



EAST PALO ALTO CITY COUNCIL SPECIAL MEETING AGENDA

Wednesday, September 10, 2025, 5:30 PM
EPA Government Center
2415 University Avenue, First Floor
East Palo Alto, CA 94303

NOTICE

This meeting will be held virtually and in-person at the Council Chambers located on 2415 University Ave, First Floor East Palo Alto, CA 94303. The virtual portion of this City Council meeting will be conducted in accordance with City of East Palo Alto Resolution adopted pursuant to Assembly Bill 361.

The public may participate in the City Council Meeting via Zoom Meeting or by attending in-person in the Council Chambers at 2415 University Ave, First Floor East Palo Alto, CA 94303. Community members may provide comments by emailing cityclerk@cityofepa.org, submitting a speaker card at the meeting, or using the **RAISE HAND** feature when the Mayor or City Clerk call for public comment. Emailed comments should include the specific agenda item on which you are commenting.

Please click this URL to join

<https://us06web.zoom.us/j/86547293393>

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or

+ 1 346 248 7799 or

+ 1 253 215 8782 or

+ 1 312 626 6799 or

+ 1 929 205 6099 or

+ 1 301 715 8592

Webinar ID: 865 4729 3393

International numbers available: <https://zoom.us/u/aMWYF4KT>

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF THE AGENDA

3. POLICY AND ACTION

3.1 Amendment of Inclusionary Housing Ordinance

Recommendation:

1. Waiving first reading and introducing an ordinance amending Chapter 18.37 of the East Palo Alto Municipal Code ("Inclusionary Housing") to facilitate lot splits pursuant to Government Code Section 66411.7 ("SB 9"); and
2. Find that the proposed action does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section 15183 (actions consistent with the general plan and zoning), and Section 15195 (residential infill development).

3.2 Reprimand of Councilmember Carlos Romero with Sanctions

Recommendation: Mayor Martha Barragan recommends that the City Council adopt a resolution to reprimand Councilmember Carlos Romero for violating the City of East Palo Alto Code of Ethics and Conduct (Resolution No. 67-2024).

Policy and Action Correspondences:

- **Item 3.2 - Letter from Councilmember Carlos Romero**
- **Item 3.2 - Statement from Councilmember Webster Lincoln**

4. ADJOURNMENT

This AGENDA is posted in accordance with Government Code Section 54954.2(a)

This Notice of Availability of Public Records: All public records relating to an open session item which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to the majority of the City Council will be available for public inspection at the City Clerk's Office, 2415 University Avenue, East Palo Alto, CA at the same time that the public records are distributed or made available to the City Council. Such documents may also be available on the East Palo Alto website www.cityofepa.org subject to staff's ability to post the documents prior to the meeting. Information may be obtained by calling (650) 853-3100.

The City Council meeting packet may be reviewed by the public in the Library or the City Clerk's Office. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection at the front counter at the City Clerk's Office, 2ND Floor, City Hall, 2415 University Avenue, East Palo Alto, California 94303 during normal business hours. Information distributed to the Council at the Council meeting becomes part of the public record. A copy of written material, pictures, etc. should be provided for this purpose.

East Palo Alto City Council Chambers is ADA compliant. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office at (650) 853-3127 no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

DECLARATION OF POSTING

This Notice is posted in accordance with Government Code §54954.2(a) or §54956. Members of the public can view electronic agendas and staff reports by accessing the City website. Under penalty of perjury, this Agenda was posted to the public at least 72 hours prior to the meeting.

POSTED: September 8, 2025

ATTEST:

Lucero Avila-Garcia

Lucero Avila-Garcia
Executive Assistant to the City
Manager



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: September 10, 2025

TO: Honorable Mayor and Members of the City Council

VIA: John D. Lê, City Attorney

SUBJECT: Amendment of Inclusionary Housing Ordinance

Recommendation

1. Waiving first reading and introducing an ordinance amending Chapter 18.37 of the East Palo Alto Municipal Code (“Inclusionary Housing”) to facilitate lot splits pursuant to Government Code Section 66411.7 (“SB 9”); and
2. Find that the proposed action does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section 15183 (actions consistent with the general plan and zoning) and Section 15195 (residential infill development).

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

- Promote Housing, Economic and Workforce Development

Background

The City of East Palo Alto’s approach to inclusionary housing and lot splits has evolved in response to both local housing needs and significant changes in state law. The City’s Inclusionary Housing Ordinance, codified in Chapter 18.37 of the East Palo Alto Municipal Code, was adopted to ensure that new residential development contributes to the production of affordable housing for a range of income levels, including 35% AMI, very low, low, median, and moderate-income households. The ordinance requires that all residential development projects creating new dwelling units are subject to inclusionary requirements, with specific exemptions

outlined in Section 18.37.040, such as developments governed by pre-existing development agreements or those exempted under certain provisions of the Subdivision Map Act or other provisions of the Government Code.

The City's authority to regulate subdivisions and lot splits is derived from the State Subdivision Map Act (Government Code Section 66410 et seq.), which establishes the legal framework for the division of land in California. The City's subdivision regulations, found in Article 5 of Title 18 of the Municipal Code, are intended to supplement and implement the Act, regulate the design and improvement of land divisions, and promote orderly growth, public safety, and the goals of the General Plan. These local regulations must be applied in conjunction with state law, and in the event of any conflict, state law prevails.

In 2021, the California Legislature enacted Senate Bill 9 (SB 9), which amended Government Code Sections 65852.21 and 66411.7 to require local agencies to approve, on a ministerial basis, certain lot splits and the development of up to two primary dwelling units on single-family zoned parcels. SB 9 was designed to facilitate small-scale residential infill, address the state's housing shortage, and expand homeownership opportunities by streamlining the approval process for eligible projects. Under SB 9, local governments are limited to applying only objective zoning, subdivision, and design standards, and may not impose discretionary review or additional requirements beyond those specified in state law.

On April 24, 2024, the City Council approved and the Department of Housing and Community Development (HCD) certified the City's Housing Element Update (RHNA 5 Cycle), a document in which HCD recognized that the City's Inclusionary Housing Ordinance prevented displacement, addressed inequities, affirmatively furthered fair housing, and functioned as a tool to increase affordable housing. At the same time, the document also included pledges from the City to conduct a periodic assessment of the Inclusionary Housing Ordinance to evaluate changing market and financing conditions and rising development costs and which committed the City to conducting a financial feasibility analysis that would assess the impact of governmental constraints, including inclusionary housing requirements, on the financial feasibility of future projects, as such an analysis would provide useful information for a subsequent assessment of the Inclusionary Housing Ordinance.

The City's General Plan, including the Housing Element, and strategic plans such as the Vista 2035 General Plan, establish a policy framework that prioritizes housing affordability, equitable growth, and compliance with state housing mandates. These local planning documents are written so that the City may align its local ordinances with state law, promote a mix of housing types, and ensure that new development supports the City's regional housing needs allocation (RHNA). The Housing Element specifically identifies the need to facilitate SB 9 projects and to monitor their implementation as part of the City's strategy to meet moderate-income housing targets (sometimes referred to as the "missing middle").

Legal and regulatory considerations for amending Section 18.37.040 include ensuring that local inclusionary housing requirements do not conflict with the ministerial approval mandates of SB 9, and that any exemptions or alternative compliance options are consistent with both the Subdivision Map Act and Government Code Sections 65852.21 and 66411.7.

Ethical and community considerations include the need to balance the City's commitment to affordable housing with the rights of property owners to utilize new state entitlements for lot splits and duplexes. The City's inclusionary housing program is designed to ensure that the burdens of new development are shared broadly across project types and that affordable units are integrated into new projects, with standards for comparability, location, and amenities set forth in Section 18.37.060. The City also maintains ongoing monitoring and compliance mechanisms, including the requirement for inclusionary housing agreements and annual reporting.

In summary, the proposed amendment to Section 18.37.040 is situated within a broader legal and policy context that may signal that the City may well consider harmonizing its inclusionary housing regulations with state mandates for ministerial lot splits and small-scale residential development, while upholding the goals of the General Plan and ensuring transparency and public participation in the amendment process. In short, based on the foregoing, staff recommends that the Council make these harmonizing amendments to the attached ordinance.

Analysis

The proposed amendment to Section 18.37.040 of Chapter 18.37 (Inclusionary Housing Ordinance) of the East Palo Alto Municipal Code is intended to facilitate lot splits pursuant to Government Code Section 66411.7, commonly known as Senate Bill 9 (SB 9). In support of this effort, the City of East Palo Alto has undertaken a series of actions to ensure that its local regulations remain consistent with evolving state law and to clarify the applicability of inclusionary housing requirements to SB 9 projects.

Since 2019, Council's actions have been guided by the requirements of Chapter 18.37 of the East Palo Alto Municipal Code, which mandates that all residential development projects creating new dwelling units are subject to the Inclusionary Housing Ordinance, and that alternative compliance options must be approved by the City Council based on findings of equivalent or greater public benefit. The Council's approach has consistently emphasized the need to align local inclusionary housing requirements with state law, particularly the ministerial approval processes mandated by SB 9, while maintaining the City's commitment to affordable housing production.

The current recommendation to amend the Inclusionary Housing Ordinance reflects the Council's ongoing efforts since at least 2021 to consider its local regulatory regime within a large state system of regulation, and to reconcile its inclusionary housing regulations with state legislation where appropriate, ensuring compliance with local laws within the larger context of state law allowing for SB 9 lot splits and duplexes, and ensuring that affordable housing obligations are met in a manner consistent with both local policy and state mandates.

Fiscal Impact

The proposed amendment to Section 18.37.040 of Chapter 18.37 (Inclusionary Housing) of the East Palo Alto Municipal Code, intended to facilitate lot splits pursuant to Government Code Section 66411.7 ("SB 9"), is not anticipated to result in a direct fiscal impact to the City's General Fund. As previously stated, the amendment is designed to align local inclusionary housing

requirements with state mandates for ministerial lot splits and small-scale residential development, ensuring compliance with both the Subdivision Map Act and Government Code provisions governing lot splits and housing approvals.

The City's inclusionary housing program is structured so that the costs associated with the provision of affordable units necessary to mitigate the impacts of development, or the payment of in-lieu fees, are borne by project applicants rather than the City. For residential developments subject to inclusionary requirements, developers may either provide required affordable units on-site, pay an in-lieu fee, or pursue an alternative compliance option, subject to City Council approval. In-lieu fees collected under this program are deposited into the City's Housing Fund and are restricted for use in the development, acquisition, or rehabilitation of affordable housing, as well as for administration and compliance monitoring of the inclusionary housing program. The amendment does not alter the existing structure for the collection or allocation of these funds.

The amendment, however, is designed to exempt certain small-scale projects (SB 9) and as such in-lieu fees for such projects would no longer generate new revenue for the City, although the amount of that potential loss may not be large given that in-lieu fees are by definition an alternative to the requirement to either build or deed restrict onsite units. On the other hand, if the exemption catalyzes development of small-scale projects, it could have a salutary impact on the General Fund in the form of real property taxes upon tax reassessment.

Public Notice

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

Environmental

The proposed action does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section 15183 (actions consistent with the general plan and zoning) and Section 15195 (residential infill development).

Government Code § 84308

Applicability of Levine Act: No, as it does not involve an entitlement.

Analysis of Levine Act Compliance: Not applicable.

Attachments

1. Draft Ordinance.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

AMENDING SECTION 18.37.040 (EXEMPTIONS) OF ARTICLE III (REGULATIONS APPLICABLE TO ALL ZONES) OF CHAPTER 18.37 (INCLUSIONARY HOUSING) OF THE EAST PALO ALTO MUNICIPAL CODE TO FACILITATE LOT SPLITS PURSUANT TO GOVERNMENT CODE SECTION 66411.7 (“SB 9”)

WHEREAS, California Government Code Section 65580(d) states that all cities have a responsibility to use the powers vested in them to facilitate the improvement and development of housing and to make adequate provision for the housing needs of all economic segments of the community; and

WHEREAS, at a duly noticed public hearing held on September 23, 2019, the Planning Commission considered adding Chapter 18.37 to the Municipal Code; and

WHEREAS, by Resolution PC 2019-08, on September 23, 2019, the Planning Commission recommended the City Council adopt the City's current Inclusionary Housing Ordinance (Chapter 18.37); and

WHEREAS, the East Palo Alto City Council held a duly noticed public hearing on October 15, 2019 to consider the proposed addition of Chapter 18.37 to the Municipal Code; and

WHEREAS, on November 19, 2019, the East Palo Alto City Council found and declared, and on that basis adopted the City's Inclusionary Housing Ordinance, codified at 18.37.010 et seq., that the demand for housing in the City and the region more generally had increased steadily in recent years, that the City had and continues to have dire need for affordable housing as identified in its Housing Element (which has only increased substantially since that time), that the lack of affordable housing is a public health, safety and welfare issue well within the City's police power authority to address, and that the construction of market-rate housing exacerbates this problem because such housing increases the demand for services, the presence of service employees (e.g., construction, maintenance, food service, and administrative jobs), and the need for affordable housing to accommodate such workers; and

WHEREAS, several significant changes have occurred since the City adopted its current Inclusionary Housing Ordinance; and

WHEREAS, first, as housing affordability remains a significant issue in the State of California, the Legislature has adopted over 50 significant bills since 2019 that affect and incentivize the creation of housing, including SB 9 (2021), which aimed to address the State's severe housing shortage by making it easier to create new, smaller housing

units on existing single-family lots (i.e., to provide for the “missing middle”), thereby increasing the overall housing supply; and

WHEREAS, the East Palo Alto City Council approved and the California Department of Housing and Community Development (HCD) certified the City’s Housing Element Update (RHNA 5 Cycle) on April 24, 2024, a document in which HCD recognized that the City’s Inclusionary Housing Ordinance prevented displacement, addressed inequities, affirmatively furthered fair housing, and functioned as a tool to increase affordable housing; yet at the same time that document also included pledges from the City to conduct a periodic assessment of the Inclusionary Housing Ordinance to evaluate changing market and financing conditions and rising development costs (“Evaluate the effectiveness of the Inclusionary Housing Ordinance”) and which committed the City to conduct a financial feasibility analysis that would assess the impact of governmental constraints, including inclusionary housing requirements, on the financial feasibility of future projects as such an analysis would provide useful information for a subsequent assessment of the Inclusionary Housing Ordinance; and

WHEREAS, since the last local election in 2024, the East Palo Alto City Council publicly noted the need to consider potential amendments to the City’s Inclusionary Housing Ordinance to address various issues, including incentivizing housing development; and

WHEREAS, the East Palo Alto Council recognizes that while the City of East Palo Alto has the plenary police power authority to provide for affordable housing through various local laws, including a robust Inclusionary Housing Ordinance, it also has a desire to support the construction of housing for the “missing middle”—households that can afford market-rate housing but not expensive single-family homes, as has been increasingly common in the greater Bay Area.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES ORDAIN AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The City Council finds that all the foregoing recitals are true and correct and incorporated herein by reference.

SECTION 2. AMENDMENT TO ADD AN EXEMPTION. Section 18.37.040 (Exemptions) Article III (REGULATIONS APPLICATION TO ALL ZONES) of Chapter 18.37 (INCLUSIONARY HOUSING) of the City of East Palo Alto Municipal Code is hereby amended as follows (amendments in redline; otherwise, no change):

18.37.040 Exemptions

- A. The following residential developments shall be exempt from the provisions of this chapter:
1. Residential developments which are developed in accordance with the terms of a development agreement adopted by ordinance pursuant to the authority and provisions of California Government Code Section 65864 et seq., and that is executed prior to the effective date of the ordinance codified in this chapter, provided that such residential developments shall comply with any inclusionary housing requirements included in the development agreement or any predecessor ordinance in effect on the date the development agreement was executed.
 2. Residential developments exempted by California Government Code Section 66474.2 or 66498.1, provided that such residential developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was deemed substantially complete.
 3. Residential developments for which a building permit has been issued and substantial work has been completed in good faith reliance on the permit no later than the effective date of this chapter, provided that such residential developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was approved.
 4. Residential developments for which a lot split has been ministerially approved pursuant to Government Code Section 66411.7 ("SB 9").
- B. **Planning permit expiration.** Upon the expiration of any planning permit, and unless otherwise exempted, the residential development shall be subject to the inclusionary housing requirements of this chapter, and shall not proceed until such time as an inclusionary housing plan is approved in conjunction with any other required planning permit or amendment thereto. The provisions of this chapter shall also apply to any residential development which is granted a discretionary extension of a planning permit beyond its initial term, to the extent consistent with state law.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

This Ordinance is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act ("CEQA") Guidelines section 15378(a). Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section

15183 (actions consistent with the general plan and zoning) and Section 15195 (residential infill development).

SECTION 4. IMPLIED REPEAL.

Any provision of the East Palo Alto Municipal Code inconsistent with this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effectuate this Ordinance.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force thirty (30) days after the date of its adoption.

SECTION 7. PUBLICATION.

The City Clerk is hereby directed to cause publication of this Ordinance as required by Government Code Section 36933.

This Ordinance was introduced at the September 8, 2025 meeting of the City Council of the City of East Palo Alto.

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PASSED AND ADOPTED this _____ day of _____, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Martha Barragan, Mayor

ATTEST:

APPROVED AS TO FORM:

James Colin, City Clerk

John D. Lê, City Attorney



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: SEPTEMBER 10 , 2025

TO: Honorable Mayor and Members of the City Council

BY: Melvin E. Gaines, City Manager

SUBJECT: Reprimand of Councilmember Carlos Romero with Sanctions

Recommendation

Mayor Martha Barragan recommends that the City Council adopt a resolution to reprimand Councilmember Carlos Romero for violating the City of East Palo Alto Code of Ethics and Conduct (Resolution No. 67-2024).

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

- **Priority:** Governance, Organizational Strength, and Fiscal Sustainability.

Background

After the September 2, 2025, City Council meeting, Mayor Martha Barragan and Vice Mayor Mark Dinan contacted the City Manager regarding Councilmember Carlos Romero's conduct. They stated that Councilmember Romero's actions violated the City Council Code of Ethics and Conduct for Elected and Appointed Officials (Attachment 1) and that he should be held accountable.

The Mayor and Vice Mayor noted that Councilmember Romero commented at the September 2 meeting, that Councilmember Webster Lincoln "may be deaf and dumb," and that this was the second occasion where Councilmember Romero violated the *Code of Ethics and Conduct for Elected and Appointed Officials* standards of conduct.

The first occasion was during the June 3, 2025, Council Meeting, when Councilmember Romero made a comment to Vice Mayor Dinan about his child: "That your child doesn't want to go to, perhaps, multiracial groups [...] that is another issue."

Councilmember Romero apologized for his remark during the June 3 meeting. Mayor Barragan shared that she met with Councilmember Romero after the June 3 meeting to discuss the incident and she emphasized the importance of representing the community with objectivity and professionalism, rather than making personal attacks. She noted she also warned Councilmember Romero that any future misconduct would lead to a formal reprimand under the Code of Ethics.

Mayor Barragan and Vice Mayor Dinan believe that Councilmember Romero's September 2 comments constitute a repeated violation of the *Code of Ethics and Conduct for Elected and Appointed Officials*. They recommend prohibiting him from representing the City of East Palo Alto in intergovernmental agencies through November 2026.

Analysis

The *Code of Ethics and Conduct for Elected and Appointed Officials* authorizes the Council to address repeated offensive or disrespectful remarks by a member. Below is a summary of the relevant provisions and options available.

1. Standards of Conduct

- Section 4(E): Conduct of Members – Members must refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of others.
- Section 6(C) and 6(D): Conduct in Public Meetings – Members must practice civility and decorum, and avoid belligerent, slanderous, threatening, abusive, or disparaging comments. Members may also call a “point of personal privilege” if personally offended.

2. Responsibility to Intervene

- Section 13(B): Standards and Expectations – The Mayor and Councilmembers share responsibility to assure ethical standards are met, and the Mayor (or Vice Mayor, if the Mayor is the subject) has the duty to initiate action when violations are brought to their attention.

3. Available Sanctions

- Section 13(C): Councilmember Sanctions – If a Councilmember intentionally and repeatedly violates conduct standards, by majority vote, the Council may:
 - Issue a reprimand or censure;
 - Remove the member from committee assignments or reduce seniority;
 - Restrict privileges, including travel or representation in intergovernmental agencies.

4. Role of the Agenda Committee

- Section 7(A): Agenda Setting – As members of the Agenda Committee, the Mayor and Vice Mayor may place an item on a future Council agenda to discuss conduct concerns and consider sanctions. This ensures that any action occurs transparently in a noticed public meeting.

The Code allows the Mayor and Vice Mayor to:

1. Raise concerns informally with the member;
2. Bring the matter to the full Council if the behavior continues;
3. Pursue sanctions, including reprimand, censure, or restrictions, through Council vote.

Proposed Hearing Procedure

At the outset, staff notes that Councilmember Romero has been made aware of this censure proceeding since Thursday, September 4, 2025, and was given notice through agenda publication of the nature the charge against him, which was published on September 5, 2025.

The Code does not outline a process for how the proceeding will play out. Accordingly, staff recommend that if the Council chooses to proceed with formal sanctions that, at the outset of the hearing on the item, that the Council by motion adopt the following procedure:

1. **Rules and Formality.** The rules of evidence and judicial procedure applicable in courts of law shall not apply to this hearing, and the procedures for the conduct of the hearing shall be generally informal.
2. **Opening Statement.** The Mayor shall summarize the allegations against Councilmember Romero for the record, or she may simply reference the proposed resolution or this staff report, which shall contain the same.
3. **Time to address the charges.** Councilmember Romero will be permitted to sit on the dais during the proceeding. He will also be given a total of 10 minutes to make an opening and closing statement. He may use this time to call witnesses on his behalf, and to question the Councilmembers bringing this censure resolution.
 - a. The questioning or cross-questioning of Councilmember Romero's witnesses may be reasonably limited during the censure hearing by the Mayor.
 - b. Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration.
4. **Council Questions/Deliberation.** The full Council will then deliberate more generally before a motion is made or make a motion on how to proceed (e.g., continue the matter for further consideration, adopt a resolution, etc.) and debate that motion.
5. **Public Comment.** As with any other item, public comment will be required on this item. But as always, the Mayor may regulate the proceedings, including limiting time for public comment in light of various factors (e.g., number of speakers and time constraints).
6. **Vote.** After a motion is on the floor, the Council will need to vote on any motions per the rules of parliamentary procedure (Robert's Rules of Order). It is important note that

because the Council is adopting a resolution, pursuant to Government Code Section 36936, an affirmative vote of at least 3 members will be required.

Considerations: Removal from Intergovernmental/Regional Agency Boards

If the City Council elects to remove Councilmember Romero from the intergovernmental and regional boards he serves on as Council representative, the Mayor will need to make appointments to the following agencies which Councilmember Romero serves as a representative or alternate:

Regional Agency	Council Representative	Council Alternate
Association of Bay Area Governments	Barragan	Romero
Commute.org	Romero	Dinan
Peninsula Clean Energy JPA	Romero	Barragan
Recycled Water Advisory Committee	Lincoln	Romero
Re-Think Waste	Romero	Lincoln
San Mateo County Libraries JPA	Dinan	Romero

Staff is unsure whether these boards have any rules or limitations on appointing alternates. The *Code of Ethics and Conduct for Elected and Appointed Officials* does not grant the City Council the authority to remove a councilmember from a board which the City Council did not originally make the appointment. For example, Councilmember Romero serves on the San Mateo County Transportation Authority (TA), but he was appointed to that position by the San Mateo County Board of Supervisors; the San Mateo Transit District (SamTrans); and the City Selection Committee, not the Council.

Fiscal Impact

There is no fiscal impact for this item.

Public Notice

The public was provided notice by making the agenda and report available on the City’s website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

Environmental

The action being considered does not constitute a “Project” within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15378 (b)(5), in that it is a government administrative activity that will not result in direct or indirect changes in the environment.

Government Code § 84308

Applicability of Levine Act: No, as the proposed action does not involve an entitlement.

Analysis of Levine Act Compliance: Not applicable.

Attachments

1. Code of Ethics and Conduct for Elected and Appointed Officials.
2. Draft Resolution.



ADMINISTRATIVE POLICY

SUBJECT: CODE OF ETHICS AND CONDUCT FOR ELECTED AND APPOINTED OFFICIALS

SECTION 1: POLICY

This policy shall be referred to as the Code of Ethics and Conduct for Elected and Appointed Officials (“Code of Ethics and Conduct”).

SECTION 2: PURPOSE

The City of East Palo Alto (“City”) has established this Code of Ethics and Conduct for members of the City Council and the City’s boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operation. The Code of Ethics and Conduct is designed to describe the manner in which Councilmembers and members of City boards, commissions, and committees should treat one another, City staff, constituents, and others they come into contact with while representing the City of East Palo Alto.

SECTION 3: APPLICABILITY

This Code of Ethics and Conduct applies to the East Palo Alto City Council (“City Council”), and City boards, commissions, and committees (“Advisory Bodies”). For ease of reference in the Code of Ethics and Conduct, the term “Member” refers to any member of the City Council or City Advisory Bodies established by City ordinance, resolution, or Council policy.

SECTION 4: ETHICS

A. Introduction: The residents and businesses of the City are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

1. Comply with both the letter and spirit of the laws and policies affecting the operations of government;
2. Are independent, impartial and fair in their judgment and actions;
3. Use their public office for the public good, not for personal gain; and
4. Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

- B. Rule: Members shall comply with all applicable ethics laws, rules, and guidelines, including those set forth in this section.
- C. Act in the Public Interest: Recognize that stewardship of the public interest must be their primary concern, and that Members will work for the common good of the people of East Palo Alto and not for any private or personal interest, and will assure fair and equal treatment of all persons, claims and transactions coming before them.
- D. Comply with both the spirit and the letter of the Law and City Policy: Members shall comply with the laws of the nation, the State of California, and the City of East Palo Alto in the performance of their public duties.
- E. Conduct of Members: The professional and personal conduct of Members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of City Council, Advisory Bodies, City staff or the public.
- F. Respect for Process: Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
- G. Conduct at Public Meetings: Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand.
- H. Decisions Based on Merit: Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the Member is called upon to determine and apply facts particular to an individual case), Members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.
- I. Communication: For adjudicative matters pending before the body, Members shall refrain from receiving information outside of an open public meeting or agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.
- J. Conflict of Interest: In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, Members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (1) a material financial interest, (2) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (3) a strong personal bias.

A Member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (“FPPC”) or other appropriate state agency, a Member shall not participate in a decision unless and until he or she has requested and received advice allowing the Member to participate. A Member shall diligently pursue obtaining such advice. The Member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to Members, the City Attorney represents the City and not individual members.

In accordance with the law, Members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

- K. Gifts and Favors: Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. Members shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
- L. Confidential Information: Members must maintain the confidentiality of all written materials and verbal information provided to Members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
- M. Use of Public Resources: Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
- N. Representation of Private Interests: In keeping with their role as stewards of the public interest, members of City Council shall not appear on behalf of the private interests of third parties before the City Council or any Advisory Body or proceeding of the City, nor shall members of any Advisory Body appear before their own bodies or before the City Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
- O. Advocacy: Members shall represent the official policies or positions of the City Council, or Advisory Body, to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Members shall explicitly state they do not represent their Advisory Body or the City of East Palo Alto, nor will they allow the inference that they do. Councilmembers and Advisory members have the right to endorse candidates for all Council seats or other elected offices. However, it is inappropriate to mention or display endorsements during City Council meetings, or Advisory Body meetings, or other official City meetings.

- P. Policy Role of Members: Members shall respect and adhere to the council-manager structure of City government as outlined in the East Palo Alto Municipal Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Advisory Bodies, and the public. Except as provided by the East Palo Alto Municipal Code, Members shall not interfere with the administrative functions of the City or the professional duties of City staff, nor shall they impair the ability of City staff to implement Council policy decisions.
- Q. Independence of Advisory Bodies: Members of City Council shall refrain from using their position to unduly influence the deliberations or outcomes of Advisory Body proceedings. This is necessary due to the value of the independent advice of Advisory Bodies to the public decision-making process.
- R. Positive Workplace Environment: Members shall support the maintenance of a positive and constructive workplace environment for City employees and for residents and businesses interacting with the City. Members shall recognize their special role in dealings with City employees and shall not create the perception of inappropriate direction to City staff.

SECTION 5: CONDUCT RULES

The Conduct Rules set forth in Sections 6-14 are designed to describe the manner in which Members should treat one another, City staff, constituents, and others they come into contact with while representing the City of East Palo Alto.

SECTION 6: ELECTED AND APPOINTED OFFICIALS' CONDUCT WITH EACH OTHER IN PUBLIC MEETINGS

- A. Introduction: Members are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.
- B. Respect the Chair: It is the responsibility of the chair to keep the comments of Members on track during public meetings. Members should respect efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- C. Practice Civility and Decorum: Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. However, free debate does not require nor justify public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

- D. Avoid Offensive Comments: If a Member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- E. Demonstrate Effective Problem-solving Approaches: Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

SECTION 7: CITY COUNCIL AGENDA SETTING

A. Agenda Setting Process:

1. *The Agenda Committee*. The Agenda Committee is comprised of the Mayor and Vice Mayor. The charge of the Agenda Committee is to work with Staff to plan City Council Meetings. There are three primary purposes to Agenda Committee meetings: 1) to plan how City Council Meetings will be conducted, including review of approximate time allocations for agenda item presentations and to ensure adequate time for large complex items; 2) to identify any issues or questions that may need greater staff preparation for the meeting; and 3) to discuss future meetings, including items to be included on future meeting agendas.

Consideration in building the agenda should be given to the potential length of the meeting and at what point items of significant public concern may be heard. The purpose of the meeting is not to work on policy issues. Normally, the Mayor and Vice Mayor attend the Agenda Committee meetings with the City Manager, City Attorney, and other staff, as appropriate. The Mayor and Vice Mayor's roles are to represent the interests of the entire Council.

2. *Councilmember Requests to the Agenda Committee*. A City Council member may submit a request to the Agenda Committee to add a matter to a future meeting agenda. The request may be written directly to the Agenda Committee or made verbally under Council Reports at any public meeting of the Council. The request will be considered at the Agenda Committee meeting.
 - i. *The Decision*. The Agenda Committee may grant any such request as a matter of courtesy without further discussion and will agendaize the requested item for a future agenda as soon as practicable, considering staff input on operational and budgetary capacity. If the Agenda Committee is unable to arrive at a consensus on the request, the Mayor or Vice Mayor may grant the request outright.

If the Agenda Committee denies the request, then the requesting councilmember may make the request through the City Manager. In that instance, the City Manager would ensure an item would be added to the next City Council meeting agenda under "Council Reports" to discuss the request for the item to be added to another future agenda. When discussing the request during "Council Reports," as an ordinary agenda item where parliamentary rules of procedure apply, the entire Council would consider the request to add the item to a future agenda. If a

majority of the Council votes to grant the request, the councilmember who made the request will work with the City Manager and a member of the Agenda Committee to agendaize the requested item for a future agenda, as soon as practicable considering staff input on operational and budgetary capacity, on a date agreed upon by the councilmember, Agenda Committee representative, and the City Manager.

- B. Proclamations: To the extent possible, Councilmembers must submit Proclamations requests to the Mayor or Vice Mayor and the City Clerk at least two weeks in advance of the event for recognition of the person who is the subject of the Proclamation. The Proclamation must have a contact name, email/phone number, and a sample of the wording.
- C. Special Presentations: Councilmembers must submit requests for special presentations to the Mayor/Vice Mayor for consideration of agenda placement at the Mayor/Vice Mayor meeting.
- D. Letter of Support: If a letter of support is written in an individual Councilmember's capacity, the letter shall reflect that it reflects only the viewpoint of the author and not the full City Council. The author shall provide the City Clerk a copy of the letter for official retention.

SECTION 8: ELECTED AND APPOINTED OFFICIALS' CONDUCT WITH THE PUBLIC IN PUBLIC MEETINGS

- A. Introduction: Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.
- B. Equitable Time Limits: The chair will determine and announce limits on speakers at the start of the public hearing process.
- C. Practice Active Listening: While questions or clarification may be asked, a Member's primary role during public testimony is to listen.
- D. Maintain an Open Mind: The public deserves an opportunity to influence the thinking of elected and appointed officials and Members shall maintain an open mind.
- E. Avoid Debate or Argument: Only the chair – not individual members – can interrupt a speaker during a presentation. However, a Member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the Member finds disturbing.

SECTION 9: ELECTED AND APPOINTED OFFICIALS' CONDUCT WITH THE CITY STAFF

- A. Introduction: Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected officials, and City staff who implement and administer the City Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- B. Respect City Staff: Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards City staff is not acceptable.
- C. Council Requests to City Manager: City Council requests that deal with policy or fiscal issues or requests that may be construed as direction shall be directed to the City Manager. City Council members may contact department directors for general inquiries or questions. City Council members may also correspond directly with the City Attorney.
- D. Council Agenda Questions: City Council requests for answers to questions on council agenda items should be submitted to the City Manager, City Attorney or relevant department director or manager prior to the meeting whenever possible.
- E. Avoid Disruption: Members should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Members should not attend City staff meetings unless requested by City staff, as the Member's presence may imply support, show partiality, intimidate City staff, or hamper City staff's ability to do their job objectively.
- F. Refrain from Public Criticism: Members should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Councilmember comments about City staff performance should only be made to the City Manager or City Attorney through private correspondence or conversation. Appointed officials should make their comments regarding City staff to the City Manager, City Attorney, or the Mayor.
- G. Avoid Administrative Functions: Members acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- H. Refrain from Political Influence: Members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.
- I. No Attorney-Client Relationship: Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff, and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the City Attorney.

SECTION 10: CITY COUNCIL CONDUCT WITH ADVISORY BODIES

- A. Introduction: The City has established several Advisory Bodies as a means of gathering more community input. Residents who serve on Advisory Bodies become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- B. Conduct at Advisory Body Meetings: Councilmembers may attend any Advisory Body meeting, which are always open to any member of the public. However, Councilmembers should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – that could be viewed as unfairly affecting the process. Any public comments by a Councilmember at an Advisory Body meeting should be clearly made as individual opinion and not a representation of the viewpoint of the entire City Council. Individual Councilmembers are also responsible to ensure compliance with the Brown Act at all times.
- C. Limit Contact with Advisory Body Members: It is inappropriate for a Councilmember to contact an Advisory Body member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Advisory Body members in order to clarify a position taken by the Board, Committee or Commission.
- D. Respect the Role of Advisory Body Members: The City Council appoints individuals to serve on Advisory Bodies, and it is the responsibility of Advisory Bodies to follow policy established by the City Council. However, Advisory Body members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Advisory Body members with removal if they disagree about an issue. Appointment and re-appointment to an Advisory Body should be based on such criteria as expertise, ability to work with City staff and the public, and commitment to fulfilling official duties. A Board, Committee, or Commission appointment should not be used as a political "reward."
- E. Be Respectful of Diverse Opinions: A primary role of Advisory Bodies is to represent many points of view in the community and to provide the City Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Advisory Bodies, but must be fair and respectful of all residents serving on Advisory Bodies.
- F. Refrain from Political Influence: Advisory Body members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Advisory Body members who are running for office, but not in an official forum in their capacity as a Councilmember.

SECTION 11: CONDUCT OF CITY STAFF RELATED TO PUBLIC MEETINGS

- A. Staff Report Writing: The City Manager shall supervise and approve all City staff reports that are published as part of the City Council agenda. City staff shall prepare well-written staff reports and provide accompanying documents on all agenda items in accordance with the agenda format and preparation schedule. Furthermore, the City Manager shall advise management staff of potentially political or controversial issues coming before the City Council and direct City staff to be present and appropriately prepared at City Council meetings.
- B. Council Inquiries: City staff shall be available for questions from City Council members in accordance with the Brown Act prior to and during meetings and shall respond to questions during meetings only when requested to do so by Council members, the City Manager, or the City Attorney.

- C. Decorum: City staff shall refrain from arguing with the City Council members, Advisory Body members, and the public. Electronic equipment that is not otherwise being used for public meeting purposes shall be set to silent or off mode during public meetings.
- D. Keeping Council Informed: To the extent permitted by the Brown Act, the City Manager and City staff shall keep the Mayor and City Council members informed of significant issues in the City of East Palo Alto.

SECTION 12: CONDUCT WITH THE MEDIA

- A. Introduction: Councilmembers are frequently contacted by the media for background and quotes. The best advice for dealing with the media is to never go "off the record." Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. However, one bad experience can be catastrophic. Words that are not said cannot be quoted.
- B. Mayor as Spokesperson: The Mayor is the designated representative of the City Council to present and speak on an official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.
- C. Choose Words Carefully: Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.
- D. Limits on Advisory Body Members: Advisory Body members are not authorized to represent the City outside of official advisory body meetings unless specifically authorized to do so.

SECTION 13: SANCTIONS

- A. Acknowledgement of Code of Ethics and Conduct: Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Advisory Body members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.
- B. Standards and Expectations: The Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the City Council, and Advisory Bodies. Members have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The Mayor and City Council, and chairs of City Advisory Bodies have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.
- C. Councilmember Sanctions: Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or censured by the City Council, lose seniority or

committee assignments (both within the City of East Palo Alto and with intergovernmental agencies) or other privileges afforded by the Council (i.e., restrictions on official City travel).

Individual Councilmembers should point out to the offending Councilmember the perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of the Mayor (or Vice Mayor) to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor (or Vice Mayor), then the alleged violation(s) can be brought up with the full City Council.

D. Advisory Body Member Sanctions:

1. Counseling: Counseling and verbal warnings may be administered by the Mayor to an Advisory Body member failing to comply with City policy. This lower level of sanctions shall be kept private to the degree allowed by law. The Mayor shall advise the chair of the respective Advisory Body of the counseling or verbal warning, and also notify the City Manager, City Attorney, and City Clerk.
2. Investigation: When deemed warranted, the Mayor or majority of City Council may call for an investigation of an Advisory Body member's conduct. In addition, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor, or City Council in compliance with the Brown Act. The Mayor or City Council shall ask the City Manager or the City Attorney to investigate the allegation and report the findings.
3. Discipline: Written reprimands, censure and removal are all options available to the City Council for disciplining an Advisory Body member failing to comply with City policy. Any form of discipline imposed by City Council shall be determined by a majority vote of at least a quorum of the City Council at a noticed public meeting and such action shall be preceded by a report to City Council with supporting documentation.
4. Alternative Remedy: These sanctions are alternatives to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law. In order to protect and preserve good government, any individual including the City Manager and the City Attorney after complying with Rule 1.13 of the State Bar Rules of Professional Conduct, who knows or reasonably believes a Member acts or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, may report the violation to the appropriate governmental authorities.

- E. Inappropriate City Staff Behavior: Councilmembers should refer to the City Manager, or City Attorney as appropriate, any City staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions.

SECTION 14: IMPLEMENTATION

The Code of Ethics and Conduct is an expression of the standards of conduct expected by the City for its elected and appointed officials. It therefore becomes most effective when Members are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, Advisory Bodies, and newly elected and appointed officials. Members entering office shall sign a statement (example below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and update it as necessary.

Example:

I affirm that I have read and understand the City of East Palo Alto Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

RESOLUTION NO. [XXXX]

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**REPRIMANDING COUNCILMEMBER CARLOS ROMERO FOR VIOLATIONS OF THE CODE OF
ETHICS AND CONDUCT**

WHEREAS, the City of East Palo Alto has adopted a *Code of Ethics and Conduct for Elected and Appointed Officials* to maintain public trust in the integrity and fairness of local government; and

WHEREAS, Section 4(E) of the Code requires Members to avoid abusive conduct, personal charges, or verbal attacks upon other Members, staff, or the public; and

WHEREAS, Section 6(C) and Section 6(D) of the Code mandate civility and prohibit belligerent, slanderous, abusive, or disparaging remarks during Council meetings; and

WHEREAS, Councilmember Romero has, on multiple occasions, made offensive and disparaging comments during public meetings, thereby violating the standards of conduct and undermining the Council's ability to conduct its business in an atmosphere of respect and civility, as set forth in the agenda report; and

WHEREAS, Section 13(C) of the Code authorizes the City Council to censure, reprimand, and impose sanctions upon Members who intentionally and repeatedly fail to follow proper conduct; and

WHEREAS, the City Council finds that a formal censure with sanctions is necessary to hold Councilmember Romero accountable and to reaffirm the Council's commitment to respectful governance.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council set the matter for Councilmember Romero for reprimand hearing at special meeting on September 8, 2025.
2. In accordance with the Brown Act, Councilmember Romero was given notice of this item.
3. The City Council by motion approved the following procedures for the hearing:
 - a. **Rules and Formality.** The rules of evidence and judicial procedure applicable in courts of law shall not apply to this hearing, and the procedures for the conduct of the hearing shall be generally informal.
 - b. **Opening Statement.** The Mayor shall summarize the allegations against the councilmember for the record, or the Mayor may simply reference the proposed resolution or the staff report, which shall contain the same.
 - c. **Time to address the charges.** The councilmember will be permitted to sit on the dais during the proceeding. The councilmember will also be given a total of 10 minutes to make an opening and closing statement. The councilmember may use this time to call witnesses on his/her behalf, and to question the councilmembers bringing this resolution.

- i. The questioning or cross-questioning of the councilmember’s witnesses may be reasonably limited during the censure hearing by the Mayor.
 - ii. Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration.
- d. **Council Questions/Deliberation.** The Council will then deliberate more generally before a motion is made or make a motion on how to proceed (e.g., continue the matter for further consideration, adopt a resolution, etc.) and debate that motion.

Public Comment. As with any other item, public comment will be required on this item. But the Mayor may regulate the proceedings, including limiting time for public comment in light of various factors (e.g., number of speakers and time constraints).

- e. **Vote.** After all motions are on the floor, the Council will need to vote on any such motions consistent with the rules of parliamentary procedure (Robert’s Rules of Order). Pursuant to Government Code Section 36936, an affirmative vote of at least 3 members will be required for this resolution.
4. Pursuant to Section 13.C, the City Council of the City of East Palo Alto hereby issues a formal reprimand of Councilmember Romero for repeated violations of the Code of Ethics and Conduct for the reasons set forth in this Resolution and the accompanying agenda report.
5. Pursuant to Section 13.C, the City Council of the City of East Palo Alto hereby imposes a formal sanction in the following form: Councilmember Romero is hereby stripped of all Council-appointed committee assignments, as set forth below, until the results of the next election (November 2026) is certified and a new Mayor is elevated with a new opportunity consider committee assignments:

Regional Agency	Council Representative	Council Alternate
Association of Bay Area Governments	Barragan	Romero
Commute.org	Romero	Dinan
Peninsula Clean Energy JPA	Romero	Barragan
Recycled Water Advisory Committee	Lincoln	Romero
Re-Think Waste	Romero	Lincoln
San Mateo County Libraries JPA	Dinan	Romero

PASSED AND ADOPTED this [day] of [month], 2025, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Martha Barragan, Mayor

ATTEST:

APPROVED AS TO FORM:

James Colin, City Clerk

John D. Lê, City Attorney

September 8, 2025

EPA Community and City Council,

I am writing to clarify a comment I made at the September 2, 2025, City Council meeting that has caused concern among several council members and the mayor. Below, I lay out the actions that led up to this comment, its intended meaning, and explain why the proposed sanction is not commensurate with the alleged transgression.

Before doing so, and above all, I apologize to our brothers and sisters in the deaf community and persons with disabilities who may have been offended by my inadvertent use of the phrase and metaphor “deaf and dumb”. I recognize that this outdated phrase carries painful history and is now considered a pejorative term. Rather than a poor choice of words, this was the wrong choice. As always, I will endeavor ever more diligently to use language that is more precise and mindful of marginalized communities.

As for the context in which the comment was made, it is relevant that leading up to my comment, Councilmember Lincoln interrupted me, without holding the floor, to end debate on a controversial Inclusionary Housing Ordinance (IHO) agenda item no less than three separate times. Closing debate would have denied Councilmember Abrica and me an opportunity to state our objection to what we saw as an overreach and unjustified abrogation of the City’s IHO rules.

As is customary, when a council member has the floor, colleagues extend the courtesy of letting them complete their thoughts, as was extended early in the meeting to Mr. Dinan. My frustration with Councilmember Lincoln’s multiple unchecked interruptions to quash the debate led to the comment. Immediately after I exhorted Councilmember Lincoln, I asked that he please not interrupt me as I had the floor. I also noted I was not repeating arguments as asserted in his interruption. Indeed, between the mayor, vice mayor, and Councilmember Lincoln, they attempted to close debate a total of six times.

Regarding the specific phrase used, shortly after making the comment to Councilmember Lincoln, I explained that no personal offense was intended towards him. Moreover, I clarified that the use of the phrase referred to his lack of listening and not his intelligence or mental acuity. To be clear, I reiterated as a form of an apology on three separate occasions within a span of four minutes that no personal offense was meant to the council member. I state unequivocally that my intent was not to denigrate the council member and my actions demonstrate this. As a final attempt to bring comity to this chapter of council discussion, I extended an olive branch to him, explaining why I felt so aggrieved and that we should both agree to accept apologies. Council member Lincoln declined my entreaty by immediately calling for closure of the discussion for a fourth time. Regardless, I extend my apologies to the mayor, Councilmember Lincoln, and the council for using this term.

Lastly, in reference to the predetermined punishment, it is excessive and not commensurate with the transgression as it occurred. This matter revolves around an acknowledged bad choice of metaphor, not an intended insult to a fellow council member. My actions were not a scurrilous personal attack on Councilmember Lincoln by any stretch of the imagination, as the written report alleges. The record, video, and attached chronology of comments speak for themselves. To impose the maximum punishment permitted by the Code of Ethics and Conduct is overreach and arguably vindictive in its application. A reprimand or censure would suffice. Again, I reassert that the punishment proposed for the misuse of a metaphor is unwarranted.

The proposed sanction to remove me from all boards the mayor appointed me to will have unintended consequences of impacting the dedicated resources and regional recognition for East Palo Alto that I have carefully curated and nurtured. My extensive service, leadership roles, and strong relationships with staff and board members of these bodies, earned through many years of hard work, will be lost to the city. My behavior in these organizations is not under question, nor is there any evidence that I have been disruptive or have negatively represented EPA. I believe we would all lose if this punishment is imposed. I would be happy to provide a list of phone numbers of leaders who have worked with me at these bodies, should you wish to speak with them.

Thank you.

/S/ Councilmember Carlos Romero

Chronology of comments at the September 2 City Council meeting:

3:30:46—Mayor calls for an end to debate on the Inclusionary Housing Ordinance Alternative Compliance proposal before Abrica and Romero have spoken on the item.

3:31:40—Abrica and Romero insist that they should be able to speak on the issue before the item comes to a vote,

3:52:44—Lincoln asks the mayor to bring the item to a vote, knowing well that Romero has not spoken on the item.

4:00:42—Lincoln calls for a motion to end debate

4:01:25—Romero starts to make a motion on the IHO Alternative Compliance agenda item

4:01:39—Lincoln interrupts Romero to make a motion to stop the discussion while I am in the middle of making my motion. Romero asks Lincoln to stop and please listen to what he is saying.

4:02:00—Dinan attempts to interrupt Romero's motion-making process before Romero can ask for a second by proposing an alternative motion while Romero still had the floor

4:09:48—Romero is speaking and holds the floor. Lincoln interrupts Romero for a second time by calling again for an end to the debate.

4:10:00: Lincoln again interrupts Romero by falsely alleging that Romero has spoken for 30 minutes and is now repeating himself. In actuality, Romero was asking a clarifying question of the City Attorney regarding the motion on the floor.

4:10:08—Out of frustration and clumsiness, Romero makes the comment that offends the mayor. Throughout the entire previous 10 minutes, the mayor has failed to stop Lincoln from interrupting Romero three times while Romero had the floor,

4:11:10—Romero clarifies that the use of the inappropriate phrase was used to describe that someone cannot listen to what is being said.

4:11:28—As a form of an apology, Romero states that no offense was intended.

4:11:47—Romero reiterates for a second time that no offense was meant by that comment to the councilmember.

4:15:00—Romero states for a third time that no offence was meant. Furthermore, Romero extends an olive branch to Councilmember Lincoln, who does not respond. Rather, Lincoln asks to close the debate again before Abrica can discuss the substitute motion.

COUNCILMEMBER WEBSTER LINCOLN STATEMENT

Re: Agenda Item 3.2 - Reprimand of Councilmember Carlos Romero

September 10, 2025 Special Meeting

To the Honorable Mayor, Fellow Councilmembers, and the Public:

As the direct target of Councilmember Romero's September 2 remarks, I submit this statement in support of the proposed resolution and sanctions. While I take no pleasure in this proceeding, accountability is essential for maintaining a functional and respectful governing body.

The Incident and Its Impact

During the September 2 meeting, in the midst of a procedural debate, Councilmember Romero stated that I "may be deaf and dumb." This was not, as he later claimed, merely a "misuse of metaphor." It was the use of outdated, derogatory language that has historically been used to marginalize and demean people with disabilities.

The chronology shows that I was attempting to move the Council's business forward through proper parliamentary procedure. My three motions to end debate were not "interruptions" but legitimate procedural moves when it appeared Councilmember Romero was extending debate beyond productive discussion. Robert's Rules specifically allow for such motions, and the Mayor has the responsibility to recognize them.

Why Apologies Are Insufficient

While Councilmember Romero claims he apologized three times, the record shows he first attempted to justify his language, saying it referred to my "lack of listening." This misses the point entirely. The phrase "deaf and dumb" is inherently offensive, regardless of intent. It perpetuates harmful stereotypes about people with disabilities.

Moreover, when I attempted to close debate a fourth time, Councilmember Romero asked me to accept his apologies. However, this is not simply a personal matter between two councilmembers—it's about maintaining professional standards in our public proceedings.

The Pattern and Established Precedent

This is not Councilmember Romero's first violation. On June 3, he made inappropriate comments about Vice Mayor Dinan's child. After that incident, Mayor Barragan explicitly warned him that future violations would result in formal sanctions. He chose to continue this behavior.

Our institutional precedent is clear. The Council's censure actions in 2007 and 2009 established that offensive remarks and the creation of hostile environments are unacceptable, regardless of the member's seniority or past service. These precedents created binding standards for council conduct that remain in effect today. Councilmember Romero, having served on this Council since 2008, is fully aware of these established standards and the consequences for violating them.

The Broader Impact

This issue extends beyond personal offense. Consider:

1. **Public Trust:** Residents watching our meetings deserve to see professional discourse, not personal attacks.

2. **Disability Community:** Using terms like "deaf and dumb" in 2025 sends a terrible message to residents with disabilities about how they are viewed by their government.
3. **Workplace Environment:** If we tolerate such language among ourselves, what message does that send about acceptable behavior toward staff and the public?
4. **Regional Representation:** Should someone who uses discriminatory language represent East Palo Alto on regional bodies where they interact with diverse communities?

Addressing Councilmember Romero's Arguments

Councilmember Romero argues the sanctions are "excessive" and "vindictive." I disagree:

- He received a clear warning after the June incident
- He chose to violate the Code of Ethics again just three months later
- The sanctions are temporary and reversible
- They are consistent with established precedent for similar conduct

He also claims removing him from committees will harm the city's interests. However, East Palo Alto's interests are also harmed when our representatives use **offensive language**. We have other capable councilmembers who can serve these roles with professionalism.

This Is Not Personal

I want to be clear: this is not about personal animosity. Councilmember Romero and I have disagreed on policy matters, as councilmembers do. But policy disagreements must never devolve into personal attacks or offensive language.

I would have preferred this matter be resolved through sincere acknowledgment of wrongdoing and genuine commitment to change. Unfortunately, Councilmember Romero's statement minimizes his conduct as a mere "bad choice of metaphor" and focuses more on the inconvenience of sanctions than on the harm of his words.

The Importance of Consistent Standards

This Council has worked hard to establish and maintain professional standards of conduct. The 2007 and 2009 censure proceedings, though difficult, demonstrated this body's commitment to civility and respect. Those actions created institutional precedents that guide us today.

If we fail to enforce these standards now—after a warning was given and ignored—we risk undermining years of progress toward professional governance. We would essentially be saying that our Code of Ethics only applies selectively, based on factors other than the conduct itself.

Conclusion

Supporting these sanctions is not easy, but it is necessary. We owe it to:

- The disability community who deserves better from their elected officials
- Future councilmembers who need to know standards will be enforced consistently
- The public who expects professional conduct from their representatives
- The institutional standards this Council has worked to establish

The precedents set by this Council in 2007 and 2009 remain our guide. We must apply consistent standards regardless of the individual involved. To do otherwise would be to abandon the principles of equal treatment and accountability that are fundamental to good governance.

I respectfully urge your support for the proposed resolution.

Respectfully submitted,

Webster Lincoln
Councilmember, City of East Palo Alto