



City Council Staff Report

From: City Manager
Report Type: ACTION ITEMS
Lead Department: Community Services

Meeting Date: April 3, 2023
Report #: 2302-0942

TITLE

Parks and Recreation Commission Recommend Adoption of a Park Dedication Ordinance to Dedicate the 10-acre Measure E site as Parkland. CEQA status – not a project.

RECOMMENDATION

The Parks and Recreation Commission (PRC) recommend that City Council adopt a Park Dedication Ordinance (Attachment A) to dedicate the 10-acre parcel at Byxbee Park, also known as the Measure E site, as parkland.

BACKGROUND

On April 5, 2010, City Council directed staff to initiate a feasibility study for an Energy/Compost Facility in Palo Alto. On October 3, 2011, a Final Feasibility Report was presented to City Council (Staff Report¹). The Feasibility Report recommended that if a 10-acre parcel at Byxbee Park became available through the passage of Ballot Measure E, then the City should take further actions to consider anaerobic digestion and other technologies for managing the City's food scraps, yard trimmings, and biosolids at the site. In November 2011, Palo Alto voters passed Measure E, which removed a 10-acre parcel of land adjacent to the Regional Water Quality Control Plant from dedication as parkland for a 10-year term, only for the limited use as an Energy/Compost Facility. The 10 acres were reserved exclusively for this purpose until November 2021, at which time the City Council could choose to return the area to parkland.

Key Sections from Ballot Measure E (Resolution) include the following:

- The Property shall be removed from dedication as parkland, for the exclusive purpose of building a facility ("Facility" herein) for converting yard trimmings, food waste, other

¹ City Council, October 3, 2011; Agenda Item #10; SR #2037,
<https://www.cityofpaloalto.org/files/assets/public/from-archive/agendas-minutes-reports/reports/city-manager-reports-cmrs/2011/id-2037.pdf>

municipal organics and/or sewage sludge from the regional wastewater treatment plant by biological and/or other environmentally equally protective technology.

- Ten years from the passage of this Initiative, the City Council may rededicate any portion of the Property not utilized for the purposes of this Initiative to parkland.
- Any other use, except for parkland, would require a new vote of Palo Alto residents.

On December 8, 2014, City Council directed staff to not pursue the development of a compost facility (Staff Report²). After an extensive process of requesting and evaluating proposals, staff concluded the compost facility was not cost effective. Palo Alto's yard trimmings and food scraps are instead taken to a dry anaerobic digester in San Jose. On October 26, 2021, Public Works staff presented an update on Measure E (presentation³) to the Parks and Recreation Commission.

The Council approved PRC Work Plan⁴ includes a goal (#6) to identify, review, and recommend potential sites within our community to dedicate as parkland. The high priority of the goal is to review and make recommendations regarding potential dedication of the 10-acre Measure E site at Byxbee Park.

The Measure E site is bordered by the Regional Water Quality Control Plant, Emily Renzel Wetlands, and Byxbee Park (Attachment B). Approximately, one-third of the 10 acres is relatively flat terrain (from the exterior fence of the Regional Water Quality Control Plant to just beyond the service road), and the remaining two thirds is on a sloped hillside adjacent to Byxbee Park, which is the closed landfill. There is a Public Works post landfill closure maintenance facility on the Measure E site. Maintenance infrastructure, like these facilities, can be found in several parks and open space areas. This maintenance facility and the access road were in their current location (on parkland) prior to the 2011 Ballot Measure E.

ANALYSIS

On September 27, 2022, the PRC discussed and provided feedback regarding the dedication of the 10-acre Measure E site as parkland (Staff Report⁵). The PRC voiced support for dedicating the site as parkland. On October 25, 2022, the PRC voted 4- 2 to recommend that City Council

² City Council, December 8, 2014; Agenda Item #14; SR #5182, <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmr/yr-archive/2014/id5182.pdf>

³ Parks and Recreation Commission, October 26, 2021; Agenda Item #4; <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/parks-and-recreation-commission/agendas-minutes/2021-agendas-and-minutes/measure-e-site-prc-10-26-2021.pdf>

⁴ Parks and Recreation 2022-2023 Work Plan; <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/parks-and-recreation-commission/parks-and-recreation-commission-2022-work-plan.pdf>

⁵ Parks and Recreation Commission, September 27, 2022; Agenda Item #3; <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/parks-and-recreation-commission/agendas-minutes/2022-agendas-and-minutes/09.2022/measure-e-staff-report-09.27.22.pdf>

dedicate the Measure E site (Staff Report⁶). The Ad Hoc Committee articulated the following reasons for pursuing the parkland dedication:

- The Measure E site can only be used for the exclusive purpose of building a processing facility for yard trimmings, food waste and other organic materials.
- Any non-parkland use, other than the one exactly specified in Measure E, would require a new vote of Palo Alto residents.
- Neither the Public Works nor Utilities Departments currently have plans for the Measure E site.
- The Measure E site includes a wildlife habitat corridor between the Renzel Wetlands and the Bay that should be protected, and a trail connection for a loop around Byxbee Park.
- As dedicated parkland, the Measure E site would be limited to “park, playground, recreation, or conservation purposes (as defined by Article VIII of the Palo Alto City Charter). Dedicated parkland can't be used for non-park purposes unless a majority of the City's voters vote to un-dedicate the land.

The two Commissioners with dissenting votes suggested that the City do more research before concluding whether the site is a potential location for a processing facility for yard trimmings, food waste, and other organic materials. Several public speakers, many of whom were original sponsors of Measure E, encouraged the PRC not to rededicate the 10 acres as parkland. They encouraged more study of the feasibility of building a processing facility at the site. Other public speakers advocated for dedicating and protecting the 10-acre site for native plants and wildlife habitat.

Independent of these discussions, the City has proceeded with other sustainability and climate change related initiatives. This includes evaluating the development of an advanced water purification facility at the former Los Altos Treatment Plant, other wastewater treatment needs, and sea level rise planning. These interests could lead to other potential uses for the Measure E site. The City Council may wish to discuss these interests as part of its deliberations.

FISCAL/RESOURCE IMPACT

If City Council adopts the recommendation in this staff report, no additional budgetary action is required. The 10-acre site will remain in its current condition.

STAKEHOLDER ENGAGEMENT

⁶ Parks and Recreation Commission, October 25, 2022; Agenda Item #5; <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/parks-and-recreation-commission/agendas-minutes/2022-agendas-and-minutes/10.2022/prc-staff-report-measure-e-action-10.25.22.pdf>

The following community meetings and hearings were held to obtain public input on the proposed policy:

1. September 27, 2022, Parks and Recreation Commission meeting
2. October 25, 2022, Parks and Recreation Commission meeting

ENVIRONMENTAL REVIEW

The recommendation does not meet the definition of a project under Section 21065 of the Public Resources Code (California Environmental Quality Act [CEQA] Guidelines Section 15378) because adoption of this policy would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS

Attachment A: Ordinance Re-Dedicating the Measure E site as Dedicated Parkland

Attachment B: Measure E Site Map

APPROVED BY:

Kristen O'Kane, Community Services Director

Ordinance of the Council of the City of Palo Alto Dedicating the
Area Commonly Known as the Measure E Site as Parkland

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Improvements. The City Council finds and declares that:

(a) Article VIII of the Charter of the City of Palo Alto and section 22.08.004 of the Palo Alto Municipal Code specify that land intended to be used for park purposes can be dedicated for such use by ordinance.

(b) The Measure E site is defined as the area described in Exhibit A-2.1 to this ordinance. It is approximately 10 acres in size. It is bordered by the City's Byxbee Park, Emily Renzel Wetlands, and the Regional Water Quality Control Plant.

(c) The Measure E site was formerly part of Byxbee Park. The site was un-dedicated by a vote of the people in November 2011 pursuant to Resolution 9195 (passed August 1, 2011). The terms of the ballot measure allow the site to be used only for a processing facility for yard trimmings, food waste and other organic materials. The measure allows the site to be re-dedicated after 10 years. No processing facility was ever built.

(d) The City intends to re-dedicate the Measure E site through this ordinance.

(e) Upon adoption of this ordinance, the Measure E site shall become part of Byxbee Park.

SECTION 2. The City Council hereby dedicates the Measure E site pursuant to Article VIII of the Charter of the City of Palo Alto and section 22.08.004 of the Palo Alto Municipal Code.

SECTION 3. Section 22.08.025 is hereby added to Chapter 22.08 (Park dedications) to read as follows:

22.08.025 Addition to Byxbee Park (former Measure E Site)

That certain parcel of land as delineated and described in Exhibit A-2.1, formerly known as the Measure E site, is hereby reserved for park, playground, recreation or conservation purposes.

SECTION 4. Exhibit A-2.1 of this ordinance shall be codified as Exhibit A-2.1 to the Exhibits for Title 22.

SECTION 5. The City Council finds that this ordinance is not a project within the meaning of CEQA.

SECTION 6. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

Mayor

APPROVED:

City Manager

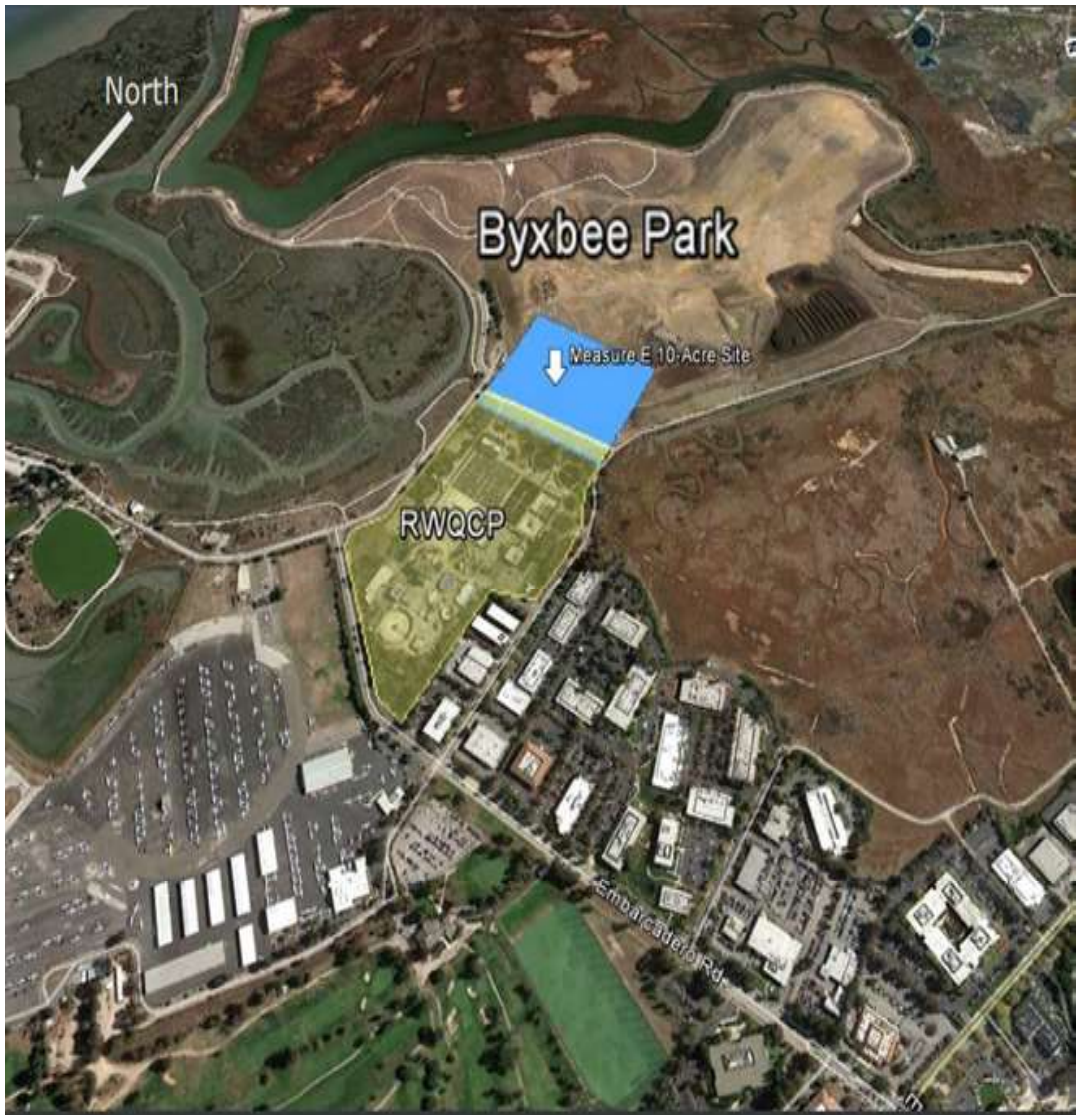
Director of Community Services

Director of Public Works

Exhibit A-2.1

Addition to Byxbee Park (former Measure E Site) – Legal Description

All that certain real property situated in the City of Palo Alto, County of Santa Clara, State of California and more particularly described as follows; commencing at a four by four fence post as shown on that Record of Survey filed with the Santa Clara County Recorder in book 258 page 4 and 5 on August 15th 1969; thence from said four by four fence post, South 88° 58' 50" East 415.54 feet; to a point on the southerly line of the Sewage Treatment Plant Parkland exclusion as said exclusion is shown on Exhibit A-2 of Section 22.08.020 of the Palo Alto Municipal Code, said point also being the True Point of Beginning for this description; thence from said True Point of Beginning the following four (4) courses and distances; south 36° 42' 20" East 209.06 feet; south 41° 31' 45" East 276.48 feet; south 53° 12' 33" East 180.61 feet; north 50° 22' 18" East 652.20 feet; thence North 41° 35' 41" West 633.72 feet to a point on said southerly line of the Sewage Treatment Plant Parkland exclusion; thence along said Sewage Treatment Plant Parkland exclusion; South 52° 42' 10" West 671.94 feet, to the True Point of Beginning.



Attachment A: Measure E
Site Map

Priority Legislation for the City of Palo Alto

1. Bills With City Positions

The following chart provides an overview of bills with pending positions taken as of March 21, 2023. ('Pending' positions means that staff drafted a letter for these bills based on the Legislative Guidelines. Though not required, staff looks for Council affirmation on these on April 3).

BILL	SUMMARY/STATUS	CITY IMPACT	POSITION/ RECOMMENDATION
AB 1505 (Rodriguez)	Appropriates \$250,000,000 for the purpose of implementing the Seismic Retrofitting Program for Soft Story Multifamily Housing <i>Status: Pending Policy Committee Referral</i>	Seismic safety improvements align with the Palo Alto City Council's 2023 Priority of Community Health and Safety and will help the City progress in the seismic improvements objective.	City Position: Pending Support
SB 43 (Eggman)	Updates the definition of "gravely disabled" to include a new focus on preventing serious physical and mental harm stemming from a person's inability to provide for their needs for nourishment, personal or medical care, find appropriate shelter, or attend to self-protection or personal safety, due to their mental or substance use disorder. <i>Status: Will be heard in Senate Health Committee March 29</i>	One of the Palo Alto City Council Priorities for 2023 is Community Health and Safety which includes some focus on mental health. This bill seems to align with that priority.	City Position: Pending Support
SB 363 (Eggman)	Establishes a real-time, internet-based dashboard to collect, aggregate and display information about the availability of beds in a range of psychiatric and substance abuse facilities. <i>Status: Will be heard in Senate Health Committee March 22.</i>	One of the Palo Alto City Council Priorities for 2023 is Community Health and Safety which includes some focus on mental health. This bill seems to align with that priority. The City would need to further analyze the resources required for this legislation.	City Position: Pending Support
SB 423 (Wiener)	Extends the provisions of SB 35 (Wiener, Statutes of 2017) indefinitely. Removes coastal exemption and objective planning standards criteria. <i>Status: Passed the Senate Housing Committee on a 6-1 vote. Referred to the Senate Governance and Finance Committee.</i>	Palo Alto has included in the Legislative Guidelines many principles to support local control of land use and this bill contrasts with that.	City Position: Pending Opposition
SB 719 (Becker)	Requires law enforcement agencies to ensure any non-confidential radio communications are accessible to the public. <i>Status: Referred to Senate Public Safety Committee. Pending hearing date.</i>	The City Council supported similar legislation in 2022. As of Fall 2022, the City of Palo Alto switched routine Palo Alto Police radio transmissions to now be broadcast on an unencrypted channel. This bill in it's current form should not affect Palo Alto operations.	City Position: Pending Support

2. Bills With Recommended Action

The following chart features two bills that TPA advocates have identified with recommendations for the City to take a formal position on, pending Council consideration and approval.

BILL	SUMMARY/STATUS	CITY IMPACT	POSITION/ RECOMMENDATION
AB 68 (Ward)	Requires ministerial approval of infill multifamily units up to 50 feet in defined "Climate Smart Parcels" proximate to transit and commercial clusters. <i>Status: Referred to Assembly Committees on Housing and Local Government. Pending hearing date.</i>	Palo Alto has included in the Legislative Guidelines many principles to support local control of land use and this bill contrasts with that.	Recommendation: Oppose
SB 405 (Cortese)	Requires for the 7th cycle housing element that the planning agency notify the owner of a site included in the site's inventory. If an owner doesn't intend to develop at least 80% of the number of units indicated, the site cannot be included. <i>Status: Referred to Senate Housing Committee. Pending hearing date.</i>	Palo Alto has included in the Legislative Guidelines many principles to support local control of land use. This bill could create administrative burdens related to site inventory certification and site identification for future RHNA cycles.	Recommendation: Oppose

3. Notable bills with Recommendations to Monitor Progress

The following chart encompasses priority legislation TPA advocates are monitoring on behalf of the City. Positions noted as "Recommendations" reflect the suggested position from TPA advocates and are subject to change, pending review of each bills' impact on the City. Should the City Council or staff note any additional pieces of legislation to incorporate into this chart, TPA advocates will gladly accommodate. TPA can also provide a recommendation regarding to support or opposition to these bills if the City Council is interested in acting upon them at this time.

BILL	SUBJECT	SUMMARY	STATUS	POSITION/ RECOMMENDATION
AB 557 (Hart)	Open Meetings	Extends modified teleconferencing provisions under the Brown Act when a declared state of emergency is in effect, or in other situations related to public health, indefinitely.	Referred to Assembly Local Government Committee. Pending hearing date	Recommendation: Monitor
AB 817 (Pacheco)	Open Meetings	Allows subsidiary bodies of a local agency to use alternative teleconferencing provisions under the Brown Act, without the need of a State of Emergency.	Referred to Assembly Local Government Committee. Pending hearing date.	Recommendation: Monitor