reject projects larger than 3 MW, but that such projects would have to go through a more thorough review process.

Ratchye asked Stack to remind the Commission about the size of the anaerobic digester project. Stack stated that Public Works staff currently anticipates that the project will consist of three 800 kilowatt (kW) engines, with two engines operating and one idle at any point in time; therefore the project would have an operating capacity of about 1.6 MW.

Ratchye also reminded the Commission that when Council terminated the PLUG-In program earlier this year, staff told Council that after terminating that program, it would return to Council with a recommendation to expand the CLEAN program to include non-solar renewable energy resources such as the anaerobic digester.

ACTION:

Chair Foster made a motion to approve staff's recommendation. Commissioner Melton seconded the motion.

Commissioner Eglash, explaining that he doesn't feel that the UAC has received a full discussion and justification for non-solar projects, made a substitute motion to eliminate the non-solar aspect of the staff recommendation. His motion was to approve staff's recommendation parts 1.a. and 2 (Adopt a resolution to continue the Palo Alto CLEAN program at the current price of 16.5 cents per kilowatt-hour (¢/kWh) for a 20-year contract, add a 25-year contract term option with a 16.5 ¢/kWh price, and continue with a program limit of 3 megawatts (MW) for solar energy resources; and Direct staff to return to the Council with a review of the program in one year or at the time the program capacity is filled, whichever comes first.). Commissioner Hall seconded the substitute motion. The motion carried by a vote of 3-2 (with Chair Foster and Commissioner Melton voting no, Vice Chair Waldfoegel and Commissioners Eglash and Hall voting yes, Commissioner Cook abstaining, and Commissioner Chang absent).

ITEM 3 (Original Agenda New Business Item 2): ACTION: Staff Recommendation that the Utilities Advisory Commission Recommend that Council Establish a Local Community Solar Program, Including the Use of the Environmental Attributes Generated via the Program, and the Program's Power Purchase Agreement Rate, Capacity and Term

Commissioner Cook recused himself for this item and left the room.

Public comment:

Meghan King, an employee of 3Degrees, stated that Palo Alto is a leader in renewable energy programs. She said she was concerned with the proposed treatment of Renewable Energy Certificates (RECs) for the program. She said that if a customer is thinking they are buying solar energy, they need to be able to claim the RECs.

Chair Foster asked her how a customer would use these RECs. King responded that if the customer makes the claim on the REC, but the City uses them, then they will be double counted. Chair Foster asked who would be harmed by this. King replied that the entire REC structure would be called into question.

Commissioner Eglash asked what business 3Degrees is in. King said that 3Degrees is in the renewable energy business, sells RECs, and markets and administers community solar programs.

Staff Presentation

Resource Planner Aimee Bailey presented a summary of the written report. She indicated that a community solar program is part of the overarching Local Solar Plan adopted by Council. Bailey described the program design constraints and the program development process. She indicated that the Request for Proposals was relatively open ended and allowed for innovative program designs.

Bailey described the roles of the different parties in the program. The vendor would develop the solar project, receive participation payments from the participants and have a Power Purchase Agreement (PPA) with the City whereby the City would buy the electricity and RECs. The City would provide participants a monetary credit on their utility bill.

Bailey discussed the alternative program designs considered as well as alternatives for how the RECs would be treated. Bailey said that staff's recommendation is for CPAU to pay for both the energy and RECs for use in the City's Renewable Portfolio Standard (RPS). One alternative is for CPAU to pay for the energy and RECs and retire the RECs on behalf of the participants. However, in this case, since the resultant power would be brown power, CPAU would need to buy additional RECs to maintain a carbon neutral electricity supply. Another alternative is for CPAU to buy only the electricity at the CLEAN price minus the value of a solar REC. Then the vendor can retire the RECs on behalf of program participants. This would result in a lower impact on ratepayers. Bailey said that the vendor selected is the Clean Energy Coalition (CEC).

Chair Foster asked if the idea is for the participants to buy the panels up front. Bailey confirmed that this was the case. Chair Foster asked if CEC has found a location for the project.

Bailey replied that no site has been found yet. Chair Foster asked whether the City will help, or has helped, CEC to find a location. Bailey said that the City cannot help until it has a contract with CEC.

Chair Foster said that he prefers virtual net metering, but understands the problems with the billing system that make that not a viable solution. He said that he generally supports the proposed treatment of RECs in the proposed program design.

Commissioner Hall asked what the City's obligations are and what risks the participants have. He said that he needed to understand what the obligations in the contract between CPAU and the vendor were and what kind of entity CEC is; for example, what assurances exist regarding the responsibility to continue maintaining the solar facility, what is the dispute resolution process, what protections exist for the participants, and, if all else fails and the vendor disappears, who would operate the facility.

Bailey replied that CEC is a for-profit entity that has done community solar projects with 18 utilities in the U.S., but none yet in California. She explained that CEC sets up a trust as a part of the project LLC to perform the maintenance on the system.

Commissioner Eglash, noting that participants write a big check up front, asked what protections they have.

Senior Deputy City Attorney Jessica Mullan pointed to page 5 of the report which describes the agreements that would be part of the program overall.

Bailey said that customer protections are in the participant agreement which is between CPAU and the participants, but the agreement is subject to the City's legal review.

Commissioner Eglash said that he is still left wondering about what the City will do to protect the ratepayers. He asked if the City does not think this is the responsibility of the City.

Commissioner Hall said that the best structure to protect participants is that the City is the trustee and the backstop for the residents.

Mullan said that in the PPA between the City and vendor there are protections for how the project would be operated. She said that the second agreement is the service agreement between the City and vendor, which would have protections for the participants, would allow for audits, indemnity language, etc. This agreement would be the place for these protections.

Commissioner Melton said that if the City is not a party to the agreement to hold harmless the participants. Commissioner Eglash asked if the intention is to make the participants whole and asked if the risk is to the City or the participants. Chair Foster said that he would be very surprised if that risk would be on the City. He said that the City may endeavor to protect the participants, but will not guarantee complete protection.

Bailey said that the intent is to minimize the risk, but not to eliminate it.

Mullan added that her understanding is that the City is attempting to limit the risk for the participants.

Vice Chair Waldfogel asked why are we looking at such a complicated vehicle. He wondered why CEC couldn't just be a CLEAN program participant; leaving the City out of the roles it is taking on in the program.

Bailey said that securities law requires the program design to include the disbursement of the monetary bill credits through the utility bill so the City must have that role.

Vice Chair Waldfogel asked if the structure still exposed participants to securities law compliance and reporting issues.

Chair Foster asked if the risk that a participant has is the same as putting a solar system on their own roof. He stated that if a homeowner put a solar system on his own roof and the vendor subsequently disappeared, the homeowner would be on their own, unless they had purchased some type of insurance. He said that he hopes that the City will take every effort to reduce the risks to participants, but that risks may remain.

Commissioner Melton stated that if the City is not going to take on the risk, then the program marketing materials should very clearly disclose the fact that the City is not guaranteeing the project so that participants know what they're getting in to.

Commissioner Hall said that, hypothetically, when a future City Council sees a failed project orchestrated by the City, the outcome would be bad. He said that the City does need to take a reasonable set of risks and move forward, but the City should explicitly disclose the risks to participants.

Chair Foster said that this program is still a very good deal for people who cannot get solar on their own house with less risk and at less cost due to the scale of the project.

Vice Chair Waldfogel asked how RECs are dealt with for this program, the CLEAN program, and when a homeowner or business puts a solar system on their own building.

Bailey explained that for the CLEAN program, CPAU is purchasing the energy and all output including the RECs and the RECs are used for the City's RPS. For a customer-sited installation in Palo Alto, the customer claims the environmental attributes of the system. We are proposing to model this program off of CLEAN, where the price of the energy & RECs is 16.5 cents/kwh and the City will use the RECs for our RPS.

Mullan added that the FTC is the agency focused on advertising and consumer protection as it relates to the marketing piece of the program and there are overlapping state-level agencies.

Chair Foster asked if the City attorney has looked at this issue of RECs.

Vice Chair Waldfoegel, noting that the proposed program structure is being built around interpretation of SEC rules, asked if there is a written ruling that the structure is not a security regulated under the appropriate rules.

Mullan said that this is a very important point for the City and we will insist on the vendor indemnifying the City for the structure of the program. Therefore, if a subsequent SEC ruling says this type of program is a security, the sponsor organization – the City – is not liable. Participants would have no exposure to the risk of being regulated under securities laws

Commissioner Eglash complimented staff for doing a great job on a complicated project. He said that he is very supportive of the community solar program. He asked why there was a 3 MW cap for the program. Bailey explained that the cap is in place for the same reason as for CLEAN program – to limit the rate impact from the program since the price is higher than the avoided cost of local solar.

Commissioner Eglash asked what happens if a participant leaves town. Bailey explained that participants must be within CPAU service area to receive the benefit of the bill credit so if participants leave town, they can sell their share of the project to others. The CEC would facilitate a sale of the participation share, or the participant could donate the value.

Commissioner Eglash said that his primary concern is the risk to participants. For example, what if a homeowner moves out and is not able to sell the participation share. He asked what role the City has in protecting participants—he noted that the report and the presentation suggest an arm's length relationship between participants and the CEC. He said that when he puts panels on his own roof, he knows he's at risk and may want to purchase insurance, but if he participated in this program, he wouldn't expect to take on much risk. Commissioner Eglash concluded that the information in the report is not sufficient to let the UAC make a recommendation to Council.

Chair Foster asked if the City Attorney feels there is sufficient description of the clear role of the City and what level of effort will the City take to protect participants.

Mullan replied that staff is asking now for high level policy level direction regarding price, term, and program structure. She said that the agreements will be negotiated and approved by Council.

Commissioner Eglash stated that if the UAC acts tonight, it is assuming that the issues raised tonight would be negotiated into the agreements.

Mullan said that the reports to Council will have the information available with respect to the concerns around participant risks since, by then, the agreements will be negotiated and in final form.

Commissioner Eglash stated that until the negotiations are complete, he wouldn't know if another structure, or another vendor, would best address the risks discussed tonight.

ACTION:

Commissioner Hall made a motion to reject staff's proposal and request that staff return to UAC with a full discussion and listing of the risks faced by the City and program participants. Commissioner Eglash seconded the motion.

Chair Foster made a substitute motion to support staff's recommendation, indicated that he feels that staff will complete the negotiations of the required agreements with consideration of the UAC's input from the discussion. The motion failed for lack of second.

Commissioner Melton made a substitute motion to table the item (rather than reject staff's recommendation) until staff returns with a fuller discussion and disclosure of the risks to the participants and a description of staff's proposal for how to manage the risks. The motion failed for lack of a second.

Chair Foster commented that he is confident that staff will negotiate the agreements appropriately, and with the input from the UAC tonight, and that returning to UAC extends the already lengthy review process.

The commission voted on the original motion to reject staff's proposal and to request that staff return to UAC with a full discussion and listing of the risks faced by the City and program participants. The motion carried by a vote of 4-1 (with Vice Chair Waldfogel and Commissioners Eglash, Hall and Melton voting yes, Chair Foster voting no, Commissioner Cook recused, and Commissioner Chang absent).

ITEM 4 (Original Agenda New Business Item 5): ACTION: Selection of Potential Topic(s) for Discussion at Future UAC Meeting

Chair Foster noted that the UAC should reach out to new mayor when elected and the three new Council members.

Vice Chair Waldfogel indicated that he would like to take up the topic of public engagement as to whether the UAC's advisory role is valuable to Council. For example, he would like the commission to explore if the meeting format is the right format for accomplishing the advisory goals and whether it should explore other formats.

Commissioner Melton noted that the fuel switching topic is of interest to the Council and that the topic may be increased in importance in the near future.

ACTION:

Commissioner Cook stated that he would like to discuss electric undergrounding again. Chair Foster indicated that he, too, had a desire to add this item to a future agenda.

Commissioner Hall requested that the UAC review the City's sustainability goals related to Utilities with the Chief Sustainability Officer. Chair Foster indicated his support for adding that topic to a future agenda.

ITEM 5 (Original Agenda New Business Item 4 – part one, legislative guidelines related to all utilities except water): ACTION: Staff Recommendation that the Utilities Advisory Commission Recommend that the City Council Adopt a Resolution Approving the Amended City of Palo Alto Utilities Legislative Policy Guidelines

Senior Resource Planner Nico Procos explained that staff split this item into two parts - the first part discussing the guidelines for everything but the water utility and the second part related to just the water utility to allow Commissioner Hall to participate in part one and then leave the meeting (due to a self-identified conflict related to water issues). Procos provided a summary of the written report. He noted that the guidelines in the past were designated to calendar years; starting this year the guidelines will not sunset at the end of the calendar year but continue until updated. Staff still commits to an annual update of the guidelines.

Procos provided a summary of the key State issues in 2015, which could include changes to the Renewable Portfolio Standard (RPS), new greenhouse gas (GHG) targets, the next generation of net energy metering, potential carve-outs for certain resources, and issues related to low-income and disadvantaged communities. Key Federal issues include issues related to the Federal power marketing, cybersecurity, grid reliability, emissions standards, and budget and tax reform. Procos walked through the proposed changes and additions to the guidelines, which were provided as Attachment B to the written report.

Commissioner Hall enquired why the wastewater guideline #2 regarding exposure to wastewater overflows had been removed. He mentioned that during wet weather events water can get diverted into the sanitary sewer and cause overflows. Procos mentioned he had heard about such incidents, but the treatment plant has excess capacity to handle increased flows so this is not anticipated to be an issue.

Vice Chair Waldfogel asked if gas guideline #3 moved us to or away from supporting or opposing disclosure of fracking chemicals since it would increase the cost of gas supplies. Compliance Manager Debra Lloyd responded that this guideline was not intended to address fracking of natural gas, rather it was intended to support equal treatment for in-state vs out-of-state renewable gas production. Lloyd referred to Natural Gas guideline #11 that provides direction on supporting transparency regarding fracking, but not blanket moratoriums.

ACTION:

Commissioner Cook made a motion that the UAC recommend that the City Council adopt a resolution approving the Utilities Legislative Policy Guidelines covering everything but the Water Utility. Commissioner Eglash seconded the motion. The motion carried unanimously (6-0 with Commissioner Chang absent).

At this point in the meeting, Commissioner Hall left the meeting due to a self-identified conflict of interest on water issues.

ITEM 6 (Original Agenda New Business Item 4 – part two, legislative guidelines related to the water utility): ACTION: Staff Recommendation that the Utilities Advisory Commission Recommend that the City Council Adopt a Resolution Approving the Amended City of Palo Alto Utilities Legislative Policy Guidelines

Senior Resource Procos continued with part two related to the water utility. Procos provided a summary of 2014 legislation of interest that impacted the water utility and then discussed issues staff anticipates for 2015. He noted that the key State issues for water include water sector GHG emissions, changes to the requirements for the Urban Water Management Plan and issues with respect to low-income/disadvantaged communities. Key Federal issues include cost allocation for the Delta tunnels and drought. Procos described each of the changes to the water utility guidelines, which were provided as Attachment B to the written report.

Commissioner Melton inquired about water guideline #13 and if, given that groundwater extraction in Central Valley is being called into question, this guideline would involve the City in the tension between urban and agricultural use of groundwater. Procos responded that the intent of guideline #13 is to support groundwater management, but as the City has made investments in new wells and has certain assumptions regarding the use of those wells, the City has an interest in ensuring that no new proposals may impact those assumptions. Commissioner Melton agreed that adding the word "Palo Alto" to the guideline would better clarify the intent.

Vice Chair Waldfoegel discussed water guideline #10 and the issue regarding State Water Project tax collections. He suggested the venue be adjusted to make it State + *regional*.

ACTION:

Commissioner Eglash made a motion that the UAC recommend that the City Council adopt a resolution approving the proposed Utilities Legislative Policy Guidelines for the Water Utility, with the two proposed changes. Commissioner Cook seconded the motion. The motion carried unanimously (4-0 with Chair Foster, Vice Chair Waldfoegel, and Commissioners Eglash, and Melton voting yes, Commissioners Chang and Hall absent).

ITEM 7: DISCUSSION: Update and Discussion on Impact of Statewide Drought on Water and Hydroelectric Supplies

Assistant Director Jane Ratchye provided a brief update of the drought situation and its impact on water and electric supplies. She reported that the 2012-2014 period is the driest year of the 97-year record period. In response to the San Francisco Public Utilities Commission's (SFPUC's) call for 10% water use reductions, the City's water customers have done an admirable job by reducing overall usage from 2013 levels by 15% and the SFPUC's regional water system as a whole has exceeded the 10% target.

Ratchye reported that the SFPUC expects to maintain the call for 10% usage reductions if the hydro year is dryer than normal, but may have to increase the call to 20% usage reductions if the year is critically dry such as in the hydrology of 1977.

Ratchye indicated that the impact of the drought on the cost of electric supplies is significant given the City's heavy reliance on hydroelectric supplies. Staff expects that the increased cost to purchase replacement supplies from the market to make up for less hydropower will cost about \$10 million more than in an average hydro year.

COMMISSIONER COMMENTS

Commissioner Melton and Vice Chair Waldfogel indicated that they will not be available to attend the next scheduled UAC meeting on February 4, 2015.

Meeting adjourned at 10:25 p.m.

Respectfully submitted,
Marites Ward
City of Palo Alto Utilities