



CITY COUNCIL SUMMARY MINUTES

Special Meeting
October 24, 2022

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:00 P.M.

Present In Person: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Present Remotely: None

Absent: None

Special Orders of the Day

1. Appreciation for Joe Simitian, Santa Clara County Supervisor, for Advocacy on Behalf of the Palo Alto Community for affordable housing and support for mental health, and services to unhoused Palo Altans (including the \$4 Million Challenge Grant in Support of Palo Alto Homekey)

Action: No action was taken

Mayor Burt expressed appreciation for Supervisor Joe Simitian regarding initiatives he led supporting interest in the North County, the community, and those in need in the community. His history in the community, his role as a County Supervisor, and his achievements were addressed.

Santa Clara County Supervisor Joe Simitian thanked and exhorted the Council in terms of the work being done in partnership. He expressed his appreciation of staff. He reminded everyone of a county COVID vaccine site at the old San Antonio shopping center in Mountain View, and appointments being available at sccfreevax.org. He referenced healthcare costs and the MedAssist program and provided website information. He thanked Council Members Cormack, DuBois, and Filseth for their service.

Council member DuBois expressed his appreciation of Supervisor Simitian and his projects helping people in need.

Council Member Cormack declared Supervisor Simitian did an excellent job bridging the roles of the county and the county health department and thanked him for the bike bridge at the south end of Palo Alto.

DRAFT ACTION MINUTES

Council Member Stone appreciated the leadership and the partnership with Palo Alto and Palo Alto Police through the Park Program and the MCRT and Supervisor Simitian going above and beyond by attending every community event and meeting.

Council Member Filseth spoke of it being a pleasure working with Supervisor Simitian and his trust in him. He seconded Council Member DuBois' comments. He considered Supervisor Simitian one of the most effective public servants in the entire Bay Area.

Vice Mayor Kou thanked Supervisor Simitian and agreed with Council Members Filseth and DuBois' comments. She stated the projects Supervisor Simitian brought forward were great and had been realistic and understanding of people. She hoped La Comida would be continued.

Council Member Tanaka thanked Supervisor Simitian for his service and was appreciative.

Mayor Burt commented on Buena Vista and his attending a film festival on preservation of trailer parks in the U.S., and there being battles, division, and lack of support of cities' elected officials for efforts to support members of the community living in market rate affordable housing sites. The filmmaker wanted to include Buena Vista as it was viewed as the number one success story with respect to unanimity of support from City Council, the community, Supervisor Simitian, and the Board of Supervisors. A lot of people participated in Buena Vista, but if there were one elected official who deserved credit, it was Supervisor Simitian and his commitment.

Public Comments

Ken Horowitz stated the Council mentioned everything he was going to say. Supervisor Simitian had done much in regard to health for Palo Alto's residents. He suggested watching the Board of Supervisors and the Health and Hospital meetings to see Supervisor Simitian's adamancy for District 5.

Liz Gardner shared her pleasure of being appointed under Supervisor Simitian for four years and him being accessible, inclusive, strong, and courageous in fighting for Palo Alto. Supervisor Simitian had done much for the needy, but he also provided the Council understanding that the needy could contribute and help the community, and he had educated the Council on inclusivity, fairness, and equitability.

Winter Dellenbach indicated people at Buena Vista held Supervisor Simitian in their hearts for his help and remarked on his fine character.

DRAFT ACTION MINUTES

Aram James commented on the death penalty and Supervisor Simitian supporting an inmate who had been wrongfully accused. He thanked him for forwarding critical issues regarding human rights, the criminal justice system, and the Prison Industrial Complex.

Roberta Ahlquist applauded Supervisor Simitian and hoped he would stay with Palo Alto. His help was needed to pressure Stanford to build housing on the campus and to work with developers finding parcels for low/moderate-income housing.

Karen Holman admired Supervisor Simitian for many things and thanked him for remembering his roots and the needs of others, always being humble, engaged, approachable, patient, courageous, right-thinking, clearheaded, and committed and being a partner and friend to all. She was grateful for the stance he took for open space for the environment and for housing. A person's staff said much about a person, and his staff was remarkable.

2. The Great California Shakeout

Action: No action was taken

Mayor Burt noted Chief of Emergency Services Kenneth Deuker would lead the Council in a drop, cover, and hold simulated earthquake exercise.

Chief Deuker provided context regarding pillars of support being leadership and being at a grassroots level, including elected officials, staff, and the community. He reminded Palo Alto of the three categories of risk and hazard relevant to Palo Alto – natural disaster, technological AKA accidental, and human caused. He implored that decisions for Palo Alto be made considering implications for those hazards and threats. Shakeout.org provided the largest earthquake exercise in the world and could be done virtually or on one's own time. He invited Members to follow along physically with the drop, cover, and hold exercise he would demonstrate and explained what dropping, covering and holding entailed.

Study Session

3. Crime Mitigation Strategies through the Use of Automated License Plate Recognition (ALPR) Technology

Action: No action was taken

Chief of Police Andrew Binder introduced Acting Police Captain James Reifschneider who would present a PowerPoint.

DRAFT ACTION MINUTES

Acting Captain Reifschneider expressed the goal for the presentation was to provide information regarding a piece of technology becoming more widespread in its use in the region and may have had potential application and benefits in Palo Alto. He requested feedback from the Council with the idea of potentially coming back in the future with an action item with more detailed discussion, recommendations, etc., for possible deployment, policy development, etc. He discussed how ALPR technology worked, potential problems it could address, and considerations for the technology coinciding with reduced budgets, etc. He addressed mobile and fixed ALPR; information that would and would not be captured; uses and benefits of proactive and reactive ALPR; how it worked and the chronological order of events; and policy considerations regarding access and data integrity and retention. Palo Alto would probably mimic many agencies in the Bay Area utilizing ALPR as far as deployment, transparency by using a portal providing real-time information to the community, and data security, sharing, and retention. Legal considerations were referenced that would be relevant if the Department were to return to the Council with an action item. The requirements of the Surveillance Technology Ordinance and the California Civil Code were reviewed. Fixed ALPR could be deployed through leasing or purchasing the equipment, and an estimated cost was supplied. There could be a pilot project for a year or two. They envisioned reporting back to the Council on an annual basis the number of searches, successes, etc. It would provide the potential for a cost effective force multiplier as the cost of rollout and ongoing costs would be less than that of a single officer on the street and would provide information 24/7 on any number of intersections. He named a few agencies in the county that had rolled out fixed and mobile ALPR technology experiencing publicized successes. He invited Los Gatos Monte Sereno Police Captain Clinton Tada and Los Gatos Investigations Sergeant Bill Hoyt to share their experiences.

Captain Clinton Tada shared experiences of their two-year ALPR pilot program that was initiated in 2021. They believed the technology was a force multiplier in combating criminal activity. He indicated that Investigations Sergeant Hoyt would provide examples how Los Gatos and Monte Sereno had utilized the technology and would review recent statistical measures since implementation of the program recently published and shared with their Council.

Investigations Sergeant Hoyt noted they had great success with the program and had started with a blank slate in terms of policy. They had considered how the desire to serve the community could best be represented while also protecting the community from over-reaches in terms of privacy. He spoke of efforts to mitigate concerns in reports initially brought forth. He encouraged looking at the transparency portal through the Los Gatos Monte

DRAFT ACTION MINUTES

Sereno Police Department website. He referenced recent statistics. From a privacy perspective, they elected to not share data with any other users of the platform; however, they allowed agencies to call with specific data, and then Los Gatos Monte Sereno would do the research.

Acting Captain Reifschneider used an illustration of an armed robbery that occurred and provided a potential application of the ALPR technology. He requested Council's feedback and a discussion of the potential implementation of the technology and then applying that to potentially identify a vendor, product, policy, etc. He imagined community feedback would also be solicited and implemented. The next step would be a procurement process and eventually, consistent with the Surveillance Ordinance, a return to the Council with an action item, which would include a draft contract, draft deployment plan, and an associated surveillance use policy for Council's approval.

Council Member Cormack asked if there was a pilot program how success would be determined, why non-hit data would be sent to the vendor, and how the automated alerts would work.

Acting Captain Reifschneider answered there were several metrics that would be tracked. Sending the data to the vendor was synonymous with storing the data. There could be investment in City infrastructure but would come with a cost. He provided an example of the value of capturing and storing data that may not be recognized as a hit. Potential criteria that may have been used to determine where ALPR would be deployed was furnished. He envisioned 20 cameras throughout the City in high-activity areas. They would be in control how automated alerts would go out, and an example was presented.

Council Member Stone inquired if the ALPR technology would alert officers to only stolen vehicles and/or people with arrest warrants or would it include alerts for vehicles associated with a person on parole, etc., with a search provision; who would have control over information being captured and who it would be shared with; if private companies operating ALPR cameras used data only for helping police departments solve crimes; and the process for connecting cameras in the mall, for example, to be shared with the Police Department in real time. He wanted to see next steps in developing the policy come back to City Council, a natural next step being vetting by the Human Relations Commission; partnership with the PD and the ACLU; and policies developed in the program that would objectively place cameras in areas with documented high levels of crime or equitably distributed across the City. He was concerned of targeting areas of the City or neighboring cities with a disproportionate amount of demographics historically targeted

DRAFT ACTION MINUTES

by police agencies and wanted policy regarding that. He liked the idea of the pilot program. The risk to privacy appeared to be minimal.

Acting Captain Reifschneider commented the ALRP technology would not trigger on vehicles owned by folks subject to supervision. It would trigger from an entry made into the system that a vehicle had been identified as stolen, etc. An entry could be made in the system of a vehicle associated with a felony and request another agency effect a stop on the vehicle. There would also be automated entries of missing people. Palo Alto would have control as far as sharing information, and that data would not be transmitted to a clearing house where other agencies could log in and make a query. The mall was in the process of rolling out ALPR and was interested in connecting cameras to the Police Department. Entities had ALPR for a variety of reasons, which may have had nothing to do with law enforcement.

Council Member Filseth thought this was a logical direction to go. He questioned if the raw data would go to the vendor and then PAPD would have access and who would decide that processing; if there was a mechanism of a central database subscription linking areas outside Palo Alto; and if the system identified a stolen vehicle why an image of the driver would not be captured.

Acting Captain Reifschneider confirmed the raw data would go to the vendor and could be accessed by the PAPD. As for the process, policy setting would determine what circumstances an officer could access data, and policy would be set, monitored, and manage with the Department, which City Council would play a role at some level. As for a central database, there was the SVS system for stolen vehicles regardless of ALPR, which ALPR systems would draw data from. Not capturing images of drivers was a technology and a policy issue.

Council Member DuBois asked if data from the license plate reader for parking enforcement could be used as a pilot and if images of people would be captured if they were in the back seat. The California law overlapped to a good degree the Surveillance Ordinance. Proactive versus reactive ALPR seemed different. He inquired if 30-day data retention included good plates that were captured. He was interested in vendors offering only systems that were more the investigative functionality and what was being looked for and then triggering off those things versus capturing everything going by. He questioned if the system could be upgraded to be used for speeding violations, etc. It should be clear what the system would be used for. He was concerned about logging valid cars for 30 days and the federal government requiring data being retained, so thought needed to be given to the retention policies. Determination of camera placement needed to be clear.

DRAFT ACTION MINUTES

He discussed cost needing to be balanced regarding cost of the cameras and annual costs. A situation of a vendor being motivated to generate as much revenue as possible needed to be avoided. He desired the City to own the data and the data to be anonymized and possibly the Planning Department using the data for traffic analysis.

Acting Captain Reifschneider believed they did not have access to the data from the license plate reader for parking enforcement. If someone were sitting in the back seat and facing rearward, there was the possibility of capturing a blurry image, but cameras would be hyper-focused on capturing a high quality image of the plate. The 30-day data retention included good plates that were captured. In reference to a system upgrade, he did not believe the current vendors offered a product used for traffic violations. Community privacy organizations had expressed concern about technology being used for low-level offenses. The Police Department wanted ALPR reserved for enforcement of criminal behavior.

Vice Mayor Kou questioned with successful pilot programs in other cities why we would do a pilot program when we could move forward with implementation; the number of cameras that would be deployed; the pros and cons of having signage and of sharing data; if there would be background security checks on vendors; and if we had seen the one-year annual report on the license plate reader. She wanted signage and sharing of data.

Acting Captain Reifschneider stated a pilot program was Council's decision, but each communities' needs, balance of privacy protection, and collection of information was different. A pilot program would provide the ability to assess privacy considerations and efficacy of the program. The number of cameras deployed would be the outcome of Council's feedback. About 20 cameras would be needed for busy commercial areas where there were a lot of police reports. Signage would act as an additional deterrent and was a policy decision. Collecting one's own data but not sharing it with other agencies would give the greatest degree of control, but if data was not shared, others would not share their data, which would be a limitation on investigators. There were two main vendors in the area, both reputable, and there would be an internal process to validate security measures.

City Attorney Molly Stump stated the City was behind on the annual report of the surveillance technologies, and they would work on it and put in place a procedure to be prompted annually.

Council member Tanaka thought the program looked well developed. He had spoken with the Danville Police Chief and others both of whom adopted

DRAFT ACTION MINUTES

similar systems and put them in hotspot areas, and they were ecstatic with the results. He had also spoken with the ACLU, and it seemed the Police Department was trying to do best practices. He asked which vendors they were considering. Having cameras at high traffic areas made sense. Sharing data was the most powerful use of this. He liked the idea of proactive deployments. He was in favor of accelerating or not having a pilot. He supported the effort.

City Attorney Stump declared regarding the vendors that they wanted to be careful to protect the competitive process and if the Council gave direction to move forward, a solicitation would be issued that would be open to all.

Mayor Burt commented the report addressed his highest concerns of having only rear monitoring of vehicles and how data would be shared and stored and seemed to address concerns of racial profiling and tracing undocumented residents. He wanted the vendor to have adequate security and the ability to rescind the policy if an attempt was made federally to access the data. He asked how critical was the 30-day retention. He was not interested in fulfilling the purpose for having a value for anonymized traffic data as there were tools already available for that.

Acting Captain Reifschneider indicated the 30-day retention of data had more investigative value than real-time data.

Public Comment

Liz Gardner would like to see a vote to the Palo Alto residents if this advances and some examples of scanners in diverse areas other than predominately white cities in the Bay Area. She questioned how the technology would advance, if the cameras would be running at the same time, and if continuous pictures were going to be taken of people living in vehicles.

Aram James remarked that having a report from the ACLU was not the same as having them present to ask questions and requested getting the Electronic Frontier Foundation (EFF) and the ACLU involved in the decision. He believed the K9 Unit should be quashed and tasers relooked at and that money used for a program like this.

Megan Kawkab had had license plate reading cameras installed at their business since 2018 and guaranteed one could not see into vehicles. They had caught numerous crimes with the cameras. She provided some financial and technological information for the company OpenALRP, which they used and asked the Council to contact her if there were questions.

DRAFT ACTION MINUTES

Winter Dellenbach found the subject discouraging and thanked Council Member DuBois for his comments. She encouraged engagement of the EFF. She presented slides showing crime data. She addressed the data being kept for 30 days.

Hamilton Hitchings indicated ALPRs were a powerful tool to reduce crime and could reduce bias in traffic stops. He liked the idea of having an automatic rescinding policy regarding sharing data and agreed with Council Member DuBois regarding privacy concerns and suggested not retaining non-hits for query and sharing of data being for only a known warrant, etc.

Julie Beer thanked Council Member DuBois and Mayor Burt for their comments. She was concerned about civil liberties. She did not understand why Palo Alto would pay for this on the properties of Stanford, Apple, etc.

Agenda Changes, Additions and Deletions

Mayor Burt stated there was the possibility of a later adjustment due to being behind schedule. As the agenda adjustment would not yet be made, he wanted guidance from the City Attorney regarding possibly being partway through Item 9 but pausing and moving to Item 10 and continuing Item 9 to a future date.

City Attorney Molly Stump suggested checking with the Planning Director but believed the Public Hearing Notification suggested giving consideration to continuing it to a date certain so it would not have to be re-noticed. She suspected if it was continued to a date uncertain, it would have to be re-noticed.

Mayor Burt requested staff try to identify a date certain by the middle of that item.

Public Comments

Mayor Burt specified the next item was public comment on items not otherwise on the agenda.

Ken Horowitz commented Veteran's Day should be scheduled for November 11, not November 7 and hoped to hear from the City Manager regarding that. He wished the Mayor to comment concerning reports of a School City liaison meeting on Thursday, commenting that Cubberley had come up, and he was not sure why conversation was being continued with the superintendent and requested the City Council proceed with the Cubberley Community Center on its own and get out of the lease.

DRAFT ACTION MINUTES

Liz Gardner referenced the study session on Creekside and it being hard to hear assumptions being made about the deli and safe routes to school. It was not clear why the deli owner or manager was not present during the session and no map was provided of the route. There had been unsolicited emails from elected and former council members asking for certain supports of votes for candidates, and she believed they were not engaging with residents and asked that residents and constituents be engaged when making arguments to shut down a good plan for rental housing.

Aram James believed the police getting more dogs was a unilateral decision with no outreach. He read an article concerning this from the *Post*. He encouraged the public to contact Chief of Police Andrew Binder to voice their opinions of his administration. He requested banning biting canines in the City.

Megan Kawkab was thrilled with Chief Binder and the job he was doing. She felt the canines did a valuable service and were not dangerous. Her LPR cameras erased all data at 30 days, but a specific plate could be queried for one year with a request, and she would be happy to share with the Council information regarding her system. The City would benefit with such a system.

Winter Dellenbach noted the VA had a second spill of diesel fuel near Matadero Creek and opined the report was notable for what it did not include. It seemed the VA might be open to preventative secondary containment around the generator room and the diesel tanks to prevent contaminating soil and asked if anything could be done.

Julia Zeitlin thanked the Council for approving progressive climate policies that helped propel Palo Alto ahead of state requirements and goals by surrounding cities. She encouraged council members to attend the Climate Summit on November 12 at Gun High School from 1:00 to 4:00.

Bob Moss commented on the lack of housing and that a source of housing overlooked was vacant houses. Articles in the paper reported other cities in Santa Clara County were fining property owners for leaving houses vacant, and he recommended Palo Alto do something like that and possibly listing vacant houses and counting them against the need for additional housing, which may cut the number of required housing units down.

Consent Calendar

Mayor Burt forewarned it may have had to be determined how much time Council would have for discussion and how much would be deferred regarding Item 9, which would be announced.

DRAFT ACTION MINUTES

4. Approval of Contract Amendment No. Two with GovernmentJobs.com, Inc. dba Neogov for Recruiting and Onboarding Services, to Extend the Term through June 30, 2025, Add Services, and Increase Compensation by an Amount Not-To-Exceed \$249,883 for a New Contract Total Not-To-Exceed Amount of \$411,323
5. Adoption of **Resolution 10080** Authorizing a City Application for the State Permanent Local Housing Allocation (PLHA) Funds and Authorization of City Manager or Designee to Manage the Allocation
6. Approval of Fiscal Year 2022 Reappropriation Requests to be Carried Forward Into Fiscal Year 2023 and Budget Amendments in Various Funds
7. Approval of a Professional Services Agreement Contract Number C23185658 With BKF Engineers for the Amount of \$900,000 Over a 3-year Term for On-Call Surveying and Design Support Services
8. Approve the Parks and Recreation Commission Recommendation for a New Skate Park; Authorize the Friends of Palo Alto Parks to begin Fundraising; and Direct Staff to Support Outreach

MOTION: Council Member Cormack moved, seconded by Mayor Burt to approve Agenda Item Numbers 4-8.

Council Member Tanaka registered a no vote on Agenda Item Number 6.

MOTION PASSED: Items 4, 5, 7, 8: 7-0

MOTION PASSED: Item 6: 6-1, Tanaka no

Council Member Tanaka stated reappropriations tended to be routine, but this year voters were being asked to pass \$17M in fee and tax increases, and it would have been a good time to trim some unspent funding. He had also voted no on some of the reappropriations.

Public Comment

Aram James was delighted to see Item 8, the Skate Park, would move forward, which his son supported. He was willing to contribute funds to get it off the ground.

City Manager Comments

City Manager Ed Shikada noted the public comment suggesting the Police Chief had committed to special outreach related to refilling attrition in the K9

DRAFT ACTION MINUTES

Unit was not correct, that it was a funded and ongoing program. He presented slides and provided a weekly update related to the pandemic and updates related to election resources available online; upcoming Halloween events; online WaterSmart tools; and upcoming Council items. There would be no Council meeting October 31. The next meeting would be November 7 with an Economic Development Study Session; November 14, the biannual/semiannual meeting with the independent police auditor and a gas-powered leaf blowers item; and November 28, the joint meeting with the PTC regarding the Housing Element, noting that there would be no meeting on November 21. The S/CAP three-year work plan and Fiber to the Premises follow-up items related to recent Council discussions would be in December. Should the NVCAP item be deferred or continued, staff recommended it be continued on November 14 and likely defer the gas-powered leaf blower item. Agendas for the remainder of the calendar year were full, and it was possible the leaf blower item would need to be deferred until after the first of the year.

Mayor Burt requested what may prevent the NVCAP continuation on the November 7th agenda.

City Clerk Lesley Milton stated the draft agenda for November 7 included the Economic Development Study Session, a Planning and Transportation Commission recommendation for amending Title 18, discussion of the Council values and legislative update, the last two items coming back from Policy and Services Committee.

[The Council took a 15-minute break]

Action Items

Mayor Burt declared Item 9 would begin. Being behind schedule, the intention was to hear the staff report, hear from members of the public, and begin Council discussions if time allowed. If time did not allow, the item would be continued to November 14.

9. PUBLIC HEARING: Staff Recommend the City Council Review the North Ventura Coordinated Area Plan (NVCAP) Refined Preferred Alternative, Take Public Comment, and Endorse the Refined Preferred Alternative Plan.

Planning and Transportation Director Jonathan Lait noted the Council gave very specific direction earlier in 2022 on the plan, so they were in front of the Council because they were about to initiate the environmental analysis and start putting together the draft plan. Before that was done, they wanted feedback from City Council on four discrete items, so it could be

DRAFT ACTION MINUTES

incorporated into the plan. He noted that Principal Planner Sheldon AhSing would talk about the project and specifically the four items. He requested guidance from the Council that night and then they could continue their work. Otherwise, they could return on the 14th.

Principal Planner AhSing addressed the items of height transitions at El Camino Real and Oregon Expressway, additional height for affordable housing site regarding the Portage Development Agreement that was in process, use of TDM (Transportation Demand Management) to alleviate traffic concerns regarding office development, and implanting parking maximums, which the state recently abolished parking minimums for properties within one-half mile of train stations. They were in the process of getting a plan update due to happenings since January 2022, and they wanted to provide context relating to the four items. He furnished slides. He spoke of being on track to adopt the plan in the summer of 2023 and had a hard stop in December due to the grant. He presented the January 10 Council Motion of the topics affecting the items for current discussion. He referenced the Portage Development Agreement and indicated the differences between the NVCAP and the Sobrato Development Project; AB 2097 (Parking Near Transit); MTC Transit Oriented Communities development policies; the Palo Alto Housing Element potentials and policies; and projected heights for the planned area. He discussed height transitions, limits, and their proposal and was seeking feedback. Regarding TDM, the Council had directed the creation of a TDM low-density employment district. He expressed the density had changed over time and proposed establishing traffic associated with a low-employment district and implementing a TDM meeting the targets. He discussed the governor signing AB 2097, and Principal Planner AhSing proposed the parking maximum standard, so the minimums become the maximums, and explained his reasoning for such. He wanted Council feedback of the plan. The NVCAP drafts were expected in the fall. They would analyze traffic and other technical aspects and initiate a CEQA for the project in December and would have meetings next year with ARB, PTC, and the Council to consider the CEQA and adoption of the plan.

Confirmation was needed concerning height transitions along El Camino Real; additional height up to seven stories for affordable housing site adjacent to cannery; implementation of TDM for office uses to address employment density concerns; and implementation of parking maximums 19.

Planning Commission Chair Ed Lauing commented the current assignment was to endorse or remand the updated Refined NVCAP preferred plan, which they had not yet done but at the PTC, they had the 200 Portage/3200 Park Study Session, AKA the Fry's site, so they were looking at a piece of that.

DRAFT ACTION MINUTES

They did not get the documents, including the DEIR and development agreement, in time, so the meeting was to be continued 48 hours from current. They took public comment and gave preliminary comments from commissioners. Progress had been made since it had been at PTC with the Ad Hoc and the Council finding common ground. There had been no vote, but in preliminary comments, an initial concern from a number of commissioners was the issue of the number-one goal the Council set of adding multifamily housing. The version of the proposal that PTC saw in March 2021 showed alternative one containing more housing than the revised plan. It would be a shame to lose the opportunity to get as much housing as possible going forward. They wanted to use this as an opportunity for housing.

Public Comments

Liz Gardner announced the California Real Estate Association came out with a formal apology for redlining and racist policies due to housing and would be going back to the year 1900, and thought the Council may have wanted to look at it. Regarding the Fry's site/NVCAP, she asked where else in the City was there 15 acres of RM30 property. Being in a housing emergency, everything should be done to preserve this RM30 making it elderly, multifamily, etc.

Bob Moss opined there were a few problems with the site, which he outlined, that had not been evaluated or discussed much by staff. He suggested the entire evaluation be reconsidered and corrected.

Rebecca Sanders speaking for Penny Brennan, Arthur Keller, John King, and Scott Van Duyne thanked the Counsel for turning down the prior staff and PTC majority recommendation calling for massive building of new offices in Ventura. A representative of Sobrato had told the PTC the Council opted for the explosive growth scenario, AKA Alternative 3B, which was false, and she would send a letter regarding that. She referenced the Staff Report not referencing NVCAP alternatives. She provided information contained on Packet Pages 170, 171, 172, 174 and 175. She believed NVCAP was the perfect place for housing and phasing out office use and that the proposed Sobrato Agreement was not fully explained. She inquired why so much new housing would be concentrated in one neighborhood and believed it would be helpful if topologies described unit sizes. She was concerned the plan was to densify the City and disagreed with removing parking. She addressed TDMs being self-reported and unenforceable. She thought Ventura needed additional green space and green-canopied streets as shown in the staff report.

DRAFT ACTION MINUTES

Jeff Levinsky speaking for Ann Balin, Fred Balin, Hamilton Hitchings, and Andie Reed thanked the Council for past efforts in trying to turn North Ventura into a pleasant neighborhood not packed with offices and traffic. He was worried about the height of new buildings in Ventura. He believed adequate parking per unit was important and made housing more affordable. Regarding parking, he addressed AB 2097, Section 25863.2(b) of the law, and Section 65863.2(c) of the Code, and he was not sure staff planned to ensure adequate parking. He suggested other strategies be looked at to ensure adequate parking even in the face of AB 2097 and hoped the Legal Department would make suggestions and that an unfunded mandate be legally fought. He stated we should maintain all current parking standards in the event of unavailable projects with insufficient parking and that the standards not be lowered.

Gail Price represented Palo Alto Forward Board and had sent a letter and they did not support the endorsement of the NVCAP Refined Preferred Alternative, which she specified its inadequacies. She referenced NVCAP Alternative 3B being identified by the consultant and staff as the most financially feasible, yet that finding was largely dismissed by many members of the Working Group and City Council. They were concerned that by not seizing the opportunity the City's Housing Element would be seen as out of compliance by the state.

Angela D. was concerned about housing and park space in the proposal. She asked that zoning be enforced to provide housing. She does not think a woonerf should be counted as green space. She requested City Council not waste the chance to make this a vibrant area of the community.

Aram James did not think Ed Lauing should have been a guest speaker and that other candidates deserved equal time considering it was close to election time. He agreed with Gail Price and Angela D.'s comments. He thought it was critical that we remember it had been a redlined community for years and that much low-income housing and parks were needed. He requested we not move forward until there had been more community input and that reparations be built into the plan.

Terry Holzemer, a member of the NVCAP Working Group, was frustrated that things were omitted from the Revised NVCAP Proposal. They did not ask for additional office development, significant height impacts on existing homes, a housing density of 2.5 times what the City allows in other parts of the City, or more traffic and parking issues. He hoped the Palo Alto Neighborhood's letter that had been sent would be closely reviewed. He asked how the Sobrato Proposal for 200 and 340 Portage impacted the NVCAP plan and stated it was not clear nor was it clear how the cannery building would be

DRAFT ACTION MINUTES

treated and thought the historic structure needed to be prioritized and made part of the plan before the process moved forward.

Mayor Burt indicated the item would be continued to November 14 but gave the Council an opportunity to pose technical questions to staff to be addressed on November 14.

Council Member Filseth wanted to understand what an Enforceable TDM meant and wanted staff to comment on the boundaries between Park Street and the train tracks and it being a good place to raise height limits.

Mayor Burt asked staff to estimate, if Alternative 3B were adopted, what job creation would occur versus housing impacts and that balance; regarding the MTC Transit Oriented Communities, what would be the job generation impact throughout the NVCAP area; in reference to the Staff Report referring to the MTC's TOC Proposed Policy, the status of the policy and should Council participate in the final formulation of that if not codified; and if we were legally allowed to have affordable housing standards favoring greater social and economic diversity.

Council Member DuBois inquired about AB 2097 and EV charging requirements.

Council Member Stone requested the impact on eligibility for the California Register of Historical Resources for the proposed demolition of a portion of the cannery building and the height of Park Plaza apartment building and other buildings on Park and Page Mill Road, and if we adhere to the transitional height requirements in the Zoning Code for R1 and multifamily the impact it would have on the capacity of housing units within the NVCAP.

Vice Mayor Kou inquired about AB 2097 and if there should be an analysis of the new law on their return so all points were known and regarding the historical aspect of the cannery if affordable housing was there how it would affect the historical aspect of the building, the significance of it, what the nearby buildings would do to it, and how to get it registered as a historical significant project.

Council Member Cormack questioned slides 13 and 14. She was not clear if the 65-foot height for BMR was the same as the 7 stories in height proposed for this site and if that was available to the City. She asked regarding parking maximums if anyone had ever built above that amount for a development in the community and if staff had examples how it had worked elsewhere. She did not understand why the City had that.

DRAFT ACTION MINUTES

Mayor Burt declared the item was concluded and would return to the Council on November 14 for deliberations and recommendations. He entertained a motion to continue the item to November 14.

MOTION: Council Member Filseth moved, seconded by Mayor Burt to continue the item to November 14.

MOTION PASSED: 6-1, Cormack no

Action: This item was continued to November 14, 2022

10. Review and Provide Direction to Staff on the Draft Permanent Parklet Program Standards and Policies; Adopt an Interim Ordinance and Resolution to Continue the Pilot Parklet Program and Other On-Street Uses During Transition Period; and Direct Staff to Return with Legislation Implementing a Permanent Parklet Program

Planning and Transportation Director Jon Lait remarked that Chief Planning Official Amy French would give the presentation for the item. An At-Places Memo had been submitted. An attachment was missing in the Staff Report concerning the comparable City fees applied in certain jurisdictions for similar parklet programs.

Chief Planning Official French presented slides and sought guidance from Council on permanent parklet standards, fees, changes to the Pilot Parklet Program, and approval of the Interim Program's extension. She voiced the Permanent Parklet standards would apply to the car-accessible, 25 MPH streets, initially University Avenue and intersecting side streets. Direction was requested on the Parklet License Fee for right-of-way use. For the Interim Program and Permanent Standards, staff proposed Council reinstate the Neighbor Consent Requirement, discontinue at-grade dining and parklet tents in 2023, and prohibit propane tanks in the standards. Staff requested Council approve the Interim Ordinance to extend the Temporary Program through June 2023 and then again through the end of 2023, enable at-grade uses in the open streets of Ramona and California, and parking lot use for dining and retail. What the Pilot Program Parklets provided was expressed. Pilot guidelines were not focused on aesthetics and design consistency and did not include fees or charges. She gave the legislative history from June 2020 to late spring each year when there were actions by Council and recapped the feedback received from the ARB and City Council on the Permanent Program Standards. The proposed standards in front of Council included the ARB's revisions, except for the propane firepits and the fire décor, and further provisions. Moving into discussion, she requested focusing and providing guidance on parklet standards, location and areas of applicability, license fees and schedules, Parklet Neighbor Consent Letter,

DRAFT ACTION MINUTES

and other operational and design considerations, such as the propane prohibition. She addressed staff's recommendations of parklet locations, fees, and license terms. She discussed the Neighbor Consent Letter and complaints received and presented the four main approaches to neighboring consent and components to the terms. Information was provided regarding propane prohibition, policy for open and vehicular streets, staffing, and timelines. The next steps included staff refining the standards and returning to Council with an ordinance implementing the Permanent Parklet Program and requesting ongoing resources to implement and administer the program. Their consideration was enforcement of the permanent standards would begin in July 2023. Consultant Hannah Chin-Smith and a number of staff from multiple departments that had been part of the Uplift Local Program were present.

Director Lait reiterated what was meant when parklets and streets were referenced.

Public Comments

Jeff Greenfield, Parks and Recreation Commission Chair, spoke on his own behalf and supported the licenses and fees for restaurant use of parklets and encouraged City Council to consider licenses and fees for similar uses of Planned Community public benefit outdoor spaces.

Nancy Coupal had written letters to all members of City Council. She specified the goals of the Parklet Program, which should be the premiss of design and implementation of the program. She urged Council to adopt Option 3 in the Packet in regard to neighbor consent.

Megan Kawkab opined it was not fair charging folks who had financed a parklet while letting people have closed streets and not pay; however, she was in favor of eventually paying for the space. Business owners should be involved in the process due to the rents. She was undecided regarding letters of consent from neighbors but thought they may have to be considered.

John Shenk hoped the Council would review an email he submitted earlier. He indicated that proceeding with the Parklet Program was not best and that a reimagined downtown needed to be considered with policing, cleanliness, and infrastructure. He suggested revisiting the zoning ordinance to be more inclusive of retailers. Visibility of retailers was referenced.

Mayor Burt inquired how the series of staff requests should be organized. Clearer nomenclature of open street was needed.

DRAFT ACTION MINUTES

Director Lait specified the slide deck summarized the items they were considering, which included guidelines and standards, application and license fees and terms, location, the Neighbor Consent Letter, propane, tents, and the Interim Ordinance extension. He explained why the term open streets was used but would add open-to-pedestrian streets.

Council Member DuBois inquired if the permanent parking ordinance applied to the pedestrian portion of Ramona and not the pedestrian portion of California and if Council was to give advice only on dining on grade for the parklet portion. He questioned if Slide 3 indicated a parklet would be required in 2023 and if open-to-pedestrian streets meant no at-grade dining.

Director Lait clarified the Council was not taking action and that they were seeking guidance on the permanent program and as it would apply with streets to vehicular access and the open-to-pedestrian streets portion of Ramona Avenue, not the pedestrian portion of California. There was an alternatives analysis study in progress for California Avenue. The at-grade dining of the pedestrian area of Ramona Avenue was scheduled to extend through the end of 2023. He clarified that Slide 3 indicated at-grade dining would end after 2022, and the open-to-pedestrian streets on California Avenue and Ramona would have continued dining at-grade without having to have a parklet construction; no longer allowed in 2023 for the vehicular streets.

Mayor Burt voiced that where cars were allowed dining would not be allowed at street grade. There were two meanings of at grade – sidewalk versus street grade – and requested those terms be used for clarification.

Council Member DuBois questioned why tables would not be on the street; if tents and umbrellas would be allowed on open streets; in the Interim Ordinance if tents of any size would continue to be allowed and if tents would be allowed in private parking lots away from Ramona and California Avenue; if Council had addressed consent being required starting January 1; if Council was addressing the open-streets program; if decisions were needed in terms of neighbor consent; and estimated cleaning frequency and costs.

Director Lait replied there was a safety concern and an aesthetic component. Tents and umbrellas were allowed on streets open to pedestrians but not streets open to vehicular traffic. In the Interim Ordinance, tents would not continue in parking lots but dining in the parking lots would continue through 2023. Going forward, they would propose tents not be allowed in private parking lots away from Ramona and California Avenue, as Council had given direction of no tents; however, it was a policy call. Consent being required

DRAFT ACTION MINUTES

starting January 1 was before Council, and staff recommended reinstating the Neighbor Consent document throughout the City where parklets would be allowed. There was overlap of the open-streets program, but not for Cal. Ave., with the exception of the Neighbor Consent Provision extending to open streets and streets open to vehicles. Neighbor consent was before the Council.

Public Works Engineering Senior Engineer Mike Nafziger would have to research the frequency of cleaning. The costs were about \$220,000 annually for University and Cal. Ave.

Council Member Cormack inquired if staff was proposing changes in the Interim Ordinance and Resolution. She was comfortable with the parklet standards. She supported the ban on propane in the parklets. Parklet fees looked straightforward, and there could be discussions of cleaning fees, etc. The parklet license fee was comparable to other jurisdictions. She requested the meaning of the heat-map colors on Slide 13. She supported Option 2 for the Neighbor Consent Letter and explained why. In terms of operational design considerations, she asked why at-grade was adjusted from a 36- to 38-inch level and remarked the clear, hard sidewalks was a good recommendation.

Director Lait responded they were requesting a change in the Neighbor Consent component of the Interim Ordinance and Resolution and they were specifying no tents would be allowed in the areas with vehicle access. The heat-map colors on Slide 13 were visual aids.

Assistant City Attorney Tim Shimizu clarified the Neighbor Consent, tent, and propane rules were staff-level regulation changes, so the recommendation from Council would direct staff to make certain changes to staff-level regulations. There would be no change to the Ordinance and Resolution from previous versions except changing the sunset date. Current permits for parklets and at-grade uses would expire December 31, 2022, so rule changes would be implemented upon renewal of permits or to another date Council specified.

Consultant Chin-Smith stated in terms of operational design the ARB suggested adding a 2-inch flexibility for at-grade changes.

Council Member Stone asked for an estimate of the average cost to a business owner constructing a permanent parklet and asked regarding requiring neighboring businesses concerns distinguishing between open-to-pedestrian streets and open-to-traffic streets; that businesses were concerned with not having vehicular traffic and drivers being able to see storefronts. He understood the consent rule for streets open to vehicular

DRAFT ACTION MINUTES

traffic but believed there was less need for Ramona Street and possibly later California where there were no cars. He was not interested in the City losing possible parking on streets open to vehicles. He was interested in a distinction between open and closed streets. If the consent agreement was required and lasted 12 months, the consent should be honored if a business changed hands. Being this was public property, decisions should be made based on providing the greatest utility for the public and not the wants of individual businesses; however, businesses should be given the right of refusal for parklet space located outside their business. He requested clarification of Slide 18 regarding propane and questioned the cost efficiency of electric heaters and if the existing infrastructure could handle increased demand. He supported banning propane but had concerns with respect to parklets being usable year-round with the heating issue.

Assistant Director of Public Works Holly Boyd estimated the average cost of constructing a permanent parklet having a platform, sides, barriers, etc., was \$20,000 to \$35,000.

City Manager Ed Shikada indicated that in general neighboring businesses had no concerns distinguishing between open-to-pedestrian streets and open-to-traffic streets. Staff's recommendation was for it to be applied initially to University Avenue where vehicles existed and to the section of Ramona that was closed to vehicles and would follow up with a similar proposal for Cal. Ave., once the specifics were clarified as Cal. Ave., had at-grade uses extending beyond parking spaces and was how permits were being used.

Director Lait explained that propane was currently allowed for the interim standards and a change would not be proposed, but prohibiting propane was proposed for the permanent standards and would apply to open and vehicular streets. Regarding electric demand, service panel upgrades were likely, and there would be expense in obtaining permits and installing electric heaters.

Council Member Tanaka asked if the Economic Development Study Session scheduled for November 7 should be used to help inform some of the decisions being discussed. He requested the cleaning schedule and asked if the City had gotten feedback as for the cleanliness and wondered whose responsibility it should be and if penalties should be imposed. Parklets covering businesses' signage should not be allowed. He asked if staff had given thought to businesses sharing parklets.

Director Lait replied the Economic Development Study Session may not preclude the opportunity for discussing the parklets but he did not know if it

DRAFT ACTION MINUTES

was a binary operation and maybe both could be done and they could inform each other, but he was seeking guidance at this meeting. He was not aware of a solution to businesses sharing parklets but welcomed staff's comments. There had been complaints of access or perceived visibility to adjacent tenants. They were hopeful restaurant operations and adjacent tenants would come to an agreement without having the City mediate.

Senior Engineer Mike Nafziger would provide the cleaning schedule information at a later time. There had been some feedback regarding cleanliness, and they were trying to determine the right frequency to take care of those issues. There was a provision in the report to subsidize the cleaning or it being in the annual permit fee.

Council Member Filseth inquired if under the staff recommendation propane use would be allowed anywhere. Regarding parklets extending to a neighbor's property, consent was the best way to address it. Concerning consent, he wondered if consideration should be given to timelines once an agreement regarding consent was revoked. He did not want the City spending time mediating businesses adjacent to each other.

Director Lait's understanding was propane would not be allowed in the permanent program, but Council could revisit the issue.

Vice Mayor Kou asked who would be responsible for parklet property should it be damaged by first responders when responding to an emergency.

Director Lait did not believe there would be liability to the City if a parklet was damaged in response to an emergency. However, if responders were negligent and damaged a parklet not engaged in an emergency, he imagined the City would have some liability. Fire aside, there were provisions imbedded in the terms that in the event of a Public Works matter as much notice as possible would be given, but in the event of an immediate emergency, first responders would have access to the parklet.

City Attorney Molly Stump commented first priority was always addressing emergency, safety, and medical situations as expeditiously as possible. The City had a claims process if someone felt the City had damaged their property.

Mayor Burt's biggest concern was safety and questioned what standards, other than elevation, there were preventing cars from entering a parklet. There were competing interests of businesses adjacent to parklets, the proprietors using the parklets, and the City. The City owned the sidewalks and streets, but certain rights were implicit and there were some gray areas in terms of visibility, etc., that would impede the ability to do business. He

DRAFT ACTION MINUTES

inquired if that was generally the position. What was being considered was the reasonable rights of a business owner to attract a tenant, a tenant maybe being unwilling to lease if visibility was blocked, and the rights of a tenant to have storefront visibility to some degree. There were two circumstances, one on streets with vehicles and one like Ramona being a little different. He spoke of roof structures being likely to impede visibility and parking in front of a particular store and wondered if Council should be looking at possibly disallowing roofed parklets in front of an adjacent business but allowing tables for dining and the City having a fee structure for parklets with only tables versus a structure with walls, etc. He inquired how many sides of a structure would allow plexiglass; if other cities had experienced fires as a result of propane; if staff had a greenhouse gas comparison of propane versus methane of an outdoor space heater; and considering hardships and problems with electrical panel upgrades and transformer issues, should propane be prohibited entirely, which would eliminate outdoor dining year-round, and should it be eliminated before businesses are given ample time to transition to electric. Propane heaters had been in the City for a long time, and he did not know what changed causing them to be prohibited. The hardship issue and transition time was raised nine months ago, and he had not seen additional analysis or data, yet permanent decisions were being moved forward without understanding the impacts, which was concerning.

Director Lait responded safety was a concern for staff and the chief building official was aware of those issues. He referenced Packet Page 207 containing regulations regarding barriers. Three sides would allow plexiglass. As for a greenhouse gas comparison of propane versus methane, folks engaged in S/CAP had done that analysis, but he would have to look at it.

Consultant Chin-Smith noted regarding safety that there were a number of traffic safety elements in the parklet design, which she listed.

City Attorney Stump indicated regarding implicit rights and gray areas in terms of visibility the courts recognized not completely denying ingress or egress, which was not the issue here.

Interim Fire Marshall Scott Woodfin stated there had been no propane incidents in the City. The issue had been brought up at the County Fire Marshall's meeting, and some had damage when material was close to the propane but no fires as it had been caught ahead of time.

Council Member DuBois felt Council needed alignment on the goal of a parklet and if it was meant to be all-weather indoor dining or outdoor dining in nice weather. Maybe it should be built into the pricing whether it would be

DRAFT ACTION MINUTES

dining in good weather versus the creation of all-weather structures. He thought we should move toward lower cost parklets. Regarding the City owning the streets and who would make the leasing decisions was a question of vested interest of private business versus City interest. As for consent, there would be situations where there was no consent and coercion between businesses may be created, which would be time consuming for the City to arbitrate. The City should be the landlord and manage the property and make clear rules. Even with consent, there were questions as to who would get first rights on a property, etc. It was too simplistic to say leasing in front of another building was allowed with consent. He was concerned about amplified sound and rights of neighbors, and allowing amplified music should not be on the parklet itself but instead coming from the building. He wanted Ramona to be treated as an historic district. He discussed rates for parklets, and the tables staff had provided seemed to be the right amounts, but market value needed to be determined. If this was going to be done, rent needed to be required for public spaces used by other restaurants not currently being charged. He addressed parking demand, losing a spot, and generating more usage, and the spots needed to be valued for a reasonable market rent.

Council Member Tanaka questioned how the building code requirements were applied to outdoor space as far as number of bathrooms, etc. As far as fair-weather usage, he was concerned how the parklets would be assembled and disassembled seasonally. He asked how rent compared for outdoor space versus interior space. He wondered if the outdoor space needed to be something more planned, like Santa Monica, and not a tent here and there but built space. Some retailers could use outdoor space, and there were possible use cases, which should not preclude a retailer from using it. With proper safety inspections, propane should be allowed given the low level of incidents.

Director Lait indicated compliance with building code was an area being analyzed and would be done on a case-by-case basis for restaurants. Regarding concerns of incremental or piecemeal solutions, he reminded the Council that work had been initiated on University Avenue of more comprehensive approach, but the timeline was challenging in comparison to the timeline here for permanent parklet guidelines. If the Council wanted to pursue a more comprehensive approach, it would likely involve putting the permanent parklet guidelines on hold until the University-specific work was completed. There was also Cal. Ave., specific work underway.

Assistant to the City Manager Steve Guagliardo stated regarding rent comparisons, Slide 13 compared ground lease, which was meant to show the cost of indoor space in the corresponding corridor.

DRAFT ACTION MINUTES

Council Member Tanaka wanted to see a comprehensive approach accelerated, so there was less uncertainty and having something planned and elegant.

Mayor Burt requested a range of the sales tax revenue resulting from additional outdoor dining.

City Manager Shikada responded there was no quantification or range of tax revenue. He had heard, even contemplating the cost, that it was at the break even, so one could imagine what it take for it to break even commensurate sales tax receipts.

Mayor Burt recommended we better understand that because there was a second revenue stream with charges for the spaces, not just the rental revenue but the incremental increase in sales taxes. Regarding parklets being year-round or seasonal, there were a number of establishments with essentially permanent parklets, and he wanted to know how Council felt about those. He wondered why there would be objections to being year-round, which added to the social experience, tax revenue, and rental rates. He questioned if they were seasonal what would happen to staffing. He did not know where Council was moving forward on concrete actions.

City Manager Shikada suggested extending the interim ordinances and allowing additional time.

Mayor Burt declared certainty needed to be provided to businesses in terms of the timeline being extended to implement the permanent ordinance, and Council needed to know how much time was needed to determine permanent standards.

Council Member DuBois stated the interim ordinances may have needed to be extended considering the University and Cal. Ave., street redesign projects were in progress.

City Manager Shikada was not prepared to speak to timelines but would make it a priority. Feedback and/or approval of the design standards may have provided some certainty.

Director Lait believed it could have been years for University and Cal. Ave., streetscape concept implementation. Cleaning up the program now had value. Guidance from the Council on Attachment A, the guidelines, would have been imminently helpful and was the predictability that needed to be communicated to the property owners and tenants. Components related to propane, the Consent Letter, and pricing were policy decisions that could be worked out on return to Council in December. A longer rollout time, if

DRAFT ACTION MINUTES

needed, could be discussed. They could come back to Council with some sales tax data and a more refined recommendation on costs and fees as well as finalizing propane, etc. Staff had been thinking about year-round parklets, not seasonal and was embedded in the standards.

Council Member Cormack concurred with the year-round approach. She touched on why parklets may not have been additive in terms of space and sales tax. She was prepared to adopt the Interim Ordinance and time being extended. In terms of Neighbor Consent, she was not convinced the restaurants would be interested in a year-round parklet without a roof.

ORIGINAL MOTION: Council Member Cormack moved, seconded by Council Member Filseth to:

Adopt the interim ordinance and resolution currently set to expire on December 31, 2022, to extend the temporary parklet program to June 30, 2023, and allow the other on-street and parking lot dining and retail programs to December 31, 2023. Direct staff to continue allowing dining at street grade until June 30, 2023

- a) Direct staff to implement Option 2 of the Neighbor Consent Letter through administrative regulations to begin on January 1, 2023.

Council Member Cormack thought this motion would give people more time to use what they had already invested in and resolve the problem.

Council Member Filseth voiced that the Interim Ordinance needed to be extended since there was not a replacement. None of the options of consent were perfect. As for visibility, a consent mechanism was needed unless a parklet was banned from somebody else's property. In regard to space heaters, he wanted to know if the alternative was practical and the impact of CO2. He thought Council Member DuBois' suggestion regarding fees was reasonable.

Vice Mayor Kou asked if license fees would be collected with the Interim Ordinance and when fees would be implemented.

Director Lait declared this action simply extended the interim standards for parklets through June and the other provisions through December. A motion on Attachment A was important, and Council's direction regarding fees and propane would allow them to return with refined options in December. It was likely fees would be implemented before June 30, 2023.

DRAFT ACTION MINUTES

Council Member Tanaka questioned if a master plan could be accelerated and requested staff focus on it. He did not like any of the options and asked that it be split out in the motion.

Director Lait noted changes to infrastructure would take years but he hoped with acceleration and engagement from the businesses we could move relatively quickly, for example with University Avenue, with decision-making of the concept the Public Works project would implement. As far as accelerating the master plan, they were entering the engagement phase with the public.

Council Member Stone supported the Interim Ordinance but not the Consent Letter. He proposed a friendly amendment for provision of right of first refusal allowing a business owner first right to place a parklet, and if they chose not to, then the owner could not object to someone else putting a parklet in front of the property.

Council Member Cormack asked how staff would interpret a right of first refusal.

Director Lait was focused administratively on how verification of an offer would be made without the City being involved in the process.

Council Member Filseth did not accept the friendly amendment.

Council Member Cormack did not accept the friendly amendment as the problem would be one feeling forced to invest in a parklet as a defensive measure.

Council Member Stone offered it as an unfriendly.

Mayor Burt was interested in coupling something similar and if there were two adjacent dining establishments a business would have first right in front of their establishment and if they did not want it, the space could be rented. For adjacent non-dining establishments, he was interested in allowing dining provided there was no covering. He referenced possible differing fees of each option. He asked for clarification of the Neighbor Consent Letter and prior policy referencing neighboring businesses, not neighboring property owner.

Director Lait declared the current proposal was tenant and property owner.

Assistant to the City Manager Guagliardo stated Clause B referred to a neighboring business being food and beverage and questioned if it would also include a neighboring retail establishment.

DRAFT ACTION MINUTES

Mayor Burt confirmed it would include a neighboring business whether it was a dining establishment.

Discussion ensued regarding the right of refusal and allowing a space to be rented but not used and if it was substantively different than asking for consent. It was decided if space was rented it had to be actively used with an above-grade structure once the Permanent Ordinance was in effect. Regarding timing and first opportunity, administrative details would be presented at a later date. Timing of elimination of at-grade dining was discussed, and it was decided to leave it in the Original Motion as it was but correcting it at a later time.

SUBSTITUTE MOTION: Council Member Stone moved, seconded by Mayor Burt to substitute as follows as sub-bullets to the above motion:

- a) That parklets be allowed without coverings or obstructions above 38" for a fee, to be determined, in front of neighboring businesses
- b) Allow for a first right of refusal for renting a parklet space, with the first right to go to the business immediately behind the parklet space

Council Member DuBois expressed when rents should start and explained the right of first refusal and thought the space should not have to be actively used.

Discussion ensued regarding rents, active use of space, parking spaces, enhancing the experience and the best use of public space.

Council Member Filseth was against the Substitute Motion. In reference to administrative details and unintended consequences, the City should not be involved in deciding one business being able to use space in front of another business.

Council Member Tanaka supported the Main Motion. He suggested staff put together the grand plan ASAP.

Vice Mayor Kou supported the Substitute Motion. She considered the first right of refusal forcing neighbors to rent a parklet space or lose it. She felt a parklet was enhancing for a restaurant business. In trying to have a good mix of businesses, she wondered if property owners would have trouble renting out space. The best utility for the space was parking.

Council Member Cormack noted the Substitute Motion did not address the existing problems and may have created new ones.

DRAFT ACTION MINUTES

SUBSTITUTE MOTION FAILED: 2-5, Tanaka, Kou, Cormack, Filseth, DuBois no

MOTION SPLIT FOR PURPOSE OF VOTING

MOTION: Council Member Cormack moved, seconded by Council Member Filseth to adopt the interim ordinance and resolution currently set to expire on December 31, 2022, to extend the temporary parklet program to June 30, 2023, and allow the other on-street and parking lot dining and retail programs to December 31, 2023. Direct staff to continue allowing dining at street grade until June 30, 2023

MOTION PASSED: 7-0

MOTION: Council Member Cormack moved, seconded by Council Member Filseth to add as a sub-bullet to the above motion:

- a) Direct staff to implement Option 2 of the Neighbor Consent Letter through administrative regulations to begin on January 1, 2023.

MOTION PASSED: 4-3, Burt, Tanaka, Stone no

ORIGINAL MOTION: Council Member Dubois moved, seconded by Vice Mayor Kou to:

1. Direct staff to implement proposed permanent standards upon adoption of a permanent parklet ordinance
2. As to the permanent parklet program, direct staff to:
 - a. Return to Council establishing an application fee, cleaning fee, and security deposit based on cost recovery.
 - b. Return to Council establishing and annual license fees as soon as possible, set to 70% of ground retail rate for "downtown" and "not downtown" in Table 2
 - c. Require Consent Letter from both neighboring tenant and owner
 - d. Limit amplified sound to come only from buildings

Council Member DuBois referenced Packet Page 194 regarding propane and commented it should be kept in the permanent program.

DRAFT ACTION MINUTES

Council Member Tanaka did not agree with banning propane. Due to the late hour, he made a Substitute Motion to adjourn, which failed due to lack of a second.

Council Member Cormack supported Item 1 but not 2B. She inquired if other jurisdictions were requiring security deposits, how deposits would be refunded, how staff would interpret changing 2D, and if the standards as written would reduce the likelihood of spillover noise at a sufficient level. She appreciated the cleaning fee. She was interested in 2B being at a rate of 40%.

Director Lait commented that security deposits varied from jurisdiction to jurisdiction. The process of deposit refunds was explained. As for 2D, there would not be speakers within the parklet area, and staff questioned if speakers would be allowed on the exterior of a building. The standards stated compliance with the Noise Ordinance. There was the possibility of complaints and enforcement challenges.

Council Member DuBois proposed staff make a recommendation regarding amplified sound.

City Manager Shikada provided information contained in the Municipal Fee Schedule.

Discussion ensued regarding license and parking fees, which Chief Transportation Official Philip Kamhi would research parking fee information.

Vice Mayor Kou inquired if the City had someone who could measure noise.

City Manager Shikada remarked the Police Department had equipment and training to measure noise.

AMENDMENT: Council Member Tanaka, seconded by Mayor Burt to direct staff to return with a recommendation for continuing propane use pending a phase out based on practical feasibility for restaurants

Discussion ensued regarding propane use.

AMENDMENT PASSED: 4-3, Cormack, Kou, DuBois no

Mayor Burt returning to the Main Motion was concerned with 2B, which prompted discussion. He requested confirmation of the three columns in reference to averages of percentages. He would support a rate closer to 30% ground retail rate for "downtown." He did not know what to do with "not downtown," in the motion as it appeared miscalculated.

DRAFT ACTION MINUTES

Assistant to the City Manager Steve Guagliardo would come back to the Council with clarification of information in the three columns Mayor Burt referenced.

Discussion ensued regarding annual license fees, and it was decided Part B of the motion would be modified to reflect staff returning to Council establishing an annual license fee as soon as possible.

Council Member Stone questioned if 2C would include the ability for neighboring consent to be revoked at any time.

Director Lait specified staff had recommended it be revokable but not immediately revokable.

MOTION INCORPORATING AMENDMENT: Council Member Dubois moved, seconded by Vice Mayor Kou to:

1. Direct staff to implement proposed permanent standards upon adopting of a permanent parklet ordinance

a. Direct staff to return with a recommendation for continuing propane use pending a phase out based on practical feasibility for restaurants

2. As to the permanent parklet program, direct staff to:

a. Return to Council establishing an application fee, cleaning fee and security deposit based on cost recovery.

b. Return to Council establishing an annual license fees as soon as possible.

c. Require Consent letter from both neighboring tenant and owner. Upon revocation, owner has a minimum of six months before they are required to remove the parklet.

d. Limit Amplified sound to come only from buildings.

MOTION PASSED: 6-1 Tanaka no

Council Member Questions, Comments and Announcements

None.

Adjournment: The meeting was adjourned at 12:31 A.M.