



CITY COUNCIL SUMMARY MINUTES

Regular Meeting
October 2, 2023

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:30 P.M.

Present In Person: Burt, Kou, Lauing, Lythcott-Haims, Stone, Veenker

Present Remotely: Tanaka

Absent:

Call to Order

Mayor Kou convened the meeting.

Council Member Tanaka announced he had a cough and, therefore, was not attending the meeting in person.

Interim City Clerk Mahealani Ah Yun noted that Council Member Tanaka was invoking his just cause provision of AB 2449. She called roll and declared all Council members were present.

Mayor Kou called the meeting to order in honor of Italian-American Heritage Month and Cyber Security Awareness Month. She asked for a moment of silence in remembrance of Senator Dianne Feinstein.

Interim City Clerk Ah Yun asked Council Member Tanaka, as part of AB 2449, if there were any adults 18 or over in the room with him.

Council Member Tanaka responded there were no adults 18 or over in the room with him.

Special Orders of the Day

1. Proclamation Recognizing National Fire Prevention Week - October 8-14, 2023

Council Member Veenker read the proclamation for Fire Prevention Week 2023. She declared that Mayor Lydia Kou on behalf of the City of Palo Alto proclaimed October 8 through 14, 2023, Fire Prevention Week and urged all to participate in the many public safety activities and efforts of the City of Palo Alto Fire and Emergency Services during Fire Prevention Week 2023.

Fire Chief Geoffrey Blackshire thanked Council for the opportunity to talk about Fire Prevention Week, which had started as a commemoration of the Chicago Fire in 1872, first observed in 1922, and became a national observance in 1925. It was the longest running public health

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observance in the country. This year's campaign was "Cooking Safety Starts with You. Pay Attention to Fire Prevention." They were going to reengage the elementary schools with a Fire Safety Poster Contest, which would be announced to the schools this month. The judging and presentation of winners would be in early 2024, and new posters and winners would be present in the Council chambers. He invited the community to attend an open house at Fire Station 3 on October 14. He commented that the community was the first line of defense in fire prevention, and there would be links and material on their website.

Mayor Kou asked if Smokey the Bear would be attending the open house on October 14.

Fire Chief Blackshire replied that Smokey the Bear could be presented in some form.

A photograph was taken of Fire Chief Blackshire with the Council members.

Agenda Changes, Additions and Deletions

Assistant City Manager Kiely Nose voiced that the revised agenda had been published and there were no additional revisions. The Study Session had been pulled and would be agendized at a later date.

Public Comment

Aram J. (Zoom) noted that he had previously discussed the City Manager's Report of September 18, 2023, related to Number 11 on the calendar. Regarding the firearm incidents listed in the report, he requested to see body camera and patrol vehicle footage of each incident. He again asked for video related to Alexander Furrier and a Police K9 incident on October 10, 2021. He discussed transparency being critical.

Council Member Questions, Comments and Announcements

Council Member Burt questioned why materials could not be distributed before October 4 for the Special Council Meeting on October 4, and he requested they be distributed before then, so he could prepare for a thoughtful discussion. He asked if Council members would prefer to receive materials prior to October 4 and if the Ad Hoc Committee had reviewed the materials. He hoped Council would be able to provide feedback as the Ad Hoc Committee had. He disagreed with not being provided materials in advance.

Assistant City Manager Kiely Nose answered that the October 4 Special Council Meeting was to be a briefing from staff, and Council was not expected to have a lively discussion of the materials. It was an opportunity for staff to present materials to Council in concert with the distribution of the PTC materials and to have high-level dialogue, which would include public comment. It would be agendized as a Study Session, and the materials would move through PTC and the normal processes and would ultimately end up at Council.

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Council Member Lauing explained that the meeting would be for Council to understand possibilities for the City before going to PTC as the first step. It was not clear that there would be a Staff Report other than slides from the Director of Planning and the consultant. The Ad Hoc Committee had reviewed the materials.

Vice Mayor Stone added that the Ad Hoc and staff thought giving the public an opportunity to share their thoughts after hearing staff's presentation was valuable. They understood that Council would receive the information in real time. The Ad Hoc recognized this was out of the typical order, but since some of the considered zoning changes were significant, they wanted to hear from the public early in the process. He noted that typically anyone not on the Housing Element would not see this until November.

City Attorney Molly Stump clarified that the material was being prepared in real time. She thought the discussion related to this item had reached its limits at this point.

Council Member Veenker announced that she, Mayor Kou, and Council Member Burt had attended the League of California Cities Conference and received updates with respect to advocacy, programs, and educational opportunities for Council members and residents across the state. They met with other Council members and mayors in Palo Alto's region, and a senior staffer from the State HCD had spoken about programs supporting cities in achieving their housing element goals.

Council Member Lythcott-Haims addressed receiving materials in advance related to the upcoming study session so the item could be properly discussed. She remarked that she, Mayor Kou, and Council Member Burt sat on the Stanford Ad Hoc Committee, and they were meeting approximately monthly to discuss issues of potential common concern related to land use, transportation, etc.

Council Member Burt added that the most immediate issue of the Stanford Ad Hoc Committee was the Stanford Community Plan going before the County Board of Supervisors on October 17. He discussed a letter related to planning and transportation that had been submitted last year, and the Ad Hoc had a meeting approximately two weeks ago with County Staff and Supervisors Simitian and Chavez to review some important parts of the letter. He wanted to ensure that colleagues were aware of the upcoming issue. He thought the most significant issue in the plan related to the proposed 30% of housing provided by Stanford for faculty and staff could be provided on Standford-owned lands adjoining the academic lands, which were effectively Palo Alto lands. He discussed the concerns the Ad Hoc had raised related to housing not being for the public of Palo Alto but for non-Palo Alto residents. He also discussed tax ramifications and in-lieu fees related to affordable housing versus community housing. He understood that the City would make written and in-person comments to the supervisors on October 17, which would be based on the aforementioned letter.

Mayor Kou would forward the September 14, 2022 letter to staff, and she requested staff then send it to the whole Council. She thanked the Neighbors Abroad team for working on the Sister

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City Albi, France visit. She announced there had been a generous donation by GreenWaste and the City of Palo Alto to the Sister City of Oaxaca. She noted that October 1 was Nigeria's Independence Day, and she congratulated Parks and Recreation Commissioner Joy Oche for organizing the event. She congratulated the Palo Alto Lawn Bowl Club in celebrating their 90th Anniversary in Palo Alto. She had attended the League of California City sessions, and she spoke of the two issues that stood out to her, which were navigating the new state housing laws, which she voiced that a lot of comments did not help in understanding the over 100 state housing laws, and she did not understand HCD's Housing Accountability Unit's suggestion to approve all presented projects in order to be in compliance with the Housing Element.

Study Session

2. ~~Request for Pre-Screening of Application to Amend the Development Agreement and South of Forest Area Phase 1 Coordinated Area Plan for 260 Homer Avenue that Currently Restricts the Amount of Space that One or More Commercial Office Tenants can Occupy at the Property. Zoning District: AMF (MUA). CEQA Status: Not a Project. Item Removed Off Agenda~~

Consent Calendar

3. Approval of Minutes from September 11, 2023 and September 12, 2023 Meetings
4. Adoption of a Resolution Approving and Attesting to the Veracity of the City's 2022 Annual Power Source Disclosure and Power Content Label Reports; CEQA Status: Not a project
5. Authorization to Amend the Existing Contract for Litigation Defense Services with the Law Firm of Liebert Cassidy Whitmore (Contract S20178997) to Increase the Not-to-Exceed Amount to \$110,000 and Extend the Term to December 31, 2023; CEQA – Not a Project
6. Approve Three Contracts for Landscape Maintenance Services: 1) a Five-year Contract with BrightView Landscape Services, Inc., in the Amount of \$12,288,093; 2) a Five-year Contract with Gachina Landscape Management, Inc., in the Amount of \$516,740; and 3) a Five-year Contract with Grassroots Ecology in the Amount of \$529,459 for Specification for Habitat Restoration in Foothills Nature Preserve and Adobe Creek Pedestrian Bridge Native Plant Restoration; Approval of Contract Amendment No. 2 to Contract C18170810A with BrightView Landscape Services, Inc. to increase the Not to Exceed amount by \$75,152 to provide weekend services for a three-month contract extension; and Approval of Budget Amendments in Multiple Funds (2/3 vote required) as Recommended by the Finance Committee; CEQA status - Categorically exempt per regulation 15301 (existing facilities) and 15304 (minor alterations).
7. Approval of a SaaS Agreement C23188925 with Accela for an Amount Not-to-Exceed \$1,143,563 for Online Planning and Building Permitting and Enhanced Reporting System

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for a Period of Three-Years and Authorization of a 10% Contract Contingency in an Amount Not-to-Exceed \$114,356; CEQA Status - Not a Project

8. SECOND READING: Adoption of Ordinances Rezoning the Properties Located at 340-404 Portage Avenue, 200-404 Portage Avenue/3040-3200 Park Boulevard, 3201-3225 Ash Street, 3250 Park Boulevard, and 278 Lambert Avenue from RM-30 to Planned Community (PC); and Adoption of an Ordinance Approving a Development Agreement with SI 45, LLC for the 14.65-Acre Property Located at 200-404 Portage Avenue, 3040-3250 Park Boulevard, 3201-3225 Ash Street, and 278 Lambert Avenue. CEQA Status – EIR certified by Council Resolution 10123 (SCH #2021120444)
9. SECOND READING: Ordinance Creating New Chapter 12.11 (Parklets) and Amending Certain Sections of Titles 16 and 18 (FIRST READING: September 11, 2023 PASSED 7-0)
10. SECOND READING: Ordinance Approving a Development Agreement with SI 45, LLC, for the 14.65-acre Property at 200-404 Portage Avenue, 3040-3250 Park Boulevard, 3201-3225 Ash Street, and 270 Lambert Avenue (FIRST READING: September 12, 2023 PASSED 7-0)
11. SECOND READING: Ordinance Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Located at 340-404 Portage Avenue from Multiple Family Residential (RM-30) to PC Planned Community Zone (FIRST READING: September 12, 2023 PASSED 7-0)

MOTION: Mayor Kou moved, seconded by Council Member Lauing to approve Agenda Item Numbers 3-11.

Council Member Tanaka registered a no vote on Agenda Item Number 6.

Public Comment

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

MOTION SPLIT FOR THE PURPOSE OF VOTING

MOTION PASSED ITEMS 3-5, 7-11: 7-0

MOTION PASSED ITEM 6: 6-1, Tanaka no

Council Member Tanaka spoke of Item 6 and noted it was a substantial cost increase, which he could not justify and would not support it. He found the report disturbing in that it did not address the range of bids and requested it be included in the report.

City Manager Comments

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Assistant City Manager Kiely Nose provided an update. She announced that service hours would be increased for the College Terrace and Downtown libraries, which restored them to pre-pandemic or beyond pre-pandemic levels of service. Between now and the end of the year, they expected to continue to increase library hours at Mitchell Park, Rinconada, and Childrens. On January 4, 2024, the City would have a new minimum wage, which had been noticed October 1. There would be a Fire Department open house on October 14 at Fire Station 3. During October, there would be a number of engagements and events, which she outlined, that the public and community were encouraged to attend, and additional information could be found on the City's website. She noted that the Sibling City Town Hall on Climate had been moved from October 8 to December 3. Upcoming agenda items included a special meeting with the Council on October 4 related to zoning code amendments specifically around the Housing Element, which was to be a briefing for the Council and the public; October 16 included a semiannual discussion with the Police Auditor, public discussions for Cubberley site options, and a Proposed Cities Association Joint Powers of Authority item; and October 23 would involve an SUMC Development Agreement Amendment. Beginning in November, two Council priorities would be coming back – the Rental Registry Program and Car-Free Streets.

[Council took a break at 6:15 P.M.]

[Council returned from break at 6:25 P.M.]

Action Items

12. Receive the Human Relation Commission's Recommendations on the Evaluation and Celebration of Additional Dates to Advance Race & Equity, Including Through City Recognition and City Paid Holidays and Provide Direction to Staff on Further Actions. CEQA status – not a project.

Human Services Manager Minka Van Der Zwaag reported on the referral Council had passed to them concerning ways to evaluate and celebrate dates to advance equity and race in the community. She provided some background of the Colleagues' Memo titled Recognizing Key Dates to Advance Race & Equity.

Human Relations Commission Vice Chair Adriana Eberle discussed HRC's approach to the task. The Ad Hoc Committee had provided a framework that had been presented to the Commission, which she detailed. She outlined how the framework had been broken down by category. They had created a process for submission of consideration, which could be Council, community, staff, or Commission initiated, and the types of approval could be Commission recommendation to Council, staff approved, or Council approved. The framework also included levels, which she explained were base, mid, and high levels. She wanted Council to realize the level of recognition referred to the level of City staff, work, and partners' involvement and did not correlate to the significance of an event. She displayed a slide and detailed the HRC's recommendation of days of significance related to paid holidays, celebration events, combining of holidays, and connecting with groups.

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Manager Van Der Zwaag recommended Council receive the HRC's recommendations and provide staff direction on the implementation of the recommendations and to refer the standard framework and procedure for considering City recognition of events to staff for further review and refinement.

Public Comment

Interim City Clerk Mahealani Ah Yun requested Lynn C. (Zoom) submit comments to city.council@cityofpaloalto.org as there was an issue with the audio.

Council Member Lauing inquired if there was an estimate of the amount of work that would be required each year if the recommendation was accepted.

Manager Van Der Zwaag did not have an estimate of the required yearly work. She expressed that it could depend on event partnerships.

Vice Chair Eberle added that the work required by the City would depend on the partners. With a good partner, the City would not devote as many resources, and it could be related more to marketing the event.

Council Member Burt asked Assistant City Manager Kiely Nose to discuss the previous action of creating an additional holiday that had a discretion on the use date. He was struggling with having City holidays versus a City employee choosing to participate in a different day of recognition other than the named holiday. He thought Dolores Huerta should be as equally recognized as Cesar Chavez and wanted to ensure a co-recognition. He discussed a co-equal Asian-American leadership related to the United Farm Workers history being underappreciated. He queried if the HRC was recommending Italian Heritage Day be recognized as Columbus Day. He explained why he did not advocate for specific ethnic heritage holidays, and he thought specific ancestries should be recognized for a series of reasons. He discussed why he did not agree with the Columbus Day holiday.

Assistant City Manager Kiely Nose noted that the City entered into labor agreements with all the City's employee groups between the time this was referred and this action this evening. She spoke of a floating holiday being designated in the contracts and an employee choosing their day of significance to recognize. The HRC's recommendation was to add two identified and specific paid holidays, which ultimately would move into labor negotiations, and staff would recommend that be done in the upcoming round of negotiations.

Vice Chair Eberle specified that the HRC was recommending Italian Heritage Day be recognized as Columbus Day.

Council Member Lythcott-Haims aligned with Council Member Burt's comments. She inquired if there was a chart showing federal, state, and city holidays, as there were 11 federal and state holidays and Palo Alto named 12 or 13. She wanted to know what Palo Alto had named as holidays that the federal and state government had not named.

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Human Resources Director Sandra Blanch did not have information related to named holidays at this meeting, but she recalled the state had a floater for Juneteenth.

Assistant City Manager Nose responded that the federal holidays did not include the Friday after Thanksgiving and Palo Alto did include it as a holiday. The state did not recognize Columbus Day as a paid holiday, but it was recognized as a federal holiday.

Mayor Kou queried if there were 10 or 11 federal holidays plus a floater and if Palo Alto's floating holiday included only Juneteenth, Cesar Chavez, and Dolores Huerta. She aligned herself with Council Member Burt's comments related to Columbus Day and Italian Heritage Day. She thought celebrating Dolores Huerta and Cesar Chavez on the same day lessened Dolores Huerta's recognition. She was concerned that with paid holidays there would be negotiation to meet and confer with the employees and that it would add more cost for the City. She also addressed closures and business not being conducted. She liked the suggestion of a floating holiday and staff determining which would suit them.

Assistant City Manager Nose replied there was no floater federally. When excluding Juneteenth and Cesar Chavez Day, there were 10 federal holidays. It would have been 11 if Juneteenth was included. The state had 11 designated holidays and 1 floating holiday. The state did not include Juneteenth, but it did include Cesar Chavez Day. She specified that the floating holiday could be taken on any day an employee chose as a day of historical significance to them with the appropriate supervisory approvals.

Vice Chair Eberle voiced that the state recognized Juneteenth and Cesar Chavez Day, but Cesar Chavez was not recognized as a federal holiday.

Human Services Manager Van Der Zwaag noted that the HRC specifically discussed Dolores Huerta and Cesar Chavez being on the same day and there had been questions as to recognizing her specifically. She recalled there was an interest in recognizing the farmworker movement and Dolores Huerta's key role in it, and the HRC decided it would be a recognition of the farmworker movement with two key leaders being recognized.

Vice Chair Eberle added, related Dolores Huerta and Cesar Chavez, that the HRC recommended a paid holiday, so it would have been two paid holidays.

Council Member Veenker was happy to refer the standard framework and procedure to staff for further review and refinement. As for which recommendation to implement and pursue, she recommended calling the second Monday in October Indigenous Peoples' Day. She supported Dolores Huerta having separate recognition from Cesar Chavez, and she thought the floating holiday could address putting them on similar standing. She queried if there were 11 federal holidays, 12 state holidays (including 1 floating), and 13 Palo Alto holidays (including 1 floating). She remarked that shutting down the City for a day was challenging and an operational and service-oriented expense, but she voiced that it was important to add one paid holiday. She wondered if one could be added instead of two and the other be a floating holiday. She thought there should be a meet-and-confer with Labor before deciding.

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Director Blanch confirmed that there were 11 federal holidays, 12 state holidays (including 1 floating), and 13 Palo Alto holidays (including 1 floating). She noted that staff clarified that Juneteenth was not a paid state holiday but was a recognized holiday and was a floating holiday for the state.

Council Member Lauing felt two more paid holidays was out of scale and that holidays could be celebrated without taking off work. He thought the added personal holiday gave flexibility. He spoke of \$1.5M in lost labor and backfill that would need to be done to keep Fire and Police working, and he regarded it as an unnecessary expense. He would not support either of the two recommendations. He supported Indigenous Peoples' Day being the second Monday in October. He suggested staff provide an estimate of the cost of this and to take that into consideration in their planning. He supported recommending the framework to staff for refinements, but he did not support two paid holidays.

Mayor Kou questioned if Columbus Day had been replaced with Indigenous Peoples' Day and Italian Heritage Day.

Director Blanch confirmed that was correct.

Vice Mayor Stone was glad to hear conversation related to removing Italian Heritage Day from the second Monday in October, and he discussed the heritage of Christopher Columbus. He supported the day being named Indigenous Peoples' Day. He asked if other local cities having 10 to 15 paid holidays included floater holidays. He did not think an additional paid holiday was inappropriate, and he could not think of a better option than Juneteenth. He thought Dolores Huerta and Cesar Chavez should be separate days to provide both the recognition they deserved.

Assistant City Manager Nose noted that other local cities were varied as for as floater holidays. Some cities had 15 designated holidays and some 10, and a number of them had 1 to 4 floaters. The agency with 15 did not have any floaters.

Director Blanch recalled other local cities varied as for as floater holidays.

Vice Chair Eberle clarified that the Staff Report indicated that when accounting for designated holidays and floating holidays agencies ranged from 12 to 17 days, and Palo Alto had 13.

Vice Mayor Stone made the staff motion with some changes related to his comments.

Council Member Tanaka agreed with Indigenous Peoples' Day. He also noted that some cities recognized Immigrant Day. He was aligned with Council Member Lauing's comments. He noted that the City was already off every other Friday; that the City had just received raises; and that the City provided rich benefits. He indicated that according to the US Bureau of Labor Statistics, over 77% of civilian workers received 8 paid holidays. He agreed with celebrating holidays, but he did not think the City should be put more in debt. He questioned where funding would come from. He suggested moving a date from a different holiday to celebrate these days. He

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addressed the meet-and-confer process, and he did not know if employees would want more time off or another perk. As labor negotiations had been done for multiple years, he voiced that this seemed off cycle and beyond the scope of the initial intent. He discussed local people having lost their jobs, and he did not know what message this would send to them.

Council Member Burt wondered if this should be folded into labor negotiations as opposed to granting unilaterally when the total compensation package took the number of paid holidays into account. He supported Juneteenth being a perspective paid holiday, but he did not think it should be outside the broader discussion with the workforce. In recognition of indigenous people, he had seen the state and potentially other agencies bring in indigenous people as partners in land stewardship, and he thought that should be explored by Palo Alto. He discussed the Stanford Pow Wow, and he was interested in the City supporting that event and asking the HRC to explore it. If there was to be a separate recognition for Dolores Huerta, he suggested working with others perhaps in East Palo Alto and inviting Dolores Huerta for a real recognition.

Assistant City Manager Nose asked if the motion should direct staff to include consideration of Juneteenth as a paid holiday as part of the next round of contract negotiations through the meet-and-confer process.

Vice Mayor Stone had intended the next round of contract negotiations to include the topic of Juneteenth being a paid holiday.

Council Member Veenker respected the concerns of cost and City services, but she noted other cities in the area had more holidays, and she thought adding a holiday would make Palo Alto more competitive, and she supported adding a holiday. Related to Indigenous Peoples' Day, she thought much could be learned from the celebrations in different parts of the country, and she suggested it be explored in order to do something significant, and she hoped the HRC would be interested in partnering with Council related to that.

Council Member Lauing stated that \$730K fully staffed was per holiday, so 2 holidays would be \$1.5M and then overtime would be \$300K or \$400K, which would be roughly \$2.2M for 2 holidays. He voiced that there had been significant raises, which he supported. He expressed that this process was out of cycle and asked why Juneteenth as a paid holiday would be part of the next round of labor contract negotiations because there would be many things discussed, and this felt like a recommendation or close to a decision a couple years in advance.

Assistant City Manager Nose commented that overtime hours would vary, so those estimates were not included. As identified in the Staff Report, the loss was the productivity time. She noted that Police and Fire staffing would be included in the normal cost as they were staffed 24/7 regardless of a holiday. As for Juneteenth being part of the next round of labor contract negotiations, she noted that the first contract would end in December 2024, so they would probably be in negotiations within the next 7 months with the City's largest bargaining unit, and

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other contracts would term June 2025. This would be used as direction to prepare for negotiations to consider this a paid holiday.

Council Member Tanaka was aligned with Council Member Lauing. He spoke of raises being given a few months ago and employees not receiving fewer benefits than other cities. He mentioned this was a cost of \$2M plus. He stated he could not vote for Number 3 as he felt it tied the hands of those on Council for the next round of negotiations.

Council Member Lythcott-Haims wanted to clarify if one holiday was being considered or two. It was acknowledged that one holiday was being considered. She spoke to why Juneteenth now and asked why wait because it was a federal holiday. She appreciated the argument of \$735K paid to staff for a holiday, but she wanted to compute the cost of employee morale.

Council Member Lauing indicated the personal holiday could be for Juneteenth.

Mayor Kou asked if there was time-and-a-half pay for holidays and if the cost could be more than \$735K. She thought there should be educational awareness of the holiday or recognition dates and suggested the School Liaison Committee work with the schools to develop learning activities. She was concerned about a \$735K or more increase and aligned herself with Council Members Lauing and Tanaka.

Assistant City Manager Nose replied that different labor contracts had different rates for paid holidays. The cost could be more than \$735K because there were some holiday rates, but they would not know because it would depend on the staff working the holiday.

Council Member Tanaka did not oppose Juneteenth being a paid holiday if another paid holiday was removed, which he offered as a friendly amendment.

Vice Mayor Stone did not accept it.

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

1. Receive the Human Relation Commission's recommendations responding to the Council referral on the evaluation and celebration of additional dates to Advance Race & Equity; and,
2. Direct staff to further review and refine the proposed standard framework and procedure for considering City recognition of events, individuals, and celebrations; and,
3. Direct staff to include consideration of Juneteenth as a paid holiday as part of its next round of labor contract negotiations through meet-and-confer, and;
4. Direct staff to implement the HRC recommendation to recognize Dolores Huerta Day and Cesar Chavez Day as independent dates of significance as non-paid holidays, and;

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5. Direct staff to remove Italian-American Heritage from the 2nd Monday in October, and that the City will solely recognize Indigenous Peoples' Day.

MOTION SPLIT FOR THE PURPOSE OF VOTING

MOTION PASSED 1-2, 4-5: 7-0

MOTION PASSED 3: 4-3, Tanaka, Kou, Lauing no

13. Proposed Amendments to Palo Alto Municipal Code Title 18 (Zoning) Chapters 18.04 (Definitions), 18.10 (Low-Density Residential), 18.12 (R-1 Zones), 18.13 (Multiple Family Residential Zones), 18.40 (General Standards and Exceptions), and 18.54 (Parking Facilities Design Standards) to Facilitate Implementation of Green Building Standards, Including Noise Standards and Placement of Obstructions Within Garages and Exterior Setback Encroachments for Electrification Equipment Such as Heat Pumps, Energy Storage Systems and Electric Vehicle Charging Stations, and to Title 9 (Public Peace, Morals and Safety) Chapter 9.10 (Noise) to Facilitate the Installation of Electrification Equipment for Residential Development as Recommended by the Planning and Transportation Commission. CEQA Status – Exempt under CEQA Guidelines sections 15061(b)(3) and 15301.

Council Member Lythcott-Haims recused herself from this item as she had a personal matter before the Planning Department related to electrification equipment in her personal residence.

City Attorney Molly Stump declared that Council Member Lythcott-Haims needed to leave the dais, and it was at Council Member Lythcott-Haims' discretion if she would return to adjourn the meeting or say good night.

Planning Director Jonathan Lait thought the community was aware of Council's interest to advance the sustainability and carbon reduction goals. The ordinance before Council this evening attempted to facilitate the installation of electrification equipment by amending the Zoning Code to allow for encroachments into required setbacks and encroachments into interior garage spaces and carports, which had previously not been permitted. He displayed a slide showing specifics to the encroachments in the zoning, but there was a companion piece to amend the Noise Ordinance to allow the issuance of permits to allow heat pumps and other electrification equipment without requiring noise study reports or to understand the existing ambient noise levels to review equipment for installation. He explained that staff would not ask for additional information about a particular piece of electrification equipment if the equipment standard was met. There were provisions in the ordinance that would allow the Director to create administrative regulations to further advance the interest of the ordinance, and there was an opportunity for someone to seek relief through the Home Improvement Exception process in the code. He furnished a slide showing the recommended noise ordinance boundary map and a table illustrating the setbacks for compliance if electrification equipment met the decibel rating, and such equipment would not require further analysis or review. He

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provided information related to standards employed in other jurisdictions, which helped inform staff's process but did not establish the standard staff was recommending. They had received public input, and staff was trying to achieve a balance between advancing electrification equipment while achieving the sustainability and climate action goals with the expectation for the quiet enjoyment of residential properties. Some commenters had indicated that the standard may not go far enough to provide for incentives for heat pumps in required yards in proximity to property lines, which was a policy question for Council to decide how to strike that balance. Staff thought their proposed standard was reasonable, but there could be room for adjustment. He explained that the science was not precise in determining distances from noise equipment. He also noted that noise measures were typically measured in meter increments and Palo Alto had setbacks that were measured in feet, so for simplicity and trying to ease the administrative process of approval, staff had to make some assumptions or adjustments. He noted that the table in the ordinance had some decimal points of setbacks, for example 4.2 feet, and it was not practical to have that level of precision on something that would have variability in its placement. Acknowledging that and the comments from the community, staff would be comfortable making an adjustment of 3 dB at the property line to go from 43 dB in one area or up to 53 in another area. If Council wanted to go farther, staff would begin to get a little uncomfortable at 5 dB. Staff encouraged Council to approve the ordinance before them. If Council wanted to go beyond 5 dBA, staff would ask that Council remand further study back, so there could be informed discussion with the community, and perhaps the PTC could be engaged in the process. Staff recommended adoption as it was before Council.

Public Comment

Glen G., Co-chair of The Climate Reality Project Silicon Valley Chapter, who lived in San Jose applauded the minimum setback of three feet for heat pumps in the proposed ordinance, though he believed it was unnecessarily restrictive in its noise limits and thought the ordinance should strike a more reasonable balance with noise concerns, available products, and climate goals. He believed the ordinance would limit or prevent heat pump placement in side yards. He spoke of there not being accommodations for inverter-type heat pumps. He discussed noise levels of single-speed heat pumps and the ordinance not being clear whether there would be a 10 dB or a 56 dB limit.

Hamilton H. voiced why he supported the proposed noise ordinance changes. He claimed that an electric heat pump needed 56 dB at 4 feet, and the proposed ordinance allowed only 52 dB at 4 feet. He suggested Council recommend a change to grant a 3 dBA [inaudible] at the property line for Table 1, Column 2 in Section 9.10.030. He requested the changes recommended by staff be passed.

Albert H. agreed with the ordinance as presented except for the discrepancy in the sound. He had a six-foot side yard and wanted to install a minimal footprint, variable speed heat pump system, and there was not a system that would fit and meet the sound specification. He had found a variable speed system with a peak sound of 55 dB. He asked that the upper limit be increased by 3 dB.

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Bruce H. from Carbon Free Palo Alto believed the proposed revisions in the noise ordinance were too stringent to meet the 80 x 30 climate goal. He requested there be solutions for narrow side yards. He suggested there be a citywide map of ambient noise levels, which he implied would make the ordinance clear, eliminate the arbitrary zones, and base the ordinance on actual conditions. He requested allowing 12 to 15 dBA above ambient noise levels at the property line for inverter technology and 8 dBA for other technologies. He thought the proposal needed more supporting data and revisions to better support electrification of HVAC in Palo Alto.

Bret A. commented that comparisons to other areas should be limited to areas with similar decarbonization goals. He did not think the proposed dB level for a heat pump in a side yard was appropriate for the technology that was available.

Dashiell L. (Zoom), Conservation Coordinator for the Sierra Club Loma Prieta Chapter, supported the intended goal of the ordinance to facilitate heat pump installations to meet the 80 x 30 climate goals. They shared concerns related to potential difficulties in installing heat pumps in side yards and supported amending the ordinance to increase the noise limits for such.

Sven T. (Zoom) with Project Green Home spoke of his all-electric home and installing his heat pump in the backyard, not the side yard. He concurred with the comments of Bruce H. and Bret A. concerning equipment being allowed in side yards. He invited Council to visit his home to analyze his heat pump. He was hoping to install two heat pumps together or a single unit serving his home and a planned ADU.

Council Member Veenker remarked that this was essential in achieving 80 x 30 goals. She noted that in four years water heater replacements would require replacement with a heat pump, and she believed HVAC replacement would require replacement with a heat pump in 2029. She concurred that modestly adjusting setbacks and noise limits made sense and hoped all supported it. She thought the City needed to help residents buy and adopt inverter heat pumps. She referenced Packet Page 589 and inquired if solid fences in side yards could help with noise reduction and if there was a standard in which a noise study would not be required.

Planning Director Jonathan Lait replied that the ordinance did not contemplate barriers such as fences, which was why he believed there was room to adjust the standards. A case-by-case study would be needed to correlate an actual reduction of noise.

Council Member Veenker hoped it could be standard enough in certain circumstances that there could be a table and discussion of the inverter technology, which had a different set of numbers, and perhaps a more generous number with some sort of standardized noise reduction that would not trigger a case-by-case study.

Director Lait stated that was a wonderful idea, but he did not know if staff had the ability to respond to it. He asked Noise Consultant Michael Thill if there was a uniform way a property line wall or some kind of sound attenuation could be used to determine compliance.

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Noise Consultant Michael Thill discussed why noise barriers had not been considered initially, specifically related to a second-story of a neighboring home. They could estimate what a typical wood fence would provide in terms of noise reduction, which was on the average of about 3 to 5 dBs but only in shielded areas and would not include noise attenuation to a space above the unit.

Council Member Burt queried if the proposal relied on manufacturer certified dB levels and if the dB level was measured at the site of the heat pump or at a distance. He opined that side yards were not used for pleasure, and he did not think peaceful use of side yards was trying to be accomplished. He asked if staff was uncomfortable adding more than 5 dBs. He asked what proportion of HVAC heat pumps for homes had inverter technology. Because inverters had a reduction in noise that was greater than 5 dBs on average, he suggested incentivizing inverter heat pumps and that the City have a master list of products.

Director Lait confirmed that manufacturer certified dB levels were being relied on. The dB level was measured at the property line. Staff was uncomfortable adding more than 5 dBs and would want to study anything beyond that. Regarding incentivizing inverter heat pumps, he spoke of online permits for heat pump water heaters and heat pump furnaces, and staff was working through distinguishing between traditional equipment and inverters, and relying on an applicant to know the distinction and how regulations may apply differently for such technology was a concern, which he outlined. The ordinance allowed for the Director to develop administrative regulations to further the development of a master list of products, which could be the solution if Council wanted to establish a different track for inverters.

Bruce Hodge guessed more than half of HVAC heat pumps for homes had inverter technology, and he noted that it was the coming way of technology because it promised quietness and efficiency.

Council Member Lauing thought the inverter technology should be part of the current discussion. He questioned if there would be inspections after installations. He thought there should be a list of products. He requested examples of what could be done in the home improvement exception referenced on Packet Page 591. He was comfortable with a movement in the range of 4 dB, and he noted there were compelling arguments from the public for that.

Director Lait answered that there would be an inspection process. The home improvement exception included location criteria and placing equipment closer to the property line than what the ordinance would provide but perhaps through sound mitigation documented through a noise study, which would include detailed review.

Vice Mayor Stone had no issues with the zoning amendments and agreed with everything Council members had voiced. He was concerned with the noise and asked what the process would be for a neighbor's perception of installed equipment exceeding the dB limit. He requested examples of a 3 to 5 dB increase in volume. He inquired if other cities offered

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consent letters to allow for dB levels higher than what would be allowed. He was open to modifying the dB limit a little more.

Director Lait discussed the process of presumed compliance. If installed equipment was perceived by a neighbor to exceed the dB limit, the City would not have a remedy to seek change or an adjustment. However, there may be a resolution between neighbors. If equipment was noticeably louder or there was a problem with the equipment, the City would be able to follow up through a code enforcement action. He was not aware of the City's code or other jurisdictions offering consent letters to allow for dB levels higher than what would be allowed (parklets being an exception). He noted that it would complicate things from a permitting process, and he would rather have a standard.

Consultant Thill commented that as a guideline a sound level 3 dB higher than the baseline sound level would be a barely noticeable change, 5 dB higher would be clearly noticeable, and 10 dB higher would be perceived as a doubling of sound. For example, he thought sounds for a hearing test could be thought of as a 3 dB increase, and a 10 dB increase could be characterized as a nighttime noise level at 40 dBA versus a daytime noise level at 50 dBA with traffic noise, etc.

Council Member Veenker thought adding 3 dBAs to encourage the inverter technology could be easily done. She noted that public commenters indicated inverter technology had an existing sound level of 56 to 59 dBs at peak levels, which she wanted to explore as a short-lived, maximum sound level in the future and asked staff if use profiles could be investigated. She queried if there was information related to average dBs over the course of a month, a year, etc., or if Consultant Thill had an opinion. She indicated that the peaks were constraining, but if they were not significant, they should not be a constraint. She asked if staff could provide a map of areas that allowed dB levels above 50.

Director Lait understood that inverter technology would rarely run at peak levels, but he did not know of any data that had tracked the noise profile for heat pump water heaters. It would need to be researched, and such information may not have been published, and he explained why he thought it could also be variable information. He thought it was a difficult ask. There was a map in the Comprehensive Plan that showed broad contours of noise that drew points between places of the city to give an estimate of ambient noise. As CNEL noise contours were based on an average 24-hour noise, the ambient noise would be expected to be quieter at night than what was on the CNEL contours on the map. He thought it would be an extensive and expensive effort for the City to try to identify data for individual homeowners, and there would have to be agreement that there would be a lot of imprecise information or a lot of time and money would be needed to determine noise throughout the city. He would be hesitant to rely on such mapping.

Consultant Thill confirmed that what Director Lait had described related to data tracking was correct. He stated there were different ways of measuring sound with maximum and average noise levels. He noted that people would react to sounds in the middle of the night, not the

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average sound, and the sound of equipment ramping up may wake them. There was no available data from the manufacturer for average dBs over the course of a day, a month, or a year.

Council Member Burt moved the staff recommendation but with modifications to increase the base noise standards by 3 decibels for all heat pumps and 5 decibels for heat pumps with inverters. He queried if there were some follow-up items that would not be part of the ordinance and if he could give staff guidance on the next iteration of refinements. He requested staff evaluate future refinements to the ordinance – sound attenuations, streamline site-specific testing protocol for nonstandard equipment, and ensure the Development Center receive this information ASAP to disseminate to anyone considering heat pumps or other HVAC equipment.

Director Lait replied that it would be fine to include guidance for staff concerning refinements. Staff could prepare a list for qualifying equipment on an ongoing basis starting ASAP. He asked for more clarity on the streamlining site-specific testing protocol for nonstandard equipment and how that would be tested.

Council Member Burt provided an example of streamlining site-specific testing protocol for nonstandard equipment. He queried if the protocol would be a barrier or if it could be streamlined to allow not having a full-on report.

Director Lait thought the ordinance already contemplated streamlining site-specific testing protocol for nonstandard equipment and allowed paths to address it. He thought the recommended adjustment to the dBAs would be a factor in mitigating the need for that. He wished there were a way to not have a full-on report, but they were trying to understand noise of a very localized area based on existing barriers. He thought sound attenuation enclosures was related to the testing protocol. Staff would provide information to the Development Center ASAP. He remarked that testing protocol for nonstandard equipment was either already accommodated for in the ordinance or staff would do it as part of the public engagement strategy.

MOTION: Council Member Burt moved, seconded by Council Member Veenker to adopt the draft ordinance amending the Title 18 and Palo Alto Municipal Code Chapter 9.10 to further facilitate the installation of electrification equipment in residential neighborhoods with the following modifications and direction:

1. Increase the base noise standards by 3 decibels for all heat pumps, and by 5 decibels for heat pumps with inverters, and to create a comprehensive list of heat pump equipment.
2. Direct staff to evaluate the following for future refinements to the ordinance:
 - a. Evaluate allowing units with higher manufactured dB ratings provided that the sound is attenuated, and;

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- b. Explore the streamline testing protocol for nonstandard equipment, and;
- c. The Development Center receives this information as soon as possible to disseminate for anyone looking at heat pumps or other HVAC equipment.

Council Member Burt thought this pointed in the right direction and that there would be refinements going forward.

Council Member Veenker was concerned that this may not cover 58 and 59 dB equipment and asked that the conversation be continued.

Mayor Kou mentioned that this would go beyond single-family homes and would include multi-residential, multi-families, and low density and there was potential for noise moving upward. She asked if Number 1 of the motion could move forward after the second reading.

Director Lait responded that the ordinance would return to Council in a couple weeks with the change reflected.

MOTION PASSED: 6-0-1, Lythcott-Haims recused

Adjournment: The meeting was adjourned at 8:59 P.M.