

DOCKETED

Docket Number:	19-BSTD-06
Project Title:	Local Ordinances Exceeding the 2019 Energy Code
TN #:	235920-1
Document Title:	City of Sunnyvale 2019 Agendas and Minutes
Description:	Plain text of the City of Sunnyvale 2019 Agendas and Minutes to Council and Commissions
Filer:	Danuta Drozdowicz
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	12/11/2020 1:02:43 PM
Docketed Date:	12/11/2020



City of Sunnyvale

Notice and Agenda City Council

Tuesday, December 1, 2020

5:00 PM

City Web Stream | Comcast Channel 15

Special Meeting: Closed Session - 5 PM | Regular Meeting - 7 PM

Because of the COVID-19 emergency and the “shelter in place” orders issued by Santa Clara County and the State of California, this meeting of the Sunnyvale City Council will take place by teleconference, as allowed by Governor Gavin Newsom’s Executive Order N-29-20.

- *Watch the City Council meeting on television over Comcast Channel 15, at <http://youtube.com/SunnyvaleMeetings> or <https://sunnyvaleca.legistar.com/calendar.aspx>*
- *Submit written comments to the City Council up to 4 hours prior to the meeting to council@sunnyvale.ca.gov or by mail to City Clerk, 603 All America Way, Sunnyvale, CA 94086.*
- *Teleconference participation: You may provide audio public comment by connecting to the teleconference meeting online or by telephone. Use the Raise Hand feature to request to speak (*9 on a telephone):*

Meeting online link: <https://sunnyvale-ca-gov.zoom.us/j/96111580540>

Meeting call-in telephone number: 833-548-0276 | Meeting ID: 961 1158 0540

Pursuant to the Americans with Disabilities Act (ADA) and Executive Order N-29-20, if you need special assistance to provide public comment, contact the City at least 2 hours prior to the meeting in order for the City to make reasonable alternative arrangements for you to communicate your comments. For other special assistance; please contact the City at least 48 hours prior to the meeting to enable the City to make reasonable arrangements to ensure accessibility to this meeting. The Office of the City Clerk may be reached at (408) 730-7483 or cityclerk@sunnyvale.ca.gov (28 CFR 35.160 (b) (1)).

5 P.M. SPECIAL COUNCIL MEETING (Closed Session)**Call to Order**

Call to Order via teleconference.

Roll Call**Public Comment**

The public may provide comments regarding the Closed Session item(s). If you wish to address the Council, please refer to the notice at the beginning of this agenda. Closed Sessions are not open to the public.

Convene to Closed Session

- A** [20-0729](#) Closed Session Held Pursuant to California Government Code Section 54957:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager and City Attorney
- B** [20-0669](#) Closed Session Held Pursuant to California Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATORS
Agency Designated Representatives: Tina Murphy, Director of Human Resources; Kent Steffens, City Manager; Charles Sakai, Labor Attorney
- Employee Organization: Public Safety Officers Association (PSOA)

Adjourn Special Meeting**7 P.M. COUNCIL MEETING**

Pursuant to Council Policy, City Council will not begin consideration of any agenda item after 11:30 p.m. without a vote. Any item on the agenda which must be continued due to the late hour shall be continued to a date certain. Information provided herein is subject to change from date of printing of the agenda to the date of the meeting.

CALL TO ORDER

Call to Order in the Council Chambers (Open to the Public)

ROLL CALL**CLOSED SESSION REPORT****SPECIAL ORDER OF THE DAY**

C [20-0264](#) Department of Public Safety Special Awards

ORAL COMMUNICATIONS

This category provides an opportunity for members of the public to address the City Council on items not listed on the agenda and is limited to 15 minutes (may be extended or continued after the public hearings/general business section of the agenda at the discretion of the Mayor) with a maximum of up to three minutes per speaker. Please note the Brown Act (Open Meeting Law) does not allow the Council to take action on an item not listed on the agenda. If you wish to address the Council, please refer to the notice at the beginning of this agenda. Individuals are limited to one appearance during this section.

CONSENT CALENDAR

All matters listed on the consent calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion of these items. If a member of the public would like a consent calendar item pulled and discussed separately, please refer to the notice at the beginning of this agenda.

1.A [20-0777](#) Approve City Council Meeting Minutes of November 17, 2020

Recommendation: Approve the City Council Meeting Minutes of November 17, 2020 as submitted.

1.B [20-0887](#) Amend an Existing Contract with Dahlin Group of Pleasanton for Professional Design Services of the Washington Community Swim Center (F21-047)

Recommendation: Take the following actions:
Authorize the City Manager to execute the First Amendment to an existing contract with Dahlin Group of Pleasanton, in substantially the same format as Attachment 1 to the report, increasing the not-to-exceed contract amount by \$38,000 for a new not-to-exceed contract amount of \$660,555.

1.C [20-0907](#) Adopt Two Resolutions to Summarily Vacate a Portion of Two

Slope Easements at 1265 Borregas Avenue and 1190 and 1196 Borregas Avenue

Recommendation: Adopt two resolutions to summarily vacate a portion of the two 15-foot wide slope easements at 1265 Borregas Avenue and 1190 and 1196 Borregas Avenue; and authorize and direct the City Clerk to record a certified copy of the resolutions, attested by the City Clerk under seal, with the Santa Clara County Recorder's Office.

1.D [20-0981](#) Adopt Ordinance No. 3168-20 to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code and Find that the Action is Exempt from CEQA

Recommendation: Adopt Ordinance No. 3168-20 to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15308, 15305 and 15061.

PUBLIC HEARINGS/GENERAL BUSINESS

If you wish to speak to a public hearing/general business item, please refer to notice at the beginning of this agenda. Each speaker is limited to a maximum of three minutes. For land-use items, applicants are limited to a maximum of 10 minutes for opening comments and 5 minutes for closing comments.

2 [20-0850](#) Biennial Review of Priority Needs for Human Services

Recommendation: Alternatives 1 and 3: 1) Approve the list of priority needs as stated in the staff report, excerpted from the Department of Housing and Urban Development 2020-2025 Consolidated Plan; and, 3) Approve supplemental funding in the amount of \$135,000 for human services grants for FY 2021/22 and FY 2022/23.

3 [20-0973](#) Introduce an Ordinance to amend Sunnyvale Municipal Code Chapter 19.54 (Wireless Telecommunication Facilities) and Find that the Action is Exempt from California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Sections 15061(b) (3), and 15378(b).

Recommendation: Alternative 1: Introduce an Ordinance (Attachment 2 to the report) to amend Sunnyvale Municipal Code Chapter 19.54. (Wireless Telecommunication Facilities) and Find that the Action is Exempt from CEQA Pursuant to CEQA Guideline Section 15061(b)(3), and 15378(b).

- 4 [20-0918](#) Introduce an Uncodified Ordinance Authorizing the Tax Collector to Allow Small Businesses Experiencing Financial Hardship Because of the COVID-19 Pandemic to Defer Payment of Business License Tax Until June 30, 2021, and Find that the Action is Exempt from CEQA

Recommendation: Alternative 1: Introduce an uncodified Ordinance Authorizing the Tax Collector to Allow Small Businesses Experiencing Financial Hardship Because of the COVID-19 Pandemic to Defer Payment of Business License Tax Until June 30, 2021, and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(4) and (b)(5).

- 5 [20-0864](#) Adopt a Resolution Amending the City's Salary Resolution and Schedule of Pay to (1) Update Pay Rates for Casual/Temporary Classifications to Reflect the January 1, 2021 Sunnyvale Minimum Wage, (2) Increase the Councilmember and Mayor Stipend Amounts pursuant to City Charter section 605; (3) Change Four Classification Titles in the Department of Library and Recreation Services; (4) Implement Changes to Casual/Temporary Classifications; and (5) Implement Minor Administrative Changes

Recommendation: Alternative: 1. Adopt a Resolution Amending the City's Salary Resolution and Schedule of Pay to (1) Update Pay Rates for Casual/Temporary Classifications to Reflect the January 1, 2021 Sunnyvale Minimum Wage, (2) Increase the Councilmember and Mayor Stipend Amounts pursuant to City Charter Section 605; (3) Change Four Classification Titles in the Department of Library and Recreation Services; (4) Implement Changes to the Casual/Temporary Classifications; and (5) Implement Minor Administrative Changes.

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**NON-AGENDA ITEMS & COMMENTS**

-Council

-City Manager

INFORMATION ONLY REPORTS/ITEMS

Visit <http://Sunnyvale.ca.gov/TCMAC> to view the Tentative Council Meeting Agenda Calendar (TCMAC) online. The TCMAC is updated each Thursday afternoon.

[20-0824](#) Tentative Council Meeting Agenda Calendar

[20-0841](#) Board/Commission Meeting Minutes

[20-0917](#) Information/Action Items

ADJOURNMENT**NOTICE TO THE PUBLIC**

The agenda reports to council (RTCs) may be viewed on the City's website at sunnyvale.ca.gov after 7 p.m. on Thursdays or in the Office of the City Clerk located at 603 All America Way, prior to Tuesday City Council meetings. Any agenda related writings or documents distributed to members of the City of Sunnyvale City Council regarding any open session item on this agenda will be made available for public inspection in the Office of the City Clerk located at 603 All America Way, during normal business hours and in the Council Chamber on the evening of the Council Meeting, pursuant to Government Code §54957.5. Please contact the Office of the City Clerk at (408) 730-7483 to access City Hall to view these materials and for specific questions regarding the agenda.

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the public hearing or presented in writing to the Office of the City Clerk at or before the public hearing. PLEASE TAKE FURTHER NOTICE that Code of Civil Procedure section 1094.6 imposes a

90-day deadline for the filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure 1094.5.

Planning a presentation for a City Council meeting?

To help you prepare and deliver your public comments, please review the "Making Public Comments During City Council or Planning Commission Meetings" available at <http://Sunnyvale.ca.gov/PublicComments>

Planning to provide materials to Council?

If you wish to provide the City Council with copies of your presentation materials, please provide 12 copies of the materials to the Office of the City Clerk. The City Clerk will distribute your items to the Council following the meeting.

Upcoming Meetings

Visit <https://sunnyvaleca.legistar.com> for upcoming Council, board and commission meeting information.



File #: 20-0981, Version: 1

REPORT TO COUNCIL

SUBJECT

Adopt Ordinance No. 3168-20 to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code and Find that the Action is Exempt from CEQA

BACKGROUND

The attached Ordinance was introduced at a regular meeting of the City Council held on October 27, 2020 with the following vote: 6-0-1 (Councilmember Fong recused). The City Council approved a phased Reach Code Program and introduced an ordinance for the first phase of the Program (RTC No. 20-0814). The City Council action included several modifications to the staff recommended ordinance. Council directed that the second reading of the ordinance be scheduled for December 1 (as opposed to a typical schedule of the next Council meeting) and further directed that the revised ordinance be available at least two weeks before the December 1, 2020 Council meeting, or no later than November 17, 2020.

ENVIRONMENTAL REVIEW

The action being considered is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of Regulations, Section 15308 (Class 8 - Actions by Regulatory Agencies for Protection of the Environment), Section 15305 (Class 5 - Minor alterations in Land Use Limitations) and Section 15061 of the CEQA Guidelines in that it can be seen with certainty that there is no possibility that the changes adopted will have a significant effect on the environment.

DISCUSSION

The City Council directed amendments to the Reach Code Phase 1 Ordinance fall into two categories: modifications to the list of **Exemptions** contained in Chapter 16.42 (Energy Code) and modifications to the **Electric Vehicle Charging Infrastructure and Equipment** in Chapter 16.43 (Green Building Code) of the Sunnyvale Municipal Code.

Exemptions

A. Non-residential kitchens

Council directed that there not be a blanket exemption for non-residential kitchens. Instead, any exemption to allow non-electric equipment should be determined on a case-by-case basis. The revised Ordinance presented for adoption (Attachment 2) maintains non-residential kitchens as a separate item in the list of exemptions with exemption criteria for case-by-case consideration if the applicant establishes that there is not an all-electric option for the kitchen using commercially available technology. (*SMC Section 16.42.030. Scope. Exception 4.*)

B. On-site power generators external to the building

The Council direction was to develop a new exception to cover electric sources outside of the building that are not part of the standard electrical grid (e.g., PG&E). The Council further approved that exceptions could be approved on a case-by-case basis by the Chief Building Official.

The Ordinance presented to the City Council on October 27 defines an “All-Electric Building” as a building that does not have *natural gas or propane piping within the building* (emphasis added). Based on this definition, externally generated electricity (including natural gas fuel cell technology) is allowed by the Ordinance as long as the equipment is located *outside* the building (note, this is contrary to what staff indicated at the October 27 public hearing).

Upon further research, staff determined that these alternative technologies are sometimes installed within a building (or in some cases on the roof). Therefore, staff has prepared a new exemption (*SMC Section 16.42.030. Scope. Exemption 5*) that clarifies that external power generating sources are permitted, and that any on-site power generator using natural gas or propane to fuel such equipment within the building requires the applicant to provide a third party verification that the standard electrical grid is not sufficiently reliable to meet the powers needs for the intended use of the building.

Exemption 5 in the Ordinance presented on October 27, which was the catchall exemption if the building is not able to achieve the performance compliance standard applicable to the building under the Energy Code using commercially available technology, has been renumbered as Exemption 6 in the Ordinance presented for adoption (Attachment 2).

Electric Vehicle Charging Infrastructure and Equipment (EV)

City Council directed staff to revise the October 27 Ordinance to generally increase the EV requirements for all land use types except single-family, duplexes and townhomes; requirements for unassigned spaces in these developments were added. The separate standard for affordable housing was eliminated. The requirements for hotels/motels and “other non-residential uses” were significantly increased. The following table summarizes these changes. The Ordinance presented for adoption (Attachment 2) includes these modifications in Chapter 16.43 (Green Building Code).

		October 27 Draft Ordinance	Ordinance for Adoption
Single Family, Duplex & Townhomes	Level 1	1RC	1RC
	Level 2	1RC	1RC
Unassigned spaces			Same as MF total
Multifamily Dwellings	<= 20 du Level 1	75% RC	70% RC
	<= 20 du Level 2	1/du RC	(no size limits)
	> 20 du Level 2	25% RC	30% RC
Affordable Housing	Level 1	90% RC	n.a.
	Level 2	10% RC	n.a.
Hotel and Motels	EV Capable Conduit	6% C	50%
	Level 2	-	20% RC
Office Buildings	EV Capable Conduit	30% C	35% C
	Level 1	10% RC	-
	Level 2	10% EVCS	35% EVCS
	Level 3	-	
Other Non-residential	Level 1	6% EVCS & 5% RC	same as office
	Level 2	-	same as office
	Level 3	>100 spaces: 1/100	same as office

LEGEND

C	EV Capable: Conduit provided
RC	EV Ready Circuit: Outlet provided
EVCS/EVSE	EV Charging Station: Charger installed
LEVEL 1	120V
LEVEL 2	240V
LEVEL 3	400-800V

A strike-out version of the October 27 Ordinance is provided in Attachment 1 and the final Ordinance presented for adoption is Attachment 2.

PUBLIC CONTACT

This staff report with all its attachments were published on November 17, 2020. Email notifications with links to the Report to Council and ordinance were sent to the same list of interested parties that had been noticed during the development of the Reach Codes and were noticed of the prior public hearings.

Public contact was made by posting the Council agenda on the City's official-notice bulletin board

outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at the Office of the City Clerk and on the City's website.

RECOMMENDATION

Adopt Ordinance No. 3168-20 to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15308, 15305 and 15061.

Prepared by: Trudi Ryan, Director, Community Development

Reviewed by: Jaqui Guzmán, Deputy City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Strike-out version of the October 27, 2020 Ordinance
2. Ordinance 3168-20
3. Excerpt of City Council Meeting Minutes of October 27, 2020



20-0814

Agenda Date: 10/27/2020

REPORT TO COUNCIL

SUBJECT

Approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA

SUMMARY OF COMMISSIONS ACTIONS

The Sustainability Commission considered this item on August 17, 2020, and the Planning Commission considered this item on September 14, 2020.

The Sustainability Commission voted to recommend to City Council Alternative 2 to approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential Construction Projects and Introduce a Reach Code Ordinance for Residential and Non-Residential projects, with the following modifications. The vote was 5-0-1, with Commissioner Joesten absent.

- (a) Increase the percentage of spaces that are EV-ready for multifamily residential and non-residential new construction in Phase 1.

Staff Comment: The Commission did not select a percentage of spaces to be EV ready. The current Zoning Code (Title 19 of the Sunnyvale Municipal Code) requires 12.5% of multifamily spaces to be EV capable (i.e., conduit installed and space available on the electrical panel for eventual wires to be pulled to the site where a charger could be installed). The state Green Building Code requires 10% of multifamily EV capable.

The State Green Building code requirement for non-residential is six percent EV capable, and the current city requirement is three percent EV ready.

San Jose has been suggested as a possible model from some local advocates, as well as the Silicon Valley Clean Energy (SVCE) recommendations. Several cities have adopted the SVCE/Peninsula Reach Codes recommendation. Attachment 14 provides a comparison of several local cities' EV requirements and a table of Sunnyvale's existing EV requirements, staff's initial recommendation and staff's revised recommendation. Staff has modified the recommendation to increase EV requirements to be consistent with the SVCE/Peninsula recommendations. Further description of the City Green Building Code and recommended EV charging infrastructure is below.

- (b) Move EV pre-wiring requirements (additions/remodels) from Phase 2 into Phase 1.

Staff Comment: The Commission did not define the scope of work needed to implement this requirement equitably. Pre-wiring for electric vehicle chargers during addition or altering a structure will have monetary impacts on construction costs. The cost of retrofit wiring for electric vehicles is \$1200 to \$6500 per estimates from SVCE. Keeping pre-wiring at Phase 2 will provide time to research proper implementation.

Staff recommends keeping this requirement in Phase 2 so that an appropriate threshold can be researched.

- (c) In Phase 1, eliminate Exception 1 (buildings with industrial and process loads and Exception 4 (non-residential kitchens), since these uses can be addressed, where needed, through Exception 5.

Staff Comment: Exception 1 addresses occupancies of F (Fabrication), H (Hazardous), and L (Laboratory) as defined by the California Building Code (CBC). At about two and a half percent of non-residential permits issued, applications include businesses such as chip manufacturers, defense/space systems, and medical device fabrication. Structures with fabrication, hazardous, and laboratory use also consist of other occupancies. Most buildings that enclose Fabrication, Hazardous, or Laboratory uses also include Business, Assembly, and Storage areas. The exemption proposed would only apply to the specific portions of the building that would enclose the F, H, and L occupancies. The remaining portion of the building would be required to comply with the all-electric requirement.

Exception 4 addresses non-residential kitchens. Other cities require non-residential kitchens to be all-electric but provide exceptions that result in installation of wood and gas products. Currently, restaurant staff members are not formally trained on the use of electric kitchen equipment. When training for electric versions of kitchen equipment and appropriated sized kitchen cooking equipment is widely available, electric kitchens will be feasible. Staff will propose an ordinance when all-electric appliances, with few exceptions, are feasible options for large non-residential kitchens.

Exception 5 is for unusual instances when an electric option is not available. Exceptions 1 and 4 have defined situations for the absence of electric appliances and should be listed separately.

Staff is not recommending any changes to eliminate either Exception 1 or Exception 4.

- (d) For non-residential kitchens, require Energy STAR appliances (as per the currently described Phase 2), if the exception is granted through the Exception 5 process (assumes Exception 4 is eliminated).

Staff Comment: As part of the process of moving toward all-electric non-residential kitchens, a practical step toward reducing greenhouse gases is through Energy STAR-rated appliances. A feasibility study commissioned by the California Public Utilities Commission shows the use of Energy STAR appliances will significantly reduce the carbon footprint for kitchens and increase sustainable food practices. Providing implementation during Phase 2 allows business owners to maintain food service quality and reduce greenhouse gas emissions.

Staff has revised the Ordinance to require Energy STAR-rated appliances in non-residential kitchens (even if gas cooking appliances are provided) as part of Phase 1.

- (e) Consider defining milestones to be met for implementation of Phases 3 and 4.

Staff Comment: The California Energy Commission requires Reach Code ordinances to meet cost-effectiveness studies. Cost-effectiveness is the total cost of the building and maintenance measured over the life of the project. Cost-effectiveness studies are a milestone to the implementation of Phase 3 and Phase 4 since Reach Codes cannot advance without them.

No modifications are proposed to the phased program, as the definition of the phases already include the assumption of milestones: the availability of cost-effectiveness studies.

The Planning Commission voted to recommend to City Council Alternative 2 to approve a Phased Reach Codes program and implement Phase 1 for new Residential and Non-Residential Construction Projects and Introduce a Reach Code Ordinance for Residential and Non-Residential projects, with the following modifications. The vote was 5-1-1, with Commissioner Rheume absent.

1. Require pre-wiring for electric vehicle charging if a panel upgrade is required for modifications to a residential project and the service is not underground. The requirement must be implemented during Phase 1.

Staff Comment: This amendment intends to encourage homeowners to prepare to purchase an electric vehicle when upgrading their electrical panels. Residential projects (single or multifamily) upgrade main electric panels for various reasons, and installing conduit and wiring for an electric vehicle can cost an additional \$6500 to the cost of the panel upgrade.

Staff requires time to develop a method of implementation that is equitable for all panel upgrade scenarios and is recommending no changes.

2. Exception 5 to include new construction that, using different technologies, demonstrate a greater reduction in greenhouse gas emissions than with all electric energy, as approved by the Chief Building Official.

Staff Comment: The Ordinance has been updated to include this additional option for granting an exception to the all electric requirement.

3. Specify that Phase 1 Exception 1 (F, H, and L occupancies) be granted on a case by case basis by the Chief Building Official.

Staff Comment: See discussion (c), above, for explanations. Staff is not recommending any changes.

Public Comment letters received after publication of the Planning Commission report are provided in Attachment 13 to the report.

AMENDMENTS TO THE GREEN BUILDING CODE

After this item went to the Sustainability and Planning Commissions, staff considered feedback from the Commissions and advocates and has added amendments to the City's Green Building Code (Sunnyvale Municipal Code Chapter 16.43) related to electric vehicle (EV) chargers in both residential and non-residential projects. These amendments are contained in Exhibit B of the proposed Ordinance (Attachment 2). The changes encompass the installation of various electric vehicle charger levels (voltage) and infrastructure. Silicon Valley Clean Energy has developed a Reach Code for EV charger installation that staff is recommending apply to Sunnyvale. Construction of new buildings will trigger the installation of infrastructure and in some circumstances actual chargers. The three types of infrastructure include: conduit only (EV Capable); conduit, wires, and an outlet for the charger (EV Ready Circuit); and, installation of a charger (EV Charging Station). Three levels of chargers are defined as a trickle charger (Level 1 - 120 volts), standard charger (Level 2 - 240 volts), and fast charger (Level 3 400 or greater volts). The combination of the infrastructure types with the levels of chargers provides an array of minimum construction requirements. The staff recommended the Green Building Code amendments along with other city comparisons are shown in Attachment 14. As with the changes to the City's Energy Code, the new EV charger requirements will go into effect on January 1, 2021.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential Construction Projects and Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA pursuant to CEQA Guidelines Sections 15308, 15305 and 15061.
2. Alternative 1 with Modifications.
3. Take no action and give staff direction on what should be included in the Reach Codes.

STAFF RECOMMENDATION

Alternative 1: Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42, Energy Code and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15308, 15305 and 15061.

Through a phased approach to implement Reach Codes, the City of Sunnyvale would make a positive difference in reducing green house gases and would be an aspirational example of a City's ability to go above and beyond to reduce its climate impact through aggressive prioritization and careful cost-benefit analysis. Phase 1 implementation is projected to commence January 1, 2021, and Phase 2 is planned for Summer 2021.

Prepared by: Suzanne Park, Chief Building Official

Reviewed by: Andrew Miner, Assistant Director of Community Development

Reviewed by: Nupur Hiremath, Environmental Programs Manager
Reviewed by: Trudi Ryan, Director of Community Development
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Report to Sustainability Commission, 20-0655 on August 17, 2020 and Planning Commission, 20-0783 on September 14, 2020 (*without attachments*)
2. Draft Ordinance (*with updated staff recommendation*)
3. Benchmarking with other Reach Codes
4. Wood-burning/Gas Appliances and Commercial Kitchens
5. Cost-Effectiveness Studies
6. Commercial Kitchens Study: "Energy Reduction in Commercial Kitchens"
7. Survey Results: Non-residential Reach Codes
8. Survey Results: Residential Reach Codes
9. Green Building Program
10. Public Contact

Additional Attachments for Report to Council

11. Excerpt of Minutes of the Sustainability Commission Meeting of August 17, 2020
12. Excerpt of Minutes of the Planning Commission Meeting of September 14, 2020
13. Public Comment Letters after publication of the Planning Commission report
14. EV Charger Requirements - Comparison of Cities



City of Sunnyvale

Meeting Minutes City Council

Tuesday, October 27, 2020

5:30 PM

City Web Stream | Comcast Channel 15

Special Meeting: Closed Session - 5:30 PM | Regular Meeting - 7 PM

5:30 P.M. SPECIAL COUNCIL MEETING (Closed Session)

Call to Order

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting was conducted telephonically.

Mayor Klein called the meeting to order at 5:32 p.m. via teleconference.

Roll Call

Present: 7 - Mayor Larry Klein
Vice Mayor Nancy Smith
Councilmember Gustav Larsson
Councilmember Glenn Hendricks
Councilmember Russ Melton
Councilmember Michael S. Goldman
Councilmember Mason Fong

Mayor Klein, Vice Mayor Smith and all Councilmembers attended via teleconference.

Public Comment

Public Comment opened at 5:34 p.m.

No speakers.

Public Comment closed at 5:34 p.m.

Convene to Closed Session

A [20-0833](#) Closed Session held pursuant to California Government Code Section 54956.8:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: Acquisition of 970 W Evelyn Ave, Sunnyvale, CA -

APN 165-20-017

Agency negotiator: Kent Steffens, City Manager; Chip Taylor, Director of Public Works; and Sherine Nafie, City Property Administrator

Negotiating parties: Edward Woodhall, Owner

Under negotiation: Price and terms

B [20-0667](#) Closed Session Held Pursuant to California Government Code Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency Designated Representatives: Tina Murphy, Director of Human Resources; Kent Steffens, City Manager; Charles Sakai, Labor Attorney

Employee Organization: Public Safety Officers Association (PSOA)

Adjourn Special Meeting

Mayor Klein adjourned the meeting at 6:44 p.m.

7 P.M. COUNCIL MEETING

CALL TO ORDER

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting was conducted telephonically.

Mayor Klein called the meeting to order at 7:00 p.m. via teleconference.

ROLL CALL

Present: 7 - Mayor Larry Klein
Vice Mayor Nancy Smith
Councilmember Gustav Larsson
Councilmember Glenn Hendricks
Councilmember Russ Melton
Councilmember Michael S. Goldman
Councilmember Mason Fong

Mayor Klein, Vice Mayor Smith and all Councilmembers attended via teleconference.

CLOSED SESSION REPORT

Vice Mayor Smith reported that Council met in Closed Session held pursuant to California Government Code Section 54956.8: CONFERENCE WITH REAL PROPERTY NEGOTIATORS Property: Acquisition of 970 W Evelyn Ave, Sunnyvale, CA APN 165 20 017 Agency negotiator: Kent Steffens, City Manager; Chip Taylor, Director of Public Works; and Sherine Nafie, City Property Administrator Negotiating parties: Edward Woodhall, Owner Under negotiation: Price and terms; nothing to report.

Vice Mayor Smith reported that Council met in Closed Session Held Pursuant to California Government Code Section 54957.6: CONFERENCE WITH LABOR NEGOTIATORS Agency Designated Representatives: Tina Murphy, Director of Human Resources; Kent Steffens, City Manager; Charles Sakai, Labor Attorney Employee Organization: Public Safety Officers Association (PSOA); nothing to report.

ORAL COMMUNICATIONS

Vice Mayor Smith announced details of COVID-19 testing availability at the Sunnyvale Murphy Park Building and testing availability via Santa Clara County. She also announced the current recruitment for various Boards and Commissions and applications are being accepted for the Neighborhood and Community Events Grant Program.

Kristel Wickham spoke towards the upcoming November 3 election.

Christophe LaBelle spoke about an officer involved shooting of Walter Wallace Jr. and shared support for policies that reduce violence at the hands of police officers.

Michael Johnson, Executive Director, Sunnyvale Downtown Association shared details of the Stronger Together campaign and of the Holiday Tree Lighting Celebration.

Holly Lofgren spoke towards the upcoming November 3 election and shared concerns regarding the impact of independent expenditures supporting Sunnyvale candidates on local elections.

CONSENT CALENDAR

MOTION: Vice Mayor Smith moved and Councilmember Melton seconded the

motion to approve agenda items 1.A through 1.G.

The motion carried with the following vote:

Yes: 7 - Mayor Klein
Vice Mayor Smith
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Goldman
Councilmember Fong

No: 0

1.A [20-0027](#) Approve City Council Meeting Minutes of October 13, 2020

Approve the City Council Meeting Minutes of October 13, 2020 as submitted.

1.B [20-0733](#) Approve the List(s) of Claims and Bills Approved for Payment
by the City Manager

Approve the list(s) of claims and bills.

1.C [20-0244](#) Appoint a City of Sunnyvale Community Member
Representative to the Valley Transportation Authority Bicycle
and Pedestrian Advisory Committee

Appoint Mr. Timothy Oey as Sunnyvale's community member representative for the Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee for a two-year term, which begins retroactively on July 1, 2020 and ends on June 30, 2022.

1.D [20-0804](#) Award of Contract to Kimley Horn & Associates, Inc., for Signal
Coordination and Timing Optimization (F20-144)

Take the following actions:

- Award a consultant services agreement in the amount not-to-exceed \$372,050 in substantially the same form as Attachment 1 to the report to Kimley Horn & Associates, Inc.;
- Approve a 10% contingency in the amount of \$37,205; and
- Authorize the City Manager to execute the contract when all necessary conditions have been met.

1.E [20-0363](#) Acceptance of Google Inc.'s Donation of Voluntary Bicycle and

Pedestrian Facility Improvements (Phase 1 and Phase 2) on Manila Drive/West Moffett Park Drive with an Estimated Construction Cost of \$2,575,800 and Finding of Exemption from the California Environmental Quality Act

Accept Google Inc.'s donation of voluntary bicycle and pedestrian facility improvements (Phase 1 and Phase 2) on Manila Drive/West Moffett Park Drive with an estimated construction cost of \$2,575,800 and make a finding that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c) existing streets, sidewalks, bicycle lanes and facilities involving negligible or no expansion and that does not create additional automobile lanes.

- 1.F** [20-0853](#) Ratify Vice Mayor Smith's Appointment to the League of California Cities Women's Caucus as Immediate Past President; Re-appoint Councilmember Glenn Hendricks to the Valley Transportation Authority Board of Directors as the City of Sunnyvale Representative

Council ratifies Vice Mayor Smith's appointment to the League of California Cities Women's Caucus as immediate past president and re-appoints Councilmember Hendricks to the Valley Transportation Authority Board of Directors as the City of Sunnyvale Representative.

- 1.G** [20-0906](#) CONTINUED FROM OCTOBER 13, 2020.
Approve Participation in the Bay Area Air Quality Management District Spare the Air Cut the Commute Pledge

Approve participation in the Bay Area Air Quality Management District Cut the Commute Pledge with the aspirational goal to extend remote work options by at least 25 percent for employees whose work requirements allow for that flexibility to improve air quality and quality of life for all Bay Area residents. Implementation details of the remote work policy will be determined by the City Manager.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2** [20-0814](#) Approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA

Councilmember Fong stated he is a Tesla shareholder, recused himself, and left the teleconference meeting at 7:23 p.m.

Chief Building Official Suzanne Park provided the staff report and presentation.

Public Hearing opened at 8:20 p.m.

Kerry Haywood voiced support for the ordinance and of the Reach Codes Program phase levels as presented. She shared concerns with increased demands on electric grids.

Barbara Fukumoto communicated support of the new construction Reach Codes, making exceptions to the all-electric code on a case by case basis and adjusting the electric vehicle (EV) charging infrastructure requirement to categorize hotels and motels as “other non-residential.”

Radhika Agarwal, on behalf of Sunnyvale-Silicon Youth Climate Action Team (Action Team) spoke towards modifications to the Reach Codes related to non-residential kitchens, the implementation timeline for Phase 3 and EV infrastructure requirements for hotels and motels.

Mike Serrone, on behalf of Sunnyvale Democratic Club shared support for the Reach Codes Program specifically the EV charging infrastructure requirements.

Peri Plantenberg, Co-Lead, Action Team voiced support for the Action Team’s recommendations for the Reach Codes.

Kaushik Tota, President, Sunnyvale Youth Public Policy Institute (Institute) and Action Team member spoke towards strengthening the proposed Reach Codes related to data servers and non-residential kitchens.

Annabelle Law, Action Team member communicated support for the Action Team’s recommendations for the Reach Codes.

Shruti shared support for an all-electric reach code and for an implementation timeline for Phase 3.

Bruce Paton voiced support for the phased approach recommendation for the Reach Codes program. He encouraged Council to consider increasing the EV

installation requirements and combining Phases 1 and 2.

Rani Fischer communicated support for making exceptions for commercial kitchens on a case by case basis.

Rathik Murtinity, Institute member shared support for increasing Sunnyvale's EV charging infrastructure.

Doug Kunz urged Council to consider eliminating the exceptions related to non-residential kitchens and buildings with industrial and process loads.

Kristel Wickham, Sustainability Commission Chair spoke towards the Commission's recommendations for the Reach Codes program; specifically, eliminating Exception 1 (buildings with industrial and process loads) and Exception 4 (non-residential kitchens).

Kristel Wickham, speaking on her on behalf voiced support for establishing a Phase 3 implementation timeline.

Sannath Mathapathi, Institute member communicated support for increasing EV requirements for hotels and motels, specifically changing section 5.106.5.3 to increase the percentage of parking spaces required to be EV-ready.

Anika Khandavalli, Action Team member shared support for the Action Team's recommendations for the Reach Codes.

John Supp, Silicon Valley Clean Energy (SVCE) spoke towards level 1 EV chargers and shared details of the free technical assistance program offered by SVCE.

Bruce Nagel voiced support for installation of software controls that manage EV charging infrastructure.

Mallory Mitton, Action Team member communicated support for the Action Team's recommendations for the Reach Codes.

James Tuleya shared support for Reach Codes related to all-electric and EV infrastructure. He spoke towards making exceptions for commercial kitchens on a case by case basis.

Public Hearing closed at 9:09 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Goldman seconded the motion to approve Alternative 2: approve a Phased Reach Codes Program and implement Phase 1 for new Residential and Non-Residential construction projects and introduce an Ordinance to amend Chapter 16.42 (Energy Code) and Chapter 16.43 (Green Building Code) of Title 16 (Buildings and Construction) and find that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15308, 15305 and 15061 with the following modifications:

- Develop a new all-electric exception to cover other electric sources not on the grid; Set Electric Vehicle Charging Infrastructure Requirements:

- New multi-family residential construction (no size project limitations) have 70% of spaces at EV capable – conduit provided and 30% at level 2 EV ready circuit – outlet provided;

- Hotels and motels have 50% of spaces at EV capable – conduit provided and 20% at level 2 EV ready circuit – outlet provided;

- Office building have 35% of spaces at EV capable – conduit provided and 35% at level 2 EV charging station; and

- Single-family, including duplexes and townhomes, have unassigned spaces at 70% with EV capable – conduit provided and 30% at level 2 EV ready circuit – outlet provided.

FRIENDLY AMENDMENT: Councilmember Goldman offered a friendly amendment that “other non-residential” have 20% at level 2 EV charging station and affordable housing be the same as market rate housing (70% of spaces at EV capable – conduit provided and 30% at level 2 EV ready circuit – outlet provided).

Councilmember Hendricks restated the friendly amendment that “other non-residential” have 35% of spaces at EV capable – conduit provided and 35% at level 2 EV charging station, that there be no “affordable housing” category and accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Mayor Smith offered a friendly amendment to make exceptions for commercial kitchens on a case by case basis.

Councilmember Hendricks declined to accept the friendly amendment.

Following discussion, Councilmember Hendricks clarified the motion that new

multi-family residential construction have 70% of spaces at level 1 ready circuit – outlet provided, instead of EV capable – conduit provided.

FRIENDLY AMENDMENT: Councilmember Melton offered a friendly amendment to eliminate exception 4 – non-residential kitchens.

Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Mayor Smith offered a friendly amendment to add a new exception for natural gas fuel cell technology on a case by case basis.

Councilmember Hendricks accepted the friendly amendment.

Following discussion, Vice Mayor Smith stated the intent of the friendly amendment is to include exceptions for a variety of additional energy sources not just natural gas fuel cells.

FRIENDLY AMENDMENT: Councilmember Melton offered a friendly amendment for the second reading of the Ordinance to occur at the December 1, 2020 Council meeting.

Councilmember Hendricks accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Melton offered a friendly amendment to direct staff to conduct public outreach to organizations in the field of affordable housing.

Councilmember Hendricks declined to accept the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to direct staff to make the Ordinance available for public review by November 17, 2020 and distribute to interested parties.

Councilmember Hendricks accepted the friendly amendment.

City Clerk David Carnahan read the Ordinance title for the record.

The motion carried with the following vote:

Yes: 6 - Mayor Klein
Vice Mayor Smith
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
Councilmember Goldman

No: 0

Recused: 1 - Councilmember Fong

Council took a recess at 10:41 p.m. and reconvened at 10:50 p.m. with Mayor Klein, Vice Mayor Smith and Councilmembers Larsson, Hendricks, Melton and Goldman present via teleconference. Councilmember Fong returned at 10:50 p.m.

3 [20-0799](#) Award of Bid No. PW20-16 to Hensel Phelps Construction Co. for Civic Center Modernization Phase 1

Assistant City Engineer Allison Boyer, Assistant Public Works Director Jennifer Ng, Public Works Director Chip Taylor and City Manager Kent Steffens provided the staff report and presentation.

Public Hearing opened at 11:25 p.m.

Alex Caraballo, International Brotherhood of Electrical Workers (IBEW) shared concerns with the bid and project. He suggested Council deny the project unless a suitable electrical contractor is used.

Will Smith, Business Representative, IBEW Local 332 spoke towards “low-road” contractors and voiced concerns regarding the bid.

Mike Serrone communicated support for the project and spoke towards the 6-week bid process.

Public Hearing closed at 11:35 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Melton seconded the motion to approve Alternative 1:

- Award a construction contract in substantially the same form as Attachment 2 to the report in the amount of \$174,116,999.92 to Hensel Phelps Construction Co.;

- Authorize the City Manager to execute the construction contract when all necessary conditions have been met; and
- Approve an 8.2% construction contingency in the amount of \$14,277,594.

The motion carried with the following vote:

- Yes: 4 -** Mayor Klein
Councilmember Larsson
Councilmember Hendricks
Councilmember Melton
- No: 3 -** Vice Mayor Smith
Councilmember Goldman
Councilmember Fong

MOTION: Councilmember Hendricks moved and Vice Mayor Smith seconded the motion to hear Agenda Item 4:

The motion carried with the following vote:

- Yes: 4 -** Mayor Klein
Councilmember Larsson
Councilmember Hendricks
Councilmember Fong
- No: 3 -** Vice Mayor Smith
Councilmember Melton
Councilmember Goldman

- 4** [20-0314](#) Introduce an Ordinance to Amend Chapter 9.28 (Regulation of Smoking) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code to Prohibit the Sale of Flavored Tobacco Products (Study Issue)

Neighborhood Preservation Manager Christy Gunvalsen provided the staff report and presentation.

Public Hearing opened at 12:38 a.m.

Bob Gordan, Tobacco-Free Coalition of Santa Clara County member spoke towards health risks related to hookah use and shared support for prohibiting the sale of flavored tobacco products.

Carol Baker, Co-Chair, Tobacco-Free Coalition of Santa Clara County and Volunteer Ambassador, American Cancer Society spoke towards health risks related to tobacco products. She communicated support for exempting hookahs.

Jaime Rojas, National Association of Tobacco Outlets shared information from the California Healthy Kids Survey about teen smoking trends in Santa Clara County. He voiced opposition to imposing a ban on flavored tobacco products.

Blythe Young, Community Advocacy Director, American Heart Association shared support for the Ordinance and of a local Tobacco Retailer License (TRL) requirement.

Amresh Prasad, Chair, Breathe California of the Bay Area communicated support for implementing a TRL administered by Santa Clara County.

Vanessa Marvin, Co-Chair, Tobacco-Free Coalition of Santa Clara County shared support for prohibiting the sale of flavored tobacco products with no exemptions.

Owner of a smoke shop located on Murphy Avenue requested Council not approve the Ordinance and instead rely on the statewide ban on flavored tobacco products.

Hanah, My Smoke Shop communicated support for not imposing a ban on flavored tobacco products.

John Maa, Chair, American Heart Association's California Advocacy Committee spoke towards health risks and associated hidden costs related to tobacco products. He voiced support for the Ordinance.

Hoo Alomari shared opposition to the Ordinance.

Public Hearing closed at 1:03 a.m.

MOTION: Councilmember Melton moved and Councilmember Hendricks seconded the motion to approve Alternative 1: introduce an Ordinance to amend the Sunnyvale Municipal Code Chapter 9.28 to prohibit the sale of flavored tobacco products.

City Clerk David Carnahan read the Ordinance title for the record.

The motion carried with the following vote:

- Yes:** 6 - Mayor Klein
 Vice Mayor Smith
 Councilmember Larsson
 Councilmember Hendricks
 Councilmember Melton
 Councilmember Goldman

- No:** 1 - Councilmember Fong

- 5 [20-0905](#) CONTINUED FROM OCTOBER 13, 2020.
 Receive and File the FY 2020/21 First Quarter Budget Update
 and Approval of Budget Modification No. 8 in the Amount of
 \$1,932,000 to Appropriate CARES Act Funding

Agenda item not heard by Council.

- 6 [20-0865](#) Approve the Master Plan for Public Art, Introduce an
 Ordinance Amending Sunnyvale Municipal Code Chapter
 19.52 (Art in Private Development) to Increase the Percent for
 Art Requirement from 1% to 1.5%, Implementing Option 2A of
 the Public Art Master Plan; and Allocate \$50,000 from the
 Public Art Fund to Implement a Utility Box Art Project.

Agenda item not heard by Council.

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Agenda item not heard by Council.

NON-AGENDA ITEMS & COMMENTS

-Council

Agenda item not heard by Council.

-City Manager

Agenda item not heard by Council.

INFORMATION ONLY REPORTS/ITEMS

- [20-0319](#) Tentative Council Meeting Agenda Calendar

[20-0782](#) Board/Commission Meeting Minutes

[20-0803](#) Information/Action Items

ADJOURNMENT

Mayor Klein adjourned the meeting at 1:15 a.m.



City of Sunnyvale

Agenda Item

20-0783

Agenda Date: 9/14/2020

REPORT TO SUSTAINABILITY COMMISSION and PLANNING COMMISSION

SUBJECT

Forward a Recommendation to the City Council to approve a Phased Reach Codes program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA

REPORT IN BRIEF

Sunnyvale's Climate Action Playbook, adopted in 2019 includes six key strategies to reduce greenhouse gas (GHG) emissions. Strategy 2 is Decarbonizing Buildings, which aims to reduce natural gas use and shift to all-electric buildings. To help achieve environmental goals, many communities have adopted "reach codes." These are local energy codes for building design and construction that go beyond minimum state requirements. The codes help reduce greenhouse gas emissions by promoting electric versus natural gas energy use. Staff is recommending a phased Reach Codes program that would start with all electric construction for new buildings. Remodels, improvements and chargers for electric vehicles would come later. Reach codes apply to both residential and nonresidential buildings. Staff recommends implementation of Phase 1 through introduction and adoption of an amendment to the Sunnyvale Municipal Code Chapter 16 (Building and Construction).

BACKGROUND

Sunnyvale adopted its first Climate Action Plan in 2016 to assist the City in achieving the 2020 State of California climate targets. In 2019, the City adopted an updated plan, called the Climate Action Playbook (Playbook, and sometimes referred to as CAP 2.0) to identify a pathway to meet and exceed to State's longer-term climate targets for 2030 and 2050. The Playbook includes six key strategies to reduce GHG emissions. Strategy 2 is Decarbonizing Buildings, which aims to reduce natural gas use and shift to all-electric buildings. As of 2018, nearly 38 percent of community-wide GHG emissions in Sunnyvale come from energy use in buildings for space heating, water heating, clothes drying, and cooking.

Within Strategy 2, the Playbook includes:

Move 2.E - Evaluate code and permitting processes to streamline building electrification.

Reach codes are the policy tool for implementing the Playbook's Move 2.E and are designed to reduce the City's carbon emissions from building energy usage. Reach codes revise the California Title 24 energy code requirements (CALEnergy), and exceed the codified requirements of the CALEnergy codes.

The Playbook includes a target to achieve 100 percent all-electric new buildings by 2030. The proposed Reach Codes are consistent with this target. The City can implement Reach Code

20-0783

Agenda Date: 9/14/2020

requirements if they are demonstrated to be cost-effective compared to implementing the minimum CALEnergy provisions. Further, proposed reach codes that are shown to be cost-effective and consistent with our Playbook strategies must be approved by the California Energy Commission (CEC). The proposed ordinance cannot take effect until at least 30 days following CEC approval.

The City Council is scheduled to consider this item at their meeting of October 27, 2020.

EXISTING POLICY

GENERAL PLAN

Chapter 2 - Community Vision

VISION STATEMENT

Sunnyvale is an attractive, safe, environmentally-sensitive community which takes pride in the diversity of its people, the innovation of its business and the responsiveness of its government.

Vision: It is the aspiration of the people of Sunnyvale to build upon the attributes which the City currently enjoys, so that Sunnyvale of the future will become ...

- **A regional leader in environmental sustainability** ... advocating to reduce dependence on non-renewable resources by providing greater transportation options, reducing waste, protecting our natural resources, and promoting alternative energy usage and research. We take environmental preservation and protection seriously and consider how each action will affect Sunnyvale for future generations.
- **A city managed by a responsible and responsive government** ... that delivers quality services in a comprehensive, cost-effective manner. The City evolves gracefully with the changing needs of the community and regularly communicates with residents and businesses to engage them in decision-making processes.

COMMUNITY VISION GOALS:

III. ENVIRONMENTAL SUSTAINABILITY - To promote environmental sustainability and remediation in the planning and development of the City, in the design and operation of public and private buildings, in the transportation system, in the use of potable water and in the recycling of waste.

Chapter 3 - Land Use and Transportation

GOAL LT-1: COORDINATED REGIONAL AND LOCAL PLANNING - Protect the quality of life, the natural environment, and property investment, preserve home rule, secure fair share of funding, and provide leadership in the region.

Environmental Protection and Adaptation

Policy LT-1.10 Participate in federal, state, and regional programs and processes in order to protect the natural and human environment in Sunnyvale and the region.

Policy LT-1.11 Prepare for risks and hazards related to climate change prior to their occurrence.

GOAL LT-2: ENVIRONMENTALLY SUSTAINABLE LAND USE AND TRANSPORTATION

PLANNING AND DEVELOPMENT - Support the sustainable vision by incorporating sustainable features into land use and transportation decisions and practices.

Green Development

Policy LT-2.1 Enhance the public's health and welfare by promoting the city's environmental and economic health through sustainable practices for the design, construction, maintenance, operation, and deconstruction of buildings, including measures in the Climate Action Plan.

Greenhouse Gas Reduction

Policy LT-2.2 Reduce greenhouse gas emissions that affect climate and the environment through land use and transportation planning and development.

Alternate/Renewable Energy Systems

Policy LT-2.7 Provide Sunnyvale residents and businesses with opportunities to develop private, renewable energy facilities.

Chapter 7 - Environmental Management (EM)

AIR QUALITY

GOAL EM-11 IMPROVED AIR QUALITY - Improve Sunnyvale's air quality and reduce the exposure of its citizens to air pollutants.

Policy EM-11.2 Utilize land use strategies to reduce air quality impact.

SUNNYVALE MUNICIPAL CODE

Chapter 19.39 (Green Building Regulations)

The purpose of this Chapter is to implement sustainable development with development and construction practices designed to use natural resources in a manner that does not eliminate, degrade or diminish their usefulness for future generations, to enhance the public health and welfare by promoting the environmental and economic health of the city through the design, construction, maintenance, operation and deconstruction of buildings and other site development, and to incorporate green building practices into all development projects. The green building provisions referred to in this Chapter are designed to achieve the following goals:

- a) Increase energy efficiency in buildings;
- b) Encourage water and resource conservation;
- c) Minimize waste generated by construction projects;
- d) Provide durable buildings that are efficient and economical to own and operate;
- e) Promote the health and productivity of residents, workers, and visitors to the city; and
- f) Recognize and conserve the energy embodied in existing buildings.

These zoning regulations have performance requirements adopted by Resolution that are periodically updated to strengthen green building standards. The most recent update took effect on July 1, 2019. Attachment 9 is a summary of the Green Building Program.

CLIMATE ACTION PLAYBOOK

The Playbook, adopted in 2019, identifies strategies for reducing community-wide greenhouse gas (GHG) emissions and a work plan for creating a more sustainable, healthy, and livable Sunnyvale. This document includes actions that the City and community can take to reduce community-wide GHG emissions and exceed the State's target of achieving an 80 percent reduction below 1990

20-0783

Agenda Date: 9/14/2020

emission levels by 2050. The Playbook identifies strategies, policies, and a work plan to reduce GHG emissions to achieve the following targets:

The Playbook's adopted targets for Sunnyvale are to reduce emissions to:

- 56 percent below 1990 levels by 2030 (exceeds State SB 32, 2016, a target of 40 percent below 1990 levels)
- 80 percent below 1990 levels by 2050 (meets Executive Order S-3-05, 2005)

Related to buildings, the Playbook includes specific targets to:

- Load from local solar: 3 percent by 2030; 5 percent by 2050
- Homes and businesses completely electrified: 20 percent by 2030; 50 percent by 2050
- 100-percent all-electric new buildings by 2030

ENVIRONMENTAL REVIEW

The action being considered is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of Regulations, Section 15308 (Class 8 - Actions by Regulatory Agencies for Protection of the Environment) and Section 15305 (Class 5 - Minor alterations in Land Use Limitations) and Section 15061 of the CEQA Guidelines, that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the changes adopted will have a significant effect on the environment.

DISCUSSION

To help achieve environmental goals, many communities have adopted "reach codes." These are local energy codes for building design and construction that go beyond minimum state requirements. The codes help reduce greenhouse gas emissions by promoting electric versus natural gas energy use.

The proposed Reach Codes are designed to exceed the California Energy Codes, which are the State's minimum energy conservation standards. The Reach Codes are a pathway toward meeting the State and City GHG emission targets.

A proposed Reach Code must be fiscally responsible pursuant to the State of California, which requires proof of its cost-effectiveness, before implementation. Funded by the California investor-owned utilities (IOUs), the California Statewide Codes and Standards Program (Statewide Program) led the development of a cost-effectiveness study for Energy Reach Codes that examined different performance-based approaches for new construction of specific building types. Refer to Attachment 5 for cost-effectiveness studies.

There are two kinds of Reach Code approaches: performance-based ordinances and prescriptive ordinances. Performance-based ordinances mandate an increase in the overall energy efficiency required but allow flexibility for the developer regarding how to achieve this goal. In contrast, prescriptive ordinances mandate the implementation of a specific measure (such as solar panels or cool roofs). The Statewide Program's analysis focused on performance-based ordinances; some conclusions about prescriptive measures can also be made from the results.

A four-phased implementation of Reach Codes is summarized in the table below. Phase 1, covered

20-0783

Agenda Date: 9/14/2020

by the proposed ordinance, covers new construction to meet all-electric standards with few exemptions. Phase 2 is projected to follow in Summer 2021; the subsequent phases would follow when the Statewide Program determines cost-effectiveness.

	Residential	Non-Residential	Schedule
Phase 1 – All-Electric New Construction	X	X	January 2021
Phase 2 – Commercial Kitchens (Stage 1) & Residential Pre-wiring for Vehicle Charging	X	X	Summer 2021
Phase 3 – Commercial Kitchens (Stage 2), and Additions and Alterations to Existing Buildings	X*	X*	Undetermined
Phase 4 – Large Hotel Laundry Facilities		X*	Undetermined

* Not shown to be cost-effective as of August 2020.

Phase 1

Phase 1 would meet two Climate Action Playbook elements:

- **Strategy 1** - Promoting Clean Energy, Play 1.2 -Increase local solar photovoltaics
- **Strategy 2** - Decarbonizing Buildings, Play 2.3 - Achieve all-electric new construction.

The proposed Phase 1 Reach Codes include residential and non-residential projects. The proposed ordinance will require new residential and non-residential construction to be all-electric. This phase addresses the largest GHG source from buildings, space and water heating, using natural gas.

Photovoltaic systems would be required for residential and non-residential new construction projects. For non-residential construction, solar water heating is offered as an option for photovoltaic energy generation.

There are five proposed exceptions to the requirements to have all-electric new construction:

1. Buildings with industrial and process loads (such as manufacturing and refrigeration buildings).
 - These uses cannot be demonstrated to meet energy efficiency requirements.
2. In-house commercial laundries in large hotels (more than 80 guestrooms).
 - These uses cannot be demonstrated to meet energy efficiency requirements.
3. Public agency owned and operated emergency centers. To take advantage of this exception applicant shall provide third party verification that All-Electric space heating requirement is not

20-0783

Agenda Date: 9/14/2020

cost effective and feasible.

4. Non-residential (commercial) kitchens in new buildings, which will be implemented in Phase 2 and Phase 3.
 - o Small scale (typically home) kitchens have several electric cooking options (e.g., induction, radiant, microwave); however, commercially viable alternatives have not been identified for non-residential kitchens. The use of induction stovetops requires specific cookware and may be a major investment. Attachment 6 is a copy of a study on Energy Reduction in Non-residential Kitchens that discusses many factors associated with operating Non-residential kitchens.
5. Buildings which the applicant establishes that it cannot achieve the performance compliance standard applicable to the building under the Energy Code using commercially available technology may approved by the Building Official, who shall require the applicant shall comply with the pre-wiring provisions.

In keeping with current practices and state building codes, attached accessory dwelling units (ADU), which are treated as an addition to an existing home. Detached ADUs are considered new construction and must comply with all-electric requirements).

Staff recommends that Phase 1 becomes effective on January 1, 2021. This date should provide sufficient time for the CEC to an adopted local ordinance. Further, staff recommends that the new code not apply to projects with a complete Planning application (including approved applications) and complete building permit applications submitted as of the effective date of the program. These developments are typically well into the design phase of their projects and would likely be negatively impacted by the late change in City policy. This exception is consistent with the practice of updating the City's Green Building requirements.

Phase 2

Phase 2 would address the following Playbook elements:

- **Strategy 2** - Decarbonizing buildings, Play 2.3 - Achieve all-electric new construction and Play 2.2 - Support electrification of existing buildings; and,
- **Strategy 3** - Decarbonizing transportation and sustainable land use, Play 3.3 - Increase zero-emission vehicles.

Phase 2 Reach Codes would require new residential additions and alterations to prewire buildings for electric vehicle charging.

Staff recommends that new construction of non-residential kitchens are addressed in a two-stage approach. The first stage would require the installation of highly efficient kitchen equipment with EnergyStar ratings and educating employees on energy-saving protocols. The second stage would require new kitchens to be all-electric. The timeline for the first stage implementation is Summer of 2021. The second stage would be considered for implementation in January 2023.

Phase 3

Phase 3 would address the following Playbook elements:

20-0783

Agenda Date: 9/14/2020

- **Strategy 2** - Decarbonizing buildings, Play 2.1 - Reduce energy consumption in existing buildings, and Play 2.2 support the electrification of existing buildings.

Phase 3 of the Reach Code implementation would address both residential and non-residential additions and alterations. It could require residential alterations to trigger upgrades to electric appliances (kitchen remodels). Residential additions would be required to meet the requirements of new construction, such as electric appliances and photovoltaic systems.

Non-residential new tenant improvements would be all-electric and shall meet the minimum California Energy Code standards. Non-residential additions must meet the standards of new construction and all-electric requirements. Phase 3's implementation timeline is unknown since it is currently not shown to be cost-effective.

Phase 4

Similar to Phase 1, this phase would align with Plays 1.2 and 2.3 of the Playbook.

This phase targets commercial laundry facilities in large hotels of 80 rooms or more. Phase 4 would require large hotels to provide electric clothes drying facilities. Under Phase 1, laundry facilities in Large Hotels are exempt from all-electric requirement because it has not been proven to be cost-effective.

Phase 4 requirements are proposed for deferral due to an ongoing study by the Statewide Program on the cost-effectiveness of electric laundry dryers versus gas dryers. Phase 4 could launch upon completion of the cost-effectiveness study if the findings support Reach Codes for this building type and size.

Benchmarking with Other Agency Reach Codes

Reach Code progress for the local jurisdictions within Santa Clara County are provided in Attachment 3. Nine of the 14 agencies included on the table have adopted reach codes. Four of the adopted codes ban use of natural gas in new buildings (and at least one has a ban on new connections to gas). All of the cities with a gas "ban" have exceptions for various situations such as non-residential kitchens (see Attachment 4).

Current Feedback

Although outreach is still active, a trend in feedback has been revealed. Many believe Reach Codes will reduce greenhouse gases and support a healthier and safer living environment. Some support the City's Climate Action Playbook and the effort to support electrification. However, although Reach Codes are cost-effective over the life of the building, it is strongly felt by some that the initial cost is too high. Many believe electrification should be a personal choice and Reach Codes should be implemented through encouragement by way of city-backed monetary incentives.

FISCAL IMPACT

The implementation of Reach Codes would not have a direct fiscal impact to the City. Review of projects with Reach Code requirements would be covered through permit fees.

PUBLIC CONTACT

The City of Sunnyvale provided outreach through presentations posted on the City's YouTube channel. Feedback was collected through surveys available on Open City Hall. Survey results are

20-0783

Agenda Date: 9/14/2020

included in Attachments 7 and 8. Other public contact is found in Attachment 10.

Email messages were sent to announce the information presentation and surveys to neighborhood associations, community organizations, building industry representatives, architects, developers, contractors and other persons and organizations expressing interest in Reach Codes or general Community Development Related activity. An article was placed in Update Sunnyvale.

Notice of Public Hearing, Staff Report and Agenda:

- Sustainability Commission and Planning Commission Agendas were posted on the City's official notice bulletin board.

ALTERNATIVES

1. Forward a Recommendation to the City Council to approve a Phased Reach Codes program and implement Phase 1 for new Residential and Non-Residential Construction Projects and Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA pursuant to CEQA Guidelines Sections 15308, 15305 and 15061.
2. Alternative 1 with Modifications.
3. Take no action and give staff direction on what should be included in the Reach Codes.

STAFF RECOMMENDATION

Alternative 1: Forward a recommendation to the City Council to approve a Phased Reach Codes program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42, Energy Code, of Title 16 (Buildings and Construction) and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15308, 15305 and 15061.

Through a phased approach to implement Reach Codes, the City of Sunnyvale would make a positive difference in reducing GHG and would be an aspirational example of a City's ability to go above and beyond to reduce its climate impact through aggressive prioritization and careful cost-benefit analysis. Phase 1 implementation is projected to commence January 1, 2021, and Phase 2 is planned for Summer 2021.

Prepared by: Suzanne Park, Chief Building Official
Reviewed by: Andrew Miner, Assistant Director of Community Development
Reviewed by: Nupur Hiremath, Environmental Programs Manager
Reviewed by: Trudi Ryan, Director of Community Development
Reviewed by: Rebecca Moon, Senior Assistant City Attorney
Reviewed by: John Nagel, City Attorney
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. *Reserved for Report to Council*
2. Draft Ordinance
3. Benchmarking with other Reach Codes
4. Wood-burning/Gas Appliances and Commercial Kitchens
5. Cost-Effectiveness Studies

20-0783

Agenda Date: 9/14/2020

6. Commercial Kitchens Study
7. Survey Results: Non-residential Reach Codes
8. Survey Results: Residential Reach Codes
9. Green Building Program
10. Public Contact



City of Sunnyvale

Meeting Minutes - Final Sustainability Commission

Monday, August 17, 2020

7:00 PM

Telepresence Meeting: City Web Stream

CALL TO ORDER

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting was conducted telephonically.

Chair Wickham called the meeting to order at 7:01 p.m. via teleconference.

ROLL CALL

Present: 5 - Commissioner Bruce Paton
Chair Kristel Wickham
Vice Chair Douglas Kunz
Commissioner Shana Padgett
Commissioner Murali Srinivasan

Absent: 1 - Commissioner Stephen Joesten

Council Liaison – Mayor Larry Klein (absent)

Commissioner Joesten's absence is excused by general consent.

Chair Wickham, Vice Chair Kunz, all Commissioners, and Councilmember attended via teleconference.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

[20-0745](#) Approve the Sustainability Commission Meeting Minutes of July 20, 2020

Commissioner Paton moved, and Vice Chair Kunz seconded, a motion to approve the consent calendar.

The motion carried by the following vote:

Yes: 5 - Commissioner Paton
Chair Wickham
Vice Chair Kunz
Commissioner Padgett
Commissioner Srinivasan

No: 0

Absent: 1 - Commissioner Joesten

PUBLIC HEARINGS/GENERAL BUSINESS

[20-0655](#) Forward a Recommendation to the City Council to approve a Phased Reach Codes program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA

Suzanne Park, Chief Building Official, presented on Sunnyvale's Proposed Building Energy Reach Codes. She gave an overview of Reach Codes, relevant definitions, descriptions of the City's phased roll out plan, and a summary of community feedback received on the proposal. The Reach Codes align with the Climate Action Playbook and will help the City reach its greenhouse gas emission targets through building and transportation decarbonization. Commissioners asked clarifying questions and staff provided responses.

Chair Wickham opened public comment.

Annabelle Law, a freshman at De Anza College with Sunnyvale Youth Climate Action, voiced support to strengthen the proposed Reach Codes. She suggested that the photovoltaic panel sizing calculations incorporate options with and without electric vehicle (EV) charging and with and without rooftop-mount solar to illustrate the potential savings.

Radhika Agarwal, a sophomore at Homestead High School with Sunnyvale Youth Climate Action, voiced support for strengthening the proposed Reach Codes. She suggested that the electrification of all appliances be moved to an earlier phase and requested staff to consider developing a detailed timeline.

Diane Bailey, a representative of Fossil Free Buildings for Silicon Valley, voiced

support for Reach Codes. She suggested collapsing Phase 2 into Phase 1, adding more EV charging infrastructure requirements to promote equitable EV adoption, and removing blanket exemptions.

Kaushik Tota, a senior at St. Francis High School with Sunnyvale Youth Climate Action and the Sunnyvale Youth Public Policy Institute, voiced support for strengthening the proposed Reach Codes. He suggested that blanket exemptions should be reconsidered specifically for buildings with data servers.

Beatrice Ho, a freshman at Homestead High School with Sunnyvale Youth Climate Action, voiced support to strengthen Reach Codes. She suggested EV infrastructure charging in Phase 1 should specifically call out multifamily housing and go beyond new residential infrastructure.

Naomi Chow, a student at Homestead High School with Sunnyvale Youth Climate Action, suggested that the remodeling clause be adjusted to allow more homes to qualify. She recommended, for example, lowering the percentage of remodeled space required to trigger the Reach Codes.

Malory Mitton, a junior at Homestead High School with Silicon Valley Youth Climate Action, voiced support for strengthening the proposed Reach Codes by including stronger requirements for non-residential buildings to install EV charging ports.

Dashiell Leeds, Conservation Assistant for Sierra Club Loma Prieta chapter, voiced support for Reach Codes. He echoed Diane Bailey's comments of folding Phases 1 and 2 together. He also stressed the importance of minimizing blanket exemptions and the risks of adding more natural gas pipelines.

Aakriti Adhikari, a student at Homestead High School with Silicon Valley Youth Climate Action, voiced support for strengthening the proposed Reach Codes. She suggested enhancing the EV requirements proposed in Phase 1 to increase multifamily and non-residential EV charging options.

Peri Plantenberg, a junior at Homestead High School with Silicon Valley Youth Climate Action, voiced support for strengthening the proposed Reach Codes. She recommended lowering the threshold for the percentage of remodeled space that would trigger the remodel to conform to the all-electric Reach Codes.

Bill Hilton, a resident of Sunnyvale, voiced his support for the proposed Reach

Codes. He proposed combining Phases 1 and 2 and requested that the City consider challenges that residents may have in transitioning to all-electric retrofits if utilities are underground.

Bruce Nagel supported combining Phases 1 and 2. He highlighted the health risks from gas stoves. He also suggested that the City consider requiring the installation of software controls that can make it easier to expand charging infrastructure networks.

James Tuleya, a resident of Sunnyvale and a member of Carbon Free Silicon Valley and Sunnyvale Cool, observed that the proposed Reach Codes did not clearly specify that the EV requirements in Phase 2 applied only to remodels. He also noted that the proposed Reach Codes only meet the state requirements for EV charging and recommended reviewing the Reach Codes requirements for EV charging adopted by the City of San Jose as a model.

Rathik Murtinty, a junior at Homestead High School with the Sunnyvale Youth Public Policy Institute, voiced support for strengthening the proposed Reach Codes by emphasizing infrastructure for zero-emission vehicles.

Rani Fischer, a Sunnyvale resident and member of Peninsula Interfaith Climate Action, voiced her support for the proposed Reach Codes. She recommended moving EV requirements from Phase 2 to Phase 1 and highlighted the need for adding EV charging infrastructure for multifamily homes.

Sannath Mathapathi, a student at Lynnbrook High School with the Sunnyvale Youth Public Policy Institute, voiced support for the proposed Reach Codes. He requested staff to consider changing section 5.106.5.3 to increase the percentage of parking spaces required to be EV-ready.

Linda Sell, a resident of Sunnyvale and adult advisor for Silicon Valley Youth Climate Action, requested that the City provide a more detailed timeline for Reach Code implementation.

Chair Wickham closed the public hearing.

Commissioner Paton moved, and Commissioner Srinivasan seconded, a motion to recommend Alternative 2 to City Council to adopt the ordinance to implement the Reach Codes for Residential and Non-Residential projects, with the following

modifications:

- (a) Increase the percentage of spaces that are EV-ready for multi-family residential and non-residential new construction in Phase 1.
- (b) Move EV pre-wiring requirements (additions/remodels) from Phase 2 into Phase 1.
- (c) In Phase 1 eliminate Exception 1 (buildings with industrial and process loads) and Exception 4 (non-residential kitchens), since these uses can be addressed, where needed, through Exception 5.
- (d) For non-residential kitchens, require Energy STAR appliances (as per the currently described Phase 2), if the exception is granted through the Exception 5 process (assumes Exception 4 is eliminated).
- (e) Consider defining milestones to be met for implementation of Phases 3 and 4.

The motion carried by the following vote:

Yes: 5 - Commissioner Paton
Chair Wickham
Vice Chair Kunz
Commissioner Padgett
Commissioner Srinivasan

No: 0

Absent: 1 - Commissioner Joesten

PRESENTATION

[20-0741](#) PRESENTATION - Best Practices in Mobility and
Transportation Planning

Commissioner Paton presented on the strategies and tactics of urban mobility planning. Commissioner Paton described the key components of other urban mobility plans and what the new objectives of mobility planning are.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Nupur Hiremath, Environmental Programs Manager, gave an overview of the Study Issue Sponsorship Process. Commissioners asked clarifying questions and staff provided responses.

NON-AGENDA ITEMS & COMMENTS

-Commissioner Comments

None.

-Staff Comments

None.

INFORMATION ONLY REPORTS/ITEMS

20-0747 2020 Annual Master Work Plan

ADJOURNMENT

The meeting was adjourned at 10:18 p.m.

PUBLIC HEARINGS/GENERAL BUSINESS

2. [20-0783](#) Forward a Recommendation to the City Council to approve a Phased Reach Codes program and implement Phase 1 for new Residential and Non-Residential Construction Projects: Introduce an Ordinance to Amend Chapter 16.42 (Energy Code) of Title 16 (Buildings and Construction) and Find that the Action is Exempt from CEQA

Suzanne Park, Chief Building Official, presented the staff report with a slide presentation.

Commissioner Weiss asked staff about the phasing for electric vehicle pre-wiring. Chief Building Official Park clarified that Phase 1 includes installing infrastructure (conduit) for new construction and Phase 2 includes pre-wiring (infrastructure and wiring) for additions and alterations. Commissioner Weiss asked if staff considered reviewing buildings with industrial and process loads on a case by case basis instead of giving them an automatic exemption and moving this aspect from Phase 2 to Phase 1. Chief Building Official Park responded that these small number of uses in the city conduct processes that cannot be supplemented by electricity.

Commissioner Weiss asked if the City can negotiate electricity rates and Community Development Director Trudi Ryan stated that the rates are controlled by the Public Utilities Commission. Commissioner Weiss also asked about how staff defines the

cost effectiveness of all electric. Chief Building Official Park explained that cost effectiveness is defined as when the use of electric appliances is cheaper than using gas across the life of the structure.

Commissioner Harrison asked staff how much greenhouse gas emissions are produced for commercial uses in kitchens, from space and water heating, and from process loads. Chief Building Official Park stated that she can confirm with the Environmental Services Department that conducted the greenhouse gas emissions study. Commissioner Harrison asked why electric vehicle pre-wiring is not proposed for Phase 1 given the Climate Action Playbook's strategies and that other nearby jurisdictions require it during Phase 1. Chief Building Official Park and Director Ryan stated that it is staff's recommendation and staff cannot comment on other jurisdictions' policy decisions. Commissioner Harrison asked about the Phase 3 trigger for additions and alterations to existing residential construction. Chief Building Official Park stated that staff would implement Silicon Valley Clean Energy's recommendations once its cost effectiveness studies are complete. Commissioner Harrison confirmed with Chief Building Official Park that Exception 5 is for applicants who could not meet the State Energy Code without the use of gas and that their technical justifications would be reviewed by a consultant before a final decision is made. Commissioner Harrison stated her concern that Phase 1 Exception 1 is too general and Chief Building Official Park clarified that only F, H and L occupancies apply to Exception 1 and that those applicants would need to provide justification.

Vice Chair Simons asked if the Reach Codes would apply to the City, specifically to the gas reclamation process conducted at the City's closed landfill that reduces greenhouse gas emissions. Chief Building Official Park responded that the Reach Codes would only apply to the design and sustainability of standard construction and would not apply to Department of Public Works capital projects. Director Ryan stated that the City intends to comply with its own regulations and recognized that the closed landfill is a unique operation that might qualify for an exception. Vice Chair Simons stated that he would be disappointed if current operations in Sunnyvale that benefit the environment are not exempted under the Reach Codes.

Commissioner Olevson asked if, for example, a simple bathroom remodel requiring an electrical panel upgrade could then also trigger the requirement to install electric vehicle charging pre-wiring, an even larger investment. Chief Building Official Park confirmed that a simple home renovation could result in a more expensive upgrade elsewhere but stated that she cannot comment on the cost to pre-wire for electric

vehicle charging.

Commissioner Weiss asked if there are any requirements for the type of refrigerants used when new heating, ventilation, and air conditioning systems are installed and if not, if it might be studied during the later phases. Chief Building Official Park stated that refrigerant specifications are not part of the scope of the current Reach Codes and that there is a possibility they could be explored during Phase 3.

Chair Howard asked if parking spaces in multi-family projects entitled after the phase schedule dates would be plug-in ready for electric vehicles. Chief Building Official Park stated that only the pre-wiring would exist and that only 12.5% of multi-family parking spaces would be equipped with the infrastructure and they would be dedicated for common use. Director Ryan added that some multi-family projects have installed the chargers at residents' request. Chair Howard stated that it would be beneficial for all of them to install the chargers up front regardless of cost. He also asked if the cost effectiveness studies consider rebates from various organizations since they can significantly offset the cost of all electric projects. Chief Building Official Park responded that the studies did not consider rebates. Chair Howard stated that it is disappointing that Sunnyvale is proposing to defer the Reach Codes for electric vehicle charging and commercial kitchens when they are pending or adopted in other nearby cities. Chief Building Official Park answered that many of those cities' ordinances provide a significant number of exceptions and staff decided to wait for viable options to be provided before implementing those phases. Chair Howard noted the importance of at least keeping up with other cities' actions due to the gravity of climate change.

Commissioner Harrison asked what changes staff is expecting between January and summer 2021 that will help to implement Phase 2. Chief Building Official Park stated that staff is waiting for a viable option for non-residential uses to implement electric cooking, hoping for the availability of a cost-effectiveness study, and striving to ease residents into the requirements for electric vehicle charging. Director Ryan stated that staff would bring the Phase 2 Reach Codes back to the Planning Commission for review if the cost effectiveness studies are available before summer 2021. She added that in addition to the code changes, staff is also working with the community to help with the transition as another effort in implementing the Climate Action Playbook. Commissioner Harrison commented that another potential trigger for pre-wiring for electric vehicle charging is if a project already requires an electrical panel upgrade.

Commissioner Howe confirmed with Chief Building Official Park and Director Ryan that Phase 2 would go through the same process with the creation of an ordinance, public outreach, and public hearings with the Sustainability and Planning Commissions and City Council.

Chair Howard appreciated Commissioner Harrison and Commissioner Olevson's comments and questions and asked about residents receiving information about the panel size required for an all electric home when a panel upgrade is required. Chief Building Official Park stated that it would be an educational opportunity for residents as PG&E cannot support some panel upgrades in the eastern part of the city and the upgrade would be extremely costly for some homeowners.

Chair Howard opened the Public Hearing.

Radhika Agarwal, sophomore at Homestead High School, spoke in favor of the Reach Codes, particularly electric vehicle readiness and the installation of electric vehicle chargers in residences and hotels.

Kaushik Tota, senior at Saint Francis High School, spoke in support of strengthening the proposed Reach Codes, especially for data servers and non-residential kitchens.

Kristel Wickham, Chair of the Sustainability Commission speaking on her own behalf, voiced support for an electrical vehicle Reach Code for new construction in Phase 1.

Sannath Mathapathi, junior at Lynbrook High School, communicated interest in increasing electric vehicle readiness in non-residential facilities.

Mallory Mitton, junior at Homestead High School, advocated for milestones and a detailed plan for beginning Phase 3 and Phase 4.

Beatrice Ho, freshman at Homestead High School, spoke in support of moving electric vehicle pre-wiring requirements from Phase 2 to Phase 1.

Bruce Naegel, stressed the importance of youth believing that they can continue to living on Earth given climate change and stated that he is not aware of any cost effectiveness studies for electric vehicle infrastructure.

Anika Khandavalli, junior at Fremont High School, spoke in favor of increasing electric vehicle readiness and chargers at non-residential facilities.

Pranay Mamileti, junior at Lynnbrook High School, advocated for electric vehicle infrastructure for new construction during Phase 1.

Rani Fischer, Sunnyvale resident, spoke about her difficulty finding charging stations for her own electric vehicle and encouraged the Commissioners to move electric vehicle infrastructure to Phase 1.

Jenny Green urged the Commissioners to recommend the strongest Reach Codes with as few exemptions as possible and stated her opinion that all electric appliances are energy efficient and that it was not expensive to install electric vehicle chargers in her own single-family home.

Rathik Murtinty, junior at Homestead High School, urged the Commissioners to support electric vehicle readiness with electric vehicle-friendly infrastructure.

Bill Hilton encouraged the Commissioners to recommend the Reach Codes to the City Council with electric vehicle charging infrastructure moved to Phase 1.

James Tuleya, Sunnyvale resident, spoke in support of strengthening the Reach Codes by incorporating electric vehicle infrastructure for new construction in Phase 1 and made comments on cost effectiveness studies.

Chair Howard closed the Public Hearing.

Commissioner Harrison asked staff what percentage of electric vehicle charging infrastructure would be required in multi-family and non-residential new construction and where the City would exceed the State's standards. Chief Building Official Park stated that multi-family would require 12.5% and hotels and office buildings would require 6%, which means the City would exceed the State's requirements with multi-family projects by 2.5 percentage points. Commissioner Harrison confirmed with Chief Building Official Park and Director Ryan that it is possible to increase the percentage of electric vehicle infrastructure and the change can be made in either the building code or the zoning code. Commissioner Harrison and Chief Building Official Park discussed the challenges of upgrading an electrical panel in east Sunnyvale.

Commissioner Weiss asked if it is appropriate for Phase 1 Exception 5 to be determined by the Building Official. Chief Building Official Park explained that the consultant would provide technical expertise and a recommendation with a final decision from the Building Official. Director Ryan added that the title is consistent with decisions made concerning the building code.

Chair Howard asked about the parking and electricity payment logistics for using a common electric vehicle charger and encouraged staff to review Silicon Valley Clean Energy's model Reach Code for electric vehicle readiness. Chief Building Official Park stated that staff will research both items. Chair Howard commented on the potential requirement that an applicant upgrade the electrical panel to support an all electric residence unless the electricity is supplied from underground and upgrading would be a financial hardship.

Commissioner Howe confirmed with Director Ryan that an applicant can appeal the Building Official's decision to the Board of Building Code Appeals and the process is established in the building code.

MOTION: Commissioner Harrison moved and Vice Chair Simons seconded the motion for Alternative 2 – Alternative 1 with Modifications.

The modification is as follows:

1. Require pre-wiring for electric vehicle charging if a panel upgrade is required for modifications to a residential project and the service is not underground. The requirement must be implemented during Phase 1.

Commissioner Harrison stated that in her professional experience many of her clients' projects require electrical panel upgrades and all of her clients who undergo entire home renovations choose to go all electric because they are interested in the most current and efficient technology. She commented that clients have never objected to installing electric vehicle charging infrastructure at the time they upgrade their electrical panel. While acknowledging that she has not conducted a cost effectiveness study, she stated that her experience has informed her that the cost to install electric vehicle charging infrastructure is negligible when already upgrading an electrical panel.

Vice Chair Simons, Chair Howard and Commissioner Harrison discussed the possibility of adding use cases and better clarity to the phases. Director Ryan stated

that staff will refine the report before it is presented to the City Council. Vice Chair Simons confirmed with Director Ryan that it is possible to modify Phase 1 Exception 5 to exempt a non-all electric operation if it demonstrates an ability to reduce greenhouse gas emissions further than if it were all electric. Commissioner Howe requested that the modification include that the exception must be reviewed by the Building Official. Vice Chair Simons explained for Commissioner Harrison how the modification would change the existing Phase 1 Exception 5.

FORMAL AMENDMENT: Vice Chair Simons moved and Commissioner Howe seconded the motion to modify Phase 1 Exception 5 to include new construction that, using different technologies, demonstrate a greater reduction in greenhouse gas emissions than with all electric energy, as approved by the Chief Building Official.

The motion for the formal amendment carried by the following vote:

Yes: 6 - Chair Howard
Vice Chair Simons
Commissioner Harrison
Commissioner Howe
Commissioner Olevson
Commissioner Weiss

No: 0

Absent: 1 - Commissioner Rheume

Vice Chair Simons stated that he will support the motion and that he added the formal amendment to allow for technology improvements that might further reduce greenhouse gas emissions in the future. He stated his interest in speeding up the requirements for electric vehicle infrastructure and advocated for decreasing the cost of all electric infrastructure during new construction as it would benefit buyers and sellers.

FRIENDLY AMENDMENT: Commissioner Weiss proposed a friendly amendment to specify that Phase 1 Exception 1 be granted on a case by case basis by the Chief Building Official. Commissioner Harrison and Vice Chair Simons accepted the friendly amendment.

Commissioner Weiss stated that she is not comfortable with those facilities receiving

a blanket exception as they might not need it and because Phase 1 is important and should be successful.

Commissioner Howe stated his concern with the modification that would give those with underground service an exemption and commented that he receives electricity service from underground with no problems. He encouraged staff to resolve this equity issue before the report is presented to the City Council.

Commissioner Olevson stated that he will not support the motion because California has been shutting down its electricity sources from natural gas, nuclear power, and hydroelectric power and the purchase of electricity from other states has been unreliable. He stated his belief that the ordinance is too far reaching without the infrastructure to support the effort and that soon residences and commercial operations might not have enough power to support themselves.

Chair Howard stated his initial reservations with supporting the Reach Codes because they are not strong enough. He appreciated Commissioner Olevson's comments on the quality of the power grid, but stated that despite the uncertainty, burning fossil fuels must end. He added that given health concerns and Sunnyvale's wealthy and innovative status, swift action must be taken now. He appreciated staff's phased approach, the comments from members of the public, and the Commissioners' work to strengthen the Reach Codes.

Chair Howard summarized the original motion which is as follows:

MOTION: Commissioner Harrison moved and Vice Chair Simons seconded the motion for Alternative 2 – Alternative 1 with Modifications.

The modifications are as follows:

1. Require pre-wiring for electric vehicle charging if a panel upgrade is required for modifications to a residential project and the service is not underground. The requirement must be implemented during Phase 1.

FRIENDLY AMENDMENT: Commissioner Weiss proposed a friendly amendment to specify that Phase 1 Exception 1 be granted on a case by case basis by the Chief Building Official. Commissioner Harrison and Vice Chair Simons accepted the friendly amendment.

The motion carried by the following vote:

Yes: 5 - Chair Howard
Vice Chair Simons
Commissioner Harrison
Commissioner Howe
Commissioner Weiss

No: 1 - Commissioner Olevson

Absent: 1 - Commissioner Rheaume

Assistant Director Andrew Miner stated that this recommendation will be forwarded to the City Council for consideration at the Tuesday, October 27, 2020 meeting.