



# CITY COUNCIL SUMMARY MINUTES

Regular Meeting  
February 26, 2024

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:

Mayor Stone called the meeting to order in honor of the lives of the two young women who lost their lives in the past week and asked for a brief moment of silence.

City Clerk Mahealani Ah Yun called role with all present.

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

## Closed Session

1. CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION Subject: Reinert v. City of Palo Alto Santa Clara County Superior Court Case No. 21-CV-391286 (One Case, as Defendant) Authority: Government Code Section 54956.9(d)(1)

Mayor Stone asked if there was a motion to go into closed session in regard to Item number 1.

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

## **MOTION PASSED: 7-0**

Council went into Closed Session at 5:35 P.M.

Council returned from Closed Session at 6:35 P.M.

Mayor Stone announced no reportable action.

## Agenda Changes, Additions and Deletions

Ed Shikada, City Manager called attention to Item number 11 having been placed on the agenda in error. It was removed and rescheduled as an action item on March 18.

# SUMMARY MINUTES

## Public Comment

Mayor Stone set some ground rules for public comment. He made everyone aware that some of the slide shows and videos that would be shown by public speakers contained troubling images.

1. Deborahlise M. speaking on behalf of (8): Tuba S., Yasa B., Moiez B., Talha A., Hadi S., Aziz S., Humza S. provided Council with facts to include what she described as acts of genocide. She stated her original request for a ceasefire resolution was a litmus test to evaluate the principles of the Council. She opined that the US has affirmed its position as complicit in Israel's crimes. She thought it would be wise for Council to create a statement along the parameters of the ICJ Preliminary Ruling in the prevention of further genocidal acts. She described what this would entail. She provided a video of Nada Tarbush discussing events in Gaza that included footage of war and requested that states stop sending weapons to Israel.
2. Eric S. speaking on behalf of (8): Sarit, Elinor, Avivit, Ilana, Yuval, Lisa, Adele spoke about Daniel Patrick Moynihan who said, "Everyone is entitled to their own opinions but they are not entitled to their own facts". He showed footage of protests and slides discussing what he believed to be false accusations leveled at Israel in the course of the conflict against Hamas and Gaza. He opined that calls for ceasefires were based on fallacies and a misconception of how to achieve a lasting peace for Palestinians and Israelis.
3. Allyson R. speaking on behalf of (8): Estee, Giora, Kenneth, Hanna, Edith, Ofra, Sarith saw the community of Palo Alto being torn apart by the fight over a ceasefire. She provided a website to go to for daily reports of medicine, food, fuel shipments and other humanitarian aid. She observed that a proclamation from Palo Alto would have no impact on the negotiation of a ceasefire. She declared that Jews felt betrayed by the propaganda and lies demonizing Israelis. She refuted the accusation of Israeli committing genocide. She felt the Israeli-Hamas war was an attempt at genocide and that Israel has no choice but defend its citizens. She showed a slide discussing that the Israeli-Hamas war was not just about Israel but was one of several fights against radical Islamic Jihadi terrorist groups to convert infidels to radical Islam. She described other examples of these slaughters by Jihadi groups. She talked about views of Mosab Hassan Yousef who warned that Hamas would not stop at the Jews and Israel. She said that Palestinians have a personal refugee agency that has been infiltrated by Hamas. She discussed Imam Mohammed Mushtaha's arrest when he told Hamas he did not want to preach that his community should kill. She ended that Hamas must be destroyed for everyone's sake in the Middle East.
4. Noel S. proclaimed this war was not for the safety of Jews but was genocide. She stated a captive population was being bombed and people are starving.

# SUMMARY MINUTES

5. Lori M. shared a story about a staff-recommended booklist on the Israeli-Palestinian Conflict on the Palo Alto Library website that included a Palestinian author who has publicly posted antisemitism. When confronted the librarian replied, "Our goal is to provide the information and tools people need to be exposed to various viewpoints". She did not condone book banning but asked if this was a various viewpoint consistent with Palo Alto.
6. Talha B. (Zoom) discussed an event hosted the prior day at City Hall where over 300 multicultural, multiethnic and multireligious members of Palo Alto came out in favor of humanity, justice and peace for all people. He opined that peace in Palestine is not equated to antisemitism or racism.
7. Aram J. (Zoom) declared that the genocide that is occurring is from the bombs, airplanes and weapons the U.S. is supplying. In the next few weeks, he intends to talk about why the item about restricting signage in the Council chambers should have been agendized.
8. Mam (Zoom) stated there are people that do not want Palestinians to exist and are upset at Palestinians peacefully protesting at City Hall. She described a woman harassing peaceful protestors at a rally in solidarity for Palestine the prior day and said these are the hate crimes to be concerned about against Palestinians, Muslims and Arabs. She added that apartheid, colonialism, the brutalization of an entire group of people and genocide could not be justified.

## Council Member Questions, Comments and Announcements

Council Member Veenker congratulated GreenWaste of Palo Alto and the Teamsters Local 350 for reaching an agreement on the first-ever contract stating it was important to the zero waste effort and sustainability goals in the City.

Council Member Lythcott-Haims reported that the Cubberley Ad-Hoc Committee has had three or four meetings this year not including two closed sessions with the full Council.

Mayor Stone stated that on Thursday the City of Palo Alto hosted the Green Transition Summit which was a summit held with Sweden and the State of California.

## Consent Calendar

Council Member Tanaka registered a no vote on Agenda Item Number 5, 6, 7, 9.

Council Member Kou registered a no vote on Agenda Item Number 9.

Council Member Kou and Council Member Tanaka requested to pull Agenda Item Number 9.

**MOTION:** Council Member Veenker moved, seconded by Council Member Lythcott-Haims to approve Agenda Item Numbers 2-10, 12.

# **SUMMARY MINUTES**

**MOTION PASSED ITEMS 2-4, 8, 10, 12: 7-0**

**MOTION PASSED ITEMS 5, 6, 7: 6-1, Tanaka no**

**MOTION PASSED ITEM 9: 5-2, Kou, Tanaka no**

Public Comment:

1. Penny E. (Zoom) spoke regarding Consent Calendar Item 9. She provided that with these contracts North Palo Alto would get advanced stakeholders surveys, interviews, design charrettes, digital engagement, developer roundtable analysis and assessment of community infrastructure assets and services for increased population along with mobility and connectivity analysis with policy recommendations, architectural review, open space and landscape design standards and guidelines, assessment of opportunities and constraints and CEQA analysis. This is in striking contrast to the \$15,000 Cal Poly student-run San Antonio area process that is currently underway. She attended the second Cal Poly meeting the prior day. The work to date reflects students' inexperience and shallow knowledge of the area. She questioned why Staff recommended master planning for downtown ahead of master planning for areas south of Oregon Expressway that are already rezoned for housing and said they needed a professional master planning process for San Antonio right now. She added several large projects have already been approved with many more moving forward and they are already behind. She wanted to know why the MTC grant was not written to request money for South Palo Alto areas that are already identified through lion's share housing development requirement and if the downtown master plan will yield 100 times more housing than South Palo Alto upzoned areas. She wanted Staff asked to clarify the target number of units they expect this downtown housing master plan to yield toward the City's housing requirement.

Council Member Kou appreciated Ms. Ellson's views about Item Number 9. She has also attended the community planning for South Palo Alto. She felt there was a hodgepodge way of planning for South Palo Alto that stunts development. She provided examples. She thought the grant from MTC of \$800,000 where the remainder would leave the City coming up with approximately \$950,000 to \$1.1 million dollars was going to be on mostly project management and coordination and community outreach and engagement and they saw how that went with NVCAP. There is community assessment, policy development and downtown housing plan preparation but asked where the money was for building, construction, prevailing wages and infrastructure. She thought this was unfair and not community environment land-use planning.

Council Member Tanaka spoke about Item Number 5. He said he could not support the provided cost per megawatt hour as it was double what the market rate is. On Item Number 6, he felt the amount being spent was too much and kept going up. On Item Number 7, he pointed out the fee was going up 69 percent and he could not see justification in it. On Item

# **SUMMARY MINUTES**

Number 9, he liked the Downtown Housing Plan but did not like the fact that they have two bids and they went beyond the high-end bid. He thought the inequity with what is going on in South Palo Alto was a good point and that it deserved more discussion.

Laren Lai, new Administrative Services Director and Chief Financial Officer, introduced herself discussing her critical role as CFO and her previous experience.

2. Approval of Minutes from February 5, 2024 and February 12, 2024 meetings.
3. Appointment of 2024 Emergency Standby Council
4. City Councilmember Appointment to the Santa Clara County Housing and Community Development Advisory Committee (HCDAC)
5. Adopt a Resolution Authorizing the City Manager or Their Designee to Execute a Third Phase Agreement with Northern California Power Agency for the Purchase of up to 2,800 Megawatt-Hours per Year of Biogas Energy from Zero Waste Energy Development Company, LLC over a Term of up to 10 Years for a Total Not to Exceed Amount of \$5.7 Million; CEQA Status: Not a Project under CEQA Guidelines Section 15378(b)(5)
6. Approval of Amendment No. 6 to Contract No. C16163034A with Nova Partners, Inc. to Add \$766,919, Increasing the Not to Exceed Amount to \$9,647,825, for Additional Construction Management Services for the New Public Safety Building Capital Improvement Program Project (PE- 15001) and Extend the Contract Term; and Approval of Amendment No. 2 to Contract No. S20177452 with Schaaf & Wheeler Consulting Civil Engineers to Add \$9,600, Increasing the Not to Exceed Amount to \$20,200, for Additional Professional Services and Extend the Contract Term for the New Public Safety Building Capital Improvement Program project (PE- 15001); CEQA: Environmental Impact Report for the New Public Safety Building and New California Avenue Area Parking Garage (Resolution No. 9772)
7. Approval of Amendment No. 1 to Professional Services Agreement S21180224 with Matrix Consulting Group for a Planning and Development Services Fee Study in the Amount of \$56,500 for a total Not to Exceed of \$138,000 and Extension of the Contract Term through January 31, 2026. Environmental Assessment: Exempt in Accordance with CEQA Guidelines Section 15061(3)(b).
8. Approve and Authorize the City Manager to Execute a Funding Agreement with the Valley Transportation Authority (VTA) to Accept a \$250,000 Grant as part of the 2010 Measure B Vehicle Registration Fee (VRF) Countywide Program Cycle Four; CEQA status – Statutorily Exempt.
9. Approve Two Contracts for Consultant Services for the Downtown Housing Plan: Contract Number C24187236 with Wallace Roberts & Todd, LLC (WRT) for a Not-to Exceed Amount of \$1,508,254 to Provide Planning and Consulting Services to Develop

# SUMMARY MINUTES

the City's Downtown Housing Plan for a Term of Two-years with an Optional One-year Extension; and Contract Number C24187237 with Good City Company (Good City) for a Not-to Exceed Amount of \$375,522 to Provide Project Management and Consulting Services for the City's Downtown Housing Plan for a Term of Two-years with an Optional One-year Extension. CEQA Action: Agreements are not subject to CEQA

10. Approval of Professional Services Contract with Ecology Action for a Not-to-Exceed Amount of \$139,968 for City of Palo Alto Safe Routes to School Spring/Fall Programming; CEQA status – categorically exempt (educational program).
11. ~~SECOND READING: Ordinance of the Council of the City of Palo Alto Amending Chapter 8.04 (Street, Trees, Shrubs, and Plants) and Chapter 8.10 (Tree Preservation and Management Regulations) (FIRST READING: January 16, 2024 PASSED 5-2, Lythcott-Haims, Tanaka no) **Removed from Consent**~~
12. Approval of the Appointment of Lauren Lai as the Administrative Services Director/Chief Financial Officer

## City Manager Comments

Ed Shikada, City Manager, provided a slide presentation acknowledging the difficult time experienced by the community over the last week plus. He noted a message of support for the community Mayor Stone put in the newsletter the previous week leading to ongoing support programs available. He noted that the City has undertaken a series of mental health first aid training programs that will dovetail with work that Palo Alto Unified School District is undertaking as well as their partners at Project Safety Net and Momentum for Health in expanding the availability of mental health first aid training and workshops through the community. They expect to be able to announce additional dates that will be available as well as more information about this program. He noted the library has scheduled specific dates for the first of two-part sessions on mental health first aid on Saturday March 9. Information for this could be found on the City's homepage and he provided the link. He provided detail regarding the Caltrans State Route 82 Bike Lane Proposal, Creek Corridor Protection Ordinance Update Community Info Session and notable tentative upcoming Council items.

Council Member Burt noted that he was considering supporting pulling Item Number 9 but when he did a preliminary review of next week's agenda Item Number 8, he noted it looks like one item is approval of a consultant contract for a specific plan for the San Antonio Corridor. That sounded reassuring enough that he opted not to pull Item Number 9. He asked for clarification about making sure that the corridor has a strategic plan.

City Manager Shikada answered as a part of the item that will be discussed the next week and the priorities including housing for social and economic balance, one of the objectives was the approval of a consulting contract this calendar year in order to initiate a specific plan for the San Antonio corridor. He wanted to ensure Council is aware that the planning effort along San Antonio corridor has included the work being done by their team of students from Cal Poly San

# SUMMARY MINUTES

Luis Obispo but is not limited to that. There will be follow-up work both to City Council and a full community engagement as next steps.

## Action Items

13. PUBLIC HEARING: Objections to Weed Abatement at Affected Properties and Approval of Affected Property List for Commencing Weed Abatement in 2024; CEQA status – exempt

Tamara Jasso, Fire Marshall, presented a hearing to allow property owners listed on the county's 2024 commencement report to be heard and have their objections considered after Council adopted a resolution declaring weeds a nuisance. She provided detail about the Weed Abatement program.

### Public Comment:

1. Zheng (George) Z. stated if he knew when the deadline would be and when the inspection would come he would have prepared his lawn. He talked about a family emergency the previous year that left little time for lawn maintenance. He said that he cleaned up his lawn after inspection and before he received a notice from the county for which he provided pictures. He asked the county to consider his situation and exempt him and he would keep the property clean in the future. He added he would submit his argument to the secretary and provide his address to the clerk as he was asked.
2. Jonathan Brown (Zoom) objected to the listing of his property at 415 Fernando Avenue, APN 13239038 on the 2022 Weed Abatement Program Assessment Report. He declared the property to be in full compliance of all applicable laws for three or more years. He said there should be a constructive dialog to mitigate any actual hazards before any notice is issued and enforcement action taken. He added that the ordinance is unevenly enforced in the neighborhood. He sought removal of his property from the list.

Council Member Kou asked how the owner was contacted if unable to receive the notices.

Santa Clara County Representative answered they do not have access to all of that information. They send a notice to every property owner of this proceeding which includes contact information from his office. He stated they attempt to address all of the properties they find to be noncompliant; however, they do not go everywhere in the City unless they are asked to or have another property in that area to address. He noted he would go through the records and remove Mr. Brown's property from the list.

Council Member Burt queried if they would be acting on that specific list of properties.

Santa Clara County Representative clarified that the purpose of the hearing was so they could act on each of the contested properties as individual items.

# SUMMARY MINUTES

Council Member Kou wanted to confirm the times listed on Attachment C.

Santa Clara County Representative provided clarification on those listed times.

Council Member Veenker wanted to know how it plays out if the weeds are removed before they get there.

Santa Clara County Representative stated the properties in question were not already on the program so they received an ad letter. They were not charged anything at that point. If the property were to stay on the program, they would go and inspect to ensure compliance. Every property inspected will have to pay an inspection fee of \$96. If they are noncompliant, additional fees will be added and should they abatement, that fee will also be added to the cost of their assessment.

**MOTION:** Council Member Burt moved, seconded by Vice Mayor Lauing to:

- a. Adopt a determination that weed abatement activities in 2024, as described in Resolution 10135 (Attachment A) adopted by Council on December 4, 2023, are exempt under Class 8 (CEQA Guidelines section 15308);
- b. Hold a Public Hearing to hear and consider any objections to the proposed destruction and removal of weeds in 2024 at the properties listed in Attachment B; and
- c. Approve the final list of affected properties for weed abatement in 2024 (Attachment B) following the public hearing, and direct weed abatement activities to commence at those properties in accordance with Resolution 10135; and
- d. Refer the two objections located at 415 Fernando Ave and 354 El Verano Ave to the County enforcement office for review and with no enforcement action pending that review.

**MOTION PASSED: 7-0**

14. Adoption of a Resolution Suspending Enforcement of Municipal Code Sections 16.14.090, 16.14.110 and 16.14.300 Requiring All-electric Construction and Direction to Staff to Commence Work on Local Amendments to the California Energy Code Establishing a One Margin Standard. CEQA Status – Not a Project.

Christine Tam, Senior Resources Planner, provided slides discussing the background for the proposal, legal challenges to building electrification laws, other cities' actions and Staff recommendations.

Public Comment:

# SUMMARY MINUTES

1. Larry K. expressed his hope that the six month time given was accurate. He was concerned that there may be units built using gas appliances. He hoped the budget amendment would be enough to encourage and promote all electric residences. He added that Staff and the City Attorney's office should provide a legal warning that the City is considering doing away with gas service and it may not be usable in the future. He hoped Staff would keep a record as to how many applicants choose gas hookups.
2. Julia Z., Executive Director of the Palo Alto Student Climate Coalition, urged Council to enact the One Margin Standard as soon as possible. She opined that the court ruling was a setback to climate goals.
3. Emily L., Palo Alto Student Climate Coalition, urged Council to implement a One Margin Standard as soon as possible. She understood adjustments must be made to avoid litigation but the was not an excuse to allow weaker environmental protections.
4. Avroh S., Palo Alto Student Climate Coalition, urged Council to look to other standards as climate action needed to be taken without mixed messages. He understood they could not set aside One Margin Reach Codes that regulate based on emissions but they could base on electrical efficiency.
5. Amie A. (Zoom), Executive Director of Palo Alto Forward, stated her organization agreed with the five measures suggested in the Student Climate Coalition's letter and 350 SV. Even if One Margin Code is adopted, other actions will need to be identified to meet the 80/30 goal and they cannot get there without significant VMT reductions. She hoped this was the start of a conversation around implantation of additional SCAP policies needed to reach their goals.
6. Christine W. (Zoom), Attorney with SSL Law Firm in San Francisco, submitted a comment letter on behalf of owner of 1325 Parkinson the prior week in order to make clear that from a legal perspective there was no choice but to suspend enforcement of the all-electric ordinance given the decision in the Berkeley case. She supported Staff's position in their report that the suspension should apply to pending applications, previously approved applications and previously approved building permits especially with homeowners seeking only to have a gas stove or an outdoor firepit rather than an all-gas home system.
7. Kat S. (Zoom), member of 350 SV Palo Alto, stated their organization understands the need to change Palo Alto's all-electric reach code in light of the Berkeley ruling but they do not need to allow things beyond the scope of the Berkeley ruling. She pointed out that none of the previously listed outdoor appliances were considered "covered appliances" under EPCA. She emphasized the phrase in the Berkeley ruling that states, "premises where gas is otherwise available" because they have the option to make it available or not outside of the Berkeley ruling.

# SUMMARY MINUTES

Council Member Burt asked about the timing it is going to take to implement the One Margin program, why other cities were further along in this adoption and what steps were needed to move forward. He wanted to know how quickly they could get it to the Council to get it to the state to get approved.

Jonathan Lait, Planning and Development Services Director, answered there are a number of electrification initiatives underway in different departments and their focus has been on trying to advance those and they were expecting that the Appeals Court might take up the issue. His best guess as to when they could get it to Council was six months.

Jonathan Abendschein, Utilities Assistant Director, said it was his understanding that there are model codes out there and they can draw on the work that has been done at other cities. They will move forward as quickly as possible.

Ms. Tam added that any model energy code the City adopts has to be cost effective and there are studies that have already been done using Palo Alto's utility rates. They can look at these existing studies to meet the cost effectiveness criteria. Once City Council adopts the code after the second reading, Staff will submit the approved code to the California Energy Commission and they have a 60-day public comment period. After that period, the CEC will schedule it for their closest business meeting where they will adopt the City's reach code and then it will be sent to the Building and Standards Commission for filing.

Council Member Veenker thought they might not be done with this by the time the moratorium ends.

Mr. Lait stated it is their intent to have a new One Margin ordinance adopted before the expiration date of the moratorium and if not they would extend the moratorium.

Council Member Lythcott-Haims asked what could be achieved if an emergency mentality was adopted, if they would take San Luis Obispo, San Jose and Santa Cruz into account, when did the Ninth Circuit decision go into effect and what legal risk did they take on if they did not approve the moratorium that night.

Mr. Lait thought the real key was the community engagement strategy. If they are asked to prepare the work and bring it straight back to City Council, that will allow them to return before the summer recess.

Molly Stump, City Attorney, stated the substance of the Ninth Circuit ruling became applicable to all jurisdictions within the Ninth Circuit except the City of Berkeley in April 2023.

Vice Mayor Lauing thought they should not argue against the Ninth Circuit appeal and move on with an alternative. They should keep implementing programs that will accelerate the transition. He thought the first step was to lay out to developers and home owners the economic and climate benefits of all electric in new constructions and remodeled homes and underscore the City's commitment to be all electric would not change. He pointed out the

# SUMMARY MINUTES

Utilities Department with the Utilities Commission input was looking at an about \$300 million dollar projected investment to get the utilities infrastructure in place. The feasibility study was approved a couple of months previous for a detailed investigation to figure out what incentives are needed to get people to all electric, particularly with respect to lower-income people. He wanted to know if the FTE was already onboard.

Mr. Abendschein answered they have both a consultant and a retiree onboard that can help with the in-house work that needs to be done. He said there may be some modest impacts to ongoing Climate Action Plan work but it was expected most things would keep going in parallel.

Council Member Kou received confirmation that the electrification grid modernization and expansion was going to continue moving forward. With regards to Bay Area air quality, she remembered a report that gas-powered appliances would be outlawed by a certain year. She asked if it has come up yet and have any effect. She asked if they are offering for people who already have all electrification on their property and commercial buildings to install gas.

Council Member Veenker answered that the Air District adopted appliance regulations that prevent point of sale purchase of new NOx emitting appliances. She said they are differently situated than the cities with respect to the reach codes and their regulations are still in full effect.

Mr. Lait stated with the adoption of the moratorium, applicants who are either under construction or seeking a permit would be able to adjust or modify the application to go to natural gas. There would be fees for the revision to the permit.

Mayor Stone wanted to know what other potential options identified in the staff report would take longer to implement.

Ms. Tam answered the all-electric preferred code that Palo Alto adopted in the 2016 cycle allows all electric new construction without any additional efficiency requirements while at the same time opposing additional efficiency requirements on mixed-fuel buildings. The One Margin Code adopts one standard for all new buildings. It has a lower legal risk than the all-electric preferred.

Mayor Stone described how the zero NOx policy is a series of tradeoffs. He asked if Staff felt that the One Margin was the superior alternative. He queried if they have considered whether all electrification requirements for outdoors was considered in the court's decision. He wondered if Staff believes that the state will alter the code significantly in the next cycle where the One Margin might no longer be allowed.

Ms. Tam answered that was the easiest and quickest way to adopt a replacement reach code for Palo Alto. She stated that because the state building code gets updated every three years, any local reach code that gets adopted will be refreshed every three years.

# SUMMARY MINUTES

Ms. Stump added it was also believed to carry the least risk. Regarding outdoor appliances, she thought the issue was whether the appliances in question were regulated by EPCA. It was her understanding that some outdoor equipment is covered and that would be swept within the reasoning of the Berkeley ruling. If there are outdoor appliances that are not covered by EPCA, the City would be able to regulate gas to those appliances without being preempted by EPCA. She thought Staff work on what the universe of non-EPCA covered appliances was.

Mr. Lait discussed impacts on Planning and Development Services on getting it back to them before the summer break.

Mr. Abendschein spoke about impacts on utilities in getting it back to them before the summer break.

Council Member Burt wanted an explanation of what is involved other than the outreach and replicating of a code that is largely what other cities have done.

Mr. Abendschein stated that they know the codes and studies are out there but they have not done an exhaustive review of them. They do not know what conflicts they may run into with Palo Alto's community structure. They are giving the best assessments they can of the potential trade-offs that might need to be made to move as quickly as they are talking about.

Council Member Burt asked if his understanding is correct that there may be impacts and not that there will be impacts. He expressed disappointment that more work had not been done prior to bringing this to the Council. He discussed resources that could help determine what outdoor appliances were included or excluded from the list. He looked forward to having clarity on that.

Mr. Abendschein answered that he rarely saw a project like this where something unexpected does not come up requiring some level of effort. It may be that they are able to bring everything over but it is likely that something will come up.

Mr. Lait said they do not know specifically about the impacts. He discussed reasons more work had not been done. He clarified that they were identifying the likely areas that would be impacted if the need arose to divert resources to address this issue.

Council Member Veenker asked for clarification if the impacts were in general or if they rushed the work to June. She wondered if they could facilitate expediting the community outreach to help moves things along. She asked for more information about the cost effective analysis they would have to put together.

Mr. Lait said the report written two weeks ago was in relation to them grappling with this unscheduled workload item and their best guess on areas they thought might be impacted. They are trying to estimate the workload impact to other priority projects. The community engagement piece is another piece adding to that length of time. They share the understanding of wanting to return as quickly as possible. They will use information other cities have pursued

# SUMMARY MINUTES

as much as they can to move forward. Due to the unknowns, they do not want to commit to a time and not deliver.

Ms. Tam stated they need to demonstrate that any reach code that Palo Alto adopts needs to be cost effective to the homeowner over the lifetime of the building. The cost effectiveness test needs to take into consideration the construction cost as well as Palo Alto's projected rates 30 years out. They can look at studies San Jose has done and make sure they utilize Palo Alto utility rates. Those studies have been completed for the most part but they have not looked at the results as of yet.

Vice Mayor Lauing wanted action on the things that would be impacted so they could determine what they might want to postpone if the need arises.

Mayor Stone wondered if they could include that discussion on the second round of the priority objectives.

Mr. Shikada said that whatever extent Staff was able to get better information within the next two weeks that would be fair. He said that up until this point, Staff has not been assigned to work on this and that will take some time to get up to speed on the work ahead. He did not believe the impact would be zero. He asked to be allowed to do work to provide better clarity on that.

Council Member Lythcott-Haims opined monitoring the gap between the moratorium enforcement and having the code in place will take Staff time. She felt it was ethically sound that they have had significant conversation with the public about this conceptually. She thought expediency had to be prioritized. She was prepared to support and acknowledgement that the community outreach process has effectively already happened.

Mayor Stone wondered if there would be way to amend the current code similar to the California standard to allow a theoretical alternative as long as the applicant can show the alternative is just as energy efficient instead of placing the moratorium. He questioned if courts have yet adjudicated whether the California energy code requiring heat pump water heating in most buildings is legal under federal law.

Ms. Stump answered they would fall back to the existing underlying California code immediately so that would not be necessary. She stated she was not aware of a challenge to the heat pump water heating program.

George Hoyt, Chief Building Official, stated that in the event of the moratorium, they will revert back to the standard energy compliance code as adopted for the 2022 regulations which would show the standard efficiency that is established by the state as well as the electrification readiness of residential and multifamily projects.

Ms. Tam added that the staff report should be reading that it does not mandate heat pump water heating. It says heat pump water heating and space heating is a prescriptive requirement

# SUMMARY MINUTES

but the building energy code can still be met by not having a gas water heater in place but additional efficiency elsewhere in the home needs to be demonstrated.

Mr. Hoyt said the energy code has two paths for compliance. A prescriptive path that identifies compliance if certain needs are met and a performance path. The prescriptive sets the baseline for the performance.

Council Member Kou asked if that means that each project would have a baseline based on square footage. She opined they would want to know what appliances would be banned by the Berkeley ban.

Mr. Hoyt answered there is a complicated formula and each project has to invest in an energy rater that does a state energy evaluation report that is provided to them to demonstrate compliance. Doing the One Margin, they will be looking at setting adjusted increased values in that energy compliance portion for different types of projects.

Ms. Stump answered that was one of the rationales that the Ninth Circuit used to support its conclusion that Berkeley's ban on gas piping is preempted by the federal statute that governs energy efficiency of covered appliances. The principle is that gas piping to covered appliances cannot be banned. She thought they could do some work on determining what appliances are included. She believed the list to be changing all the time as the agency adjusts it. It was not her thought that Council would need to regulate at that level.

Council Member Burt asked for more explanation on what basis regulating NOx would be prohibited under Ninth Circuit decision.

Ms. Stump answered they have a sister agency that governs the area that is regulated in that area and she should advise on that confidentially.

**MOTION:** Vice Mayor Lauing moved, seconded by Council Member Veenker to:

1. Adopt a Resolution (Attachment A) suspending enforcement of Municipal Code sections 16.14.090, 16.14.110 and 16.14.300, which require new residential and non-residential buildings to be all electric, in light of the decision of the U.S. Court of Appeals for the Ninth Circuit in California Restaurant Association v. City of Berkeley; and,
2. Direct staff to return to Council with amendments to the California Energy Code as codified in Title 16 of the Palo Alto Municipal Code Building Regulations establishing a "One Margin" standard, which would allow for installation of natural gas plumbing while imposing more stringent energy efficiency and all-electric readiness requirements to all new buildings, which incentivizes the additional efficiency and lower emissions of all electric equipment using clean electricity; and,
3. Return to Council in 2-weeks with resource analysis where existing projects may be delayed.

# SUMMARY MINUTES

**MOTION PASSED: 7-0**

15. Policy and Services Committee Recommendations for Changes to the City Council Procedures and Protocols Handbook based on Prior City Council Referrals (Review of Censure Language). CEQA Status - Not a Project.

Ms. Stump commented on a discussion regarding whether or not to move forward with Item Number 15 due to the time. She opined it is not always necessary to have a discussion if the item has been reviewed and heard from a committee that heard it twice and spent hours on it, a motion could just be made to adopt it.

Council Member Veenker stated they had spent quite a bit of time in Policy and Services talking about the idea of censure and Staff had put a draft together for them and provided a chart and some information on what other cities and surrounding areas did with respect to their censure. They all agree this was something that should be used with great discretion and not for political advantage but they wanted to have some recourse if it was thought there had been inappropriate behavior on behalf of someone on the dais. They had reviewed quite a few reactions they could have as a body and ended up with admonishing, reprimanding and directing to correct an action and a formal censure. She discussed definition and examples of these terms.

Council Member Tanaka commented that he had seen censure used in other cities as a weapon. He thought it would behoove everyone present to have a clear mind when this was reviewed and discussed and suggested looking at it more closely before passing it.

**MOTION:** Council Member Veenker moved, seconded by Council Member Lythcott-Haims to approve the Policy and Services recommendations on changes to Handbook Procedures Section 8: Enforcement with the language proposed in the draft City Council Procedures and Protocols Handbook.

**MOTION PASSED: 6-1, Tanaka no**

16. Discussion on the 2024 Boards and Commissions Recruitment. CEQA Status - Not a Project.

Vinh Nguyen, Assistant City Clerk, presented slides discussing the Boards and Commissions Recruitment. The slides detailed background information to provide context on the recruitment, open positions for 2024 and interview options for discussion.

# SUMMARY MINUTES

Council Member Burt recalled last year's review period was difficult getting the number of meetings scheduled in a tight timeframe. He wanted to discuss making a change to the ordinance to allow doing it twice a year would be better approach going forward.

Vice Mayor Lauing expressed concern that the applicants were not getting enough respect because they were rushing through and skipping some. He agreed splitting it up made sense. He commented that it is not consistent now and is being managed by each commission. He thought that should be standardized in the procedure handbook. He opted for bullet point 1, not 2 and 3 and 4 would be default if necessary.

Mayor Stone agreed there should be multiple recruitment periods during the year. He thought each Council Member receiving a limited number of votes for who is interviewed made the most sense. He opined having the applicants record the interviews made more work for everybody. He felt it was their duty to vet the applications and make recommendations on who moves forward with interviews. He asked what the threshold was the last time.

Mr. Nguyen did not think there was a threshold last time. Anyone who got one vote was brought in for an interview. He would check to be sure.

Mayor Stone thought it made sense to at least increase the threshold to two.

Council Member Lythcott-Haims queried if there is a benefit of having everybody being onboarded at the same time.

City Manager Shikada thought that may put undue pressure onto the discussions being held at HRC.

Council Member Veenker asked if it was known if there are boards that are having issues with quorum.

Mr. Nguyen answered they are not aware of any boards having issues with quorum at this time but some boards do have a lot of members whose seats are expiring. The municipal code does allow the members who are expiring to continue serving until a new member is appointed but some may not be interested in serving past their term.

**MOTION:** Council Member Veenker moved, seconded by Mayor Stone to:

1. Allow Council Members a limited number of votes (number of vacancies plus 50%, round up) to select their preferred candidates to interview with a threshold of 2 votes for an interview.
2. Refer Board and Commission Handbook to the Policy & Services Committee to review the practices of onboarding for Board and Commissions.

**MOTION PASSED: 7-0**

# **SUMMARY MINUTES**

Adjournment: The meeting was adjourned at 10:08 P.M.