



# Planning & Transportation Commission Action Agenda: September 12, 2018

Council Chambers  
250 Hamilton Avenue  
6:00 PM

## Call to Order / Roll Call

6:03 pm

Commissioner Riggs and Waldfogel absent

Commissioner Gardias arrived at 6:30 pm

Chair Lauing: Ok I'd like to call to order the Planning and Transportation Commission regular meeting for September 12, 2018. If you'd call the roll, please?

## Oral Communications

The public may speak to any item not on the agenda. Three (3) minutes per speaker.<sup>1,2</sup>

Chair Lauing: So, we have a quorum [note-and] I also understand that Commissioner Gardias will be here at about 6:30. So we'll go ahead with oral communications, there is one speaker card for that and that's Valerie Stinger. Please come to the mic.

Ms. Valerie Stinger: Thank you. Good evening, I'm Valerie Stinger, I'm here from the Human Relations Commission. I want to first read you part of a story. This is Sid Espinosa, Mexican first-generation American, former Mayor of Palo Alto, Director of Philanthropy and Civic Engagement at Microsoft. Like so many people I came to Palo Alto because of a job, then fell in love with the place and came to realize how really special it is. My father had come to California from Mexico, not speaking English without any money but eventually becoming a successful

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1 Silicon Valley engineer such as the opportunity in this region. I studied at Wesleyan and in  
2 Harvard, eventually I became HP's Director of Global Philanthropy. I saw incredible civic  
3 engagement in our community, I got involved on library bond measures, political campaigns, I  
4 took advantage of everything. Increasingly friends asked me to run for City Council, eventually I  
5 did and I had the privilege of serving as Mayor of this City striving to make Palo Alto even  
6 stronger and more vibrant. It all started from humble beginnings and the American dream with  
7 a lot of hard work along the way. This is one story that's going to be hanging in City Hall  
8 September 14<sup>th</sup> through 21<sup>st</sup> for Welcoming America Week and I'm here to invite you to  
9 participate in that program.

10

11 Communities are strengthened when everyone feels welcome and we work together for the  
12 common good. The Palo Alto Family YMCA is leading a Palo Alto collaboration, let me describe  
13 that. That's the Y, Human Relations Commission, PAUSD, Adult Ed., the library, the history  
14 museum, the media center, Avenidas, I owe somebody an apologize... the Art Center. And  
15 we've worked together most of the summer having a lot of fun putting together a group of  
16 events that I hope you'll join us for.

17

18 The first event is our kick off Friday night at the Palo Alto Art Center. That will be a kick-off party  
19 from 7 to 10. Then there's going to be storytelling, walking tours, immigrant stories will be at  
20 the Palo Alto libraries, there will be videos, Made into American, from Midpen Media Center,

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1 an ability to share new comer's stories and a closing event at Avenidas during the full moon  
2 festival.

3  
4 I happen to be one of those people who like small but I admit there are limitations but if you'll  
5 trust me if you can go to the website, Palo Alto welcome week, you'll see all the events, the  
6 place to enter your stories, a place to see other people's stories and find out about the walking  
7 tours. I'm going to leave with you some invitations for walking tours for community leaders  
8 next Wednesday and Thursday. I hope you'll join us and I hope you'll take advantage of a week  
9 of celebrating immigrants and what their diversity and contributions mean to our community.

10 Thank you for all you do.

11

12 Chair Lauing: Thanks very much. I see no further cards for oral communications.

13

#### 14 **Agenda Changes, Additions, and Deletions**

15 The Chair or Commission majority may modify the agenda order to improve meeting management.

16 Chair Lauing: And I believe there are no agenda changes, additions, or deletions.

#### 17 **City Official Reports**

18 1. Assistant Directors Report, Meeting Schedule and Assignments

19 Chair Lauing: So, we'll move onto the Assistant Director's report with Assistant Director Lait.

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1 Mr. Jonathan Lait, Assistant Director of Planning: Thank you Chair, just two items to report.  
2 There's... we had previously scheduled a pre-screening review before the City Council for a  
3 property at... well, actually I don't have it here, on San Antonio at 788 San Antonio Road. And  
4 that was going to be heard on Monday before the City Council. That's actually going to be  
5 continued and not discussed on Monday but on October 15<sup>th</sup> and so that's... I just wanted to get  
6 the word out on that.

7  
8 And then on October 1<sup>st</sup>, there will be another pre-screening consideration before the City  
9 Council to discuss a possible conversion of an existing mortuary at 98 Middlefield to a  
10 community center type use. And so those two items are going to be coming forth in October on  
11 different days. That's it.

12  
13 Chair Lauing: The second one was the first and the first one was the 15<sup>th</sup> right?

14  
15 Mr. Lait: Yeah, I... that's right.

16  
17 Chair Lauing: Ok.

18  
19 **Study Session**

20 Public Comment is Permitted. Five (5) minutes per speaker.1,3

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1           2. Review and Provide Comments on Draft Revisions to Palo Alto Municipal Code Title 8  
2           (Trees and Vegetation) to Address Administrative Updates and Also Introduce New  
3           Policies Related to Protected Trees.  
4

5 Chair Lauing: Alright so we now have the second item on the agenda which is a study session,  
6 not an action item but study session on draft revisions to the Palo Alto Municipal Code Title 8  
7 on trees and vegetation. I think our urban forester is going to be making that presentation.  
8

9 Mr. Jonathan Lait, Assistant Director of Planning: Thank you, we're going to... Walter Passamore  
10 will make the presentation for changes that are anticipated for Title 8 and we're here to help in  
11 any way that we can.  
12

13 Chair Lauing: And we'll do that first and then take some public comment.  
14

15 Mr. Walter Passamore, Urban Forester: Good evenings Commissioners, Walter Passamore, I'm  
16 the Urban Forester for the City. I do want to give a brief introduction of draft changes and the  
17 reasons behind those. We do have some recent legislation from the State of California, in  
18 particular, the Water Efficient Landscape Ordinance that has prompted some changes to our  
19 ordinances and also our technical guidelines. So, we've prepared a new version of the Tree  
20 Technical Manual and expanded it to include content on landscaping. It is now going to be the  
21 landscape in Tree Technical Manual or the Tree and Landscape Technical Manual and since  
22 code references that technical guideline, we needed to modify the name in the Municipal Code.

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1 We've also gone through a number of Staff changes in the City and we needed to change  
2 designated officers. There are other changes that were prompted by input from our  
3 stakeholder groups during development of both the Urban Forest Master Plan and the City's  
4 Comprehensive Plan that we have reflected throughout this document. Such changes as  
5 prohibition on exotic and invasive species, changes that reflect our duty to prevent wildfires to  
6 the extent possible, changes in the tree protection that we provide for native species and  
7 protecting the character of our community through those species that are most important to  
8 our native ecology. That's a broad summary of some of the changes that we've made and we're  
9 glad to have the Commission's feedback on any number of issues prior to this draft ordinance  
10 going to Council so thank you for your input.

11

12 Chair Lauing: I just want to add one clarification that we learned in the pre-meeting yesterday  
13 that the emphasis is really on Section 8.10.010, is that correct? Although you're welcome to  
14 comment on any part of it because this is what's pertinent to PTC.

15

16 Mr. Passamore: Correct, 8.10 covers regulations that apply to development projects.

17

18 Chair Lauing: Ok. Alright, let's move to the public then. I have three cards, the first is Susan  
19 Rosenberg.

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1 Ms. Susan Rosenberg: Hello, I'm Susan Rosenberg, I live in College Terrace, and I am... you may  
2 know I am one of the co-founders of Canopy which is Palo Alto Urban Forestry and Non-profit.  
3 Tonight, I'm speaking as a resident, not as a representative of Canopy. The... I want to give you  
4 a little bit of history because I think that's important in how we are protecting our trees. Before  
5 Canopy was a non-profit organization there was a Tree Taskforce of residents that spent 2-  
6 years studying and determining which trees to protect because up until then the only tree that  
7 was protected was the City trees. None of the Oak trees were protected, so they  
8 recommended... the Tree Taskforce recommended that it be the two native Oak trees and that  
9 was it. That was in 1996 so the Council passed an ordinance and protected those two Oak trees  
10 that were named. In 2001 the ordinance was changed and Redwood trees were added and I  
11 don't remember there being any public participation in that. I think it was just something the  
12 Council wanted to do for obvious reasons because a Redwood tree is our icon for the City.  
13  
14 The way that the... this... on Page 10, the way that this is written now it's changing... instead of...  
15 on Page 10, J under protected trees, Number One, instead of calling out the particular Oak trees  
16 it's added the language that any locally native tree is protected. And that's important because  
17 in the Urban Forest Master Plan on Page 69 of the Urban Forest Master Plan is a list of the  
18 native species by habitat. So, it's broken down into five different habitats and the Coast  
19 Redwood... I bring this up because the coast Redwood is not native to the woodlands or the  
20 flatlands of Palo Alto. So, I think that it's... my opinion is that it's inappropriate to have the

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1 Redwood trees called out specifically to be protected which is J-2. And if you... and its... the  
2 Redwood tree is in the Foothills where it's got lots of rain and lots of fog. If you look at Item  
3 Number Three any tree larger than a certain... 36-inches is protected unless they're classified as  
4 high water uses and the Redwood tree is a high... it's a high-water user. So, it's for that reason I  
5 think it's inappropriate to call out the Redwood trees in the new ordinance and I would  
6 encourage you to scratch that. Redwood trees could also be protected in Item Number Three.

7

8 Chair Lauing: Ok thank you.

9

10 Ms. Rosenberg: Thank you.

11

12 Chair Lauing: The next... sorry, the next speaker is Catherine Martineau; 3-minutes.

13

14 Ms. Catherine Martineau: Good evening and thank you very much. My name is Catherine  
15 Martineau and I'm the Executive Director of Canopy. And I wanted to let you know that Canopy  
16 was one of the organizations that was consulted during the drafting of this first draft and as  
17 well we were very active in the creation of the Urban Forest Master Plan. And I... there was a  
18 first draft before this one that was circulated a number of months ago and we provided some  
19 comments and I'm glad that many of our comments were integrated into this second draft. In  
20 particular very happy to see that we want to protect all of the native trees. It's very appropriate

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1 at a time when we're trying to build a more resilient landscape in our City and also the addition  
2 of non-native species. Most... that was one of the weaknesses of the prior ordinance so the one  
3 that's enforced now and most Cities around here do protect non-native trees as well. And the  
4 only question today is whether the size the non-native trees is appropriate because 36-inches in  
5 diameter at standard height is very large, so we have to decide how many of those non-native  
6 trees we want to protect. In Menlo Park, for instance, 15-inches at diameter standard height is  
7 protected.

8  
9 There are other areas of the ordinance that are very much strengthened so we're very happy  
10 about this. And there are other passages that are difficult to read still and I do have additional  
11 comments that I will provide to Walter Passamore.

12  
13 On... another thing is about the Redwoods I think that... I don't see any benefit not to protect  
14 the Redwoods. I think they can be protected as they have been so far and there are  
15 mechanisms to be able to remove them if they cause certain problems or limit development in  
16 a certain way.

17  
18 Finally, I think it would be wonderful to have some kind of a flowchart may be in the Tree  
19 Technical Manual to show the residents, the arborist, and the developers and the contractors  
20 how the ordinance works. If you start with a development projects if it's a non-development

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1 project, how does this all work and what are the penalties if you break the ordinance? Thank  
2 you.

3

4 Chair Lauing: Thanks very much. The next speaker is Winter Dellenbach.

5

6 Ms. Dellenbach: Winter Dellenbach, Barron Park, where our Redwood trees or native Redwood  
7 tree are mostly thriving. The California Native Plant Society certain considers Redwood trees in  
8 native to Palo Alto, they say so explicatively. The symbol of our City, the logo of Stanford  
9 University and as a last year's recipient of the Tall Tree award I would hate to not think that  
10 symbol is protected. And there has been no study to say how many Redwood trees are in this  
11 town, what the devastation that it would cause if they were suddenly not protected, the loss to  
12 our canopy, there's been no analysis, so I would certainly urge that we continue doing what  
13 we've been doing.

14

15 I want to move on, the term preservation should be returned to the Tree Preservation  
16 Ordinance. I was removed, it should be called Tree Preservation Management and Landscape  
17 Regulations. If you look just under the chapter heading you will see that actually tree  
18 preservation is the purpose of the entire ordinance. It says right there. I want to go really fast if  
19 I can.

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1 Yes, 35-inches is too large. That's actually 9.42-feet in circumference, 9.42-feet in  
2 circumference. I got out a metal measuring tape today, my husband had to help me because it  
3 was so big. It is really whooping, that's too much, not many... I do by the way appreciate Walter  
4 Passamore. You did dandy in trying to protect more trees. Thank you so much. I got to also  
5 comment on this and thank you, Catherine, from Canopy. We really worked... they worked hard  
6 and I did some work too but that's too big and we got to bring it way, way down.

7

8 Also, adjacent property owners who have protected trees right on the property line on a  
9 property that's going to get developed, those trees have to be afforded under the ordinance  
10 protection too. And those have to be disclosed just as other trees on a developed site are  
11 disclosed at the time to... at the time under .40 in the ordinance.

12

13 And under the appeal, not only the person seeking the Director's approval to remove a tree but  
14 also people who want to save a tree should have a right to an appeal to the Director. And also,  
15 during construction... not only during construction should the trees... protected trees be  
16 protected but afterward, we must ensure their long-term survivability, particularly Oak trees,  
17 by strict oversight of irrigation systems, plant material, hardscape for appropriateness. Now  
18 that may be worked in or not through another way but that has to be taken into account. And I  
19 think I got most of my points in for now so thank you very much. I hope I didn't talk so fast you  
20 couldn't even understand me. What a waste of time that would be.

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Chair Lauing: It's recorded too. Ok, next speaker is Martin Bernstein.

Mr. Martin Bernstein: Thank you Chair Lauing, Martin Bernstein. It's appropriate timing that you're having a study session now on looking at the tree protection ordinances as the City is moving toward more densification of development and more housing units that's being discussed. So, because of that increase in density, it certainly warrants improvements to the Tree Protection Ordinance and I'll give a suggestion of some ordinance improvement. As you may have heard earlier the Tree Ordinance started by protecting Oaks. When Number One became an important tree at El Palo Alto then Redwood was added to it. Oaks and Redwoods are different and one way that they are different is that if there are any disruptions to the soil around an Oak tree the roots will be stimulated to start growing at a certain speed. A Redwood tree, when a Redwood tree is cut and then there's new soil nearby that is a perfect environment for new root paths to develop. You cut one Redwood root 10 pass develop [Note – verbatim] and a Redwood tree is going to start seeking new Redwood growth up to 50 percent faster than an Oak tree. So right now, you have the Administrative Tree Zone which is 10 times the diameter, that works really well for Oaks. I'm suggesting that an improvement would be for a study session or however you're going to... or subcommittee, however, you organize yourselves to look at expanding the Three Protection Zone for Redwoods since they will expand at a quicker rate. And so, if there's any disruptions or construction, so especially since we're

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1 going to get more increase... we're looking at... talking increasing density I think that'd be really  
2 important. That's my suggestion for improvement, expending the Three Protection Zone for  
3 Redwoods since they're such a significant tree and again they behave different than Oaks.  
4 Thank you.

5

6 Chair Lauing: Thank you. Ok, I see no more speaker cards at this point. I do see a hand heading  
7 for a speaker card I think.

8

9 Ms. Lynn Chiapella: Lynn Chiapella, I was on the original Tree Taskforce, that's how old I am and  
10 I'm down here tonight in particular because I have read these new proposals. And one of the  
11 weaknesses in the City that I have found is that after an ARB approval is made the landscape  
12 may or may not survive even past the first year. So, trees have been planted as replacements,  
13 they are gone within a year. In some cases, they are very extensive ARB landscape plans and  
14 the water has been turned off. I've contacted Mr. Passamore I believe on several different  
15 occasions and there doesn't see... appear to be anything to do about it. So, let's say I was  
16 required to put in 30 trees there might be 10 of them now that are dead. No replacement, the  
17 water was turned off during the drought and now across the tree, we notice that they are dying  
18 at two of the businesses across the street. And if you go around the corner you'll see even  
19 some of the other proposals on ARB approvals are also dying. So, it seems to me that these  
20 rules are... and the code is very good, however, if you don't have a strong enforcement and you

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1 have no way to replace those trees. So private... when you take down the trees on private  
2 property and it's perhaps a street tree on the property side, it's probably not going to be there  
3 within the year and there's nothing that's been done about it. And I would like to know if  
4 there's any possible way to include language so there's some kind of enforcement action if  
5 private property owners decide to take down a City approved tree which was part of their  
6 project. Thank you.

7

8 Chair Lauing: Thank you very much. We are going to get a card for that, ok. Alright, that  
9 concludes the public comment part of this hearing and unless there's anything to add there we  
10 can just go to Commissioner comments. So, suggestions here and a question for the currently  
11 four of us, I think it makes sense to go through this just a section at a time but the question is  
12 should we start with 8.1 which is the primary input that he wants or would you all like to move  
13 right through the whole thing? Opinions?

14

15 Commissioner Summa: Do you want to do questions first?

16

17 Chair Lauing: Yeah, we could do questions first, I'm just... just in terms of the whole process. No  
18 preference? Ok, let's get some questions and then we'll come back to that. Commissioner  
19 Summa, did you want to start?

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1 Commissioner Summa: Sure. I just wanted to start by thanking everyone who's here, especially  
2 our Urban Forester and those of you in the audience who worked really hard Canopy and  
3 others. This is... trees are very important to me and very important to most of us I think. So, I do  
4 have a couple question to start out with and it is about 8.10.020 J 1,2, and 3. And so I know that  
5 the diameter difference for Redwoods and Oaks is historic. It was in the document before but I  
6 just wondered what the reason for that was?

7

8 Mr. Passamore: I'm not sure the reason that they established the diameter for protection at 11  
9 ½ for Oaks and 18 for Redwoods but that has remained unchanged in our current draft.

10

11 Commissioner Summa: Ok and then I'll make comments later and then actually I thought  
12 maybe in 3 the 36-inch diameter was a typo but I guess since others have referred to it, it  
13 wasn't. So that (interrupted)

14

15 Mr. Passamore: No, 36 is not a typo but we welcome your feedback on whether that needs to  
16 be reduced to a smaller diameter.

17

18 Commissioner Summa: Ok and then in 1, the locally native trees, I'm sure... I know that includes  
19 both types of Oaks that were listed before. Does it include a lot of other trees or is just those  
20 two? I was a little confused.

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Mr. Passamore: It does and off the top of my head I couldn't tell you an exact number but there are other native Oaks such as Blue Oak and Black Oak that would also be included on the list which we see as important species for the future of our native diversity.

Commissioner Summa: Ok so it would include like California Bays and all of those native trees.

Mr. Passamore: Yes, it would.

Commissioner Summa: Ok those are my questions, for now, thank you.

Chair Lauing: Other questions? Commissioner Alcheck.

Commissioner Alcheck: Would Staff project the (interrupted)

Chair Lauing: Closer to the mic.

Commissioner Alcheck: Sorry would you guys mind if you could project maybe the list of species listed in the Urban Forest Master Plan?

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1 [note – many people started speaking from the audience off mic]

2

3 Mr. Lait: Yeah, we can try to work on that, we don't have that readily available.

4

5 Commissioner Alcheck: Yeah, I wasn't able to pull it up quickly when I was reviewing the Packet;  
6 the locally native tree list. I just want to see how many trees are on it.

7

8 Mr. Lait: So, it's going to take us a little bit so if you want to go to some other questions we'll try  
9 to pull it up.

10

11 Chair Lauing: Commission Alcheck did you have others?

12

13 Commissioner Alcheck: No, that's... I don't have other questions.

14

15 Chair Lauing: I had sort of a definitional question where you talk about the Authorized Officers  
16 have changed and then in the next paragraph you talk about expanded authority as proposed  
17 for Palo Alto Authorized Officers. Could you just clarify what that means?

18

19 Mr. Passamore: Right so we had position titles listed in the current ordinance that no longer  
20 exist such as a Managing Arborist. That position has been replaced with Urban Forester. We

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1 had a position for Planning Arborist that is being replaced with a Landscape Architect so we  
2 want those Authorized Officers to be current positions that the City has.

3

4 Chair Lauing: Ok I notice in other places that you also changed from Planning Officials to Utility  
5 people so that is different than what you're talking about here, right?

6

7 Mr. Passamore: Are you referring to the Director (interrupted)

8

9 Chair Lauing: Well we'll get to it. I thought that was probably something different so I'll bring it  
10 up. Commissioner Monk [note-Vice-Chair Monk].

11

12 Vice-Chair Monk: Sort of on the same thing you are... apologizes my mic wasn't lit up. I first  
13 wanted to thank you for the report and making this compliant with the new laws as well as our  
14 Comprehensive Plan and stakeholder input. And thank you, everyone, who came out and spoke  
15 and I hope that we will address all of the concerns that you... I'm speaking to the audience  
16 now... who brought up earlier this evening as we go through it line by line we'll tailor everything  
17 that was brought up. But just as a high-level question in regards to the management and the  
18 increased time for Staff review, can you give us an idea how much time you would expect this  
19 to slow down if at all? It will be a nominal change and that's in your very first paragraph of the  
20 report summary. And what if we don't have a person, because we do have some Staffing issues

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1 here, in that position? Would that be a cause to delay deciding anything in regards to the new  
2 ordinance? I think there are two people who are the decision makers right?

3

4 Mr. Passamore: Right so we do have some redundancy in our Staff capabilities but if you had a  
5 Staffing vacancy for an extended period of time obviously that's going to slow your review  
6 process. That being said we are currently in the process of interviewing candidates for the  
7 Landscape Architect positions so that position will be filled very soon. And that will bring the  
8 Urban Forestry section back to full Staffing, so for the foreseeable future, I would not expect  
9 any delays in the process. We've also introduced a contract for more basic review processes  
10 and inspection of development projects, so that has enhanced our capacity and given us more  
11 flexible Staffing model that's responsive to the number of permit applications that we're  
12 getting. I think that's a much better model than we were using in the past where we're solely  
13 reliant on Staff. Did that answer your question?

14

15 Vice-Chair Monk: It did, I appreciate it because, as you know, a lot of the concern that folks  
16 have with development is the delays that they find themselves up against with just the process  
17 that they have at the City level. So, anything that can be done to elevate those delays or have a  
18 process in place in the event there remains a vacancy that there's an internal policy that it  
19 could get shifted to another individual or department to get decided on.

20

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1 Mr. Passamore: Yes.

2

3 Vice-Chair Monk: That's helpful. I do have other questions but I think they are more specific as  
4 we go through the ordinance itself. Thank you.

5

6 Chair Lauing: Ok. Staff is consulting now so we'll pause a minute.

7

8 Mr. Passamore: Excuse the interruption we're pulling up the native species by habitat list that  
9 you requested.

10

11 Chair Lauing: Ok. Yeah for the record Commissioner Gardias has arrived at 6:30.

12

13 Mr. Lait: So, if you have other question this going to take a few minutes.

14

15 Chair Lauing: Ok let's just get started. If there's no strong preference then let's just start with  
16 each chapter and just go through them. I do think that there's less, in the beginning, relative to  
17 our 8.10, so you can just light up if you want to speak about Chapter 8.04 on any aspect of that.  
18 I just had a couple quick question on that, on 8.042, violations, no person shall plant, remove,  
19 top or any way damage, destroy, injure, or mutilate a tree. Is that mean that they should not  
20 even prune it? A bad branch or a branch that's dangling in front of a stop sign or?

- 
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Mr. Passamore: That's correct. People are not permitted to prune a public tree without permission. However, we do have a permitting process in place that if residents want the public tree pruned outside of our routine cycle they can make a request and we can issue a free permit as long as it complies with City standards to do that pruning.

Chair Lauing: Right and I saw that in there and on Page 3, under 8.04.050(6), existence of any branches or foliage which interfere with visibility or free use of or access to public vehicular. That's pretty strong and pretty important. It means that it doesn't want to be covering up signs or paths or so on and if it's a public tree then the citizen is just supposed to call the City and if it's a private tree they're supposed to take care of it. Is that (interrupted)

Mr. Passamore: Correct. If we have a public nuisance reported we would treat it as a code enforcement case any typically the property owner would have a reasonable time frame, such as 30-days, to abate that nuisance that is obstructing the right of way. Unless it's a significant safety hazard in which case we might shorten the time frame but typically branches don't grow out into the right of way instantaneously. So, we can allow a little bit of time for those nuisances to be corrected and usually, we get voluntary compliance.

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1 Chair Lauing: My own experiences in that in lots of parts of town not just my neighborhoods is  
2 that it's usually public trees, I mean if... and bushes. Probably for about a year now it's gotten  
3 increasingly harder to get on the exit off of 101 and Embarcadero coming west because that  
4 bush is getting bigger. And I must say I do think about going out there with my hedge trimmers  
5 but I think... I'm just raising it because the issue there is we have to have enough enforcement  
6 to actually do the work if you get the citizen comments.

7

8 Mr. Passamore: Right and realize the ordinance does not apply to some entities such as state  
9 and federal organizations. So, if it's property that's controlled by Caltrans or Santa Clara County  
10 or Veterans Administration, Palo Alto would not regulate that.

11

12 Chair Lauing: Yeah, understood but I'm glad you brought that up for the listening audience. Ok,  
13 we're still on 8.04... Chapter 8.04. Commissioner Gardias.

14

15 Commissioner Gardias: Thank you and sorry being late, so if there was some question that you  
16 responded to before my arrival just please advise I may not be in the [unintelligible] quickly. So,  
17 if you could just... I'm going to go and just refer to specific Chapters, so it goes throughout the  
18 changes of this ordinance and this is on Page 2, 8.04.020, violations penalty enforcement. I'd  
19 like to know because there is an explanation in the Chapter... in the Paragraph C, there is an  
20 expansion of roads that pretty much they have authority to exercise the penal code specific

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1 section and it seems to me that the expansion of the roads is significant. It just goes also to  
2 persons that I've never suspect should have authority as such like example Project Managers. I  
3 don't think that Project Managers should be specifically authorized to carry any... to exercise  
4 any authority under the penal code. So, from my perspective, I would like to limit this, remove  
5 this authority, and then just keep it solely to the professionals that are by either some measure  
6 they have authority to really assess the violation as opposed to some other associates. So just  
7 to remove this person throughout these changes because I think that this also... this appears in  
8 some other changes. Would you agree?

9  
10 Mr. Passamore: If you'd allow me to explain briefly, the Urban Forestry section assigns project  
11 managers some broad responsibilities. So, we have one Project Manager that is responsible for  
12 all public trees; street trees, park trees, and trees around public buildings such as City Hall. And  
13 other Project Manager that manages all of our utility vegetation management so I think it is  
14 important for those titles to have the authority to enforce codes. Especially the public nuisance  
15 section when it comes to interference with our public right of ways or utilities.

16  
17 Commissioner Gardias: I believe... so thank you very much for the explanation. I believe that  
18 this is not within the... the code enforcement is not within the specific responsibilities of a  
19 Project Manager but it may be a different scope of responsibilities within this division. But I still

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1 sustain my opposition to just retaining this role, I think this has a totally different purpose and  
2 scope of duties.

3

4 Chair Lauing: Did you have other comments on this Chapter?

5

6 Vice-Chair Monk: I had a question for Commissioner Gardias.

7

8 Chair Lauing: Sorry... ok, Commissioner Monk [note-Vice-Chair Monk].

9

10 Vice-Chair Monk: So, my feeling is that we have rules that we're putting in place and we want  
11 to be able to do everything we can to enforce these rules. So, I'm concerned that you want to  
12 scale back Commissioner Gardias the City's scope of enforcement opportunities. And I was just  
13 curious as to why that you are taking that position?

14

15 Commissioner Gardias: So, it's not scaling back, its just maybe not expanding that much. So, I  
16 totally agree with protection of the trees and shrubs and all the other on public and private  
17 properties. I just believe that expansion in certain areas it's not justifiable and there may be a  
18 risk pretty much that this specific individual or role may not be that well versed in the penal  
19 code as well as in the professional aspect of tree protection. And for this reason, I'd be inclined

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1 not to entrust such an important duty to somebody that pretty much may not have the... may  
2 not possess the right knowledge, that's the reason.

3

4 Vice-Chair Monk: So, I guess then to that can Staff confirm that the folks that are identified here  
5 would receive the appropriate training and certification or whatever needs to occur to lawfully  
6 issue citations?

7

8 Mr. Passamore: That's correct. The Project Managers in the Urban Forestry section are  
9 professionals, they are also certified arborists, these are longtime professionals in the industry  
10 who are well versed in interrupting what Municipal Code says and they get my input before  
11 citations are issued.

12

13 Chair Lauing: Ok why don't you continue with your questions or comments.

14

15 Commissioner Gardias: Thank you, next comment is about Paragraph 8.04.050 public nuisances.  
16 In Paragraph 8 (1) it's... you added or members of the public. I'd like to understand how... and  
17 this is... we're talking about the endangerment of... endangerment to streets and or street trees  
18 or portion... or... thereof or members to the public. So, I'd like to understand how would you  
19 quantify this because of the other elements if we're talking about danger to street trees,  
20 streets, or portions thereof right? Those are physical elements while the members of the public

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1 are mobile elements and then it would be very hard to quantify this endangerment. So, I'd like  
2 to understand what is behind adding endangerment to the members of the public?

3

4 Mr. Passamore: So, let me give an example, we have had some situations with private trees  
5 that were endangering a park property and it was reported to the City but under the current  
6 regulation that does not meet the definition of public nuisance.

7

8 Commissioner Gardias: (off mic) And where is the member of the public in this (interrupted)

9

10 Chair Lauing: Mic.

11

12 Commissioner Gardias: I'm sorry and where is the member of the public?

13

14 Mr. Passamore: If the member of the public was utilizing the park but to your point, we could  
15 change that language and say in a public property and broaden it from just streets.

16

17 Commissioner Gardias: Thank you for the flexibility. The reason I observed this change because  
18 anybody can file or submit a claim that he's endangered by a variety of angles. I just don't want  
19 to get into the... I think that it would be subject of the very broad interruption just having a

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1 member of the public being endangered because I an endanger myself just standing under the  
2 tree because at one point in time it's going to fall down.

3

4 Chair Lauing: Ok great.

5

6 Commissioner Alcheck: It's any dead (interrupted)

7

8 Commissioner Gardias: Yes of course.

9

10 Commissioner Alcheck: Diseased or dying tree. It's not any tree so the idea is that there's a  
11 dying or dead tree and it's close to a sidewalk they may not endanger any property because  
12 maybe no one parks there because it's next to a fire hydrant let's say but it could still endanger  
13 somebody if they walked under it. So, I think this encompasses... I think you're making more out  
14 of this then... I don't think this is a vulnerable area for people to complain about, trees  
15 endangering them simply because they exist. I think this is when dead trees aren't properly  
16 dealt with.

17

18 Chair Lauing: Ok well Walter has the comments on that then so next comments.

19

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1 Commissioner Gardias: Next item is what was the reason... I'm looking at point... 8.04.060, this  
2 is just about the notice that is being served to the owner or tenant involved if there is a public  
3 nuisance and then the ordinary US mail was removed. It's just a technicality or it just caught my  
4 eye. I know that this is classically you can send with first class mail notice and this meets the  
5 legal obligation.

6  
7 Mr. Passamore: Right so I think we wanted to remove that language because there are effective  
8 communication methods that do not require ordinary US mail. And they document the official  
9 communication just as well so we didn't think that was necessary to retain.

10

11 Commissioner Gardias: Ok thank you so it was just a question.

12

13 Chair Lauing: Is that all on that Chapter?

14

15 Commissioner Gardias: In that Chapter? Yes.

16

17 Chair Lauing: Ok, let's go onto Chapter 8.08.

18

19 Commissioner Alcheck: [unintelligible – off mic]

20

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1 Chair Lauing: Oh sorry, Commissioner Alcheck.

2

3 Commissioner Alcheck: Ok so in 8.04.070 we changed the idea of street trees to public trees  
4 and I understand that you're expanding (interrupted)

5

6 [Note- Female:] (speaking from the audience) We can't hear.

7

8 Commissioner Alcheck: Sorry. I understand you're expanding... you're trying to include trees  
9 that we normally do associate with public responsibility into the definition. I guess the question  
10 is when we say... I guess the question is when we talk about... one of the things that I think is  
11 quite valuable is this notion that what is the street tree and to what extent do we... does that  
12 street tree contribute to the canopy that we have in our residential neighborhoods? And I was...  
13 I'm concerned with sort of downgrading the concept of a street tree if you will. That's all I'm  
14 going to say and maybe that definition should be damage to the street or public trees. I think  
15 that when people are walking down the street they are familiar enough now if they are  
16 residents of Palo Alto with the concept of what a street tree is. It serves a specific purpose, it  
17 shades the street or it provides a canopy over our streets and I think we need to... one of the  
18 hopes that I have is that for our Urban Forest Ordinance is to essentially enhance that  
19 protection. I support the idea of enhancing the community's sense of ownership of these trees

- 
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1 that are on our streets or within 30... well, I don't know what it is; 36-inches from the street?  
2 48-inches? I don't know what the particular measurement is. Am I close?

3

4 Mr. Passamore: Typically, about 10-feet from the curb.

5

6 Commissioner Alcheck: Oh 10-feet from what, the gutter curb?

7

8 Mr. Passamore: Right 10-feet from the curb to the edge of the right of way.

9

10 Commissioner Alcheck: Ok, there you go. Ok so I don't know, consider maintaining that sort of  
11 elevated status for street trees would be one of my comments.

12

13 Chair Lauing: Was that all Commissioner Alcheck?

14

15 Commissioner Alcheck: Yeah.

16

17 Chair Lauing: Ok so... for that chapter yeah. So, we're going to go onto Chapter 8.08 on weeds  
18 and I think I'll just start this one off. When you get to 8.08.020 you're saying that any weeds  
19 growing on a property this has to go to Council to get a resolution passed if I'm understanding  
20 that correctly?

- 
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1

2 Mr. Albert Yang, Deputy City Attorney: So, this chapter deals with the process by which we  
3 authorize the county to come and take care of the weeds and then bill a property owner as part  
4 of their property tax bill for the cost of dealing with the weeds. So, there's a three-step process  
5 that the Council goes through every year of authorizing the list of properties... it's basically a  
6 chance for the property owners to come in and contesting the finding that the weeds are a  
7 nuisance or say oh, we're going to take care of it ourselves. But there are three different steps,  
8 first the list, then authorizing the county to go out and deal with the weeds and then finally  
9 certifying for the county that they should bill the property owners.

10

11 Chair Lauing: Well somewhat consistent with our discussion I think it was at last weeks meeting  
12 or last two weeks ago meeting, Council's got so much to do. We're not sending them stuff that  
13 they have to make a decision on weeds. Can't that be done within a department and then have  
14 somebody come and appeal it if they think that the City is out of line? It just seems like it's sort  
15 of something on Council's agenda that doesn't need to be there and can be handled at a lower  
16 level so I'll leave my comment at that. Other comments on this chapter? 8.08. No other ones?  
17 Then we will move onto 8.10. Sorry, Commissioner Gardias has one question.

18

19 Commissioner Gardias: Yeah, I have a question about when you added... and this is 8.08.010  
20 which is a public nuisance, when you added Paragraph Three, 2-B [note- B-3] plants, shrubs and

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1 trees determined by the Fire Marshall and then you talk about a proximity to ignition sources.  
2 What did you have in mind specifically? Are you talking about like vines growing on the... what  
3 does this specifically talk about? The proximity to this [unintelligible] or to the chimney?

4  
5 Mr. Passamore: So, one of the more recent developments in vegetation management is the  
6 notion of utility lines as ignition sources for wildfires. And there's been a lot of attention state-  
7 wide paid to PG&E and other large utilities to clear vegetation away so that it does not  
8 constitute a potential ignition source for a wildfire. And we are wanting the Fire Marshal to  
9 have more authority to respond to upcoming regulation changes from the state.

10  
11 Commissioner Gardias: Yes, and I believe that this is in regards... this relates to the document  
12 that I asked... that you said that you'd bring to this session which I couldn't read because I'd  
13 have to buy it of course right? So, I was wondering if it's specifically to the transmission lines  
14 and thank you very much for... this is the document that's being referred. I will pass it on so if  
15 you could just tell me... I will not be able to dissert... to digest [unintelligible – crosstalk]

16  
17 Chair Lauing: Yeah let's just have Walter give us the information on that.

18  
19 Commissioner Gardias: Yeah so if you could just tell me where in Palo Alto we have a situation  
20 like this? I know that by Newell there is a... there are transmission lines. And then there are

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1 some trees that are being... redwood trees that are being trimmed because of the proximity to  
2 the lines but where in Palo Alto this specific document applies to the proximity of trees to the  
3 power lines?

4

5 Mr. Passamore: So, there is increased attention to the Foothills so everything from Highway  
6 280 West is going to have increased attention because of the wildfire danger that exists in  
7 those areas. And we do have some utility lines and some potential ignition sources there that  
8 could pose a hazard under the right conditions.

9

10 Commissioner Gardias: And those are PG&E or those are power... Palo Alto power station  
11 transmission lines?

12

13 Mr. Passamore: Both exist in the Foothills. The City is certainly concerned about its own utility  
14 infrastructure and we have recently identified that area as one that we are going to make some  
15 procedural modifications in how we manage the vegetation.

16

17 Commissioner Gardias: Thank you.

18

19 Chair Lauing: Ok so 8.10, comments on that? Commissioner Summa.

20

- 
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1 Commissioner Summa: So, some of these were my thoughts and they were echoed by some of  
2 the members of the public. I do think it would be nice to have the word preservation back in  
3 the title of Chapter 8.10. Of course, the content is what matters the most but I just think it sets  
4 a better understanding for what's to come.

5

6 And then many of my concerns were around protected trees and I think one of the key things  
7 is are these diameter triggers the right diameter triggers. So... and I asked earlier why it's 11 ½  
8 for other trees... for other local natives and not for the Redwood and if there's no professional  
9 arborist reason for that maybe it could be looked at; it should be [unintelligible] if it was just  
10 held over for no good reason. The 36-diameter in Three, I think that to be consistent with One  
11 and Two. It should be expressed in diameter and circumference and the circumference which I  
12 had to figure out myself how to do that because I think I forgot. You have to multiply it by pi or  
13 something like that, anyhow, so 9... almost 9 1/2-foot circumference is a really large tree. I'm  
14 not sure that we would want to be losing a significant portion of the canopy that we would like  
15 to retain by keeping it that large. And as one of the members of the public pointed out we don't  
16 really have any information about private trees [and] how many there are. Not that I expect  
17 that we could do that sort of thing. I know that Canopy did try to do a count of native Oaks so  
18 there may be more information about that. But that being said the canopy is of such extreme  
19 importance and is so precious to us for the obvious benefits for the air and as habitat and shade  
20 that I wouldn't want to miss out on this diameter. And I would also say that somewhat

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1 conversely later in that same Paragraph Number 3 you refer to the high-water user's  
2 classification species list by the state and I would say that any tree regardless of whether it was  
3 the most ideal tree we would want in a location or that has got to that diameter has obviously  
4 adapted to the climate and water resources available. And that it wouldn't be advisable to  
5 remove a perfectly healthy tree from the canopy just because it's not one we would of course  
6 plant or recommend planting or certainly use as a street or publicly owned tree in the future.

7

8 So... and then my third comment is that I guess I would prefer Redwoods be contained...  
9 Sequoia sempervirens contained in Number One since they are a locally native tree in my  
10 opinion. Once again not every tree is right for every location in Palo Alto, it doesn't mean it's a  
11 local native and the very statement in One, any local tree except Redwood sort of means the  
12 Redwood is native. It's just not appropriate for everywhere. I would never expect that we  
13 would plant them as public trees or street trees but that's really different than removing them  
14 from the canopy of the City. Especially when we don't know any of the impacts or have any way  
15 to quantify what percentage of trees that would be. And I think that is one of the most  
16 important things in here and so in a report and ordinance that I think in general is very, very  
17 good, those are such important things I think they bear more looking at.

18

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1 And let's see, let me see what else I have. Oh, then later on in 8.10 in enforcement so 8.10.010  
2 little letter b-2 if somebody unlawfully removes a protected tree we're saying that the  
3 amount... we cannot exceed \$5,000 as a fine and (interrupted)

4

5 Chair Lauing: Are you Page 12 here?

6

7 Commissioner Summa: 15, 8.10.010 little b-2, so I'm not sure that \$5,000 could capture the  
8 removal of a magnificent, very large tree of any variety. So... and I know that other Cities  
9 capture much higher replacement values when trees have been unlawfully removed so that  
10 didn't seem quite right the number to me. That... oh and I did want to mention that the Comp  
11 Plan... the Comp Plan also contemplated a better system for appealing a tree. In here... I should  
12 give you where it is... gets... it only allows the applicant who wants to remove a tree to appeal  
13 it. I think a member of the public said this also. There was a very strong preference on the  
14 Comp Plan in the Natural Environment Subcommittee to expand that appeal so that nearby  
15 people would have notification of the appeal and could actually appeal the removal of a tree.  
16 And then the reason I think that's fair is because trees hangover, you know you can't contain  
17 them by lot lines. They hang over a lot of different people's yards and they can affect different  
18 people's homes in a lot of ways and so the Comp Plan... it's N-2.10.3 was added to that Natural  
19 Environment just to allow for that kind of expansion of the appeal system. So, I would  
20 recommend that you look at that and another thing that's in the Comp Plan that's not

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1 anywhere in this ordinance but it might be nice to kind of mention it is N-2.7 which states that  
2 we aspire to a 50 percent canopy which is an increase in the canopy size. So, since we would  
3 like to do that from what it is now 30 point whatever to 50, it's not really clear to me that these  
4 diameters for protected trees would fully address that concern. Thank you.

5

6 Chair Lauing: Thank you. Other comments? Commissioner Alcheck.

7

8 Commissioner Alcheck: Ok I'm going to just try to go in order of the particular Chapter ok? Ok,  
9 so this is... I think... the start of my questioning here has... it relates to what I asked for before  
10 which was sort of the list of what we now call locally native trees. I saw a glimpse of it. Since  
11 this is a study session I'll just make some recommendations that I think are worth looking into.  
12 The first is that list is not particularly helpful to residents who may be unfamiliar with what  
13 terminology you're using to describe the habitats. So, the list I saw that Jonathan put in front of  
14 me here suggested Foothills and then... there was another one that said riparian something...  
15 Oak Field or something.

16

17 Mr. Lait: Yeah let me help you out a little bit there so this is the Palo Alto Native Species by  
18 Habitat and so it listed the habitat and the trees and just by way of (interrupted)

19

20 Commissioner Alcheck: How many habitats are there, that's basically what I'm looking for.

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Mr. Lait: So, you've got one, two, three, four, five.

Commissioner Alcheck: So, there're five habitats. I think at the very least we need a map colored coded that identifies where those habitats are. It's difficult for someone like myself to sort of discern whether or not this list is over expansive or not significant enough. Are we protecting the tree... you know where do we find that... let's say there's a habitat there, one of the five that contains a list of eight trees. Where is that habitat so I know where those eight trees are protected?

One of the risks I think is having a pre-protection ordinance that is overcomplicated and that becomes difficult for a typical person to understand. So, I think that's one way you can make... made easier to sort of [unintelligible].

Ok, so we didn't... this is in some ways responsive to Commissioner Summa's comments but we didn't have any protection for any trees other than the protected trees until... we still don't. We do not protect trees based on their size except for the protected trees. And I don't even think those are protected by size, those are or maybe there is a minimum.

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1 Mr. Passamore: The three trees that we protect right now are protected once they reach a  
2 particular diameter; Valley Oak and Coast Live Oak at 11 ½-inches in diameter (interrupted)

3  
4 Commissioner Alcheck: They're minor, they are... they are intended to... it's a conservative level  
5 of protection. We're trying to bring them into the loop of protection early on, so we don't  
6 currently protect a tree that's let's say an avocado that happens to be 15-inches in diameter  
7 (interrupted)

8  
9 Mr. Passamore: No.

10  
11 Commissioner Alcheck: And I don't know that we should be. I think the question is to what  
12 extent has not been predicting those trees been problematic? And I'll just... I'll share my  
13 experience in sort of the last 6-years being involved on the Planning Commission. One of the  
14 things we hear about that I think that the community struggles with is when suddenly there's a  
15 tree being removed. And nobody was aware of it and nobody had a chance to potentially... to  
16 have an opportunity to voice their concerns about a tree. I think expanding the universe of  
17 protected trees simply based on a tree's... like we're looking here at J-3, any... on Page 10, any  
18 tree larger than 36-inches in diameter of any species except for the exceptions. So yes, I think  
19 it's plainly obvious that this is a significantly large tree. I think the question is... Commissioner  
20 Summa sort of [unintelligible]... are we suddenly going to be losing a whole host of trees? And I

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1 think the response to that would be no. We've never protected these trees. So, we are  
2 beginning the process of including a much larger number of trees in our protection plan. And I  
3 think the prudent thing to do would be to start very conservatively if you will of introducing  
4 them. So, while 36-inches may seem large, 9 ½-feet in circumference is a quite large tree, I think  
5 what we need to do is consider the idea of incorporating that size tree. And then as we get  
6 more comfortable with the idea of protecting trees simply by their size we can maybe on a... in  
7 a timely way come back to it and go you know what, I think we've noticed that we're losing  
8 trees that are 48-inches. Excuse me, 28-inches in diameter and those were important trees. You  
9 know we can begin to close that gap more. I don't think it would be prudent at this time to  
10 move to for example Menlo Park or Los Altos for example strategy. I think that would  
11 immediately bring into the envelop so many trees that could cause some significant opposition.

12  
13 Ok, I understand Number Five, I don't know how often that happens. That'd be interesting to  
14 learn about but I understand why you'd want to include it. I assume any tree that's been deed  
15 restricted is not being able to cut down. That's probably enough of a reminder but I understand  
16 that'd be interesting to know how many trees are designated for carbon [unintelligible]. I think  
17 that's (interrupted)

18  
19 Mr. Passamore: Currently none.

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1 Commissioner Alcheck: Currently none? Ok. Well, that's an interesting concept and I... it would  
2 be interesting to see how that gets. Ok, I think one of the reasons why... and I'll say this, I think  
3 one of the reasons why I'm concerned about expanding the envelopes significantly is because  
4 we have a lot of large take for [note- example] Cedar trees and Pine trees. And they can be  
5 overwhelming and the question is, is it... should it be a fight every time you want to remove one  
6 on your property? So that's... those are... you know it's so funny we... you always hear about the  
7 Magnolia trees being non-native and unwelcome if you will. And when you drive down a street  
8 with the Magnolia trees I think the thing that strikes you first is the fact that they are essentially  
9 Evergreen. They are constantly leafy and they make for a great canopy. And when you drive  
10 down a street that has seasonal leaf pattern and it has such a dramatic change in terms of it's  
11 aesthetic. But there's a perfect example of a tree that they are constantly correcting the  
12 sidewalks to address these Magnolias that are surface rooting. So, I think that to some extent if  
13 you had a Magnolia that was quite large in your backyard and it was causing damage to your  
14 pool deck or what not... I mean here are examples of areas where you're not going to get an  
15 arborist to give you a report that says this tree needs to go because it's dying but it may be  
16 causing damage to the aesthetic and to what extent should we be requiring a homeowner to  
17 preserve that tree? These are the areas where I think we need to ask, so one option, for  
18 example, would be to introduce a concept of any locally native tree and carve out except those  
19 that are not within setbacks in the R-1. So, to what extent, for example, are we requiring a...  
20 let's say we do go down to 15-inch, to what extent are we requiring a residential property

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1 owner to not be able to prune the way he wants or she wants or cut down a tree located within  
2 the buildable area of their home that's 15-inches? Not within the building footprint but I mean  
3 within the area that we designate as buildable as opposed to a tree that may be affording... that  
4 may be within let's say the rear setback of 20-feet, the side setbacks or even the street frontage  
5 that may be contributing to the canopy or privacy. These are some of the ideas I think if we're  
6 going to continue to shrink that diameter we should make caveats for certain areas where we  
7 really don't want to put people in the position where they can't.

8  
9 I will say this I... it's not uncommon now for modern builders to avoid planting trees that... it's  
10 not common more for people to choose to plant pine trees and cedar trees because they want  
11 to keep the brush small. That's why you're seeing... I mean when you're... I'm talking about  
12 small developers and medium-size developers in residential housing, they'll use orange, they'll  
13 use pear trees, they'll use trees that sort of never really get to that size so that they don't have  
14 to grapple with the issues. And those don't really contribute to the canopy the way some of the  
15 trees we'd like to see get put up and so we need to balance that.

16  
17 Alright, my next statement has to do with the addition of within 30-feet in 8.10.040 and on  
18 Page 11. I get the first part of this sentence, I'll read it to you just so you can appreciate where  
19 I'm coming from. In addition, the location of all trees on the site and in the adjacent public right  
20 of way which are within 30-feet of the proposed development. And I assume that when we say

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1 area proposed for development we're not talking about the property, we're talking about the  
2 perimeter of the actual structure?

3

4 Mr. Passamore: Right, it'd typically be the building footprint or any construction improvements  
5 that are going into the property.

6

7 Commissioner Alcheck: I would suggest that we change the language proposed for  
8 development... the area proposed for development to building footprint. It's much clearer and  
9 then what I would suggest to you is that the next sentence, and trees located on adjacent  
10 property within 30-feet. Within 30-feet of what? Are we talking about the fence now? The  
11 property line? I understand the notion that we want to be aware of trees that have canopies  
12 that overhang a fence but I'm not entirely clear what 30-feet of what? So, if you're saying  
13 within 30-feet of the footprint I think we should say that. Ok.

14

15 Alright looking on Page 12, so I know that we have criteria for requiring an arborist report, like a  
16 certified arborist report. I guess my question to you is what happens... how does a community  
17 member deal with a situation where a professional certified arborist who meets the  
18 requirements that we've sort of required in our ordinance... I shouldn't say sort of... that we  
19 required in our ordinance. What happens when an arborist makes a recommendation that a  
20 tree should be removed based on the criteria that it is (interrupted)

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Chair Lauing: Which item are you referencing Commissioner?

Commissioner Alcheck: So, we have... I'm sorry Page 12, the first Paragraph, protected trees shall not be removed unless determined by the Director (interrupted)

Chair Lauing: Ok thank you.

Commissioner Alcheck: On the basis of a tree report certified... by a certified arborist, sorry. So, the question is what happens when you get that report by the arborist and the Director of Public Works or Urban Forestry doesn't agree? What... I mean I get... is it that we don't have a strict enough standard for our arborist and how can we... I assume these reports cost a lot of money so the question is, is what do we do in that situation?

Mr. Passamore: So, reports can cost a decent amount of money and we only deny permits that do not meet the specifications outlined in Municipal Code or do not comply with industry best practices; such as the tree risk assessment guidebook that I sent around the printed copy. So, for example, if an arborist report was saying this tree constitutes a hazard but they didn't utilize best practices to establish what the risk is and whether or not there is a possible abatement to reduce that risk then we would say we're not willing to approve the permit at this time. Go

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1 back and do additional discovery to determine whether this meets the definition of hazard as  
2 outlined in the Municipal Code and the Landscape and Tree Technical Manual.

3

4 Commissioner Alcheck: Alright so I know that there's a lot of complexity in these evaluations. I  
5 would suggest that if we're revising this if we're going through the exercise it may behoove us  
6 to put more clarity in here. How... for example, the last sentence says and that treatments or  
7 corrected practices are not reasonable. That's a tough word because what's reasonable to the  
8 Director of Urban Forestry who's looking at thousands of trees may not be so reasonable to a  
9 homeowner. And sometimes I... my impression in the past has been sometimes when a tree has  
10 been recommended for removal there's a fear that if you lose that tree and now you don't...  
11 there is no tree for you to continue to protect and that the Urban Forestry Department is quite  
12 protective of not losing more trees that they can't protect. I just... I wonder if there's a... if we  
13 can be more clear about replacement requirement. You know just providing slightly more  
14 clarity so that when we... when you go into it and you're going to hire someone and you have a  
15 discussion with them you can better... when you go into that hiring process you don't want to  
16 be throwing away your money. Going alright we'll try and see what we can get, you want it to  
17 be a little bit clearer that either this is a possible removal or don't waste your money.

18

19 Mr. Passamore: I'll say I agree with you that it would be nice to have more clarity.  
20 Unfortunately, tree risk assessment and predicting when a failure will occur in the future is a

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1 very qualitative practice and there's as much art in it as science. So, there's probably not a lot of  
2 qualitative, very clear-cut measures saying that based on the condition of your tree it's going to  
3 have a major failure in 3-years. It's going to cause significant damage to your property. You are  
4 speaking in qualitative terms and as you look through the risk assessment best practice they  
5 have removed all of the previous quantitative estimates and replaced those with qualitative  
6 terms. So, in the industry, we're getting more descriptive and less quantitative as to what  
7 constitutes a hazard and what is a reasonable treatment and what is a significant risk reduction  
8 and what level that reduces it to whether it's extremely high, moderate, low. There's really a lot  
9 less clarity in the industry because of the number of court cases that have gone through the  
10 system and very difficult to predict when a failure is going to occur or how significant a risk is in  
11 numerical terms.

12  
13 Commissioner Alcheck: Ok so I'm going to move on but that sounds to me like the standard  
14 certification requirements in the arborist industry aren't good enough for us. And so maybe one  
15 option would be to have a list of arborists that are approved to provide arborist reports and  
16 those arborists participate in a 1-day or 2-day seminar with our Forestry Department so they  
17 can appreciate what we want to see in those reports. Again, the idea here is we've got  
18 residents who may be paying money and it's a waste of money and so we do that for example  
19 with Title 24. We have a list of Title 24 individuals who have to essentially register with the City  
20 and you can't just simply get a Title 24 report done but just any Title 24 person in California. It

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1 has to be one that has been registered with City and the assumption there is that there are  
2 some protections afforded to that extra registration.

3

4 Ok, the next Paragraph B, in the case of a development of a single-family residential lot other  
5 than a connection with a sub-division. This is sort of along the same lines, protected trees shall  
6 not be removed and then Two says unless the tree is so close to a building that the construction  
7 would result in the death of that tree. This is again a difficult thing to sort of determine I  
8 assume but the way I read this is if there's a tree that's within the buildable area... I guess my  
9 question is what if the tree is exactly where you want to build? So, let's say the tree is in the  
10 middle of a lot and it's protected and you want to put your home there. Are you saying that if  
11 the tree is so close to the building area... are we saying that the tree is so close to the building  
12 area but not within the protected area of the tree that... the canopy drip line and it would still  
13 die or are we saying that... does that make sense to you?

14

15 Mr. Passamore: So, we do have a Three Protection Zone and in our Tree Technical Manual and  
16 industry standards we establish some thresholds maximum amount of impact that we would  
17 expect a tree to sustain before it becomes significant and could lead to the death of the tree.  
18 We adjust that based on the health and species and other factors. So typically, we do not allow  
19 any more than a 25 percent infringement into the Three Protection Zone and no impacts closer  
20 than 10-feet to the trunk. We adjust that if the tree is less than optimal health if it's a species

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1 that has very shallow rooting etc. So, it's individualized to the development project what the  
2 impact is. If someone's digging a 10-foot deep basement that may be a much more substantial  
3 impact of the tree than a driveway that goes across the surface. So, some of this is subjective  
4 based on the factors of the development and the health of the tree.

5

6 Commissioner Alcheck: Alright so just so I'm clear, so the idea here is you've set up your  
7 perimeter... you're looking at a tree, you are... you have a perimeter set up as your protected  
8 tree area that may be, let's say if it's a not a substantial tree but a large tree, maybe a  
9 perimeter of anywhere between 15 and 25-feet based on its canopy. The building... when you  
10 say building area do you mean... you again mean the footprint or just (interrupted)

11

12 Mr. Passamore: The footprint or any construction improvements that could impact the tree  
13 such as evacuation, compaction of the soil, building a wall that would cause limbs to have to be  
14 pruned off, etc.

15

16 Commissioner Alcheck: Ok so I guess my comment on this one based on the answers is that this  
17 seems like a very unlikely situation to have a tree that someone could in advance of any  
18 construction say constructing at the perimeter of our already significant Three Protection Zone  
19 or within 25 percent of it is going to be so invasive that it would result in the death of the tree.

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1 This seems like a highly unlikely sort of moment. I don't know if that's the case but  
2 (interrupted)

3

4 Mr. Passamore: Actually, it's very common that we deal with trees that are within the buildable  
5 area. There's a lot of older homes that are very small square footage and the owner wants to  
6 maximize the allowable FAR and so they're building a much bigger home. And trees could very  
7 well interfere with that buildable area and the proposed building footprint.

8

9 Chair Lauing: But I think that was one of your questions Commissioner and so I still didn't... if  
10 you could just answer if you... if he says I want to build here, I know it's protected but according  
11 to this verbiage, it can be waived. If you build here it's going to kill the tree then you can waive  
12 it. It sounds like you can build wherever you want.

13

14 Commissioner Alcheck: Right that's what I don't understand. I thought you... let's say you're  
15 expanding a small home, that doesn't mean that you can expand it into the area designated as  
16 a Three Protection Zone based on the canopies reach. That's still a restricted area to build, so  
17 that could be a 45-foot diameter area, right? That could be a pretty substantial area and so I  
18 guess what I'm trying to... to me, there's a little bit of disconnect here. When I read it the first  
19 time I was like oh, does that mean the trees to close and I want to build that's got to go?

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1 Chair Lauing: Right.

2

3 Commissioner Alcheck: Obviously not, we have the perimeter and so then if it's... if you can't  
4 come into that perimeter... I'm not talking about a driveway for example. But (interrupted)

5

6 Chair Lauing: I don't think the language is there yet to express what's really going on.

7

8 Commissioner Alcheck: I don't really understand... if the idea is when we construct we often  
9 cause harm to trees and that perimeter isn't good enough.

10

11 Mr. Passamore: Right so how we typically explain to applicants is protected trees shall not be  
12 removed unless and so then we enter into this discussion about is it possible to design the  
13 home in such a way that it doesn't infringe into the Three Protection Zone? Is it possible to use  
14 minimum impact construction techniques? Is it possible to (interrupted)

15

16 Commissioner Alcheck: [unintelligible – crosstalk]

17

18 Mr. Passamore: Reduce the building footprint so that we can retain that tree. So, we always  
19 start with it's prohibited to remove the protected tree and then go from there to explore these  
20 potential allowances.

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1

2 Commissioner Alcheck: Ok so I think I understand. One example could be that let's say there are  
3 10 trees on the frontage of the property and no matter what you're going to be driving your  
4 bobcat over tree roots. There's no way in unless you do that and so maybe the removal of a  
5 tree would be warranted. Although, I still... it's hard to imagine that you could be certain of its  
6 death. I don't know, ok, I'll leave that one there. That one just struck me as a little a  
7 (interrupted)

8

9 Chair Lauing: I don't think it's clear, I agree.

10

11 Commissioner Alcheck: I think that the paragraphs that were added in... as a part of D, in the  
12 case of a development requiring a project approval removal of protected trees may be  
13 permitted if the retention of the tree would result in the reduction of otherwise permissible  
14 building area of the lot by more than 25 percent. I think this is a good addition. I think it adds  
15 clarity to a person who's in the process of proposing a development. One of my questions is  
16 how does someone approach this and appreciate what is 25 percent. And the reason why I  
17 mention that is because are they... is the idea that they use the location of the tree and then  
18 extrapolate the perimeter of the buildable area and then determine whether or not that's  
19 affected by the 25 percent. Are they allowed to decide... for example, they could grow their  
20 home this way but they want to grow it this way and they do it this way it impacts them? It's a

- 
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1 little... there's a lot... that's a very... this is new and this is trying to create some flexibility I think  
2 in our process. I appreciate what this is trying to do, I think it would be helpful if when this  
3 comes out, for example, we have that housing guidelines things right? We have the code and  
4 then we have the House Technical Manual, what do you call it?

5

6 Mr. Lait: Yeah, the zoning technical manual.

7

8 Commissioner Alcheck: So, this is a manual that shows all these great examples of how the  
9 code gets applied to everyday examples. This would be a good way... this would be a good thing  
10 to have an example laid out like here's an example of a tree that would affect 25 percent.  
11 Here's an example of a tree that would not.

12

13 Mr. Passamore: Right so actually the allowance for removing a tree that prohibits the use of 25  
14 percent of the buildable area has been in the code. It was just placed in a different location and  
15 we have been using that allowance. In particular where you have a tree that is located very  
16 centrally to the property and development of any larger building footprint would infringe  
17 significantly into the Tree Protection Zone. So, we have to make a choice between do we allow  
18 someone to build their new home or retain the tree and usually allowing someone to use their  
19 lot wins out.

20

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1 Commissioner Alcheck: I think this is a good place to think about the idea of tiers. So, when  
2 we're expanding the notion of a protected tree to include any tree of a certain size and I  
3 foresee that size will get smaller over time. I foresee that we will become more liberal with the  
4 number of trees going under protection. The question is do we want to create tiers so when it  
5 comes to an Oak tree, maybe it's 25 percent but when it comes to an avocado or I don't know, I  
6 can't think of a simple Birch tree that would probably qualify but another... Magnolia that's not  
7 a street tree. You know what I mean? When it comes to another tree that we're simply  
8 protecting because it's now in the envelope of size protection may be the percentage of  
9 building area should be 15. Maybe we should tier that these are the trees that are the most  
10 important for us to protect. We really don't want to see those go unless it really affects your  
11 ability to build. These trees, we're trying to protect but if you can't build what you want and  
12 maybe a smaller percentage. These are ideas to think about.

13

14 Ok, that's all I've got for 8.10. Sorry that I went long it's just there's a lot there and I wanted to  
15 sort of work through it.

16

17 Chair Lauing: Commissioner Monk [note-Vice-Chair Monk].

18

19 Vice-Chair Monk: Thank you. 8.10 essentially covers the protected trees on private property  
20 and my general concern is balancing a private property owners' interest to do what they please

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1 on their own land and the public interests as well as our City's stated goals of preserving trees  
2 and desire to grow out canopy. For the record I attended UCC Santa Cruz, our mascot is the  
3 Banana Slug which lives in the Redwoods, my best friend chained herself to trees to prevent  
4 further development of the college so I'm very much in favor of protecting the trees and I'll  
5 definitely address the Redwood separately. From what I understand my concern was that some  
6 landowners can be affected by these new changes if they want to build on their land and  
7 there's a tree that is protected. And they'll have to modify their home design in order to comply  
8 with the new rules and so that would just be something that I would want to speak up on  
9 behalf of those landowners. They should be able to do what they want and with looking at the  
10 remedies available that I'll get to as I go through more chronologically. But just high level, that's  
11 my general feeling that there should be a give and take in allowing a balance of private  
12 property owners to do as they please with these other stated goals.

13

14 We're also concurrently updating our Zoning Code to encourage housing production and we  
15 also updated our ordinance to comply with the new state laws that favor accessory dwelling  
16 unit production. So, to the extent that we're looking at increasing density and housing and any  
17 conflicts in the regulations that we're looking at now that might occur as a result of trees  
18 getting in the way of further housing production is something that we do need to consider in  
19 drafting this update to the code. So, what I would propose is creating some language or  
20 mechanism for Council to have the ability to perhaps waive these new standards for the general

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1 welfare that would be more promotive of housing when it comes to balancing housing  
2 production over preserving a tree.

3

4 Going to 8.10.010 which is the very beginning, the stated purpose, so we're establishing these  
5 procedures and standards to encourage the preservation of trees. And I would just consider  
6 adding some sort of language or again at least advising Council of the need to balance any  
7 possible conflict with competing City priorities to remove barriers that would be increasing our  
8 housing supply.

9

10 In the definition section below that, I start running into some problems with the protect tree  
11 section. Perhaps this was answered, are Redwoods listed in the Urban Forest Master Plan?

12

13 Mr. Passamore: On the native tree list, is that what you're asking?

14

15 Vice-Chair Monk: Yeah under J-1 is says any locally native tree of a species as listed in the Urban  
16 Forest Master Plan. Is the Redwood tree listed there?

17

18 Mr. Passamore: Looking it up.

19

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1 Vice-Chair Monk: So, if the Redwood tree is listed there then you have a conflict in your  
2 language or you're trying to make an exception to it and take out the Redwoods. So, I don't  
3 know why you have except the Redwood at the end of that paragraph. I'm guessing it is listed  
4 and that's why you're taking out Redwood trees perhaps.

5  
6 Mr. Passamore: So, the language about the protected Redwood trees was historic in nature as  
7 it was mentioned in the public comments. That was added after the original ordinance was  
8 adopted so they called that out separately.

9  
10 Vice-Chair Monk: I just want to confirm that when we're looking at J-1 it's not including  
11 Redwoods as a protected tree, correct?

12  
13 Commissioner Summa: [unintelligible – off mic]

14  
15 Vice-Chair Monk: No, I'm asking whether or not this... My question is whether or not as written  
16 this includes Redwoods trees or not because it possibly has a contradiction in itself.

17  
18 Commissioner Summa: [unintelligible – off mic]

19

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1 Mr. Passamore: So, Redwood is not on the list of locally native trees in the Urban Forest Master  
2 Plan.

3  
4 Vice-Chair Monk: Ok then I don't... then I would remove the language about Redwoods. I don't  
5 know why it's in there. I would then go on to J-2 which does talk about Redwoods (interrupted)

6  
7 Mr. Lait: So, Commissioner Monk [**note – Vice-Chair Monk**] we just... maybe you can help  
8 explain that to us one more time why you think that should not be located there.

9  
10 Vice-Chair Monk: Well you're handling Redwood trees in Item Two so why are you removing it  
11 from a definition that may or may not be listed within the Urban Forest Master Plan?

12  
13 Mr. Passamore: Oh, I'm sorry, it is, it is included in locally native tree.

14  
15 Vice-Chair Monk: There just might be a contradiction in what you're saying here because, on  
16 the one hand, the Urban Forest Master Plan might reference Redwoods of any size whereas in  
17 Item Two you're only listing Redwoods that are of 18-inches.

18  
19 Mr. Passamore: Right the two items are just differentiating the size threshold for protection.

20

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1 Vice-Chair Monk: And how did you arrive at 18-inches? Did you already... I would support a  
2 smaller size as Commissioner Summa alluded to earlier.

3

4 Mr. Passamore: Right as I mentioned before that was way before my time. I'm not sure of the  
5 rational between the 11 ½ or the 18-inch thresholds.

6

7 Vice-Chair Monk: Just voicing my concurrence with other Commissioners to make that as  
8 broadly applicable to any age or diameter of Redwoods. I have the same sentiments in regards  
9 to Three, the 36-inches seems quite large. And then again there's a high-water usage  
10 contradiction with the Redwoods which are known high water users so there just seemed to be  
11 a couple in here... contradictions here that might need to be cleaned up a little bit.

12

13 I think we went into the 30-feet pretty in depth.

14

15 Chair Lauing: Where are you now?

16

17 Vice-Chair Monk: On Page 11, Section B, under 040 [note-8.10.040] on disclosures. You know I  
18 just don't know how feasible it is to go onto someone else's property within 30-feet to have to  
19 put a disclosure of what's on someone else's private property. I'd just be a little concerned  
20 about the legal enforceability of that. It's doable, go for it, I don't know.

- 
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Under prohibited acts, 050 [note -8.10.050], so I just have a little bit of a question about the language and what you're trying to achieve here. If you look at A it starts off within the absences of development. Before that, it says it should be a violation of this Chapter except as allowed in this section in the absence of development. So, when you just read that as one sentence it doesn't make a whole lot of sense because it seems to be negative. So, can you maybe explain what is meant by in the absence of development? That just sort of appears to come out of nowhere when I read this Chapter or rather this section of this Chapter.

Mr. Passamore: So, during the process of reviewing development applications, whether those are planning applications, building permits or otherwise, there's always an opportunity to review potential impacts or removal of the tree. Apart from development, so there's no development activity occurring, there are situations where we still want to review a tree removal before it occurs, particularly if that's a protected tree.

Vice-Chair Monk: Do you... when you read this now a second time is it clear to you that the way it's written... I mean do you... it seems to me that you need to maybe consider putting in some language about the process for what happens when they develop or what development means; define it in some way. I'm just not seeing the connection there.

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1 Mr. Passamore: Right we didn't change that portion of the code but I hear what you're saying.

2

3 Vice-Chair Monk: It just doesn't read very concisely and it leads a little bit of ambiguity when  
4 you just jump into Section A in the absence of development. Maybe just clear up that, the  
5 phrasing of it. And then the reason why that A Section is quite important is because it's  
6 referenced two other times in the subsections below. The tree should be removed pursuant of  
7 sub-division A and it's mentioned that in the other two examples, so I think how A is written is  
8 very important. It needs to be crisp and clean and concise and not leave room for ambiguity  
9 and when I read it I'm a little confused on it. It's not really clear to me under what  
10 circumstances they can't be removed the way it's written. And I mean it's redundant because if  
11 you already have A in there why do you need to put it... reference it in the other two sub-  
12 sections? So, I think Albert might want to look it over a little bit in more detail, I just don't  
13 understand that section and everyone is getting tired so we won't go into it but it's not really  
14 clear to me what the intent is of all of it.

15

16 Ok so under the remedies for violation on Page 15, with the goal being to protect and foster  
17 trees and our canopy I think we should do as much as we can to encourage what's stated in A-1  
18 which is to provide replacement for the trees removed. And this way it's drafted it looks to me  
19 like that's not as a big of a priority that I'd like to see. I think in the case that a tree is removed  
20 for some reason all efforts should be made to put an adult tree in as a replacement. And then a

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1 follow-up question to that is if an owner agrees to replace a protected... is it possible to I guess  
2 replace a protected tree? That's a fundamental question. Can you buy an adult California Oak  
3 and replace one that was there? Is that even feasible?

4  
5 Mr. Passamore: Not in kind, so if you look at the definition of protected tree and say someone  
6 removed a 20-inch diameter Oak tree. You can't just go to the nursery and buy another 20-inch  
7 diameter Oaktree and plop it in there. So, the remedy is much more complex to establish the  
8 time value to grow that tree to that size in that location, whether we still have a viable site, and  
9 a number of other factors but I get what you're saying about prioritizing replacement.

10  
11 Vice-Chair Monk: Understood and then if it feasible to some extent to offer a replacement or as  
12 close as possible is it... would it still be unlawful for the owner to remove that tree or could that  
13 be offered to the homeowner as a compromise? If they're going to remove a tree and they say  
14 look, I'm going to remove this tree but I'm going to plant all these other trees to more than  
15 make up for it, is that a situation that could ever occur?

16  
17 Mr. Passamore: It would depend if it meets the allowances in Municipal Code whether or not  
18 that tree is protected and whether or not we have development occurring on the site. We do  
19 frequently approve removal of trees during development processes and we do require  
20 replacement for those trees.

- 
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Vice-Chair Monk: Those are for non-protected trees is that you're referring too?

Mr. Passamore: Correct.

Vice-Chair Monk: Ok.

Mr. Passamore: Correct, any trees on the site we would require replacement. If you look back on Page 13 under Section E-1 it talks about such replacement shall result in no net loss of canopy or increase of canopy within 15-years. And that's a policy statement that is described in the Urban Forest Master Plan and echoed in the City's Comprehensive Plan, this idea of no net loss of canopy during the development process. So, we obviously have a mechanism to replace any trees that are lost on site.

Vice-Chair Monk: Ok and I think that was just also was changing what was written prior because that was covered some extent in the older draft under C-2 where you talked about tree removal and replacement.

Mr. Passamore: Right we have (interrupted)

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1 Vice-Chair Monk: Because you took that language out.

2

3 Mr. Passamore: Cleaned up that language a bit.

4

5 Vice-Chair Monk: Yeah, ok, alright thank you. That's all I have, thanks.

6

7 Chair Lauing: Commissioner Gardias.

8

9 Commissioner Gardias: Thank you. Going again to your Section... Chapter 8.10, these are my  
10 questions. On Page 10 I think it's observation Paragraph I, obviously before J, you just provided  
11 more liberal time for excessive pruning. You changed it from 12-months to 36-months, it's at  
12 the top of the Page which I understand pretty much that the change was dictated that the  
13 excessive pruning of the forth of the leaf and stem is so significant that pretty much 36-months  
14 is more related to this removal than 12-months. Is this the reason behind this change?

15

16 Mr. Passamore: Right the way that the current version current of code reads you could prune  
17 25 percent of the tree every year and obviously that would cause significant damage over time.  
18 Whereas if you're going to prune that much of the canopy at one time we don't think it should  
19 be repeated for another 36-months.

20

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1 Commissioner Gardias: Next item is to those paragraphs that were actually were discussed by  
2 my predecessors. I'm talking about J-3 through 5 and that pretty introduces the group of the  
3 protected trees of 36-inches in diameter. So, do you know what group of trees would be  
4 protected? Do we have any understanding which properties and which trees on those  
5 properties would be affected by this change?

6

7 Mr. Passamore: We do not have an inventory of private property so we don't know where  
8 those trees are located. I think that they're fairly distributed around town with more trees in  
9 older established neighborhoods in North Palo Alto and fewer of those trees occurring in some  
10 of the newer neighborhoods such as South Palo Alto.

11

12 Commissioner Gardias: So, help me to understand because of course, a tree has its life cycle  
13 and so there may be a group of the homeowners that may be affected with this change that  
14 may be eyeing their tree for removal because it's at the end of its natural lifecycle and now they  
15 would be... those trees would fall under this paragraph. So, removal of such a tree if it's part...  
16 of course, if it meets this specification, if it's not exotic or invasive specify, then pretty much this  
17 would impose a higher burden upon those property owners if they want to remove those trees.  
18 Is this correct?

19

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1 Mr. Passamore: That's correct. If we add additional trees those property owners would have an  
2 additional burden.

3

4 Commissioner Gardias: Yes, so my observation is like this if we could either phase it in so public  
5 and those specifically they'd have those type of trees are not finding themselves tomorrow that  
6 they have to pay the additional dollars to pretty much provide the proof for the removal and  
7 additional expense. So we could either phase in those paragraphs within some period of time,  
8 say a couple of years, or just limit somehow the impact of this paragraphs by either defining the  
9 age of a tree above which this larger... this 36 would not be applicable or somehow mitigating  
10 this paragraph by some other factor to still allow those that had plans for... within the next  
11 couple of years to remove some trees so they don't burden... they don't carry a higher cost.  
12 Would that be possible?

13

14 Mr. Passamore: So other than diameter there's not an easily measurable standard that we can  
15 apply. You mentioned age and a lot of people do not know when their tree was planted or how  
16 old it is and age does not correlate well to diameter. It does correlate closer to height but  
17 there's only research associated with forest timber species that attribute that correlation  
18 between age and height and not urban tree species which grow under much different  
19 conditions. So urban tree species may have abundant light and water where their forest  
20 counterparts do not and so you can't even associate those same stand and stock tables to an

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1 urban tree of the same species. So really diameter is the only easily measurable attribute that  
2 we can utilize for the purpose of designating which trees would be protected or not.

3

4 Commissioner Gardias: Age was the first factor that came to my mind. You are the professional  
5 so I think that you can propose some other factors. There may be... you can provide some  
6 mitigation measure by going back to the history and then providing some assessment of some  
7 waves of tree planting within the City. I know that there are some periods where there's a  
8 popularity of one kind over the other and I'm sure that you can define something that would  
9 allow those folks not to be surprised and then also pay too much money for this may be  
10 justifiable protection Chapter. However, if those... if there are some people that are already  
11 planning for removal of the tree within the next 2-years I just don't want them really to be... to  
12 find themselves suddenly facing additional expense and some burden because they simply  
13 would not know about this. Because as you may see with a couple exceptions it's just us so  
14 please just propose something.

15

16 My other comment is about... just give me a second... this is on Page 10, Paragraph Removal  
17 By... this is Paragraph K-2, taking any action foreseeably to the death and this... one of those  
18 factors is reduced watering due to a landscape change. So, I was just thinking that the last thing  
19 that we want to do to water a tree... we should not be watering a tree. So, what

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1 [unintelligible]to this conclusion that reduction in watering a tree would... could cause its  
2 death? I think it's otherwise.

3

4 Mr. Passamore: So, we did have a number of instances of trees dying when we had the drought  
5 and people were encouraged to reduce their home water use. So, they just turned off water to  
6 their landscape and that killed some mature trees that were very long established on the site.

7

8 Commissioner Gardias: Yes, I heard stories like this too but I don't really know if... and a couple  
9 of trees died in my neighborhood but there was no proof that it was related to any watering  
10 so... but I will leave my argument. I was taught for many years that the last thing you should do  
11 is to water a tree but maybe that's old school. So, I'm just bringing it to your attention that it's  
12 from my perspective it sounds... I look strange but I may not be right so thank you for your  
13 comment.

14

15 Let me see if I have anything else. Yes, so there was also on Page 15 and this is the last  
16 comment. On Page 15, Paragraph A-2, it just pretty much extends the moratorium time from  
17 18-months to 5-years. So, what extends the timeline of the moratorium? Could you please  
18 explain to us?

19

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1 Mr. Passamore: We just extended the not to exceed requirement so Staff would still have the  
2 discretion to have a shorter moratorium period if that was deemed appropriate.

3

4 Mr. Lait: So, in addition to that I think there's been some concern about a possible 2-step  
5 process to avoid the regulation. And so, this is intended to make sure that if somebody does  
6 need to remove a tree that there's some serious thought into what the future next steps are  
7 going to be as opposed to doing something to satisfy City requirements and then come back  
8 later, 18-months later, with more.

9

10 Commissioner Gardias: Of course, yes, people would do this right? I was just (interrupted)

11

12 Mr. Passamore: Some Cities have classified this type of requirement as prohibiting preemptive  
13 clear-cutting of the site prior to submitting a development application.

14

15 Commissioner Gardias: Thank you, those are my questions. Thank you.

16

17 Chair Lauing: Ok I just have a few, one is a detailed one on Page 9. This is what I brought up in  
18 my original question session. In a couple cases, this is one of them under F, Director is now  
19 changed from Director of Planning and Community Environment to Public Works. So that's a

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1 shift in addition to the new roles, that's all I was pointing out. So, it's moving to utilities and  
2 away from planning, is that it?

3

4 Mr. Passamore: No, to Public works (interrupted)

5

6 Chair Lauing: I'm sorry Public Works, I'm sorry.

7

8 Mr. Passamore: And away from Planning. So, the Urban Forester position reports to the  
9 Director of Public Works and that's the reason for the changes that we wanted the alignment to  
10 be there where appeals could be heard by the Director that supervises the Urban Forester  
11 position.

12

13 Chair Lauing: Ok, fine. Many of my comments starting on Page 10, I would just say that  
14 Commissioner Summa articulated my positions on that very well so I'll just second that and you  
15 can read that one.

16

17 And then I do... I would definitely solute you for changing that to a 36-month period instead of  
18 12 on I at the top which we just talked about. That could do a lot of damage and kill trees. By  
19 the way, it's nice to be back talking about trees after 7-years on the Parks Commission and we

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1 get to talk about trees again because they have a lot to do with planning and building so it  
2 makes a lot of sense.

3

4 It's frustrating that we don't have an inventory of existing trees but is it not the case that when  
5 we pull building permits then they have to disclose at that point or just before that point you  
6 know the trees that are on the land?

7

8 Mr. Passamore: That's correct.

9

10 Chair Lauing: I'm speaking at this point about private homeowners.

11

12 Mr. Passamore: Yes, so for private development they do have to submit a tree survey and our  
13 goal for the future is to have those tree survey aggregated through GIS so that we can query  
14 the influence of development over time. Whether it's on a site by site basis or looking at a  
15 neighborhood or looking at the City over a term of months or years. We'll be able to really  
16 understand the numbers of trees that are being removed and being replaced and what that  
17 species composition looks like and how development is really influencing achieving some of the  
18 goals in our Comprehensive Plan.

19

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1 Chair Lauing: Ok, thanks. Over on Page 12, I agree with Commissioner Monk [note- Vice-Chair  
2 Monk] on the wording changes necessary there about the absence of development. I'm  
3 definitely still concerned about the language that Commissioner Alcheck raised that is B-2  
4 because it's just unclear at this point. My position is it should be really difficult to... for a  
5 homeowner to knock down a tree because it's slightly inconvenient. So, I know that you also  
6 talk about this at the top of Page 13 which it sounds like effectively somebody from the City  
7 negotiates with the homeowner, I'm just keeping my comments on private right now, to try to  
8 redesign the building. But it just sounds like arm-wrestling and I just think it should be pretty  
9 difficult because they bought the land and they know where the tree is and if it's that  
10 significant then we should just do some building around it. So, you can't ever say ever and say  
11 that you can't negotiate it but there need to be some pretty strict standards I would think. And  
12 whatever your intent is the Item B-2 is not clear to the reader I don't think.

13  
14 I support 8.10.080 A on Page 14, I think that's wise to do that and in the spirit of one of the  
15 things that we value here in the City. And just lastly this is actually reinforcing a point that  
16 Commissioner Summa but in terms of civil penalties, yeah if somebody is intentionally violating  
17 this that should be a very significant penalty. And for the cost of homes going up a significant  
18 penalty is a pretty big number if somebody violates that.

19

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1 Then, in general, I would just say that we... I think we need to retain some constraints on  
2 homeowners so respecting its private property [note -but] it's still a tree for the City. And  
3 neither one of those two things can go away so both of those constraints have to be considered  
4 in anything we do here. We can't just let the owner do whatever he or she wants on a property  
5 and we can't go the other direction either. So, I understand that that's deciding if a tree is going  
6 to die. There's some judgment in here and you can't put that all in language but give it a go.

7

8 And then lastly on the mitigation issues, when a house is put up what specifically do we  
9 require? If somebody doesn't like trees can they just put gravel on their lawn and we don't  
10 require any new trees to go up?

11

12 Mr. Passamore: No, we have prioritized replacement process where we require a certain  
13 number of trees to be replanted on site. And then the remainder can go near the site, off-site,  
14 or be paid as an in-lieu payment but in that priority trees on site get the first focus.

15

16 Chair Lauing: Right, that's what I expected you to say. And therefore, the item that was brought  
17 up by a member of the public is material such that if you require say 15 trees on a reasonable  
18 lot and the owner really didn't want them anyway and let's 12 of them die so that they have  
19 more room for whatever. Should we not have some sort of penalty for that and/or inspection  
20 privileges in 5-years?

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Mr. Passamore: We do have the authority to inspect for issued Conditions of Approval on a project. By practice, we do not know that those trees are going to die because there's not a proactive inspection that occurs 5-years after a project is granted occupancy. So that's something that procedurally we may be able to do a better job with.

Chair Lauing: And/or at least say if you're notified of a potential violation that you could look at that as an item of code enforcement.

Mr. Passamore: We do that, yes.

Chair Lauing: Ok then the mouthpiece of a neighbor would be ok to bring that to the City's attention?

Mr. Passamore: Yes, and we have a pretty engaged community of neighbors.

Chair Lauing: We do and particularly around trees as it should be. I'll close my comments there. Commissioner Alcheck did you have one other comment?

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1 Commissioner Alcheck: Yeah, I was... a couple things I forgot to mention. On 8... moving to Page  
2 13 at the top of the page this... we were talking about developing or requiring project approval  
3 removal of the protected tree may be permitted if retention of the tree where to result in a  
4 reduction of the permissible building area. I think that the second sentence here is sort of our  
5 next step. It's kind of like the right hand not talking to the left hand. I think except that not  
6 protected trees shall be removed solely to accommodate accessory structure. So, based on our  
7 experience so far reviewing accessory dwelling unit sometimes accessory dwelling unit are built  
8 when a house is quite old as opposed to a new development and the locations that are sort of  
9 optimal for placement of that accessory dwelling unit are really limited. And I think that this is  
10 an example of if you are going to remove a tree because it would result in the reduction of  
11 otherwise permissible building area for a new development or a significant remodel. I think we  
12 should apply that same flexibility to ADUs. I think we're talking about a... it may not sound like a  
13 home but it is an additional unit for housing and I think we've gotten to the place where we've  
14 not elevated the ADU as a priority. That is shouldn't be considered except in this particular area  
15 and I think that would be more in line with what we're doing.

16  
17 And then the second comment I wrote down was... I forgot to mention in 8.10.080, this is on  
18 Page 14, the first bolded bullet area, we... you added trees may be designated for protection  
19 that are significant visually or historically, provide screening between properties or are native  
20 species that are healthy and important the ecosystems. Ok, I'm a little concerned with the idea

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1 that a tree could be designated for protection simply because it affords [unintelligible] and  
2 privacy. We were talking a little bit earlier about creating maybe a little bit more clarity. I think  
3 if the tree is of a certain size at the designated height. I don't think it should be open-ended  
4 that theoretically, any diameter tree could be... could fit this description and it provides some  
5 privacy for an adjacent property owner and ok now I can't do anything with it. So, I would just  
6 suggest to you that I'm not comfortable... I don't know that this... that there will be a lot of  
7 support for the notion that trees may be designated for protection because they provide  
8 screening between properties without some other element of... without another hurdle like  
9 they are of a certain size.

10

11 Mr. Passamore: So, designation under a Condition of Approval is a discretionary decision  
12 usually made by the Planner when they're reviewing an application and so they would consider  
13 the height of the tree, the species, etc. and the value that it provides for privacy screening.  
14 Which is very important to many of our neighbors in Palo Alto when new construction occurs  
15 that we have appropriate screening between second story windows and the neighboring  
16 property.

17

18 Commissioner Alcheck: Yeah no I don't disagree with that. The issue that I'm trying to get to is a  
19 place where someone can approach it with a little bit more certainty. And our planners are not  
20 immune to the pressure of some very vocal neighbors and that can be a daunting and

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1 unrelenting person in the process of reviewing an application, so to insulate them but not just  
2 insolate them, to provide more clarity to the homeowner. I'll give you an example, there may  
3 be a tree that provides some privacy, it may be an awful looking tree and maybe the  
4 homeowner has a plan to re-landscape that area, still provide screening and there may be a loss  
5 of screening for a time but it may be more properly screened with a different format of  
6 landscaping. I guess what I'm trying to say is I think we're raising the status of trees that provide  
7 privacy without any other qualification and I don't know. Does... in your mind would a  
8 bamboo... would a significantly tall bamboo sort of rising to this level? No, maybe it doesn't.

9

10 Mr. Passamore: No that's grass.

11

12 Commissioner Alcheck: What'd you say?

13

14 Mr. Passamore: Bamboo is grass.

15

16 Chair Lauing: Or weeds.

17

18 Commissioner Alcheck: I think you understand what I'm trying to say (interrupted)

19

20 Mr. Passamore: Yes.

- 
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2 Commissioner Alcheck: And a lot of places actually will use bamboo for screening. It's not an  
3 uncommon tool for new developments to use a clumping bamboo and it's not quite as  
4 dangerous to use as some people would think. Anyways my point is I think we need a little bit  
5 more clarity there. Let's put some other modifier there that can create some more certainty so  
6 that if it's some citrus tree they... actually, I'll give you a perfect example, a Bottle Brush tree.  
7 Those are terrible. They can be terrible I should say. I've heard people complain about them  
8 and so you know you got a Bottle Brush Tree and it's just... it's making a crazy mess out of your  
9 backyard and you prefer to put a citrus tree instead. That could theoretically offer the same  
10 amount because those tend to be around 15-16-feet. So, I'd like there to be more clarity here  
11 so that someone's not sort of holding somebody else hostage to a landscape plan that they  
12 don't love.

13

14 Mr. Passamore: I understand and we can also put that in the policy manual, the Landscaping,  
15 and Tree Technical Manual, as opposed to code if you think that would be more appropriate.

16

17 Commissioner Alcheck: I mean the idea is that we're still protecting the big trees and the  
18 significant trees. Now we're starting to protect the much smaller ones that are not 36... I mean  
19 this could be any size. And so well what flexibility do we really want to give homeowners to

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1 choose how they want their own... their backyard to look when we're talking about trees that  
2 may on be 12-feet tall, 14-feet tall that still provide privacy.

3

4 Chair Lauing: Commissioner Monk [note -Vice-Chair Monk]. I'm sorry Commissioner Summa, I  
5 was looking at the wrong number here.

6

7 Commissioner Summa: So, I just want to thank you again for extending protection for trees in  
8 Palo Alto. I think it's incredibly important and I'm very happy to hear about you aggregating the  
9 information from tree surveys from applications. That's a great idea to do and I... to create a  
10 database. And I did want to acknowledge there's was a member of the public who has left, I  
11 didn't catch her name, who spoke about the problems of enforcement and maintaining  
12 required trees. So even though she left I wanted to thank her for saying that because that is a  
13 big thing and I think your best tool are nosy... for that is nosy parker neighbors like myself. And I  
14 did want to mention also that there are times when a tree is really in the wrong place on a lot.  
15 There was a situation recently in Barron Park where there had been a tiny... I think it's 853 La  
16 Para maybe where there had been a tiny cottage on this lot and there was gigantic, 350-year  
17 old Oak tree in the middle of the lot. And there was a good outcome and there was a creative  
18 solution architecturally to... that can really be applied in that kind of situation. So, I don't see  
19 any of these rules as being draconian and I think they will result in a much-improved experience  
20 for everyone. Thank you.

- 
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Chair Lauing: Great. Thank you, Urban Forester Walter Passamore and Staff.

Mr. Passamore: Thank you very much Commissioners, very valuable input.

Chair Lauing: Good thank you. Ok, that concludes that item and I'd like to suggest we take just about a 8 to 10-minute break to refresh ourselves and think about the next item which is the PTC bylaws and procedures.

[The Commission took a short break]

**Action Items**

Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal. All others: Five (5) minutes per speaker.<sup>1,3</sup>

3. Planning and Transportation Bylaws and Procedures

Commissioner Alcheck: (off mic) Should we try to go for 9 o'clock?

Chair Lauing: I like that idea. I like it.

Commissioner Alcheck: I'm willing to speak for... to restrict speaking to 2-minutes a person (interrupted)

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Vice-Chair Monk: You're the most verbose so.

Commissioner Alcheck: On each (interrupted)

Chair Lauing: I yield the floor to Commissioner Monk [note- Vice-Chair Monk] for that comment.

Commissioner Alcheck: On each go around if you will, I would accept that restricted.

Vice-Chair Monk: Challenge (interrupted)

Chair Lauing: This agenda item is not unfamiliar to us and we are down to five instead of seven and a lot of this we've gone over before so did you want to start with something counsel?

Mr. Albert Yang, Senior Deputy Attorney: Sure, so Chair Lauing said we've been over this several times and most of the material before you the Commission has already generally excepted. When we adjourned last time the one major outstanding issue for discussion was how is the Commission going to count its votes and how's it going to treat an abstention? In addition, I've proposed a change here to the definitions of amendments and substitute motions

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1 for clarity because that continues to be an area where Commissioners have had questions. And  
2 there are a few other minor changes towards the end of procedural rules but I'm hoping we're  
3 going to be able to get motions on both the bylaws and the procedural rules tonight.

4

5 Chair Lauing: So, we're going to go through this in terms of new changes and that starts with  
6 the yellow on I-3 is that correct? Packet Page 12?

7

8 Mr. Yang: That's correct.

9

10 Chair Lauing: So, if we can just kind of go through this page by page so we're on Page... Packet  
11 Page 12 and let's see, Commissioner... it is Commissioner Gardias that have your light on?

12

13 Commissioner Gardias: No no.

14

15 Chair Lauing: Ok.

16

17 Vice-Chair Monk: I do.

18

19 Chair Lauing: Commissioner Monk [**Note – Vice-Chair Monk**].

20

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1 Vice-Chair Monk: The section that's in yellow highlight deals with when we have two appellants  
2 possibly on a quasi-judicial matter which did happen earlier this year. And the language in that  
3 one I thought was ok, it just needed some minor edits but I don't have the original language in  
4 front of me so I don't recall exactly what was there. But in the instance of two appellants under  
5 the circumstances, if you have two appellants and based on the last part of it that they each get  
6 5-minutes for the opening presentation and 3-minutes for rebuttal, that gives them each two 5-  
7 minute... it comes to 16-minutes. So, if you have three appellants this total of 20-minutes... I  
8 just don't really follow by the total of 20-minutes if in here. And are there... is there a limit on  
9 the number of appellants?

10

11 Mr. Yang: So, this language is basically taken straight from the Council's policies and procedures  
12 for multiple appellants. There is no limit on the number of appellants. We recently had an item  
13 before the Council that I had seven appellants I believe and the rule is that when you have  
14 multiple appellants that they share 20-minutes for opening and 6-minutes for rebuttal. So, if  
15 you had two appellants each appellant would get 10-minutes for opening and 3-minutes for  
16 rebuttal. If you have three appellants each would get 6 minutes and 20 seconds for opening and  
17 2-minutes for a rebuttal. With the floor that no one will have less than 5-minutes or less than 3-  
18 minutes for a rebuttal so I guess if you had three (interrupted)

19

20 Vice-Chair Monk: Ok (interrupted)

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Chair Lauing: Regardless of the number of appellants.

Vice-Chair Monk: So, you're saying the bottom part when it's saying an individual appellant you mean when it's... when there's only one appellant is what you're saying? Is that what the bottom is referring to? However, under no circumstance shall an individual appellant.

Mr. Yang: No that means that... so we have this bank of time of appellants, that's 20-minutes for opening and 6-minutes for rebuttal. And this is... the last clauses there is saying that if you have six appellants, each of those appellant groups is going to get 5-minutes for opening. So, in total, you'll have 30-minutes of openings and 3-minutes for rebuttal each so 30-minutes for opening, 15-minutes for rebuttal. It's just ensuring that appellants get the chance to say their piece but that we're not all here for several hours.

Vice-Chair Monk: Ok thank you.

Chair Lauing: Any other questions on that one? If not, I think we'll jump over to Packet 14, Consent Calendar and that was a just clarification which we've actually already discussed that. When we say a practical time for it to be heard that could actually be that same night, we're not restricted to moving it.

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Mr. Yang: Right this was a clarification that the Commissioner requested at the last hearing.

Chair Lauing: So that's what we requested last time, was there anything else on that? Ok. Then we're over to is it 19. Albert, tell me if I skip anything but I think we're over to 19 now and this is what you outlined, to begin with, but we talked about substituting amendments and motions. Sorry, I shouldn't have used the word substitute. Putting in separate classifications discussion about amendments so let's talk about J first, see if there are questions about J. So, this is an unfriendly amendment to a motion, everybody understands that process? Ok so then we're onto K, substitute motion and there's been a lot of discussion about this in the last few months. So (interrupted)

Vice-Chair Monk: I don't support substitute motions. I think that motions should be heard and debated so I would support taking out to have the ability to have a substitute motion. Shall I make a motion to remove this provision?

Chair Lauing: You can.

MOTION #1

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1 Vice-Chair Monk: I move to remove subsection K on substitute motions.

2

3 SECOND

4

5 Chair Lauing: So, for discussion purpose so we can discuss it I would second that.

6

7 Vice-Chair Monk: I'd prefer to only get a second if people actually support it rather than just for  
8 the purpose of debate.

9

10 Chair Lauing: Well the issue has been that there have been complaints about this but it's also  
11 been used a lot so I'm sort of confused on what the preference is of the Commissioners here so  
12 we can open discussion. Commissioner Alcheck is that your... I'm sorry this is not aligned  
13 tonight with the buttons.

14

15 Commissioner Alcheck: That's alright so I'll just say this look, I've been here 6 plus... 6 1/2 -  
16 years. I spent the first 4 ½-years I don't think ever experiencing a substitute motion. I mean it  
17 just never happened and it came... I think the first time I experienced it I was Chair at the time,  
18 this is last year, and I expressed my dissatisfaction with them. Particularly because I think  
19 especially when we have a Commission that is to some degree so of polarized on issues, I think  
20 allowing votes to be had is an exercise in compromise in and of itself. So, if a Commissioner

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1 puts up a motion and it fails three to four, the exercise of the Commissioner having the  
2 opportunity to see that vote, to voice their opinion is important. I think sometimes the  
3 substitute motion in some... I understand the idea of it enhancing the efficiency of the voting  
4 process. I would argue we have not seen those... the results of that efficiently. I don't think our  
5 voting process has been efficient and so I don't know that we're achieving the goals. A  
6 substitute motion turns the conversation in a different direction if a majority supports it, boom,  
7 we're done. We don't have to spend any time on that previous motion that may have not had  
8 any support.

9

10 Chair Lauing: So, are you supporting the motion that's on the table?

11

12 Commissioner Alcheck: I'm suggesting... what I'm trying to say is I would support that motion. I  
13 would have seconded it for the purpose of this discussion and I would support that motion but I  
14 will say this. My hope and I stated it last year would be that we wouldn't need a rule again it.  
15 That we would operate a process where Commissioners didn't enlist that tool out of a courtesy  
16 for the idea of allowing votes to happen. There's a part of me that does... there's a part of me  
17 that thinks we shouldn't need to restrict it. We should be restricting it on our own out of  
18 courtesy and respect.

19

20 Chair Lauing: Ok.

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20

Commissioner Alcheck: And so... it's a tool, it's used on the City Council level and so I have a little bit of a hard time saying what, we're going to take it out of our rules but I wish we didn't use it.

Chair Lauing: Well let's get everybody on the record and if we need to go back for another quickie we can, Commissioner Gardias?

Commissioner Gardias: Yes, thank you so I think that it's just one of the normal rules so I am just a little bit surprised why we would be arguing against this. I mean it would deprive us from just a normal tool that different bodies have and I think there's a value behind this. It's... otherwise there would be a risk of some others that want to move their preference as opposed to the initial motion maker. Those would be deprived of those rules and that would create a false perception of... that there's only one way of addressing some proposal. So, I think that we... it should stay and how are we going to use it is just pretty much in our hands. Thank you.

Chair Lauing: Commissioner Summa.

Commissioner Summa: So, I support what is written here in K and I actually don't feel like we've used it very much, to be honest. I don't feel like it's become some sort of a... something we've

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1 done to hurt one another's goals and to keep from hearing one another. I think I used it once  
2 since I've been on the Commission and I agree with Commissioner Gardias that it's kind of a  
3 normal tool for a body like this to have. And I think it's good when we align our procedures with  
4 the Council's also so I appreciate it for that reason and so I am in support of retaining it and the  
5 language proposed.

6

7 Chair Lauing: Ok well I haven't spoken to my second yet. Commissioner Alcheck you raised the  
8 question of efficiency, I actually think it's very inefficient and somewhat confusing because  
9 you're debating and you're going to vote one way. And then somebody puts a substitute  
10 motion up and it's kind of just the opposite and then you vote the other way on that motion.  
11 And I think it's less efficient in terms of plain meeting management. I think some people  
12 actually take offense at it because it's a bit undemocratic. I did talk with Commission Riggs who  
13 isn't here tonight so he doesn't vote but he's not a fan of this for some of those reasons as well.  
14 I've never used it at all until we got here and on the one hand I agree with everybody that why  
15 take it away because it's just you don't want to restrict tools that are there but every time that  
16 I've seen it used here I think it's just slowed things down. And we could just as easily have voted  
17 on that because the person who gets up to make the substitute motion can say I would like to  
18 defeat this motion because I want to make a substitute motion that's the opposite and you get  
19 to the same place with a little bit less bother so that's kind of my thought process. We have  
20 proven that these rules can be changed so if we leave it in and decide to change it again in a

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1 few months that's not a big deal. And I'm very respectful of my colleagues who think that it's  
2 another motion that we could use and why take it away, particularly since it's consistent with  
3 Council. And I think we're... our tone is more and more to try to be consistent with Council so  
4 that's why I'm kind of on the fence about it and that's why I value the input. Commissioner  
5 output... Alcheck.

6

7 Commissioner Alcheck: Yeah so let me respond to this, I would suggest to you that there's... I  
8 could go both ways.

9

10 Chair Lauing: Yeah me too.

11

12 Commissioner Alcheck: But the reasons for wanting to remove the process is to improve our  
13 process. Excuse me, the reason why I would support excluding that element of our discussion,  
14 the practice, would be to improve our process and to essentially give motion makers a chance  
15 to just get their vote. I would much rather see someone say you know what? I'd like to call the  
16 question. If you want to rush the process, we want to get through it, let's call the question and  
17 let's just vote because there's not enough support for this. Can we get another motion on the  
18 floor? I'd much rather see that tool used that this one. My reasons for not supporting this idea  
19 is simply tradition and maybe some idea that we should have rules that match City Councils.  
20 But after sort of hearing what you said, I thought you know what? Ok, let's say we remove it.

- 
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1 Let's say we line item delete that, 6-months from now if we feel like we've suffered as a result  
2 let's add it back in.

3

4 Chair Lauing: Yeah or to it... or to your original point, we could just as a courtesy agree that  
5 we're probably not going to use it.

6

7 Commissioner Alcheck: So, the thing is I don't that we're all in agreement on whether or not we  
8 shouldn't or should use it. And so, I think it will remain a tool that gets used and the problem is,  
9 is that it... it's like campaign finance. One party can't simply say I'm not going to use it and the  
10 other side does. It creates an unfair system so if one Commissioner uses it, other  
11 Commissioners have to use it in order for them to feel like they're not getting railroaded. You  
12 can't simply have someone... I'll give you an example, I have come to meetings having had  
13 conversations with let's say one Commissioner ahead of time, and a part of the conversation is  
14 said don't be the first one to move. I know how you feel about this issue, do not make the first  
15 motion. So now what is the benefit of me prolonging my interest in making a motion to have a  
16 discussion on a topic simply so that somebody else can make the motion and I make a  
17 substitute. Because if I go into the meeting worried that if I make the first motion someone is  
18 going to substitute and I won't get a chance to vote, so I'm telling you I think the process has  
19 been harmed. I think it would be wise to line item delete it and if we find that somehow our  
20 process has suffered because of it let's get it back. I'm happy... I would be happy to line item

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1 delete it with the condition that in December or I shouldn't say December, in 6-months we  
2 review it.

3

4 Chair Lauing: Ok.

5

6 Commissioner Alcheck: Like 6-months' time automatic review it, I would support that because I  
7 think it has harmed the way I approach our meetings and it has affected efficiency in a negative  
8 way.

9

10 Chair Lauing: I mean it shouldn't either way because we're going to vote the motions one way  
11 or the other but Commissioner Summa, you had a follow-up?

12

13 Commissioner Summa: Yeah so, I can kind of see what you're saying about this Commissioner  
14 Alcheck but can I... I would really like to ask you then why you used it if you think it's a tool that  
15 shouldn't be used because I don't... that's what I don't get.

16

17 Commissioner Alcheck: So, I've been in a situation where I've come to a meeting, made a  
18 motion and it was immediately substituted and that felt... that did not feel equitable to me. I  
19 wanted to have a vote, even if it represented a failed vote. I wanted the opportunity to say this  
20 is the motion I would support. I wanted Council to be able to see that they took a motion on

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1 this vote and went 3-4 and then they took a motion on a different... they took a vote on a  
2 different motion and it went 4-3. That's instructive because I think when our votes are very  
3 close it's important to see how the minority that represents just a one-off minority would have  
4 potentially crafted the ordinance or the motion or the approval. When a motion gets a 1-7  
5 failure, that's a different story. That may not be instructive to Staff, I mean to Council but it's  
6 the close votes and so as a result (interrupted)

7

8 Chair Lauing: But you've also been on the other side where you did a substitute motion.

9

10 Commissioner Alcheck: As a result of that happening to me too many times. I've had  
11 conversations, I've had my own strategy sessions where I come to the meeting going look, I  
12 don't want to suffer that kind of inequity. And the only way to get my vote... the only way to get  
13 the motion I would like to share is to wait and wait till finally, someone makes a motion and  
14 then participate in that same inequitable way. So, what I'm trying to say is if there's a fear that  
15 someone will do this to you then it forces you to do it to them. The only way out of it is if we all  
16 operate under the premise that we won't use it and unfortunately even though you may think  
17 we haven't used it, I'm telling you, 4-years I'd never heard of it. First time I heard of it was my  
18 first year as... maybe half a year before my year as Chair and then I think probably if you take a  
19 collection of our votes we've probably used it over 75 percent of the time in this particular year.

20

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1 Commissioner Summa: No.

2

3 Chair Lauing: No 75 percent but it's been that's all.

4

5 Commissioner Alcheck: It feels like we've been using it almost every meeting and I'm not going  
6 to... you're right it wouldn't be appropriate to just throw out a statistic but I... my feeling is that  
7 it's significant.

8

9 Chair Lauing: Go ahead, continue.

10

11 Commissioner Summa: Yes, so I wouldn't use it if I thought it was not fair or if it trampled on  
12 somebody's equality and so... but I'm also really tired of talking about this one. So... and I  
13 certainly... I can't recall... I know I used it once, I know you used it once, I just don't have this  
14 perception that it's become this cumbersome sort of stand-in for mudslinging or something at  
15 all so I don't really have a problem with it.

16

17 Chair Lauing: Commissioner Monk [**Note-Vice-Chair Monk**].

18

19 CALL THE QUESTION

20

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1 Vice-Chair Monk: Alright I didn't actually speak to the motion. Chair Lauing did sum it up for me  
2 in a lot of ways and as did some of the experiences that Commissioner Alcheck shared. I believe  
3 that it lends to nonproductive and lengthy discussions that are not germane to what's in front  
4 of us because then we start discussing other elements. And when you look at this language  
5 here, in the event of a dispute whether the presiding offer has determined whether it's an  
6 amendment or a substitute, then you can even have a whole additional side discussion on  
7 whether it's a friendly amendment and then we [unintelligible]... there's just a whole additional  
8 discussion that it lends itself too. I think its very time consuming, I think it's inefficient, I think  
9 it's sometimes confusing because we don't what motion is happening and whether the  
10 substitute is canceling it out so sometimes it's hard to follow it.

11

12 I do believe it stifles debate, that is what it does. When someone puts a motion out there that  
13 says let's do X, then someone says I'm going to make a motion, let's do Y. That basically says no  
14 more discussion on let's do X, so it completely tramples on other people in that regard. That's  
15 what it's designed to do and that can happen. It is a tool that we could use but I don't think  
16 we've been using it in that... in a productive way. I think we've been using it in a very strategic  
17 way. I know that I have been forced to use it in a strategic way when I've been concerned that  
18 an important vote was coming up and I didn't want to be the first to throw a motion out there  
19 because I would risk someone coming in and giving their substitute motion. And then I wouldn't  
20 be... have allowed to be [note – given] the opportunity to fully debate and discussion and a

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1 vote on my motion. So, it is used strategically because of the nature of the composition of  
2 perhaps this particular Commission, I don't know, but that is not how I would like to use it but I  
3 feel that I have had to use it because it's been used against me in that way; specifically, with the  
4 traffic circle. I thought we were having a very productive conversation about kids going to  
5 school and the four-way stop over at Coleridge and all of a sudden boom, I get a substitute  
6 motion, let's put in the four-way stop and my whole conversation was over before I knew it. So,  
7 I felt it was very used... very much used strategically and not in the manner in which it's  
8 intended to use.

9

10 I don't think we'll miss it if it's gone. I think we'll be more effective and efficient and differential  
11 to each other if it's gone. And if we do want to bring it back I would rather bring it back and if  
12 you have a reason other than it's because it's consistent with Council then vote to keep it in. If  
13 that's your only reason then I suggest you consider removing it for now and I would like to call  
14 the question.

15

16 Mr. Yang: Can I make a comment?

17

18 Chair Lauing: Yes, counsel?

19

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1 Mr. Yang: Ok so I believe the motion on the table right now is to remove the subsection K but I  
2 would suggest that if the goal is to eliminate substitute motions as an available tool that we  
3 would still need to keep a definition of what is a substitute motion. And then simply say  
4 substitute motions are not in order or are not allowed because there's a definite problem of  
5 what is a substitute versus what is an amendment.

6

7 Vice-Chair Monk: I would accept that amended suggestion legal guidance.

8

9 Commissioner Alcheck: And maybe (interrupted)

10

11 Chair Lauing: I would too, yeah.

12

13 Commissioner Alcheck: And maybe we could include (interrupted)

14

15 Chair Lauing: I was going to suggest that we agree to look at it in 6-months.

16

17 Vice-Chair Monk: We can bring it back any time, you're the (interrupted)

18

- 
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1 Commissioner Alcheck: I was going to say do we need more clarity on how to call the question?  
2 Do you know what I mean, how to call the vote? If someone wants to... Commissioner Summa  
3 had suggested sometimes you just... we've talked too much about something.

4

5 Chair Lauing: Oh yeah, that's called call the question.

6

7 Commissioner Alcheck: The right tool is to call the question, we rarely use that tool. I think  
8 we've only done that a handle full of times and one of those two times it failed maybe. So, we  
9 rarely do that and I think (interrupted)

10

11 Chair Lauing: That's been clarified on Packet Page 18 so I think it will be used more.

12

13 Commissioner Alcheck: Ok.

14

15 Vice-Chair Monk: And I did make a motion to call the question so that does require a vote.

16

17 Chair Lauing: Right.

18

19 Commissioner Alcheck: [unintelligible – off mic]

20

- 
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1 Chair Lauing: No, no we got that. So, did you have... were you finished because there was a call  
2 for the question there?

3

4 Mr. Yang: So, the motion to call the question also requires a second.

5

6 CALL THE QUESTION WITHDRAWN

7

8 Vice-Chair Monk: Wait, you don't have to second it if the Chair's going to move forward with  
9 calling a vote anyway.

10

11 Chair Lauing: Ok so you're withdrawing the call the question but (interrupted)

12

13 Vice-Chair Monk: Yeah.

14

15 VOTE

16

17 Chair Lauing: Let's go ahead and put it to a vote. So, all in favor of using the language that  
18 counsel has just recommended, and I can say it with the understanding that we'll look at this  
19 again in 6-months, should signify by raising their hand. One, two, three and opposed? Two. Ok,  
20 that passes 3-2.

- 
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MOTION PASSED 3(Alcheck, Monk, Lauing) -2(Summa, Gardias)-2(Waldfoegel and Riggs absent)

Vice-Chair Monk: Chair if I may on Packet Page 23, I just had an observation in the language that it could be interrupted two ways just because our English language isn't perfect. But I think however you interrupt it, it's the same outcome so you probably don't need to change it but typically you'd want to say a motion or second (interrupted)

Chair Lauing: Page 22.

Vice-Chair Monk: Packet Page 22, yeah.

Chair Lauing: I'm sorry, I thought you said 23, go ahead.

Vice-Chair Monk: Oh, perhaps I misspoke. Maybe drawn by the maker or the seconder. I think you're supposed to put consecutively... respectively... yeah, that's the word, otherwise, it looks great.

Chair Lauing: Comment on four there?

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1 Commissioner Alcheck: (off mic) And 23.

2

3 Chair Lauing: Page 23?

4

5 Commissioner Alcheck: Yeah.

6

7 Chair Lauing: Ok and no further comments on Page 22, withdraw a motion? Ok 23, I'm sorry,

8 Commissioner Alcheck.

9

10 Commissioner Alcheck: Yeah ok so I like the language that you've chosen to use in this  
11 paragraph.

12

13 Chair Lauing: Are you on 97?

14

15 Commissioner Alcheck: 97. I like the idea that an abstainer chooses not to participate in a vote  
16 and in effect consents that a majority of Commissioners present in voting may act for him or  
17 her. I like that idea. I think that if you're... that what you're essentially saying is that if three  
18 people abstain you would need three of the remaining participants... three of the remaining  
19 four participants to vote yes. And I'm comfortable with three... the only scenario that this  
20 particular issue comes up for me is let's say tonight we are five, let's say we're talking about

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1 something and two Commissioners abstained and let's say the three of us on this side of the  
2 table voted and it was 2-1. To me, there's something problematic about two Commissioners of  
3 seven doing Commission business and one of the things that I sort of think we should consider  
4 is if... what are the reasons for abstention? We're not talking just like meeting minutes here,  
5 when we're talking about an important issue that is quasi-judicial or of that sort of significant, if  
6 you're abstaining is it do you need more time? Do you need... is it an issue where you feel like  
7 Staff has not proved enough clarity? What would it take for your abstention to be consider...  
8 why not vote no if you're unprepared to support an action than an abstention? It's only an issue  
9 for me when we get down to these smaller numbers and so if I were to change this my... I  
10 would suggest a comma after we act for him or her, however, at no less than three  
11 Commissioners can carry it. That's already a minority in terms of our... so that's my only  
12 concern is that we get into a situation where if we have abstentions and then two people and  
13 (interrupted)

14

15 Chair Lauing: I'd like to hear from (interrupted)

16

17 Commissioner Alcheck: If I was in that situation, if I knew someone was going to abstain, I'd be  
18 like listen why are you abstaining because I'd rather we get more people here to support our  
19 action than not.

20

- 
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1 Chair Lauing: We talked about that before and I'd like to hear from counsel on why that's not in  
2 this language.

3

4 Mr. Yang: I didn't make any changes along those lines simply because the Commissioner  
5 continued this discussion until tonight but it's certainly something we could include to say that  
6 a motion requires a minimum of three affirmative votes or two affirmative votes to carry.

7

8 Chair Lauing: Ok let's get some discussion on that.

9

10 Commissioner Alcheck: So, to make this simple I... if I may? I would propose that we edit this to  
11 suggest that... and maybe we want to make it... maybe we want to create a hurdle, quasi-  
12 judicial votes would require a minimum of three. If you want to have a study session and two  
13 people abstain and two... you know, fine, whatever but if it's a significant decision I just feel like  
14 Commissioners should be urged to participate. Get what you need to say yes or no, this  
15 community deserves that sort of vote and so maybe it should say for quasi-judicial or I don't  
16 know, there's another category that I'm maybe missing here, items (interrupted)

17

18 Chair Lauing: Or you could say action items other than minute approval.

19

20

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1 MOTION

2

3 Commissioner Alcheck: Legislative, quasi-judicial or legislative items require a minimum of  
4 three votes in the affirmative. That would make me more comfortable with this. That would be  
5 my.... Let me make... let me suggest a motion that would add that language.

6

7 Vice-Chair Monk: I thought that language was in there.

8

9 Chair Lauing: No, that's why I just asked for... ok so Commissioner Gardias's light is on, let's get  
10 some commentary on this one.

11

12 Commissioner Gardias: Thank you, yes, so I had the same concerns that pretty much the rule as  
13 it's written today would allow to some ordinance being passed by pretty much a couple of  
14 voting members of this Commission. So, I think it would not be acceptable because whatever  
15 the reason of abstention maybe it would create a perception that some items are being passed  
16 by a minority of this Commission. So, I'm not sure if the three [unintelligible], so I agree with  
17 some minimum threshold or some other verbatim that would sustain a minimum. I don't know  
18 if three is the right threshold or (interrupted)

19

- 
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1 Commissioner Alcheck: I'm sorry Commissioner Gardias, just so I'm... just to provide clarity, the  
2 only reason I selected three is because we have a minimum requirement of four Commissioners  
3 present and so by definition currently three can carry the day on Commission business because  
4 we have a minimum of four. That was the only reason (interrupted)

5  
6 Commissioner Gardias: I understand so yes, I'm not really sure if three is the right number or it  
7 should be a different number so maybe the Council could help us with some parliamentary  
8 rules for some minimum... for the minimum passage of the (interrupted)

9  
10 Chair Lauing: Minimum affirmative numbers.

11  
12 Commissioner Gardias: Exactly.

13  
14 Mr. Yang: So, this is purely an item of policy for the Commission but I do... I have heard that  
15 there's a motion and I'm not sure if there's a second yet.

16  
17 Chair Lauing: What was the last part you said?

18  
19 Mr. Yang: There's a... Commissioner Alcheck made a motion and I haven't heard a second yet.

20

- 
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1 Chair Lauing: Oh ok.

2

3 Commissioner Alcheck: I was suggesting for the purpose of debate [unintelligible].

4

5 SECOND

6

7 Chair Lauing: Yeah, I'll second that. Where you done with your comments? We have other lights  
8 so we can come back. Commissioner Monk [note -Vice-Chair Monk].

9

10 Vice-Chair Monk: I believe the edits that Albert proposed should be incorporated. We're a  
11 seven-member body and if there are folks that are not here but we still have a quorum we  
12 proceed with business. That's why there's seven of us, our Council is going down to seven, I  
13 don't know that we need to have more than what's required by our own rules for voting. I think  
14 its ideal to have a greater quorum present in voting than the majority as it was written in the  
15 past. But I think that we're... because we're just simply advisory and there's already seven of us,  
16 that if we have a quorum that whatever is in front of us those folks present in voting to me is  
17 sufficient so I support it as written.

18

19 Chair Lauing: Just to (interrupted)

20

- 
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1 Commissioner Alcheck: Yeah just for clarity is that... are you saying that (interrupted)

2

3 Chair Lauing: Yes, so if it's five people (interrupted)

4

5 Vice-Chair Monk: If there's (interrupted)

6

7 Chair Lauing: I'm sorry because four people (interrupted)

8

9 Vice-Chair Monk: As written if there are four people and three people vote I'm ok with that.

10

11 Chair Lauing: So, legislation the way we do it (interrupted)

12

13 Vice-Chair Monk: Because that almost happened because traffic was horrible.

14

15 Commissioner Alcheck: What happens if there four people (interrupted)

16

17 Chair Lauing: But Action item (interrupted)

18

19 Commissioner Alcheck: And two abstain?

20

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1 Chair Lauing: Yeah action item could be 2-1 or 2 abstain and it's 2-0.

2

3 Commissioner Alcheck: Right.

4

5 Vice-Chair Monk: In that case, it doesn't pass.

6

7 Commissioner Alcheck: As it's written it does, as it's written (interrupted)

8

9 Vice-Chair Monk: Well we haven't gotten to (interrupted)

10

11 Commissioner Alcheck: That's what... my proposal is to suggest that yes, this is fine except we  
12 need at least three people. You always need at least three... the minimum majority of a quorum  
13 for quasi-judicial and legislative action.

14

15 Vice-Chair Monk: Then I would prefer that it... I would prefer the language to be that if the  
16 effect is that the motion doesn't carry to continue it on a quasi-judicial in the result of a tie.

17

18 Commissioner Alcheck: The motion would carry as written.

19

- 
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1 Chair Lauing: The motion would carry with an abstention. If there were four of us tonight and  
2 one abstained (interrupted)

3

4 Commissioner Alcheck: Two abstained.

5

6 Vice-Chair Monk: Two abstentions.

7

8 Commissioner Alcheck: [unintelligible -off mic]

9

10 Chair Lauing: Two could abstain of the four.

11

12 Vice-Chair Monk: And two support it then (interrupted)

13

14 Commissioner Alcheck: [unintelligible – off mic]

15

16 Chair Lauing: And it would be 2-0 in favor of a motion or against a motion and it would carry.

17

18 Vice-Chair Monk: Right and as it should (interrupted)

19

20 Chair Lauing: Well, that's fine, I'm just (interrupted)

- 
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1 Vice-Chair Monk: Because when... if you're abstaining then you're consenting to those present  
2 in [unintelligible].

3

4 Chair Lauing: Ok, alright so let's get Commissioner Summa's (interrupted)

5

6 Vice-Chair Monk: Otherwise you put a not vote.

7

8 Chair Lauing: Let's get Commissioner Summa's input.

9

10 Commissioner Summa: (off mic) I agree with Commissioner Monk [note- Vice-Chair Monk]. If  
11 we have a quorum of this body we should conduct business. If there's four present and two  
12 abstain then it's... they could have also voted no, the abstainers, and carried the vote. I don't  
13 see what the difference is. Sorry, do I have to repeat it all?

14

15 Chair Lauing: Yeah please repeat.

16

17 Commissioner Summa: I agree with what Commission Monk [note-Vice-Chair Monk] said. If we  
18 have a quorum of this body, we should conduct business and that's our responsibility. It doesn't  
19 make any difference because if two abstain and one says yes, the abstainers could have voted  
20 no. They choose... they chose to abstain in this case. I would be amenable to saying on a quasi-

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1 judicial matter because it's kind of a different thing. There could be an automatic that we would  
2 continue it if in the case that there was only one affirmative vote just to try to get it heard by a  
3 larger body... a larger group of this body. But I don't see... you know no ones... you wouldn't... if  
4 there were two of you that disagreed with whatever the motion was and you felt strongly  
5 about it, you would vote no, and it would carry. So, I don't really see what the need for this at  
6 all and I think its sort of getting down into detail that is sort of speculative about how people  
7 might use abstentions which I don't really think you can do. So, if you think it would be more  
8 fair to the applicant on a quasi-judicial matter to automatically to continue in the case there  
9 was only one affirmative vote that counted I think that would be fine.

10

11 Chair Lauing: I'll let the maker... I would actually be amenable to that. I think that's persuasive  
12 in the sense that just getting it around quasi-judicial at this point because realistically and I'm  
13 sorry to sort of say it this way but regardless of why you're not prepared to vote no, you're not  
14 voting. And you've had all the same chances as everybody else to do your research and to do  
15 your analysis and to listen to your fellows and if at that point you say no, I'm not going to vote.  
16 Well, you had your shot and you have a responsibility to show up and make a difference so I  
17 would be amenable to that.

18

19 Commissioner Alcheck: Yeah so just so we're clear this... my suggestion here is not out of any  
20 sympathy for an abstainer. My suggestion is that the community owed sort of thoughtful

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1 review. And we... we're seven but obviously schedules... there's a reason why we've decided  
2 collectively as a community that four is the quorum. And so, we are comfortable as a body as at  
3 City doing business with four people but the idea is that the four people will participate. And  
4 the problem is that when one or... even one of the foursomes decides to start abstaining and  
5 then you've got a vote between three people and two say yes and one says no. Well, I guess  
6 what I'm trying to say is my preference would be to count the abstentions as a vote so that the  
7 majority has to be of those present. If you're going to say the quorum is four and you've got  
8 four people, then don't say the quorum is then three for the purposes of this vote. You need a  
9 majority of a quorum to pass... to sort of enact business. The problem is that an abstainer  
10 reduces the size of the quorum in some respects. It says well we're actually going to do  
11 business with just three people who are participating and a majority of the three are going to  
12 carry the vote. So, my preference would be like listen, if you're going to say I'm abstaining, ok  
13 great, we only have four people here, then in order to pass this, we still need a majority of the  
14 people present to vote in the affirmative and that's three votes. So, you're counting the  
15 abstention as (interrupted)

16

17 Chair Lauing: A no.

18

19 Commissioner Alcheck: A vote but not in support.

20

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1 Chair Lauing: That's kind of a no. Right so (interrupted)

2

3 Commissioner Alcheck: Which by the way just so we're clear that's what we use to do. We use  
4 to treat abstentions as noes and you still needed a majority of those present. Only now we've  
5 changed our language to say... to be more clear that says an abstention is actually allowing the  
6 majority to carry and then not counting them as a part of the total that the majority should be  
7 figured into and that's my inherent problem.

8

9 Chair Lauing: Right but by changing this motion to quasi-judicial it elevates those crucial ones  
10 where our vote is most important and our (interrupted)

11

12 Commissioner Alcheck: Yeah, no and my motion (interrupted)

13

14 Chair Lauing: But wait a second, and our safety valve here is that if we're voting on something  
15 2-1 because we couldn't get any more Commissioners than that, that too says something to the  
16 Council. And they can look at who's abstained and whatever and it's still just a 2-1 and then  
17 they can do what they want with it. And/or secondarily we can say look, as Commissioner  
18 Summa said, if there's a situation where we say now we really want more people present, if  
19 you're really going to abstain then I move to continue this item. That's another way to solve  
20 that problem.

- 
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Commissioner Alcheck: Yeah so here I would suggest to you that by... first of all my motion was to elevate quasi-judicial and legislative, that would be like ordinance changes, to require a minimum of three affirmatives. That's my motion, my motion is to elevate those two scenarios to require a majority of our quorum requirement. And my point is if we do something like that we essentially apply pressure to an abstainer. You say look, if you abstain and we don't get a majority of people then this just comes back to us. I mean the next vote may be to continue which would not be a quasi-judicial... you know, anyways.

Chair Lauing: ok Commissioner Monk [note-Vice-Chair Monk].

Vice-Chair Monk: I believe the language as written is far clearer than what we had before. It's very clear what... how an abstention from a vote is treated. It was not clearly written before so I definitely support the language. I don't agree that you should treat someone who is abstaining from a vote as someone who is not here because they are here. They have participated in the discussion and they have their reasons for not voting. And I feel like we need to respect that and they know that by them not voting they're consenting to the majority and that's their prerogative.

Commissioner Alcheck: But they're not counted for the purposes of a majority.

- 
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Vice-Chair Monk: But they already... but we're an Advisory Board and they've given their input and they've participated in the discussion and they also invited to speak to their abstention. And they know that by not participating in the vote that they're consenting to the majority. I just think it's cleaner the way it's written now. I think it was very confusing the way it was before and I'm not really clear what the motion is on the table.

Chair Lauing: Commissioner Summa.

Commissioner Summa: Once again just briefly I agree with Commissioner Monk [note- Vice-Chair Monk] and I don't think I'd want to be put in the position of pressuring someone who chooses, who's here and makes the choice to abstain to vote. I just think that's an untenable position to put somebody in and I don't think it's... we shouldn't be pressuring people to do anything up here.

SECOND WITHDRAWN

Chair Lauing: Ok procedurally I withdraw my second.

Commissioner Alcheck: That's fine, I (interrupted)

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Chair Lauing: Notice I didn't propose a substitute motion.

Commissioner Alcheck: You could have just voted no. Yeah, its fine, look I have a feeling this won't happen... first of all, I don't know that we've ever had two abstentions but (interrupted)

Chair Lauing: Ok unless there are any other suggested changes to that item then the text stands as edited by counsel. Thank you.

MOTION FAILED DUE TO THE LACK OF A SECOND

Vice-Chair Monk: Chair I did have one comment (interrupted)

Chair Lauing: Oh, I'm sorry go ahead.

Vice-Chair Monk: on Packet Page 29 for Staff (interrupted)

Chair Lauing: Oh yeah, we're just going over there now.

- 
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1 Vice-Chair Monk: At the bottom of that page, Section D study sessions. I think there's some  
2 language there that you might want to consider cleaning up in regards to public comment  
3 based on our practice.

4  
5 Mr. Yang: Yes, I understand that and I guess I would suggest that we take out the language  
6 saying that public comment would be held at the end of a study session. Just delete that  
7 sentence and... Packet Page 29. The current rules for some reason say that public comment will  
8 be taken at the end of a study session. I think we'll just delete that sentence and that will be  
9 more consistent with actual practice.

10  
11 Vice-Chair Monk: And then in regards to retreats above, could I just invite Staff to include that  
12 maybe in just November of each year as an agenda item to solicit dates from Commissioners for  
13 an early retreat in the January/February time frame.

14  
15 Mr. Yang: Yes, we'll do that.

16  
17 Vice-Chair Monk: Thank you or after maybe... yeah, start soliciting dates at the end of the year  
18 for a retreat to occur after City Council sets its priorities for that year would be the  
19 recommendation. We might forget to ask you for a retreat.

20

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1 Chair Lauing: Nah we wouldn't do that. Ok so that's the end of the procedures and we already  
2 did the bylaws, correct?

3

4 Mr. Yang: Yes, I just need a formal motion on the bylaws and a motion on the procedures as a  
5 whole with the amendments that the Commission has suggested tonight.

6

7 Chair Lauing: Can we get a motion in that regard?

8

9 MOTION

10

11 Commissioner Alcheck: I'll make a motion tonight that we adopt these new rules and guidelines  
12 with the changes that we made tonight and the previous evenings.

13

14 Chair Lauing: Need a second.

15

16 SECOND

17

18 Commissioner Summa: Second.

19

20 VOTE

- 
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Chair Lauing: Seconded by Commissioner Summa. Any other discussion? All in favor signify by raising your hand. One, two, three, four. Opposed? One. Would you like to speak to your minority view?

MOTION PASSED 4(Lauing, Summa, Monk, Alcheck)-1(Gardias)-2(Riggs and Waldfogel absent)

Commissioner Gardias: Yes, of course, I mean the only reason why I voted no is pretty much that because of the removal of the substitute motion. Of course, we can work without it but I am more concerned about some publicity, although there is nobody here in this room but we collected a number of the bad press in the past because of different reasons. And removal of this tool may contribute to follow up comments on that bad press that we collected in the past and I'm concerned about this. That's the reason, thank you.

Chair Lauing: Ok thank you.

Vice-Chair Monk: Chair may I make one comment on that?

Commissioner Alcheck: [unintelligible – off mic]

- 
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1 Chair Lauing: If you'd like, yes.

2

3 Vice-Chair Monk: I actually... I don't mean to have a dialog directly with a fellow Commissioner  
4 but I actually want to commend this Commission for taking the action to remove the substitute  
5 motion because I think it will look more cohesive and more effective as a body. And I think it's  
6 what was pitting us against each other in a lot of ways and not having a productive discussion  
7 so I actually view it quite differently and a lot more positively. And I think it's a positive step in  
8 direction of a more effective meeting management and it's still there, it's still in our code, all  
9 we have to do to reenact it is delete the last sentence that says it's no longer available to us. So,  
10 it's still there, it's still in there, and you can always revive it any time.

11

12 Chair Lauing: Ok, thank you. Is your question on the bylaws?

13

14 Commissioner Alcheck: Yeah, it's a quick question.

15

16 Chair Lauing: Ok quick question from Commissioner Alcheck.

17

18 Commissioner Alcheck: Yeah so, we sort of approved adopting it. Is there a timeframe... are  
19 they immediately (interrupted)

20

- 
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1 Chair Lauing: It's a second reading, right?

2

3 Mr. Yang: (off mic) Yes, the procedural rules are effective immediately but the bylaws... sorry,  
4 the procedural rules are effective immediately, the bylaws will... well, they will be effective at  
5 your next meeting.

6

7 Commissioner Alcheck: Ok so I assume you're doing this but it would be nice if (interrupted)

8

9 Mr. Yang: We'll circulate the [unintelligible].

10

11 Commissioner Alcheck: Yeah, that'd be great. Thank you.

12

13 Chair Lauing: Ok, we didn't quite get that one done by 9 but let's move through the rest of  
14 these items.

15

16 **Commission Action:** After various changes motion to approve Bylaws and Procedures made by  
17 Commissioner Alcheck, seconded by Commissioner Summa. Motion approved 4-1 (Gardias  
18 against, Riggs, Waldfogel absent).

19

## 20 **Approval of Minutes**

21 Public Comment is Permitted. Five (5) minutes per speaker.<sup>1,3</sup>

22 Chair Lauing: We don't have any minutes to approve.

- 
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1 **Committee Items**

2 Chair Lauing: And I don't believe we have any Committee items.

3 **Commissioner Questions, Comments or Announcements**

4 Chair Lauing: Do we have Commissioner questions, comments, and announcements and then  
5 we'll move to future agenda items. Commissioner Gardias.

6

7 Commissioner Gardias: Yes, so there's a moonlight walk and run on the 21<sup>st</sup> of September. I  
8 think we should make it compositor. No substitute motion is allowed so let's just vote for and  
9 let's all show up.

10

11 Chair Lauing: It's not in the bylaws.

12

13 Commissioner Gardias: I signed up for the run for 5k, you know you guys may run, you may  
14 want to walk, if you don't want to do either just show up and just talk to us. Thank you.

15

16 Chair Lauing: Any other comments or announcements?

17

18 Vice-Chair Monk: Just a question for Staff on the Housing Work Plan Ordinance.

19

20 Chair Lauing: Well that's what we're going to now.

- 
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Vice-Chair Monk: Oh.

Chair Lauing: We're just going to (interrupted)

Vice-Chair Monk: In the next agenda items?

Chair Lauing: Yeah so September 26<sup>th</sup>, we still look like we're on track for that?

Mr. Jonathan Lait, Assistant Director of Planning: Yes.

Vice-Chair Monk: Good answer.

Chair Lauing: Good answer and the roof deck as well? Did those two items look like they're going to hold?

Mr. Lait: The roof deck is going to be in October and the Palo Alto Housing Wilton Court texted amendment... excuse me, zone change will be presented on the 26<sup>th</sup> of September.

Chair Lauing: Oh really? So, we're doing Wilton Court the same night as the Housing Work Plan?

- 
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1

2 Mr. Lait: Yes.

3

4 Chair Lauing: Ok and then looking forward literally, October 10<sup>th</sup> the TMA study session?

5

6 Mr. Lait: Tentative.

7

8 Chair Lauing: Tentative, ok.

9

10 Vice-Chair Monk: I thought Council voted on that house roof deck. Why is it coming to us?

11

12 Mr. Lait: They reviewed a pre-screening application which is a requirement of the code for  
13 policy changes and they've now submitted their formal application. And so, we have reviewed  
14 that and we are getting it scheduled for Commission review.

15

16 Vice-Chair Monk: Ok. Are they putting a swimming pool up there?

17

18 Mr. Lait: I don't believe so.

19

20 Vice-Chair Monk: Wake up people, I was kidding, I made a joke.

- 
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Commissioner Gardias: Is (interrupted)

Chair Lauing: So, and then (interrupted)

Commissioner Summa: [unintelligible – off mic]

Vice-Chair Monk: I asked if they are putting a swimming pool on the deck.

Commissioner Gardias: Is there a presence required... is my presence required at the upcoming Council meeting? Is there something that Council would be hearing from our past discussions?

Mr. Lait: Your presence is not required.

Commissioner Gardias: Thank you.

Chair Lauing: And you still... we're still intending to do the Housing Ordinance again on 10/10 as of now?

Mr. Lait: Tentatively scheduled for 10/10.

- 
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Chair Lauing: Right, ok. Any other comments from Commissioners on the future agenda items?

In that case, I would entertain a motion for adjournment.

MOTION

Commissioner Alcheck: Motion to adjourn. Do we need a motion to adjourn?

Chair Lauing: Yeah.

Commissioner Alcheck: No.

Chair Lauing: He called me on its last time so I'm staying with it. Ok, Alcheck said yes.

SECOND

Vice-Chair Monk: I'll second.

Chair Lauing: Monk says second.

- 
1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
  2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
  3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 Commissioner Alcheck: I've never heard of that.

2

3 Chair Lauing: Counsel said last time.

4

5 Commissioner Alcheck: Motion to adjourn.

6

7 Chair Lauing: Meeting is adjourned.

8 **Adjournment**

9 9:23 pm

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# 1 Palo Alto Planning & Transportation Commission

2 Commissioner Biographies, Present and Archived Agendas and Reports are available online:  
3 <http://www.cityofpaloalto.org/gov/boards/ptc/default.asp>. The PTC Commission members are:

4  
5 Chair Ed Lauing  
6 Commissioner Michael Alcheck  
7 Commissioner Asher Waldfogel  
8 Commissioner Przemek Gardias  
9 Vice Chair Susan Monk  
10 Commissioner William Riggs  
11 Commissioner Doria Summa

12  
13 Get Informed and Be Engaged!

14 View online: <http://midpenmedia.org/category/government/city-of-palo-alto> or on Channel 26.

15  
16 Show up and speak. Public comment is encouraged. Please complete a speaker request card  
17 located on the table at the entrance to the Council Chambers and deliver it to the Commission  
18 Secretary prior to discussion of the item.

19  
20 Write to us. Email the PTC at: [Planning.Commission@CityofPaloAlto.org](mailto:Planning.Commission@CityofPaloAlto.org). Letters can be  
21 delivered to the Planning & Community Environment Department, 5<sup>th</sup> floor, City Hall, 250  
22 Hamilton Avenue, Palo Alto, CA 94301. Comments received by 2:00 PM two Tuesdays preceding  
23 the meeting date will be included in the agenda packet. Comments received afterward through  
24 2:00 PM the day of the meeting will be presented to the Commission at the dais.

25  
26 Material related to an item on this agenda submitted to the PTC after distribution of the  
27 agenda packet is available for public inspection at the address above.

## 28 Americans with Disability Act (ADA)

29 It is the policy of the City of Palo Alto to offer its public programs, services and meetings in a  
30 manner that is readily accessible to all. Persons with disabilities who require materials in an  
31 appropriate alternative format or who require auxiliary aids to access City meetings, programs,  
32 or services may contact the City's ADA Coordinator at (650) 329-2550 (voice) or by emailing  
33 [ada@cityofpaloalto.org](mailto:ada@cityofpaloalto.org). Requests for assistance or accommodations must be submitted at least  
34 24 hours in advance of the meeting, program, or service.

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