



# CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting  
April 15, 2019

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:04 P.M.

Present: Cormack, DuBois, Filseth, Fine, Kniss, Kou; Tanaka arrived at 5:21 P.M.

Absent:

## Study Session

### 1. Annual Earth Day Report Study Session.

Brad Eggleston, Director of Public Works, reported Staff would review the City's progress towards its goal of reducing greenhouse gas (GHG) emissions by 80 percent by 2030 and accomplishments in the Sustainability Implementation Plan (SIP) areas.

Phil Bobel, Assistant Director of Public Works, explained the concept for presenting Earth Day information and introduced the Sustainability Leadership Team (SLT).

Christine Luong, Management Analyst, advised that GHG emissions had decreased approximately 56.5 percent from the 1990 baseline. Transportation remained the City's largest source of GHG emissions. The biggest change since 1990 was attaining 100-percent carbon-neutral electricity in 2013. In 2018, the City purchased offsets for all of its GHG emissions from natural gas use. Without the City's purchase of offsets, the reduction of GHG emissions would be approximately 36 percent. In order to reach the 80 by '30 goal, the community needed to reduce approximately 750,000 metric tons of CO<sub>2</sub> equivalents to approximately 150,000 metric tons of CO<sub>2</sub> equivalents. Emissions from City operations were down about 68.5 percent from 2005. The City's two largest decreases in GHG emissions resulted from the Electric Utility and wastewater facilities. The percentage of electric efficiency savings was equivalent to the total power used by 946 California homes in a year. The avoided GHG emissions from gas efficiency savings was equivalent to taking 290 passenger vehicles off the road for a year. Staff encouraged the adoption of electric heat pump water heaters. The number of single-occupancy vehicle (SOV) trips to Downtown had decreased 8 percent compared to 2015. Rideshare and transit ridership to

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Downtown had increased about 9 percent. Caltrain was the most frequently used public transportation. City employee participation in commute benefits had decreased slightly. The number of electric vehicles (EV) had steadily increased since 2015 and currently totaled about 4,000 in Palo Alto. Staff estimated one in seven homes in Palo Alto owned an EV and one in three new-vehicle purchases was an EV. Per capita potable water use had increased from 2017 due to the easing of conservation mandates. The use of recycled water had increased 2 percent. In Palo Alto, public trees provided nearly \$18 million in benefits. The golf course renovation resulted in a 40-percent reduction in irrigated turf grass. For Zero Waste, the diversion rate increased from 62 percent in 2007 to 80 percent in 2017.

Mr. Bobel noted Staff was refining its 2019 sustainability work plan to include ideas raised during the Policy and Services Committee's review of the work plan. Staff would spend most of their time preparing the 2020 work plan update and a plan for sea level rise.

Lisa Altieri remarked that EV charging infrastructure was needed in multifamily housing. Changes to parking requirements could allow this to be done sooner. An aggressive program for heat pump fuel switching was also needed.

Bret Andersen believed the City reached a plateau in reducing GHG emissions in 2013. The City needed unprecedented, rapid, and far-reaching steps to reduce climate-damaging emissions.

Carol Kiparsky appreciated measures to reduce the use of single-use plastics, but more measures were needed.

Council Member Cormack suggested the Budget contain categories for energy, mobility, EVs, and water so that the Council could understand the amounts spent in each category. She inquired whether the new Public Safety Building (PSB) would be all-electric.

Mr. Eggleston replied yes.

Council Member Cormack remarked that the community should be thinking about new induction cooktops. The shuttle system may not be a last-mile solution for most of the community. She was pleased to see the strategy to expand the City's fleet of EVs and to include GHG emissions in the environment section of Staff Reports. Recycled water would be increasingly important. She remained concerned regarding the waste diversion rate and the recycling issue. Including sustainability questions in the Capital Improvement Program (CIP) process would help sustainability flow through

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everything. She expressed concern that the proposed measures would achieve the City's 80 by '30 goal.

Council Member Kniss requested Staff comment regarding the City purchasing offsets.

Karla Dailey, Senior Resource Planner, viewed offsets as a bridge to transition away from the use of natural gas. The City purchased offsets in the same way it bought gas and energy on the market. The City had purchased offsets from a variety of different projects, and Staff limited the types of projects to those approved by the California Air Resources Board (CARB) under the Cap and Trade Program. The City did not invest in projects that would produce offsets in the future.

Council Member Kniss commented that explaining offsets was tricky. The number of offsets the City purchased reduced GHG emissions to the 60-percent range.

Ms. Dailey believed Staff was as transparent as possible regarding the use of offsets.

Council Member Kniss liked the plan and hoped Staff would concentrate on making it happen in 2020.

Council Member DuBois noted buildings and other facilities were the largest emitters in municipal emissions, but that was not a category in the Citywide graph.

Ms. Loung explained that the buildings and other facilities category pertained to fugitive emissions due to the leakage of natural gas, which was different from natural gas consumption Citywide.

Council Member DuBois wanted to know why the amount was so large.

Mr. Eggleston clarified that the City operated the natural gas utility and accepted responsibility for the natural gas leakage that happened throughout the entire distribution system.

Council Member DuBois remarked that reducing transportation emissions would be difficult and involved market forces. He wanted to see other creative ideas to accelerate the adoption of EVs. He referred to Mr. Friend's letters regarding accounting for vehicle emissions.

Mr. Bobel advised that Staff was working to develop more Palo Alto-specific models for transportation emissions.

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Ms. Loung added that Staff would meet with the Bay Area Air Quality Management District to learn about other cities' efforts to account for local transportation emissions.

Council Member DuBois suggested Staff maintain communications with the community about sorting waste. He had shared with Staff some U.S. companies that were exploring the processing of recyclable materials.

Mr. Bobel reported one of the companies was focusing on one area. As companies emerged, Staff would investigate them. Residents should not wash recyclables but pour out liquids and scrape out or wipe out material.

Vice Mayor Fine encouraged Staff to consider all potential communications with the community regarding waste. Perhaps restaurants could place stickers on carry-out meals that communicated the appropriate bin and cleaning method for the waste. Reducing SOV trips would reduce GHG emissions and traffic and parking congestion. He asked if Staff had any other ideas for programs or policies that could reduce the number of SOV trips.

Sylvia Star-Lack, Transportation Manager, was interested in whether the transition from level of service (LOS) to vehicle miles traveled (VMT) would affect development and travel. Staff was improving transportation demand management (TDM) requirements for developments.

Ed Shikada, City Manager, recalled the City Council's recent renewal of the pilot program for bikeshare and scooter-share. Bikeshare and scooter-share programs could be controversial for the community.

Vice Mayor Fine encouraged Staff to continue thinking about the SOV problem because it touched multiple issues. He questioned whether requiring EV charging infrastructure in all multifamily and multistory buildings would be preferable to a distributed system model in the near future. Perhaps the City could consider a study of ceasing to provide natural gas.

Council Member Kou wanted to see more discussion of commercial dewatering and demolition. She inquired whether Staff had educational programs or partnerships with Palo Alto Unified School District (PAUSD) regarding Zero Waste.

Mr. Bobel answered yes. Kids were very good about accepting and implementing information about waste and recycling.

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Council Member Kou requested Staff comment regarding heat pump water heater programs.

Mr. Bobel noted Staff provided the Council with a sticker to place on their water heaters. The sticker indicated when to replace a water heater with a heat pump water heater.

Christine Tam, Senior Resource Manager, reported the heat pump water heater program had been available for two years. The rebate amount varied between \$1,200 to \$1,500 depending on the size of the tank. Staff encouraged any resident with an existing electric resistance water heater to convert to a heat pump water heater because it was three times as efficient as a standard gas water heater. A rebate of \$500 was available for new construction projects. More information was available at [www.cityofpaloalto.org/hpwhpilot](http://www.cityofpaloalto.org/hpwhpilot).

Council Member Kou inquired regarding communications to the public encouraging the use of all-electric appliances.

Ms. Tam hoped to launch a publicity campaign to promote flameless cooking, heat pump water heaters, and heat pump space heating in 2019. During the Earth Day Festival, Staff launched a new induction cooktop loan program. A resident could borrow a cooktop and try it for a few weeks.

Council Member Kou asked if the program would be promoted through a utility bill insert.

An unidentified speaker indicated an insert would be part of the campaign.

Council Member Tanaka concurred with Vice Mayor Fine's comments regarding SOV trips.

Mayor Filseth asked about the reduction in emissions that would result from retiring the waste incinerator.

Mr. Bobel related that most of the emissions from the wastewater plant would be eliminated by retiring the incinerator.

Mayor Filseth requested the amount of GHG emissions that resulted from vehicles registered in Palo Alto.

Ms. Loung clarified that converting all vehicles powered by an internal combustion engine to EVs would reduce by about half the amount of displaced GHG. The modeling did not differentiate between commuter and local traffic.

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Mayor Filseth remarked that knowing the amount of emissions from vehicles registered in Palo Alto would be useful and interesting.

Mr. Bobel indicated the new model that Staff was investigating would include that information.

Council Member Kniss asked if new initiatives would include the use of compostable straws.

Mr. Bobel advised that the single-use plastics plan would include straws.

Council Member Kniss commented that the Girl Scouts had made a difference in the awareness of compostable straws.

Mr. Bobel related that the Girl Scout had been more successful than Staff in convincing businesses to take action.

## Agenda Changes, Additions and Deletions

None.

## City Manager Comments

Ed Shikada, City Manager, reported Parking Lot Number 6 had been reconfigured to add 30 parking spaces and was open for two-hour and permit parking. Parking Lot Number C-7 would close on April 22 for construction of the California Avenue parking garage. Additional parking was available at the parking lot located on the corner of Birch and Grant. On April 24, the City would co-sponsor a community lecture by Dr. Kristina Hill on planning for rising waters. The Citywide yard sale was scheduled for June 1.

## Oral Communications

Amy Halpern-Laff remarked regarding the carbon effects of animal agriculture. She shared information about the Green Monday Program.

Ester Nigenda referred to studies of the impacts of sea level rise, a 100-year storm, and groundwater level rise and the United Nations' plans for a floating city. She invited the public to attend the lecture by Dr. Kristina Hill.

Rita Vrhel announced a cleanup day for Eleanor Pardee Park would be held.

Mayor Filseth inquired about a date for the cleanup day.

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Ms. Vrhel advised that a date had not been set, but it would likely be the third weekend in May.

Kelsey Banes felt the Council needed to enable people to forego their cars.

## Minutes Approval

2. Approval of Action Minutes for the April 1, 2019 Council Meeting.

**MOTION:** Council Member Kniss moved, seconded by Vice Mayor Fine to approve the Action Minutes for the April 1, 2019 Council Meeting.

**MOTION PASSED:** 7-0

## Consent Calendar

Ed Shikada, City Manager, reported Staff had not responded to Council Member Tanaka's questions regarding Agenda Item Number 5 and suggested the Council continue Agenda Item Number 5 for a week.

**MOTION:** Council Member Kniss moved, seconded by Mayor Filseth to pull Agenda Item Number 5 - "Approval and Authorization for the City Manager or his Designee to Execute Utility Program Services Contract ..." to be heard on April 22, 2019.

**MOTION PASSED:** 7-0

**MOTION:** Council Member DuBois moved, seconded by Council Member Kou, third by Council Member Cormack to pull Agenda Item Number 4 - "Selection of Applicants to Interview on April 29, 2019 for one Position on the Architectural Review Board ..." to be heard tonight as Agenda Item Number 5A.

**MOTION:** Vice Mayor Fine moved, seconded by Mayor Filseth to approve Agenda Item Number 3.

3. Approval of a Professional Services Agreement With Professional Meters, Inc. in the Amount of \$483,722 Over a 12-Month Period to Perform a Comprehensive Utility Meter Field Survey of all Electric, Gas, and Water Meters in the Field, Including \$48,372 for Additional Services, for a Total Not-to-Exceed Amount of \$532,094; and Approval of Budget Amendments in the Electric Fund, Gas Fund, and Water Fund.

4. ~~Selection of Applicants to Interview on April 29, 2019 for one Position on the Architectural Review Board, two Positions on the Human~~

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~~Relations Commission, two Positions on the Library Advisory Commission, Three Positions on the Storm Water Management Oversight Committee, and Four Positions on the Utilities Advisory Commission.~~

5. ~~Approval and Authorization for the City Manager or his Designee to Execute Utility Program Services Contract Number C19171513 With CLEAResult Consulting, Inc. for a Total Compensation of \$737,000 and a Maximum Term of Five Years.~~

## **MOTION PASSED FOR AGENDA ITEM NUMBER 3: 7-0**

### Action Items

- 5A. (Former Agenda Item Number 4) Selection of Applicants to Interview on April 29, 2019 for one Position on the Architectural Review Board, two Positions on the Human Relations Commission, two Positions on the Library Advisory Commission, Three Positions on the Storm Water Management Oversight Committee, and Four Positions on the Utilities Advisory Commission.

Council Member Kniss clarified that A.C. Johnston and Judith Schwartz were incumbent applicants for the Utilities Advisory Commission (UAC).

Council Member DuBois noted the Council's practice had been to extend recruitment for a Board or Commission if the Council received only one application.

**MOTION:** Council Member DuBois moved, seconded by Council Member Kou to:

- A. Interview all applicants, excluding the candidate for the Architectural Review Board (ARB); and
- B. Re-open the recruitment for the Architectural Review Board.

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

Council Member DuBois felt the Council's practice was a good one.

Council Member Kniss recalled that the Council sometimes did not interview incumbent applicants. She requested the Council consider interviewing applicants over two nights because of the number of applicants.

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Beth Minor, City Clerk, reported interviews were scheduled to begin at 6:00 P.M. and end after 11:00 P.M. If the Council wished, interviews could begin at 5:00 P.M.

Council Member Kniss would be willing to interview all applicants including incumbents if the interviews began at 5:00 P.M.

Mayor Filseth concurred.

Council Member Tanaka was not available at 5:00 P.M. on April 29.

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

6. PUBLIC HEARING / QUASI-JUDICIAL: 190 Channing Avenue [18PLN-00274]: Request for Approval of a Vesting Tentative Map to Allow for Four Residential Condominium Units and two Office Units on One Parcel. Environmental Assessment: The Project is Exempt From the California Environmental Quality Act (CEQA) in Accordance With CEQA Guidelines Section 15315 (Minor Land Divisions). Zoning District: RT-35 SOFA II CAP (Residential Transition).

Council Member Kou disclosed no ex parte communications.

Vice Mayor Fine disclosed no ex parte communications.

Mayor Filseth disclosed no ex parte communications.

Council Member Kniss disclosed no ex parte communications.

Council Member DuBois disclosed no ex parte communications.

Council Member Cormack disclosed no ex parte communications.

Council Member Tanaka disclosed no ex parte communications.

Claire Hodgkins, Project Planner, reported the project site was located within the SOFA (South of Forest Area) II Coordinated Area Plan (CAP) boundaries and within the Residential Transition (RT) 35 zoning district. The project was a subdivision of a single parcel for condominium purposes. The single parcel would remain; however, the Map would allow six condominium units on a single parcel, two of which would be commercial units and four would be residential units. A Tentative Map was required for any subdivision that created five or more parcels or units. Planning and Transportation Commission (PTC) review and a Council decision were required for a Tentative Map. The PTC voted 6-0 with one Commissioner absent to approve the project. With an Architectural Review Board (ARB)

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recommendation for approval, the Director had approved the Architectural Review application for the proposed site development.

Public Hearing opened at 6:40 P.M.

L. David Baron believed a four-story building with more housing units could be constructed on the site if the floor area ratio (FAR) and parking requirements were changed.

Public Hearing closed at 6:43 P.M.

**MOTION:** Council Member Kniss moved, seconded by Council Member DuBois to:

- A. Find the project is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15315, Minor Land Divisions; and
- B. Approve the Vesting Tentative Map based on findings and subject to conditions of approval in the Draft Record of Land Use Action (DROLUA).

Council Member Kniss was pleased to see housing as part of the project. The project complied with zoning requirements. She inquired whether Staff would have been inclined to approve an exception for a different project on the site.

Jonathan Lait, Director of Planning and Community Environment, advised that Staff would have considered a different project had the applicant presented a different project.

Council Member DuBois inquired regarding the project and the Architectural Review process.

Ms. Hodgkins indicated the ARB had approved the project.

Council Member DuBois understood the Council approved a Tentative Map for the project, the ARB completed its review, and the Council considered approval of a Final Map.

Ms. Hodgkins clarified that a Vesting Tentative Map required completion of all other entitlements prior to Council consideration of a Final Map. Staff would present a Final Map to the Council on its Consent Calendar.

Council Member DuBois asked if any action would be taken on the project between consideration of the Tentative Map and the Final Map.

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Ms. Hodgkins replied no. All other entitlements had been approved.

**MOTION PASSED:** 7-0

Council took a break at 6:49 P.M. and returned at 7:17 P.M.

7. PUBLIC HEARING: Adoption of an Ordinance Amending Section 18.42.110 (Wireless Communication Facilities) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Update the Code to Reflect Recently Adopted Federal Communications Commission (FCC) Regulations. The Planning and Transportation Commission Recommended Approval of the Ordinance With Minor Modifications on March 27, 2019 (6-0 Roonparvar absent); and Adoption of a Resolution 9825 Entitled "Adopting Objective Aesthetic and Related Standards for Streetlight and Wood Utility Poles in the Public Rights of Way. Environmental Assessment: This Ordinance and Resolution are Exempt From Environmental Review Under the California Environmental Quality Act (CEQA) Guidelines Sections 15061(b)(3) and 15305."

Jonathan Lait, Director of Planning and Community Environment, reported State and Federal Governments had expressed an interest in accelerating wireless broadband deployment and sought to remove barriers that limited or restricted infrastructure investment. The Federal Telecommunications Act of 1996 (Act) established general principles limiting local authority over siting of wireless communication facilities. For example, the Act stated local governments could not deny a wireless communication facility based on health-related or radio frequency (RF) emissions or take actions that prohibited the provision of personal wireless services. Through court rulings, Federal orders, and State and Federal legislation, local control over wireless communication facilities continued to erode. As the demand for mobile and wireless technology increased and technological advancement continued to refine and improve this communication service, wireless carriers were seeking small cell deployment in more urban areas and residential neighborhoods. Small cell technology had generally less radio transmission power compared to larger macro sites and, therefore, the community could anticipate more frequent placement of small cell nodes throughout the City. Palo Alto and other communities were seeing an influx of small cell applications. In 2018, the City processed three formal applications approving 23 nodes and denying five others. In 2019, decisions were expected on three applications that contained another 24 nodes. Moreover, Staff anticipated more than 100 additional nodes could be the subject of applications in 2019. When reviewing applications, the public had expressed several concerns to Staff, Board Members, and Council Members related to

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the health effects of antennas, safety concerns regarding the structural integrity of light and utility poles, the application review process, the Planning Director's role in approving applications, and aesthetic concerns. Attachment A in the Council packet included a Resolution detailing objective standards for small cell nodes placed on street lights or utility poles in the public right-of-way. Once adopted, these standards would become effective immediately. The objective standards specified the design options available to carriers when seeking to place small cell nodes in the public right-of-way. Federal law precluded the use of subjective findings. The design options presented in the Resolution included underground vaulting, top-mounted with a shroud, side-mounted with sunshield, and behind existing street signs. These four options were more restrictive in terms of size and area devoted toward the antenna and radio equipment than had been previously approved by the Director or the City Council on appeal. With the Resolution, Staff could further modify the objective standards to require even smaller design options as technology continued to evolve. The Resolution could be easily repealed or modified in the event the recent Federal order was modified or invalidated. The Resolution conveyed no additional authority to the Director or any other City employee beyond that stated in the Code. Once adopted, an Ordinance amending the City's wireless communication facility regulations would become effective on the 31st day following the second reading of the Ordinance. The Ordinance specifically precluded a wireless carrier from asserting rights under the local Ordinance that were not expressly conveyed to the provider through State or Federal law. The Ordinance updated technical definitions to align with Federal regulations and removed references to the shot clock and relied instead on timelines preemptively established in State or Federal law. The Ordinance replaced subjective aesthetic standards with objective standards to the extent adopted by Council. Importantly, the Ordinance did not make any change to the Director's review or approval authority over wireless communication facilities or the requirement for an applicant-sponsored community meeting. However, Staff recommended a minor change to the community meeting language. In accordance with existing regulations, the Director may request a recommendation from the Architectural Review Board (ARB), but the review was not mandated or required under the current Code. In practice, the ARB's recommendation had been sought to gain insight into alternative design solutions and to provide a transparent review process. With Federal changes to the shot clock, the ability to engage the ARB was constrained. By adding objective standards, the City was essentially pre-authorizing design solutions to accommodate small cell deployment. The design solutions had been reviewed by the ARB and the community, and their respective comments had been provided to the City Council. Future applications had to meet one of the four design solutions and would likely be processed without further ARB review because, with adoption of the

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Ordinance, the Council would pre-approve the design options. If an applicant sought to deviate from the pre-approved objective standards, the applicant and the community could expect at least one noticed public hearing before the ARB. The Resolution and Ordinance reflected Staff's effort to comply with applicable State and Federal law while the City continued its legislative advocacy supporting Congresswoman Eshoo's House of Representatives (HR) 530 bill. Pending action on the bill, the Council was encouraged to adopt the Resolution and Ordinance that exercised the City's authority to regulate these facilities in a manner consistent with State and Federal law. Staff recommended a minor change to the community meeting requirement. Changes to the Federal Communication Commission's (FCC) shot clock regulations precluded the City from using pre-application requirements to stop or forestall the shot clock. Under Federal rules, the shot clock began running at the time of a pre-application meeting. To ensure the City had sufficient application processing time, this requirement was changed to require an applicant-sponsored community meeting no later than 15 days following the filing of the application. Previously, the City required a community meeting prior to the filing of an application.

Albert Yang, Deputy City Attorney, advised that the primary impetus for the Resolution and the Ordinance was the FCC's adoption of an order and regulations in September 2018. The order created a new category of wireless facilities known as small cell wireless facilities and an expedited processing timeline for those facilities. In addition, the order required local regulations for aesthetic review be based on objective standards that were reasonable, nondiscriminatory, and published in advance. Following the meeting, the City would not be able to require compliance with subjective standards. If the City hoped to apply any aesthetic control, it would have to be expressed in objective standards. The order also clarified that proposals to locate facilities on any existing structures were considered colocation regardless of whether there was existing wireless equipment on the structure. Pending litigation and proposed legislation sought to invalidate some or all of the FCC order. The Act prescribed limits on local government authority, most notably the prohibition against regulating wireless facilities on the basis of environmental effects of RF emissions as long as the equipment complied with FCC regulations for emissions. The City required all applicants to demonstrate their plans' compliance with standards. If a site was approved, the City also required the applicants to conduct follow-up testing to confirm the sites were in compliance in practice. For the types of facilities permitted under the objective standards, both planned and installed RF compliance reports had shown emissions between 0.027 percent and 0.89 percent of the FCC's public exposure limit. In preparing the standards and the Ordinance, Staff reviewed carefully the actions of other jurisdictions to ensure the standards and Ordinance incorporated best practices. Other

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jurisdictions had updated their Ordinances and adopted objective standards in order to preserve their ability to regulate wireless facilities. The City had implemented many of the features contained in other Ordinances through its Ordinance, conditions of approval, or Master License Agreements (MLA). The proposed Ordinance contained a requirement to update facilities as technology developed and a ten-year limit on the validity of a permit. Other features, such as minimum distances, were not included in the Ordinance, but the ARB and the PTC recommended further study of such features. In the case of T-Mobile West LLC v. City and County of San Francisco, the California Supreme Court confirmed that cities had the ability to regulate the aesthetics of wireless facilities located in the right-of-way. However, cities must regulate aesthetics in a manner that was consistent with Federal law.

Mayor Filseth requested clarification of the differences between Tier 1 and Tier 2.

Mr. Yang explained that Tier 1 permits pertained to modifications to existing facilities such that the modifications did not increase the height or width by a certain amount and did not defeat any of the concealment characteristics of the site. The review for Tier 1 permits was streamlined. Tier 2 permits pertained to co-location. Tier 3 permits pertained to the creation of a new structure. Tier 1 permits could not be appealed.

Mayor Filseth asked if Staff anticipated the new cell applications would be for Tier 2 and Tier 3 permits.

Mr. Yang responded yes.

Public Hearing opened at 7:38 P.M.

Tina Chow, speaking for Victoria Velkoff, Rita Vrhel, Mary Sylvester, and David Kautz, suggested the Council separate the requirement for objective standards from the update of the Wireless Ordinance. Many cities were ignoring the April 15 deadline because the FCC order was likely to be overturned. It was acceptable for the City's Ordinance not to be consistent with Federal law for a short period of time. The PTC recommended the formation of a fast-acting resident working group to aid the Council with amending the Ordinance. She urged the Council to follow the ARB and PTC recommendations to add zoning restrictions and setbacks from homes and schools for the placement of all small cell facilities. The City could require an independent third-party review and use of the least noncompliant configurations. The Ordinance should require compliance with all applicable health, safety, and environmental regulations. The Council should continue the ARB hearings to evaluate the standards and to provide a forum for public input. She urged the Council to direct Staff to delay the installation of new

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cell towers including the towers in Clusters 1 and 2 until the Council adopted an Ordinance.

Jeanne Fleming, speaking for Kathleen Martin, Carol Heermance, Richard Heermance, George Koener, asked the Council to assert control over the siting and appearance of the 150 cell towers planned for Palo Alto. Almost no one in Palo Alto wanted ugly, noisy, and possibly hazardous cell towers in front of their homes. United Neighbors supported improved cell service. United Neighbors asked the Council to ensure wireless infrastructure was upgraded responsibly, safely, and without compromising the quality of life in neighborhoods. The Council should strengthen the Wireless Ordinance by requiring ARB public hearings for every application and including provisions described by Ms. Chow.

Amrutha Kattamuri remarked that 5G cell towers would put public health at risk. Cities were challenging the FCC order through litigation. The small cell Ordinance should not be updated until the Council could include location restrictions for small cells and a list of preferred locations away from homes and schools. Local governments had the authority to impose procedural requirements.

Ann Lee commented that FCC standards were not adequate to ensure safety. Standards had not been updated since 1996, long before much of the wireless technology had been developed. The ARB review process should include the appropriate installation of cell tower units.

Justun Stephen, a sixth grader, associated his chest pain with his nearness to wireless routers.

Susan Downs shared studies of the harmful health effects of exposure to wireless radiation.

Peter Ivanoff asked the Council to consider safe limits from homes or schools. Cell towers should have warning signs. The value of a property could be affected as much as 20 percent if a cell tower was located on or near the property.

Bob Moss opposed Staff's proposal to eliminate ARB review of cell tower installations. Equipment should be placed in underground vaults unless undergrounding was demonstrated to be infeasible. The Council should require installations be located 50-75 feet from residential units and 200 feet from schools.

Paul Albritton, outside counsel for Verizon Wireless, remarked that the designs for small facilities should be approved administratively as a Tier 1

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permit. He requested the design for the Verizon facility located on Newell Drive be included in the City's objective standards.

Marc Grabisch, AT&T, commented that the four proposed designs were the best solutions for wireless facilities. Undergrounding lower-power facilities was not technically feasible.

Rochelle Swanson, Crown Castle, stated the small cell designs needed to provide wireless service to the community could not meet the size requirements of the proposed objective standards. She requested the formation of a working group to develop objective standards for 4G and 5G service.

Colby Ranger supported the imposition of setbacks from residential neighborhoods. Residents should have some control over their community.

Maria Brown felt the Council should review closely the effects of cell towers on the health of the community.

Herb Borock indicated the appropriate means to quickly enacting legislation that could not be overturned by referendum was adoption of an urgency Ordinance. Section 5 of the Resolution referred to the Resolution as an Ordinance.

Jennifer Schmidt requested the Council vote against the proposed amendments to the Wireless Ordinance that would make the deployment of 5G service easier and that would eliminate the ARB review.

Annette Fazzino requested the Council delay action on the proposed Resolution and Ordinance.

Ryan Tabrizi referred to studies regarding the health effects of exposure to RF and electromagnetic fields.

Alson Chan related that the Council should consider more carefully the implementation of regulations. Students did not need to be exposed to harmful emissions from cell towers.

Francesca Kautz requested the Council impose a moratorium on telecommunication applications and cell tower installations in Palo Alto. All cell nodes should be placed on industrial, commercial, or City-owned buildings, utility substations, and along the freeway.

Jyotsna Nimkar asked the Council to deny any amendment to the Wireless Ordinance that eliminated the requirements for a public hearing and ARB

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review. The current FCC standard was essentially meaningless because it only considered the thermal effects of radiation.

Senthil as a wireless communications engineer understood the variables of wireless communications. The radiation from cell towers was stronger than the radiation from cell phones. He expressed concern about the effects of radiation from cell towers on children.

Jerry Fan remarked that the City of Palo Alto unequivocally had the right to insist that cell towers installed in residential neighborhoods conform to the City's aesthetic Ordinance and be approved by the ARB. A growing number of people did not want to live near cell towers. The installation of a single cell tower could result in the loss of \$20,000 in annual tax revenues. The City leased utility poles for approximately \$5,000 a year. He requested the Council vote against amending the Wireless Ordinance and vote in favor of amendments that protected residents.

John Melnychuk opposed Staff's recommended amendments to the Wireless Ordinance.

Kip Husty did not want citizens' rights given to corporations.

Gloria Garcia felt the Council should safeguard the community from the interests of big business. A resident task force and continued ARB review would give citizens a chance to protect the City.

Molly Goodman expressed concerns about the installation of multiple cell towers in a small area and the lack of notice to residents. Birds did not nest in the areas around cell towers.

Deanna Hong questioned whether the emissions and noise generated by cell towers was ever checked.

Melinda McGee opposed the installation of cell towers because of their harmful effects on humans and birds.

Public Hearing closed at 8:40 P.M.

Mayor Filseth inquired regarding the consequences of the Council not adopting objective standards.

Mr. Yang advised that the City could not apply any aesthetic review if it did not adopt objective standards prior to April 16.

Mayor Filseth interpreted Mr. Yang's response to mean the City would have to approve any cell tower application submitted on or after April 16 if the

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Council did not adopt objective standards on April 15. After April 15, the proposed Ordinance was the City's only vehicle to regulate cell towers.

Mr. Yang clarified that the City needed to adopt objective standards in order to regulate the aesthetics of cell towers.

Mayor Filseth noted the proposed Ordinance did not provide Staff with any new powers to avoid ARB review.

Mr. Lait indicated the proposed Ordinance did not eliminate ARB review.

Vice Mayor Fine noted one of the proposed designs allowed antennas to be placed behind signs and asked if any existing signs were extremely large.

Mr. Lait was not aware of an inventory of signage in the right-of-way. Any proposed antenna would be screened by an existing sign.

Vice Mayor Fine asked if the Council could impose a requirement for the antenna to be completely screened by a sign but no greater than a specific size.

Mr. Lait answered yes.

Vice Mayor Fine asked if there was a functional difference between enforcing a requirement of the MLA and the Ordinance.

Mr. Yang responded no for an application in the right-of-way.

Vice Mayor Fine requested Staff's rationale for recommending against setbacks and minimum distances from schools.

Mr. Lait clarified that Staff did not necessarily recommend against minimum distances and setbacks. Rather, Staff did not include them in the proposed Ordinance. The Council could regulate a minimum distance from a school as long as it did not trigger one of the preemptive standards. Staff had not consulted with Palo Alto Unified School District (PAUSD). Imposing a minimum distance from schools could limit service for cell phone users within schools.

Vice Mayor Fine noted applicants could apply for a number of exceptions.

Mr. Lait advised that an applicant could seek an exception to the four set objective standards. The ARB would review an exception.

Vice Mayor Fine asked if the Council could direct the PTC and ARB to study minimum distances and setbacks.

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Mr. Lait replied yes.

Mr. Yang clarified that a carrier had to show it could not use any of the four objective standards in order to receive an exception.

Council Member DuBois inquired about the City's ability to consider small cell facilities for Tier 1 permits as Verizon had requested.

Mr. Yang understood Verizon was requesting small cell facilities be subject to the same procedure as a Tier 1 permit.

Council Member DuBois asked if small cell facilities could be considered eligible facilities.

Mr. Yang responded no.

Council Member DuBois requested Staff respond to the public comment about an urgency Ordinance.

Molly Stump, City Attorney, reported the Council could legislate objective standards through a Resolution. Under California State law, Resolutions could be subject to referenda. Utilizing a Resolution allowed the Council to proceed through a majority rather than a supermajority vote. A Resolution could be amended more easily and more quickly than an Ordinance.

Council Member DuBois asked if any utility poles in the City were metal.

Mr. Lait indicated Staff was not aware of any metal utility poles.

Council Member DuBois inquired whether the Staff Report captured the ARB's recommendations.

Peter Baltay, Architectural Review Board Member, indicated the ARB had a narrow focus on aesthetic issues. The ARB agreed that equipment should not be placed within a pedestrian's line of sight. The ARB felt placing equipment in an enclosure on a bench or a trash container was acceptable at times.

Council Member DuBois asked if Staff considered priorities for placement of facilities and analyzed potential coverage gaps resulting from those placements.

Mr. Lait advised that the recent Federal order created a path for wireless providers to locate facilities in the public right-of-way. An applicant could pursue any private property interest to locate facilities. Staff did not consider prioritization of locations or standards for rights-of-way.

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Mr. Yang clarified that the Council could set an order of preference for locations and require carriers that requested a lower priority location to demonstrate why the facility could not be located in a higher priority location.

Council Member DuBois advocated for Council adoption of the Resolution and the Ordinance, direction to Staff for amendments, and a review of the process in a year. He expressed concerns about aesthetics Citywide and impacts to the public right-of-way. The City should have a clear hierarchy of options, such as zoning and land use, conditions on the context of the property, and the form of the installation. The City could pre-certify public buildings for wireless facilities and perhaps pursue the use of private properties for wireless facilities. The City could charge more for locating wireless facilities on street lights than on utility poles if FCC regulations were found to be invalid. He inquired whether Staff considered a provision to require maintenance of wireless facilities.

Mr. Lait indicated Staff would contact applicants to repair facilities, but the Council could include a provision for maintenance.

**MOTION:** Council Member DuBois moved, seconded by Council Member Kniss to:

- A. Adopt the Staff recommendation to approve the Resolution and an interim Ordinance;
- B. Direct Staff to come back as soon as possible, but no more than six months, with an updated Ordinance that includes:
  - i. An explicit hierarchy of preferred location and preferred type of installation. Applicants must use most preferred solution unless demonstrated to be infeasible. Preferred hierarchy should include:
    - a. by zoning type;
    - b. local context including characteristics such as visibility, street size and type, and existing foliage;
    - c. by installation type;
    - d. a clear definition infeasibility as suggested in the Staff Report;
  - ii. Define objective standards for underground vaults and for buildings;
  - iii. Create list of city-owned buildings that would be appropriate sites;

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- iv. Identify any private buildings that are appropriate sites in the midst of residential neighborhoods and approach for willingness to be on recommended list;
- v. Architectural Review Board (ARB) and Staff to have workshop to create additional acceptable Wireless Communications Facilities (WCF) designs such as integrated street pole approaches;
- vi. Propose recommended distances from homes and schools and between installations to preserve aesthetics;
- vii. Add a maintenance clause that includes damage, changes to appearance, paint, graffiti, rust, etc.;
- viii. Strengthen the Replacement/Upgrade clause to include that replacement will be evaluated, at a minimum, when repairs are being made or a unit is being upgraded;
- ix. Specify a higher price for street poles if FCC regulations are invalidate; and

C. Review the effectiveness of the Ordinance in one year with Council.

Council Member Kniss asked if Council's adoption of the Ordinance and Resolution would provide the City with some control over wireless facilities.

Ms. Stump responded yes. She recommended removal of the word "interim" in Part A and to change "Ordinance" to "Ordinance/Resolution" and "includes" to "considers" in Part B.

Council Member DuBois intended to provide ideas for a priority system. A clear definition of infeasible was needed.

Ed Shikada, City Manager, reported Staff would review the resources needed to accomplish the tasks set forth in the Motion. The level of effort could vary from small to extremely significant. Staff would likely return to the Council during the Budget process to evaluate the tasks contained in the Motion with other tasks prioritized by the Council.

Mayor Filseth noted some of the tasks within the Motion may not have the same priority.

Council Member DuBois believed objective standards for other options would be needed in conjunction with a hierarchy. A list of building sites did not need to be exhaustive.

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Ms. Stump commented that the work assignment would be substantial for both the Planning and Legal Departments. She reiterated that Staff would need to work with the Council to prioritize work.

Mayor Filseth requested the three most important tasks in the Motion.

Council Member DuBois responded Parts B(i), B(iii), and B(vi).

Council Member Kniss presumed an explicit hierarchy of preferred locations and preferred types of installation would have to be presented for public comment.

Ms. Stump concurred.

Council Member Kniss asked what an explicit hierarchy of preferred locations and preferred types of installation would look like.

Council Member DuBois referred to Ordinances adopted in other cities that were clear and explicit.

Council Member Kniss asked if Staff understood the intent of Part B(i).

Ms. Stump advised that Staff had a sense of the intent; however, judgments would need to be made. Staff would make those judgments initially with appointed Boards and Commissions and subsequently return to the Council for a discussion of the wisdom and appropriateness of the judgments. Ultimately, the Council would make the judgments.

Council Member Kniss asked if Part B(iii) meant the City-owned buildings would have a different kind of installation or a more powerful installation.

Council Member DuBois recalled that Staff had not considered City Hall as an option for the most recent application for wireless facilities, but Staff was considering several locations around City Hall.

Council Member Kniss asked if Part B(iii) was clear for Staff.

Mayor Filseth inquired regarding the number of City-owned buildings.

Mr. Lait did not have a specific number at hand. He did not believe a small cell facility would be located on a City-owned building. A macro facility would likely be located on a City-owned building.

Ms. Stump clarified that the carriers determined whether to install a specific type of facility. The City could list a City-owned building as a

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preference, but carriers could decline if the type of facility did not meet their needs.

Council Member Kniss felt Part B(i) was more subjective.

Council Member DuBois indicated it needed to be objective.

Council Member Kniss supported Parts A, B(i), B(iii), and B(vi) only of the Motion.

Council Member DuBois agreed to delete Parts B(ii), B(iv), B(v), B(vii)-B(ix).

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to remove from the Motion Parts B. ii., B. iv., B. v., B. vii., B. viii., and B. ix.

Council Member Kniss inquired whether Staff could provide an update as stated in Part C.

Ms. Stump related that Staff could update the Council as legislation and litigation progressed and as wireless applications were submitted and constructed.

**MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to:

- A. Adopt the Staff recommendation to approve the Resolution and an interim Ordinance;
- B. Direct Staff to come back as soon as possible, but no more than six months, with an updated Ordinance that includes:
  - i. An explicit hierarchy of preferred location and preferred type of installation. Applicants must use most preferred solution unless demonstrated to be infeasible. Preferred hierarchy should include:
    - a. by zoning type;
    - b. local context including characteristics such as visibility, street size and type, and existing foliage;
    - c. by installation type;
    - d. a clear definition infeasibility as suggested in the Staff Report;

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- ii. Create list of city-owned buildings that would be appropriate sites;
  - iii. Propose recommended distances from homes and schools and between installations to preserve aesthetics;
- C. Review the effectiveness of the Ordinance in one year with Council.

Council Member Kniss suggested the Council review the history of Federal legislation and regulations. If Congresswoman Eshoo's bill passed the House of Representatives and the Senate, the current President probably would not sign it.

Council Member Kou felt the City should retain as much control as possible since the Act had never been updated for new technology, health concerns, noise issues, and aesthetic issues. Council Member DuBois originally proposed instructions and suggestions to tighten the City's standards. She was particularly disappointed with the removal of the requirement for undergrounding. She inquired whether the Ordinance and the Resolution could be separated such that the Council could approve only the objective standards and form a task force to draft an Ordinance over the next few months.

Ms. Stump indicated the Council could adopt the objective standards and not the Ordinance. Although, the goal of such an action was not clear to Staff. The proposed Ordinance clarified the existing Wireless Ordinance to add some protections for Palo Alto. Provisions of the proposed Ordinance did not align with the public's concerns. The Motion proposed adoption of both the Ordinance and Resolution to comply with the Federal requirement and contemplated future amendments to both.

Council Member Kou highlighted the minor amendments contained in the proposed Ordinance, but the Council needed to address the major concerns of the community. Preferred locations could be identified by zoning type. She inquired whether the Planning Director had the discretion to refer Tier 2 and 3 applications for ARB review.

Ms. Stump replied yes.

Council Member Kou stated the ARB review had been bypassed in the past such that the Planning Director had made a decision.

Ms. Stump reported the Planning Director had always referred applications to the ARB but had not always endorsed the ARB's recommendation. Under the City's governmental structure, the ARB was not a final deciding body.

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Council Member Kou asked if the Council made the final decision.

Ms. Stump clarified that the Planning Director made the decision, which could be appealed to the Council. The ARB's recommendation was given great weight in the Planning Director's decision.

Council Member Kou proposed amendments to the Motion to include the PAUSD Board of Education (Board) in discussions about distances from schools.

Council Member Kniss indicated that would be a component of Part B(iii). She could accept an addition of "via contact with PAUSD" in Part B(iii).

Ms. Stump encouraged the Council to play a role in the discussion through the City/School Liaison Committee.

Council Member Kou proposed an amendment to provide notice to people located within 300-600 feet of a proposed antenna site.

Mr. Yang advised that the current practice was to notify property owners within 600 feet of a proposed site.

Council Member Kou inquired whether the notice was provided via a postcard or a sign at the site.

Mr. Lait reported postcards were mailed to property owners and building tenants within 600 feet of the site and a sign was posted at the site.

Council Member Kou requested the reason for Staff using the language about safety standards specified by the FCC rather than 47 CFR Section 1.1307(b), which included the environmental issue and the Americans with Disabilities Act (ADA).

Ms. Stump would review the section and respond.

Council Member Kou inquired regarding the frequency of antenna inspections.

Mr. Lait explained that inspections did not occur after the facility received its final certificate, unless a complaint was made.

Council Member Kou proposed an amendment to include annual inspections for noise levels and RF emissions after the final inspection.

Council Member Kniss asked who would perform the inspection.

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Mr. Lait reported Staff would hire a third party to assess radiation and noise levels and general compliance with previously approved plans. The carrier would be responsible for payment of costs for the assessment. An ongoing enforcement effort could be significant.

Council Member DuBois would support an amendment for annual inspections.

Council Member Kou wanted annual inspections of antennas near homes and schools in particular.

Council Member DuBois remarked that many cities required annual inspections.

Mr. Lait asked if the cities required the applicants to provide evidence of compliance with the FCC safety standards, which was easier than hiring a third party to perform an assessment. Requiring the applicants to submit evidence of compliance with FCC safety standards should not take a great deal of Staff time.

Council Member DuBois requested the process for handling a noise complaint about a wireless antenna.

Mr. Lait explained that typically a Police Officer with the appropriate equipment and training would conduct a noise evaluation per the City's Noise Ordinance. Staff could hire a third-party noise consultant to assist with a noise evaluation. Simply arranging a noise evaluation required significant amounts of time.

Council Member DuBois asked if including it in the Ordinance would assist Staff.

Mr. Lait remarked that an Ordinance component may need to return to the Council. Staff wished to investigate noise complaints and determine whether the existing conditions of approval allowed Staff to seek corrective action.

Council Member Kniss requested the number of applications.

Mr. Lait advised that more than 100 cell sites were located throughout the City, and Staff anticipated another 100 cell sites would be online in the near future.

Council Member Kou suggested Staff contact the cities that performed inspections and share the inspection processes with the Council.

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Mr. Lait could do so as a component of Part C.

Mayor Filseth inquired whether inspections would be instituted at the current time with modifications to be made in six months or whether the inspection process would be determined and implemented in six months.

Council Member Kou indicated inspections would be instituted immediately with modifications to be made in six months.

Mr. Lait clarified that a condition of approval required the applicant to submit a one-year compliance report to Staff.

Mayor Filseth suggested Staff return in six months with best practices for inspections.

**AMENDMENT:** Council Member Kou moved, seconded by Council Member DuBois to return to Council within six months with best practices regarding inspections of antennas.

Council Member Cormack requested the timeframe for Staff to return.

Mayor Filseth responded six months. He inquired whether the Amendment would require a great deal of Staff time.

Mr. Shikada replied no.

**AMENDMENT PASSED:** 5-1 Kniss no, Tanaka absent

Council Member Kou proposed a delay of Cluster 2 in Barron Park until the Ordinance was returned to the Council.

Mayor Filseth interpreted the Council Member Kou's question as whether the Ordinance, if adopted during the meeting, would apply to Cluster 2.

Ms. Stump advised that that was not possible. The sites that had been approved were not subject to reconsideration during the meeting.

Council Member Kou inquired regarding any method through which the Council could revisit a site near a school.

Ms. Stump reiterated that approved sites could not be reconsidered.

Council Member Cormack noted the Council had not discussed the possibility of additional Federal legislative advocacy regarding wireless facilities.

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**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion "Direct Staff to do federal legislative advocacy related to wireless facilities regulations."

Council Member Cormack requested the process for residents to report a noise complaint about a cell site.

Mr. Lait reported Staff would take the complaint and attempt to identify whether or not the noise emitted from the facility exceeded noise regulations. Staff would need to understand the noise levels with and without the facility operating.

Council Member Cormack inquired whether Part B(i) meant there was a preferred type of installation at each preferred location or two separate hierarchies.

Council Member DuBois envisioned two separate hierarchies.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to make the word "hierarchy" plural in the Motion Part B. i.

Council Member Cormack requested Staff comment on the use of trees to screen wireless facilities.

Mr. Lait indicated Staff as part of its review looked for opportunities to screen facilities with existing street trees. In areas where existing street trees could not screen facilities, Staff added a condition of approval to require the applicant provide a tree. In locations where a tree planting was not possible, Staff considered other locations for the facility or a more concealed design solution.

Council Member Cormack asked if Staff would work with Boards and Commissions regarding the process before presenting it to the Council.

Mr. Lait agreed to hold public hearings before the ARB prior to returning to the Council.

Council Member Cormack asked if Staff would work with the PTC regarding locations.

Mr. Lait was unsure whether Staff would return to the PTC for locational criteria; however, the PTC would review revisions to the Ordinance.

Vice Mayor Fine requested Staff's interpretation of Part B(i).

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Mr. Lait understood Part B(i) directed Staff to examine the City and look for preferred areas for small cell deployment. Commercial areas may have precedence over other areas. Arterial streets may have precedence over local streets. The lowest priority would be local residential streets. Staff would explore buildings that could provide some sort of additional coverage. Undergrounding seemed to be the highest priority for installation. Staff would learn about other installation options through the public engagement process.

Vice Mayor Fine asked if the proposed process was defensible under the City's ability to regulate the aesthetics of sites.

Ms. Stump reported Staff would propose a process in way that it could be defended. The process may not meet everyone's expectations. The City Attorney's Office would advise the Council as to proposals that clearly complied with the law, that were a stretch, and that imposed quite a bit of risk.

Vice Mayor Fine inquired whether six months was an appropriate timeframe for Staff to complete the work.

Mr. Lait related that Staff would complete as much work as possible within the timeframe. A PTC review alone could require two months to accomplish.

Ms. Stump stated six months was an aspirational timeframe for the City Attorney's Office to complete its work under the Motion. She would treat the timeframe as a goal because Staff could not present a quality product that had been fully vetted within six months. She requested Council agreement that Staff would attempt to return in six months but could take more time if needed.

Vice Mayor Fine noted the high level of community concern; however, wireless facilities did not fall under the Council Priorities. The Council had prioritized other work for the Planning and Legal Departments.

**AMENDMENT:** Vice Mayor Fine moved, seconded by Mayor Filseth to amend the timeline to return to Council within one year.

Mayor Filseth preferred to provide Staff with the flexibility to work on other high-priority issues. The important issue was adoption of objective standards for wireless facilities.

**AMENDMENT PASSED:** 4-2 DuBois, Kou no, Tanaka absent

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**MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to:

- A. Adopt Staff recommendation to approve the Resolution and Ordinance;
- B. Direct Staff to come back as soon as possible, but no more than one year, with an updated Ordinance/Resolution that considers:
  - i. Explicit hierarchies of preferred location and preferred type of installation. Applicants must use most preferred solution unless demonstrated to be infeasible. Preferred hierarchies should include:
    - a. by zoning type;
    - b. local context including characteristics such as visibility, street size and type, and existing foliage;
    - c. by installation type;
    - d. a clear definition infeasibility as suggested in Staff Report;
  - ii. Create list of city-owned buildings that would be appropriate sites;
  - iii. Propose recommended distances from homes and schools and between installations to preserve aesthetics;
  - iv. Return to Council within one year with best practices regarding inspections of antennas;
- C. Review the effectiveness of the Ordinance in one year with Council; and
- D. Direct Staff to do federal legislative advocacy related to wireless facilities regulations.

**MOTION AS AMENDED PASSED:** 6-0 Tanaka absent

Mayor Filseth noted the Council policy to discuss whether new items should be taken up after 10:00 P.M. The Council would take a break and then proceed with Agenda Item Number 8 until 11:00 P.M. At 11:00 P.M., the Council would decide whether to continue Agenda Item Number 8 or proceed with its discussion.

Council took a break at 10:12 P.M. and returned at 10:21 P.M.

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## State/Federal Legislation Update/Action

8. Colleagues Memo on the Santa Clara County Cities Association's Position on Housing in Relation to State Legislative Initiatives.

Mayor Filseth reported State housing bills could make significant changes to cities over the long term; therefore, cities and counties were beginning to provide comments. Key opportunities for the Council to provide feedback would occur in the next two to four weeks. The City could align its positions on the bills with the Santa Clara County Cities Association's positions. The Santa Clara County Cities Association (Cities Association) developed a general Position Paper regarding the policies contained in the bills in aggregate. Rather than commenting on each housing bill, the City could support the Cities Association's Position Paper as a baseline.

Council Member DuBois believed the Cities Association's Position Paper was a measured response and focused on values. The City could support the Position Paper regarding an e-commerce sales tax to provide funding for housing, accessory dwelling units (ADU), and preventing dislocation of residents. The City should also support other cities on the Peninsula.

Mayor Filseth felt the Position Paper was thoughtful and balanced. The City could also support the League of Cities' positions, which opposed Senate Bill (SB) 50. The Cities Association's Position Paper was more general, broader, and more suitable than the League of Cities' positions.

L. David Baron asked the Council not to support the Position Paper as he disagreed with the implication that cities' efforts to address the housing shortage had been sufficient and a number of items that supported preservation of existing mechanisms of local control.

Neva Yarkin remarked that the City should not let the State control housing density. Developing dense housing near transit with no parking would change the City of Palo Alto forever. More infrastructure would be needed for more housing.

Kelsey Banes urged the Council not to support the Position Paper because it read as a rebuke to the CASA Compact and opposed statewide tenant protections.

Winter Dellenbach hoped the Council would support the Position Paper. The City should preserve its local control.

Pat Burt understood the purpose of the Colleagues' Memo was to agendize a discussion of the Position Paper. He encouraged the Council to include in a

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Motion the ability for the Council to discuss and take positions regarding specific legislation. The City's position on SB 50 was unclear as the Mayor opposed it while the Vice Mayor was an advisor to Senator Weiner. The City should limit the rate of new office, expand development of ADUs, adopt higher affordable housing impact fees and stronger renter protections, cap office development in the downtowns, and implement a business tax.

Vice Mayor Fine clarified that he was not an advisor to Senator Weiner.

Terry Holzemer encouraged the Council to support the Colleagues' Memo. He hoped the Council would protect residents' rights to participate in their government and zoning regulations. Community input led to greater consensus and a better community.

**MOTION:** Mayor Filseth moved, seconded by Council Member Kou to:

- A. Support the Santa Clara County Cities Association's Position Paper on housing; and
- B. Communicate accordingly on legislation unless specified.

Mayor Filseth believed most residents wanted to control their communities' evolution. Most residents would want the Council to support the Position Paper.

Council Member Kou advised that the Position Paper addressed most of the housing bills. Many cities supported retention of local control.

Mayor Filseth inquired whether the Motion allowed the Council to take positions on specific housing bills.

Molly Stump, City Attorney, reported the Cities Association letter contained principles that would allow Staff to determine which bills met the City's Guiding Principles. Staff often utilized language that the City would support a bill if it was amended to meet the City's Guiding Principles.

Council Member Kniss asked if Mayor Filseth intended not to agendize a discussion of the Position Paper.

Mayor Filseth indicated the current Agenda Item was the discussion.

Council Member Kniss remarked that the Council had a pattern of not taking positions early because legislation was amended and the City influenced amendments. She asked if San Jose voted on the Position Paper.

Mayor Filseth could not recall.

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Council Member Kniss felt some of the positions were good. She questioned some statements and disagreed with other statements in the Position Paper. The Policy and Services Committee should review the Position Paper.

Vice Mayor Fine commented that the Council had the power to take positions on bills. Under the Colleagues' Memo, the Council would in essence allow an unelected regional body to make its decisions. Supporting the Position Paper could preclude the Council from endorsing statewide tenant protection bills. This approach would dilute the Council's legislative work and policies. Supporting the Cities Association's positions did not take into account Palo Alto's unique concerns. The Cities Association had opposed two bills that were now creating housing units.

Mayor Filseth clarified that the Motion was not intended to preclude the Council from taking a position on housing bills.

Council Member Cormack inquired whether the proposed approach to taking positions on legislation was typical.

Council Member Kniss replied no.

Ed Shikada, City Manager, reported the Council's approach varied. The Cities Association providing positions was unusual.

Council Member Cormack supported many of the positions in the Position Paper. Given the importance of housing, she could support the Council associating itself with the Position Paper.

Council Member DuBois believed working with surrounding cities would give Palo Alto a stronger voice. He agreed with all the values and ideas expressed in the Position Paper. With the Position Paper's focus on values, the Council would not take positions on specific legislation. The Council would not have time to react to individual bills. Local control was fundamental to democracy. The Council should support the Motion and discuss specific bills at a later time.

Vice Mayor Fine asked if Part B of the Motion meant Staff would determine Council positions for specific bills or present specific bills to the Council to take a position.

Mr. Shikada reported Staff would work with the City's representative in Sacramento regarding bills. The Position Paper opposed two bills and, given the low probability of the City taking an opposing position, Staff would likely communicate the areas the City supported. Depending on the provisions of a specific bill, some judgment would be involved in Staff making a decision.

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Mayor Filseth reiterated the changing nature of bills.

Council Member Kniss did not view the Position Paper as supporting housing.

**MOTION PASSED:** 4-2 Fine, Kniss no, Tanaka absent

## Council Member Questions, Comments and Announcements

Council Member DuBois reported the ad hoc committee had met with County of Santa Clara (County) Supervisors regarding the Stanford University General Use Permit (GUP). San Mateo had created a group of cities bordering Stanford University and included Palo Alto. San Mateo was aligning its requests with the County of Santa Clara's requests. The ad hoc committee had drafted an editorial for *The Mercury News* and met with Stanford University and would follow up with Stanford University.

Council Member Kniss inquired about the purpose of the ad hoc committee.

Council Member DuBois advised that the ad hoc committee was working to advance the elements contained in the City's letter to the County Supervisors regarding the GUP. The ad hoc committee had been explaining the importance of the elements and reviewing the alignment of cities' requests. The next step was to refine and prioritize the requests and present them to the Council.

Council Member Kniss asked if the County anticipated making a decision in the summer.

Council Member Cormack indicated the decision would likely be made in the fall.

Vice Mayor Fine encouraged the ad hoc committee to quantify the requests as much as possible.

Adjournment: The meeting was adjourned at 11:07 P.M.