



SUMMARY MINUTES

Policy & Services Committee
Regular Meeting
August 10, 2021

The Policy and Services Committee of the City of Palo Alto met on this date in virtual teleconference at 7:00 P.M.

Present: Kou, Stone, Tanaka

Absent:

Council Member Kou requested that item 2 be taken before item 1.

MOTION: Council Member Kou moved and passed unanimously to reorder the agenda and take item 2 before item 1.

PUBLIC COMMENTS: None.

MOTION PASSED: 3-0

Oral Communications

None.

2. Office of the City Auditor Presentation of the Asset Capitalization Audit Activity Report.

City Auditor Kyle O'Rourke presented the Asset Capitalization Audit Activity Report to the Policy and Services Committee (Committee). The objectives of the audit were to identify the cause of the \$12.6 million capital asset adjustment made during Fiscal Year (FY) 2020. Also, to determine whether adequate controls are in the place to ensure the costs are properly categorized and recorded in accordance with the accounting policy and relevant accounting standards. The \$12.6 million adjustment was made in several Capital Improvement Project (CIP) accounts. Those costs were improperly recorded as capitalizable costs when they should have been recorded as expenses. This occurred due to an incomplete execution of a key internal control. Administrative Services Department (ASD) Staff realized that there was an error and worked to figure out why there was growth in the accounts. The auditor Staff's recommendation is to explore the use of technology to segregate capital costs and expenses; review CIP accounts periodically to ensure expenses are removed and costs for

SUMMARY MINUTES

completed assets are reclassified in a timely manner; improve internal controls for more frequent review of capital improvement adjustments for accounts and; enhance the construction in the progress section in each policy. City Auditor Staff have received concurrence from ASD as well as the City Manager's Office on the recommendations. After receiving approval from the Committee, Staff will present the audit to City Council (Council), and then periodically review the findings of the audit to ensure that the recommendations were accepted and adopted.

PUBLIC COMMENTS: None.

Council Member Stone appreciated the report and found it to be thorough, clear, and concise.

Council Member Tanaka agreed that the report was very thorough. He agreed that it is tricky to know what costs should be capitalized and what should be an expense. He was intrigued that Staff caught the error themselves, but he predicted that there may be other accounts that have errors. He suggested that baselines be established for all accounts and compare those against surrounding Cities.

Mr. O'Rourke agreed that Staff will be conducting a trend analysis in the next Risk Assessment. In terms of benchmarking, he confirmed that can happen but Palo Alto (City) has to determine what should be benchmarked.

Council Member Tanaka restated that many times the Staff reports do not contain baselines which makes it hard to make data-driven decisions. Also, the Staff reports need to be more transparent, straight forward, and data should be easily accessible.

Assistant Director of Administrative Services Christine Paras confirmed that the Annual Audit does do an analytical review. Also, in the beginning of the Annual Report there is a management discussion and analysis that highlights the variances that can be observed from year-to-year.

Council Member Tanaka emphasized that having comparable makes it easier for folks to understand. Also, the public should have the most relative information available up front.

City Manager Ed Shikada disclosed that Staff recognizes that the Waste Water Rates that were present to Council in a prior meeting were relatively late due to a multi-month review process done by the Finance Committee and Council. He stated that Staff hears Council Member Tanaka's comments but noted that benchmarking is a part of the Council's decision-making process as a part of the budget each year.

SUMMARY MINUTES

Council Member Tanaka disagreed that there were City comparisons in the Waste Water Rate Staff report.

Council Member Kou reminded the Committee that the Waste Water Rates are not part of the agenda item.

Council Member Tanaka asked what can be added to the report to increase transparency for all reports.

City Attorney Molly Stump suggested that the Committee discuss best practices as a topic item for a future meeting to allow Staff time to prepare comments on a global assessment and allow for public comment.

Chair Kou agreed with Ms. Stump's remark.

Council Member Tanaka concurred.

Chair Kou found the presentation to be sufficient. She encouraged Staff to continue to provide their reports and presentations as is.

MOTION: Council Member Stone moved, seconded by Council Member Tanaka for the Policy and Services Committee to:

- A. Accept the Asset Capitalization Review report and corresponding recommendations for improvement; and
- B. Forward the Asset Capitalization Review report to City Council on the Consent Calendar.

MOTION PASSED: 3-0

1. Review and Discuss Proposed Amendments to the Tree Protection Ordinance (Title 8 of Palo Alto Municipal Code) and Recommendation to Council on Potential Amendments to the Ordinance.

Public Works Director Brad Eggleston announced that the ordinance was last updated in 2001. The ordinance, as is, does not reflect current Staff titles, changes to the Tree Technical Manual, the 2030 Comprehensive Plan, the Sustainability/Climate Action Plan (S-CAP), or the 2015 Urban Forest Master Plan. Also, there is new legislation that is not reflected in the Tree Protection Ordinance. He acknowledged that the process to update the ordinance has taken a long time.

SUMMARY MINUTES

Acting Urban Forrester Peter Golinger disclosed that there are several major items in the Urban Forest Master Plan that are reliant upon updates to the Tree Ordinance. Those items include achieving a greater percentage of native and drought-tolerant species; ensure no loss of benefits; increase habitat, health and social benefits; strive for no net loss and increase canopy cover and; minimize the negative effect on the urban forest from development. Staff noted that several items still need further studying such as the protected tree list, public trees permits, appeals, and prohibited acts.

Mr. Eggleston added that Staff will be conducting additional public engagement for feedback on the new draft ordinance, an additional review by the Architectural Review Board (ARB), and explore potential Staffing impacts by expanding the protected tree section. Staff will be seeking City Council (Council) guidance on conducting further public engagement in September of 2021, then conduct public outreach and have a study session with the ARB in October through December of 2021, then return to the Policy and Services Committee (Committee) in February of 2022, and seek adoption from the Council in April of 2022.

PUBLIC COMMENTS:

Dave Armstrong, representing Canopy, stated that updating Palo Alto's (City) Tree Protection Ordinance is a top priority. Canopy would like to see the City expand the list of protected species, protect more trees during development, and simplify and enhance the requirements to replace trees. Canopy supports Staff's proposed changes to Section 8.10.050.

Jeff Greenfield spoke on behalf of himself and is a member of the resident Ad- Hoc group who reviewed the ordinance. He reported that the resident Ad-Hoc group has submitted recommendations for consideration. The goal of the ordinance is to sustain the urban canopy. He summarized several recommendations that were included in their written letter. The group encouraged a formal arrangement for the Parks and Recreation Commission (PRC) to serve has a forum for community urban forestry issues and advise Council on related matters. He concluded that the best ordinance reflects community values.

Winter Dellenbach addressed Section 8.10.050 and announced that the resident Ad-Hoc resident group has recommended significant changes to section A through E to ensure that the language supports, rather than weakens, the tree protections added else ware in the Tree Ordinance. Any modifications to 8.10.050B should be based on zoning, not on a particular use allowed in the zoning. Regarding tree replacement, she agreed with Staff that there should be no net loss of canopy. She strongly encouraged

SUMMARY MINUTES

the Committee to adopt the recommendations made by the resident Ad-Hoc group.

Doria Summa spoke on behalf of herself and is part of the resident Ad-Hoc group that worked on the ordinance. She noted that the appeal process listed in Municipal Code Section 18.77 and 18.78 should apply to protected tree removal applications. She encouraged the Committee to adopt all recommendations made by the resident Ad-Hoc group and that all applicable sections in the Municipal Code be updated to reflect the changes.

Karen Holman spoke as part of the resident Ad-Hoc group. She acknowledged that the resident Ad-Hoc group supports updating the ordinance to reflect current Staff titles and that the ordinance should protect riparian trees.

Terry Holzemer endorsed and supported the significant changes proposed by the resident Ad-Hoc group. He agreed that trees are very important to the community and should receive special consideration. He encouraged Staff to focus on saving and preventing the loss of mature trees.

Rob Levitsky disclosed that there is an existing ordinance that protects oaks and redwoods, but the ordinance is not enforced. He expressed frustration that folks are skirting around the existing ordinance and are being allowed to remove healthy large trees.

Council Member Stone acknowledge that the trees and canopy are very important to the community and that the trees define the community. He requested Staff to elaborate on the requirements listed in Section 8.10.050 regarding prohibited acts.

Mr. Gollinger explained that the section has to do with the replacement ratio that exists in the Tree Technical Manual.

Council Member Stone asked how much of the City's tree canopy represents trees that are over 12-inches in diameter.

Mr. Gollinger answered that Staff has data related to public trees, but not private trees. For public trees, 34 percent of the trees are over 18-inches in diameter.

Council Member Stone restated that Section 8.10 only applies to landscape and preservation of trees on private property.

Mr. Gollinger could not confirm that.

SUMMARY MINUTES

Mr. Eggleston added that sometimes during City capital projects, Staff has to deal with protected trees on public property. Staff has to abide by the same requirements for protected trees, replacements, and mitigations.

Council Member Stone suggested that be included in the revised language of the ordinance. He inquired how is the value of a tree determined.

Mr. Gollinger mentioned a document called The Guide for Plan Appraisals and Staff uses the trunk replacement formula method listed in the document to place a value on a tree.

Council Member Stone noted that the resident Ad-Hoc group has suggested that the word "area" be changed to "footprint". He requested that Staff explain the difference between a building area and a building footprint.

Mr. Gollinger clarified that was a reference to buildable area as opposed to the building footprint. Buildable area means all of the area on the site, inside of the setbacks, that would be allowed for development. If a tree impacts more than 25 percent of the buildable area, the tree can be removed.

Council Member Stone questioned if it was necessary to have the ordinance come back to the Committee again in September.

Mr. Eggleston answered that it does not need to come back to the Committee for another review if the Committee supports that.

Council Member Stone declared that the sooner the ordinance is finalized, the better. He requested that the resident Ad-Hoc group explain the importance of changing the language from "street tree" to "public tree".

Mr. Greenfield explained that it is a simple clarification of what is already being used.

Council Member Stone agreed that it makes more sense to use "public tree" instead of "street tree".

Mr. Gollinger confirmed that Mr. Greenfield is correct.

Council Member Stone inquired why in the resident Ad-Hoc group recommending there be a distinction between the different trunk thickness in the definition of protected trees.

Mr. Greenfield noted that currently 11 1/2-inch valley oaks and coast live oaks are protected as well as 18-inch coast redwood. The resident Ad-Hoc

SUMMARY MINUTES

group recommends to protect trees that are larger than 18-inches that may not be listed on the protected tree list.

Council Member Stone supported the recommendation that all principal urban forestry partner organizations shall be notified, but he was concerned that it may not be easy to identify which organizations should receive notice.

Mr. Greenfield emphasized that the organization Canopy should be included or any organization that is at that level of involvement.

Mr. Gollinger agreed that was Staff's interpretation as well.

Council Member Tanaka asked if drought and potential water cuts are factored into the ordinance.

Mr. Gollinger emphasized that having trees is one of the best ways to combat climate change. Staff has been promoting climate adapted or native species for projects. He acknowledged that there are several mature trees in the City that are high water users and those trees will have to be addressed in the future.

Council Member Tanaka asked if folks have to replace a dying tree with a like for like tree or can they choose a species that requires less water.

Mr. Gollinger confirmed that they can replace it with a different tree.

Council Member Tanaka inquired if the City should be strongly encouraging more drought tolerant trees.

Mr. Gollinger explained that the City is protecting redwood trees because the community sees them as value and they are the City's symbol. He restated that Staff is not encouraging folks to plant new redwoods.

Council Member Tanaka wanted to know how many trees on the proposed protected tree list are drought tolerant trees.

Mr. Gollinger answered over 60 percent of the trees on the list are drought tolerant trees.

Council Member Tanaka appreciated that the City has a large diversity of tree species. He requested a breakdown of the protected tree list in terms of water usage, likelihood to cause damage, and which trees are more suitable for a desert-like climate. He wanted to understand that further before approving more trees for the protected tree list. He suggested that Staff explore incentives that encourage residents to plant more trees. He

SUMMARY MINUTES

asked if folks are allowed to plant trees that are not on the protected tree list.

Mr. Gollinger confirmed that it is not required that folks replace a protected tree with a protected tree. Staff encourages oaks to be planted but it is not required.

Council Member Tanaka commented that oaks are drought tolerant.

Mr. Gollinger agreed that the oaks listed as native oaks are relatively drought tolerant.

Council Member Tanaka asked if there is flexibility on where a replacement tree can be planted.

Mr. Gollinger disclosed that a replacement tree is required to be planted on the site, but not specifically in the same location.

Council Member Tanaka declared it is important to have genetic diversity among the trees located in the City. He questioned if that was considered in the ordinance.

Mr. Gollinger determined that the City is endorsing a classification and a set of characteristics rather than a single species.

Council member Tanaka asked if Staff compared Palo Alto's Tree Ordinance to other Cities'.

Mr. Eggleston disclosed that it is not included in the report, but Staff does have that information.

Chair Kou noted that there is mention in the Staff report regarding the City of Menlo Park, Redwood City, and the City of East Palo Alto's ordinance.

Council Member Tanaka restated that he is interested in seeing a table that contains a more detailed comparison.

Mr. Eggleston mentioned that Staff can reach out to neighboring Cities.

Mr. Gollinger agreed that Staff can draft a comparable table.

Chair Kou wanted to know how the diameter of a tree is measured.

Mr. Gollinger explained that Staff uses a diameter tape that measures the circumference of the trunk at a standard height. The ordinance does specify how to measure a tree.

SUMMARY MINUTES

Chair Kou inquired what DBH and BDH stands for.

Mr. Gollinger remarked that DBH stands for diameter at breast height and BDH is a typo.

Chair Kou asked if the trees along the creeks fall under Valley Water's jurisdictions or does the City protect and maintain those trees.

Current Planning Manager Jodie Gerhardt explained that there is a layered effect of the different jurisdictions. Everything falls within the City's jurisdiction but other jurisdictions come into play when moving below the top of the bank.

Chair Kou appreciated Council Member Tanaka's questions regarding water hungry trees. She noted that the Sacramento Regional Water Authority have said that watering trees is exempt from water restrictions as long as water wise techniques are used. She predicted the City's trees are not exempted from the water restrictions.

Mr. Gollinger explained that the exemption allows residents to water on non-watering days or outside of watering hours.

Chair Kou asked if the City can partake in the exemption.

Mr. Eggleston clarified that because the City provides its own water, the City is not subject to Valley Water's rules. Staff can explore that further though and see what the City is enforcing in terms of water wise techniques.

Council Member Tanaka inquired what happens if a person stops watering their protected tree and it dies.

Mr. Gollinger reported that it depended on the situation, but currently it would be considered a violation.

Council Member Tanaka asked how is that balanced with the pending drought restrictions.

Mr. Eggleston remarked that Staff has the discretion on when to take enforcement.

Council Member Tanaka recommended that be clarified in the ordinance. He asked what other Cities do in that situation.

Mr. Gollinger commented that he does not have that information.

SUMMARY MINUTES

Council Member Tanaka shared that it is not fair to the residents if the City's Tree Ordinance conflicts with water restrictions.

Council Member Stone noted that the resident Ad-Hoc group has recommended language regarding protected trees and water restrictions. Overall, he supported the recommendations made by the resident Ad-Hoc group and he shared the frustrations that Mr. Levinsky expressed in his comments. In terms of the purpose statement, he suggested listing the benefits trees have on property values. He recommended that the language be cleaned up between Section 18.77 and 18.78 so that it is consistent with the changes made to Sections 8.04 and 8.10. He strongly supported elevating the Urban Forester position to an Assistant Director level. He mentioned it will be important to include required setbacks that protect trees and tree protection for open space development as well as non-residential and multi-family development. He encouraged Staff to continue to work on enforcement and penalties, and to address permeability issues in terms of artificial grass.

Chair Kou appreciated Council Member Stone's comments. She acknowledged that the topic of trees is a high priority topic and that the City takes trees very seriously. Trees provide many benefits including reducing greenhouse gas, clean the air and provide energy emission reductions. She urged Staff to expedite the process so that the new Tree Ordinance can be implemented as soon as possible. She gave her appreciation to Staff, Canopy, and the resident Ad-Hoc group for their work on the ordinance. She put forward a motion.

Mr. Eggleston clarified Staff's recommendation regarding letter H of the motion.

Chair Kou proposed different language that reflected Staff's original recommendation.

Council Member Stone suggested that the ordinance not return to the Committee and go straight to Council.

Chair Kou agreed with that recommendation.

Deputy City Manager Chantal Gaines requested that Chair Kou revise the language for letter E to reflect that Staff will evaluate elevating the position and consider where in the organization the position should be and compare that to other agencies.

Chair Kou agreed to change the language for letter E.

SUMMARY MINUTES

City Manager Ed Shikada noted that Staff will have to review Council's agenda to see if the item can be heard in September of 2021. He suggested that Chair Kou reword letter F to reflect that the PRC discussion and advising the Council will be a topic that Council will have to discuss as well as community engagement. In terms of the Urban Forester position, he agreed that there are financial impacts beyond the position itself and that elevating the position may be costlier than the Committee is anticipating.

Chair Kou agreed with City Manager Shikada's suggestions.

Council Member Tanaka asked if the City has incentives for residents to plant trees.

Mr. Eggleston stated that the City has programs that encourage planting trees.

Mr. Gollinger added that there are no financial or other incentives currently for planting trees.

Council Member Tanaka recommended that the motion include directing Staff to explore incentives for planting trees.

Chair Kou agreed.

Council Member Stone agreed.

Council Member Tanaka restated that he wanted to see a table regarding trees and what their water usage and their likelihood to cause damage.

Chair Kou believed that request belonged in the Tree and Landscape Technical Manual.

Council Member Tanaka announced he is uncomfortable protecting trees that use a significant amount of water or cause damage.

Chair Kou asked how much Staff time would it take to draft that type of table requested by Council Member Tanaka.

Mr. Eggleston mentioned that it would take a minimal amount of time to supply a table with basic information that includes water usage and growth rate.

Mr. Gollinger stated that impacts to the ground is more nebulous.

Council Member Tanaka emphasized that many folks are interested in knowing what trees are known to cause damage. He understood Staff's

SUMMARY MINUTES

comments though and agreed having two out of the three is helpful. He added he would be more comfortable expanding the list of protected trees if he knew which trees are well suited for the City's drier climate.

Chair Kou supported having Staff draft such a table as an informational item.

Council Member Stone agreed.

Council Member Tanaka wanted to see how the new ordinance compares to adjacent Cities.

Chair Kou did not support that request and wanted to focus more on the actionable items that will protect and preserve trees.

Council Member Tanaka indicated that his vote at Council will depend on that information. He did not support there being a penalty if a protected tree dies due to a resident not watering it because there are water restrictions.

Chair Kou did not support that amendment and stated that should be discussed at Council.

Council Member Tanaka wanted to understand the financial ramifications of moving the Urban Forester position to an Assistant Director level.

Mr. Eggleston remarked that Staff has not assessed that.

Council Member Tanaka mentioned that due to dire budget constraints, he could not support letter E.

Mr. Shikada acknowledged that with the expansion of duties, there is a magnitude of work that will need to be evaluated. He suggested the department investigate the volume of work in order to estimate what the financial impacts will be. He concurred that there will be salary expenses associated to the elevation of the position.

Council Member Tanaka noted that in general, he wants to promote the City's urban forest and that the canopy is an essential component.

MOTION: Chair Kou moved, seconded by Council Member Stone for the Policy and Services Committee to recommend the City Council:

- A. Accept the redline changes to the Tree Ordinance including the ERRATA presented by the resident Ad-Hoc group (Jeff Greenfield, Winter Dellenbach, Karen Holman, and Doria Summa);

SUMMARY MINUTES

- B. Direct Staff to update redline section 8.10.055 (previously 8.10.050(e) 'Tree Replacement') to include a 36 month building moratorium consistent with the staff report recommendation to, "Consider adding additional restrictions for initiating planning or development review after an approved protected tree removal in the absence of (proposed) development";
- C. Accept the recommended Ordinance changes in the staff report to sections 8.04.050(a)(1), 8.10.010, and 8.10.040(b);
- D. Direct Staff to make associated changes required in other code sections chapters to provide clarity and eliminate conflicting or circuitous language, such as:
 - i. Delete language in 18.78.010(a) referring back to 8.10.140;
- E. Evaluate and consider the reallocation within the budget for the position of Urban Forester to Assistant Director level in the Public Works Department;
- F. Discuss and direct Staff on the role of the Parks and Recreation Commission (PRC) serving as a community forum for urban forestry issues, and advising City Council on matters related to the Urban Forest Master Plan (UFMP) and other appropriate activities of the Urban Forestry (UF) section;
- G. Policy and Services recommends that Staff forward our recommendations to the Council for consideration in September; and
- H. Direct Staff to explore possible tree planting incentives and programs for the public, as well as providing information accessible to the public regarding the nature of tree species, growth, and other parameters.

MOTION PASSED: 2-1 Tanaka no

Future Meetings and Agendas

Deputy City Manager Chantal Gaines shared that there will be a race and equity update, a legislative recap, and an audit review at the September 2021 Policy and Services Committee meeting.

Adjournment: The meeting was adjourned at 9:42 P.M.