



**BURLINGAME CITY COUNCIL
Unapproved Minutes
Regular Meeting on August 17, 2020**

1. CALL TO ORDER

A duly noticed meeting of the Burlingame City Council was held on the above date online at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The pledge of allegiance was led by Mayor Beach.

3. ROLL CALL

MEMBERS PRESENT: Beach, Brownrigg, Colson, O'Brien Keighran, Ortiz
MEMBERS ABSENT: None

4. REPORT OUT FROM CLOSED SESSION

There was no closed session.

5. UPCOMING EVENTS

Mayor Beach reviewed the upcoming events taking place in the city.

6. PRESENTATIONS

There were no presentations.

7. PUBLIC COMMENT

There were no public comments.

8. CONSENT CALENDAR

Mayor Beach asked her colleagues and members of the public if they would like to pull any item off the Consent Calendar. Vice Mayor O'Brien Keighran pulled 8c and 8k. Councilmember Brownrigg pulled 8f.

Councilmember Ortiz made a motion to adopt 8a, 8b, 8d, 8e, 8g, 8h, 8i, 8j, 8l, 8m, 8n, and 8o; seconded by Councilmember Brownrigg. The motion passed unanimously by roll call vote, 5-0.

a. APPROVAL OF CITY COUNCIL MEETING MINUTES FOR JULY 6, 2020

City Clerk Hassel-Shearer requested Council approve the City Council Meeting Minutes for July 6, 2020.

b. ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLINGAME AMENDING CHAPTER 25.59 (ACCESSORY DWELLING UNITS), CHAPTER 25.60 (ACCESSORY STRUCTURES IN R-1 AND R-2 DISTRICTS), CHAPTER 25.26 (R-1 DISTRICT REGULATIONS) AND CHAPTER 25.70 (OFF-STREET PARKING) OF THE BURLINGAME MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS TO BE CONSISTENT WITH RECENTLY ADOPTED AMENDMENTS TO CALIFORNIA GOVERNMENT CODE SELECTIONS 65852.2 AND 65852.22 AND ADDITIONAL CHANGES TO REMOVE CONSTRAINTS TO CREATING ACCESSORY DWELLING UNITS

CDD Gardiner requested Council adopt Ordinance 1978 and Resolution Number 100-2020.

c. ADOPTION OF ORDINANCES AMENDING THE BURLINGAME MUNICIPAL CODE TO ALLOW FOR A BUILDING ELECTRIFICATION REACH CODE

Vice Mayor O'Brien Keighran explained that she is voting against adoption of these ordinances because she questions whether the technology, energy, and equipment are in place to handle all-electric. She noted that during the current heat wave, PG&E and other electrical companies are doing rolling blackouts because the grid is overwhelmed. She stated that while it might be good policy, it is important to first have the necessary infrastructure.

Councilmember Colson stated that she appreciated the Vice Mayor's comments. She noted that she asked Peninsula Clean Energy staff about this issue. She stated that what it comes down to is generating enough electricity during the high peaks of demand. PCE has committed to ensuring that the demand is met within the next two years.

Mayor Beach opened this item up for public comment.

PCE Director of Energy Programs Rafael Reyes thanked Council and staff for their hard work on this item. He explained that PCE has done an analysis in regards to the impact of reach codes on electrical load demand. He stated that they found that all-electric buildings would add less than one percent load to what PCE currently serves.

Mayor Beach closed public comment.

Councilmember Brownrigg made a motion to adopt Ordinance 1979, Ordinance 1980, and Ordinance 1981; seconded by Councilmember Ortiz.

Councilmember Brownrigg noted that he recognizes the Vice Mayor's concerns, especially during the current heat wave. However, he felt comfortable with moving forward.

The motion passed by roll call vote, 4-1(Vice Mayor O'Brien Keighran voted against).

d. ADOPTION OF A RESOLUTION ACCEPTING THE CENTRAL COUNTY FIRE STATION 35 IMPROVEMENTS IN THE AMOUNT OF \$926,98294

DPW Murtuza requested Council adopt Resolution Number 101-2020.

e. ADOPTION OF A RESOLUTION ACCPETING THE POLICE STATION UNDERGROUND STORAGE TANK REMOVAL PROJECT IN THE AMOUNT OF \$309,409 BY PMK CONTRACTORS LLC, CITY PROJECT NO. 84640

DPW Murtuza requested Council adopt Resolution Number 102-2020.

f. ADOPTION OF A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO O'GRADY PAVING, INC. IN THE AMOUNT OF \$1,493,116 FOR THE 2020 STREET RESURFACING PROGRAM, CITY PROJECT NO. 85640, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT

Councilmember Brownrigg noted that a small piece of the paving contract will be for the pathway along Easton. He explained that the sidewalk on Easton is overdue for some TLC and asked that staff review this need.

Mayor Beach opened the item up for public comment. No one spoke.

Councilmember Brownrigg made a motion to adopt Resolution Number 103-2020; seconded by Councilmember Ortiz. The motion passed unanimously by roll call vote, 5-0.

g. ADOPTION OF RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH AARC CONSULTANTS, LLC TO PERFORMT HE RISK AND RESILIENCE ASSESSMENT AND PREPARE THE EMERGENCY RESPONSE PLAN FOR THE CITY'S PORTABLE WATER SYSTEM, CITY PROJECT NO. 86050, IN THE AMOUNT OF \$108,985 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

DPW Murtuza requested Council adopt Resolution Number 104-2020.

- h. **ADOPTION OF RESOLUTIONS AWARDING A CONSTRUCTION CONTRACT TO MITCHELL ENGINEERING IN THE AMOUNT OF \$937,437 FOR THE NEIGHBORHOOD STORM DRAIN PROJECT #12 AND APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ANCHOR ENGINEERING, INC. IN THE AMOUNT OF \$190,590 FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE PROJECT**

DPW Murtuza requested Council adopt Resolution Number 105-2020 and Resolution Number 106-2020.

- i. **ADOPTION OF RESOLUTIONS AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$828,280 TO CRATUS, INC FOR THE BURLINGAME AVENUE STORM DRAINAGE IMPROVEMENT PROJECT AND APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ANCHOR ENGINEERING, INC. IN THE AMOUNT OF \$179,366 FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE PROJECT**

DPW Murtuza requested Council adopt Resolution Number 107-2020 and Resolution Number 108-2020.

- j. **ADOPTION OF A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO PC INC. FOR THE FIRE STATION GENERATORS REPLACEMENT PROJECT IN THE AMOUNT OF \$587,080 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT**

DPW Murtuza requested Council adopt Resolution Number 109-2020.

- k. **ADOPTION OF A RESOLUTION CONFIRMING THE STORM DRAINAGE FEE FOR FISCAL YEAR 2020-21 WITH NO INFLATIONARY INCREASE**

Vice Mayor O'Brien Keighran stated that after reviewing the April 6, 2020 City Council meeting minutes, was she correct that this item was brought back because Councilmember Brownrigg asked that the item be reviewed in the third or fourth quarter. Finance Director Augustine replied in the negative. She explained that this was put on the agenda as a housekeeping matter. She noted that the County asked the City for a resolution setting the fee, which staff realized wasn't adopted at the April 6 meeting. Therefore, staff is asking the Council to adopt a resolution re-establishing the storm drainage fee.

Mayor Beach opened the item up for public comment. No one spoke.

Vice Mayor O'Brien Keighran made a motion to adopt Resolution Number 110-2020; seconded by Councilmember Ortiz. The motion passed unanimously by roll call vote, 5-0.

- l. **ADOPTION OF A RESOLUTION DESIGNATING VOTING DELEGATES AND ALTERNATES FOR THE 2020 LEAGUE OF CALIFORNIA CITIES' ANNUAL CONFERENCE**

City Clerk Hassel-Shearer requested Council adopt Resolution Number 111-2020.

- m. **ANNUAL RENEWAL OF THE BURLINGAME AVENUE AREA BUSINESS IMPROVEMENT DISTRICT (DBID): RESOLUTION APPROVING THE 2019-20 ANNUAL REPORT: CONFIRMING THE CITY'S INTENTION TO WAIVE ASSESSMENTS FOR FISCAL YEAR 2020-21; AND PROVIDING FOR PAYMENT OF THE AMOUNT OF ASSESSMENTS WAIVED DIRECTLY TO THE DBID IN SUPPORT OF ITS FISCAL YEAR 2020-21 ACTIVITIES**

Finance Director Augustine requested Council adopt Resolution Number 112-2020.

- n. **OPEN NOMINATION PERIOD TO FILL TWO VACANCIES ON THE PARKS AND RECREATION COMMISSION**

City Manager Goldman requested Council open the nomination period to fill two vacancies on the Parks and Recreation Commission.

- o. **QUARTERLY INVESTMENT REPORT, PERIOD ENDING JUNE 30, 2020**

Finance Director Augustine requested Council accept the Quarterly Investment Report for the period ending June 30, 2020.

9. PUBLIC HEARING

There were no public hearings.

10. STAFF REPORTS

- a. **UPDATE AND DISCUSSION OF THE TEMPORARY STREET CLOSURE PROGRAM FOR BROADWAY, DOWNTOWN BURLINGAME AVENUE, AND PARKLETS ON THE SIDE STREETS IN THE DOWNTOWN AREA TO FACILITATE SAFE OUTDOOR DINING AND PEDESTRIAN ACTIVITY, AND DISCUSSION AND DIRECTION REGARDING ALLOWING PERSONAL SERVICES IN THE PUBLIC RIGHT-OF-WAY**

City Manager Goldman explained that on June 9, 2020, the City Council held a special meeting to discuss temporarily closing downtown Burlingame Avenue to facilitate safe outdoor dining and directed staff to implement the temporary street closures. On July 6, 2020, the City Council authorized an extension of the pilot program until the end of September barring major issues such as public health and safety concerns and complaints. She added that Council also approved allowing parklets for restaurants on the side streets in the Downtown Burlingame Avenue District. She noted that at the July 6 meeting, the City Council authorized a pilot program to temporarily close Broadway in the commercial area for two weekends, as a trial period, before considering extending the program or taking other actions.

City Manager Goldman stated that at the July 29, 2020 Economic Development (“ED”) Subcommittee meeting, the subcommittee discussed the temporary street closures of Broadway and Burlingame Avenue and the parklets on the side streets. She noted that Vice Mayor O’Brien Keighran, Councilmember Ortiz, DBID President Jenny Keleher, BBID President John Kevranian, Chamber of Commerce President Georgette Naylor, Terry Horn who represents landlords and tenants in the downtown area, Sam Abbassi, and staff were all in attendance at the meeting.

City Manager Goldman stated that at the July 29 ED Subcommittee meeting and at subsequent meetings, the subcommittee made recommendations for Council on: (1) Broadway Street Closure, (2) Burlingame Avenue Street Closure and parklets, and (3) allowing personal services businesses to operate outside.

- **Broadway Street Closure**

City Manager Goldman explained that per Council direction, staff implemented the temporary street closure of Broadway for a two-weekend trial period. She noted that it was successful in terms of mask wearing, proper social distancing, etc. Therefore, at the recommendation of the ED Subcommittee, the street was closed for the weekends of August 1-2, August 7-8, and August 15-16. Staff received no complaints regarding the lack of face coverings or social distancing, and there have been no traffic circulation nor parking issues.

City Manager Goldman stated that at the August 12, 2020 ED Subcommittee meeting, the group indicated their support for the continuation of the closure barring any future major public health and safety concerns and complaints.

- **Burlingame Avenue Street Closure**

City Manager Goldman stated that the Burlingame Avenue Street Closure program began in June, and originally the street was closed from Friday at 8:00 a.m. to Sunday at 10:00 p.m. She explained that staff received numerous complaints from the public regarding people not using face coverings and not adhering to the social distancing requirements. Additionally, the City received complaints about the adverse impact to retail businesses and about individuals riding bicycles and skateboards in the roadway.

City Manager Goldman stated that DBID surveyed their members to obtain feedback regarding the street closures. She explained that DBID received 81 responses to the survey: 22 from restaurants, 36 from retailers, and 23 from service providers (salons, attorneys, etc.) She noted that less than half of the respondents (36) were located on the Avenue.

City Manager Goldman reviewed the findings of the survey:

- 24 businesses were helped by the street closure
- 29 businesses were hurt by the street closure (1 restaurant, retailers, service providers on and off the Avenue)
- 26 businesses were unaffected by the street closure

- 2 businesses were unsure how they were affected by the street closure (street closure or COVID concerns affecting businesses)

City Manager Goldman stated that the survey also asked respondents what their major concerns were about the street closure:

- 39 indicated parking as their main concern
- 32 complained about lack of face coverings and social distancing
- 10 indicated lack of curbside pick-up parking main concern

City Manager Goldman noted that overall, the public likes the street closure. However, she noted that the street closure has turned into a festival atmosphere. Therefore, while it has been fun, the City has received a lot of complaints about people not adhering to face covering and social distancing requirements. She added that as of the previous week, staff logged 62 complaints related to the street closure.

City Manager Goldman explained that the ED Subcommittee discussed these concerns at their July 29 meeting. The subcommittee recommended that the street closure be reduced to Saturday starting at 5:00 a.m. to Sunday at 10:00 p.m. She stated that staff implemented this change August 1.

City Manager Goldman stated that the ED Subcommittee held a meeting on August 12 and recommended that Council consider terminating the pilot program and replacing it with parklets. She explained that the ED Subcommittee recommended parklets because it would facilitate safe outdoor dining; address public health and safety concerns of lack of social distancing/face coverings; and it would address adverse impacts to retail businesses. She stated that installing parklets would allow restaurants on Burlingame Avenue to expand their outdoor dining space to seven days a week.

City Manager Goldman stated that if Council decides to terminate the street closure program and replace it with parklets, staff recommends outlining requirements for restaurants to acquire and keep their parklet. She noted that one of the suggested requirements would be that the restaurants must utilize the parklets at least three days a week.

City Manager Goldman stated that the parklets would result in the loss of approximately 60 to 65 parking spaces for the duration of the program. She noted that as of the previous week, the City had installed 13 parklets on side streets and hadn't received any complaints or negative feedback. She added that CCFD is looking into the ability of restaurant owners to put up tents or heaters in their parklets for colder weather.

City Manager Goldman stated that the City may remove street closures/parklets or make adjustments if they are causing traffic congestion, circulation concerns, safety concerns, parking problems, and/or emergencies. She added that the City can also remove any of the street closures/parklets or make adjustments if social distancing/face covering requirements are ignored, or if other safety or traffic issues emerge.

- **Personal Services**

City Manager Goldman stated that on August 1, San Mateo County was placed on the State Monitoring List, which led to additional mandatory business closures countywide starting at 12:01 a.m. on August 2, 2020. She explained that the list of businesses that had to close their indoor operations includes gyms; personal care services such as hair salons, barber shops, and nail salons; and certain offices.

City Manager Goldman explained that the City had focused on providing opportunities for outdoor dining via the street closures and parklets. However, as a result of being put on the State Monitoring List, the City received requests from personal care services businesses to operate outside, in the public right-of-way. She noted that the State determined that these services can operate outdoors provided that they follow State guidelines and the municipality approves.

City Manager Goldman stated that a nail salon has been operating in the public right-of-way on Burlingame Avenue in violation of the City's regulations. She reviewed safety concerns of having this business continue to operate on the sidewalk while blocking access.

City Manager Goldman stated that included in the Council's agenda packet was the City of San Mateo's program for personal care services. She highlighted the following requirements under San Mateo's program:

- Allows operations within private parking lots such as shopping centers and in recessed areas of storefronts that don't encroach on sidewalks
- Businesses cannot utilize public sidewalks, parklets, or closed streets
- Personal care services may only be performed in outdoor areas of licensed establishments contiguous with or adjacent to their business premise
- Businesses within 50 feet from any outdoor dining areas can only provide service before 11:00 a.m. and only while outdoor dining is not occurring

City Manager Goldman stated that the State's Department of Consumer Affairs provided further guidance through a memorandum to the Board of Barbering and Cosmetology. The memorandum outlines requirements or guidelines for licensees that want to operate outdoors such as:

- Services are allowed on sidewalks and other public thoroughfares and parking lots if reasonably proximate to the licensed establishment, and the area must be closed to public access during the period of service.
- Chemical hair services including, but not limited to, permanent waving, relaxing, bleaching, tinting, coloring, dyeing, straightening, shampooing, and electrolysis are not allowed outdoors.

City Manager Goldman stated that the ED Subcommittee discussed this matter on August 12. The ED Subcommittee recommended that the matter be discussed by the Council. She noted that the Council may want to consider whether the City should have additional parklets that would be available to these personal services businesses. She added that if the Council is amenable to this or to utilizing a public parking lot, staff devised some parameters:

- Prohibit the use of generators and extension cords that connect to the adjacent building

- Require businesses to have a plan for disposing of water inside the business and capturing hair and other products so that nothing enters the storm drains

City Manager Goldman reviewed the costs associated with setting up parklets. She stated that if the Council decides to allow restaurants to have parklets on Burlingame Avenue, it will cost approximately \$80,000. She explained that this is in addition to the previously approved costs related to street closures and parklets. She noted that the City has \$40,000 left from its original allotment for the San Mateo County Strong Fund that could be utilized. She stated that there would be an estimated \$15,000 to \$20,000 loss per month in parking meter revenue. She added that the City doesn't have an estimate of the cost of obtaining barriers for personal services businesses or how much parking meter revenue will be lost.

Vice Mayor O'Brien Keighran discussed the health concern of operating personal services businesses outside that are in close proximity to outside dining. She asked what staff's recommendation was for distancing. City Manager Goldman stated that the City of San Mateo was requiring 50 feet. She explained that if the City requires 50 feet, it will eliminate a lot of opportunities for salons as restaurants are spread out on Burlingame Avenue. She explained that one idea to help personal services businesses was to utilize a City parking lot.

Vice Mayor O'Brien Keighran stated that if the Council allows personal services businesses to operate outside, the businesses should be required to submit a detailed plan about COVID and storm drain-related concerns and disposal of chemicals. She explained that if the business doesn't follow its plan, then the City has documentation.

Mayor Beach stated that staff is asking Council to make decisions on: (1) the extension of the Broadway pilot program; (2) ending the temporary street closure of Burlingame Avenue and replacing it with parklets; and (3) allowing personal services businesses to operate outside.

City Attorney Kane stated if the Council is considering allowing personal services businesses to operate outside, the Council should keep in mind that the City has limited enforcement mechanisms. She asked that the Council consider that the rule be one violation and you are done. She stated that the restrictions should be published in advance, with staff having the ability to enforce them.

Councilmember Colson asked if the DBID survey addressed the point that if they vote against extending the street closure, the alternative is a parklet. City Manager Goldman stated that they would have DBID President Keleher address this.

Councilmember Colson stated that she thought the Council should first address the Burlingame Avenue closure versus parklets and then personal services businesses.

Mayor Beach agreed.

Councilmember Colson asked if the City allows the parklets, will restaurants be confined to just the immediate space in front of their business, or could they utilize parking spaces adjacent to their storefront.

City Manager Goldman stated that sidewalk dining is still allowed. She explained that the City is allowing the parklets to spread further than their frontage if they get permission from their neighbors. DPW Murtuza stated that the City is allowing one to two parking spaces more than their frontage.

Councilmember Colson asked if she was correct that one to two parking spaces allows four tables. DPW Murtuza replied in the affirmative.

Councilmember Colson stated that one of the questions she is struggling with is what is the City trying to solve by terminating the Burlingame Avenue street closure program. She asked if the issue was lack of face coverings and social distancing or parking issues. City Manager Goldman stated that what staff is seeing is that when the street is closed, people are walking down the middle of the street and then stopping at tables to have conversations. She explained that the street closure is providing a lot of opportunity for socializing and the spread of COVID.

Councilmember Colson asked if staff felt comfortable that by ending the pilot program on Burlingame Avenue that this problem won't just relocate to Broadway. City Manager Goldman replied in the affirmative. She stated that a lot of people that have been enjoying the closure of Burlingame Avenue are coming from outside of the City and are coming just to hang out.

Councilmember Colson asked that if people do migrate to Broadway and Broadway ended up like Burlingame Avenue, would it also be closed. City Manager Goldman stated that it would be brought back to Council for a decision.

Councilmember Brownrigg thanked the ED Subcommittee for their hard work. He asked if everyone on Burlingame Avenue was wearing masks, would the City be proposing to change the street closure protocols. City Manager Goldman stated that if everyone was wearing masks and social distancing, then the challenge would be the complaints about the bikers and skateboarders, and the adverse impact on retail businesses.

Councilmember Brownrigg stated that he believed it was important to get at what the City is trying to solve. He explained that if staff is trying to solve the issue of people not wearing masks and social distancing, then the City should try enforcement first. He noted that if the City is trying to solve the issue that closing the Avenue is hurting retailers, then that is a different conversation. City Manager Goldman stated that this is a multi-pronged problem: (1) enforcement of face masks and social distancing; (2) issues with bicyclists and skateboarders; and (3) retailer complaints.

Councilmember Brownrigg stated that part of the reason that the Council approved of the street closure was to help businesses survive. He discussed how the street closure has brought a lot of people to the area and assisted businesses.

Vice Mayor O'Brien Keighran asked if the Council adopted the City Attorney's suggestion of a one-time violation and you're out, what happens if the business still doesn't adhere to the rules. She added that her follow-up question is whether the City can take their business license away. City Attorney Kane replied that the City's code contains an existing business license revocation procedure, which involves a hearing in front

of the Council. She stated that it would be helpful to alert businesses of the zero-tolerance policy when the City issues the encroachment permit for a parklet. She noted that if this warning doesn't work and the business persists, it becomes an enforcement policy question of whether the City confiscates materials that are encroaching on the right-of-way.

Councilmember Ortiz asked if the City had received complaints about people congregating without face masks and without proper social distancing prior to the closure of Burlingame Avenue. City Manager Goldman replied that the City received complaints throughout the City but most were around the parks.

Mayor Beach discussed the ED Subcommittee's recommendation that restaurants must utilize their parklets at least three days a week. She voiced concern that restaurants would choose to only use their parklets on Friday, Saturday, and Sunday, thereby leaving the Avenue looking vacant on weekdays.

Councilmember Ortiz stated that he was initially opposed to parklets. He explained that when he goes to San Mateo, he sees a number of their parklets empty. Therefore, his concern was that the City would remove parking spaces in favor of parklets that wouldn't be used. He explained that to solve this issue, the ED Subcommittee discussed different options and settled on the three-day requirement.

City Manager Goldman added that the ED Subcommittee hadn't specified what days the parklets had to be used.

Councilmember Colson asked if she was correct that if the Council approved of the parklets, the parklets would remain until indoor dining is allowed again. City Manager Goldman replied that it would be up to Council to determine when to end the program. She noted that even when restaurants are allowed to have indoor dining, there might be a 25% capacity requirement. Therefore, the parklets might still be needed.

Councilmember Colson stated that the parklets might be needed for more than a year. City Manager Goldman replied in the affirmative.

Mayor Beach opened the item up for public comment.

DBID President Keleher stated that Councilmember Colson's question about street closure versus parklets was not on the survey. She explained that DBID used Mayor Beach's survey and sent out an additional survey which had no reference to parklets. She stated that the survey addressed extending the temporary street closure and asked how they felt about it. She noted that the majority of respondents stated that they wanted to extend the closure through September. She added that there were approximately 35 businesses that stated that the street closure was hurting their business.

Councilmember Colson stated that the parklet alternative should have been mentioned in the survey so that the respondents were fully informed. DBID President Keleher stated that parklets weren't being discussed at the time that the survey was sent out.

Mayor Beach stated that she does a constituent newsletter. She explained that around July 20, she asked in her newsletter what people thought about the temporary street closure of Burlingame Avenue. She noted that her survey was not City-sponsored and that only 30 people responded.

DBID President Keleher stated that she took what Mayor Beach asked in her constituent newsletter and modified it for DBID's survey. She noted that DBID received almost 100 responses but that the survey was only about the temporary street closure program.

Councilmember Brownrigg asked if he was correct that the questions on Mayor Beach's survey and DBID's survey were the same but that the surveys were issued to two different groups of people.

Mayor Beach stated that she didn't believe that her survey had the same questions as DBID because her informal survey didn't ask if the street closure was hurting retail businesses. She asked if DBID's survey included a link to the Mayor's survey. DBID President Keleher stated that DBID had a separate survey.

Mayor Beach asked if DBID sent their members a link to the Mayor's survey. DBID President Keleher stated that she would have to get back to Council on this question.

DBID President Keleher and City Manager Goldman discussed the information that DBID submitted to the City. It was determined that DBID submitted the results of their survey, but not the questions.

Vice Mayor O'Brien Keighran asked how many of the questions on DBID's survey were the same as on Mayor Beach's survey. DBID President Keleher stated that she would send the Council the questions. She read out loud the questions she had placed in the survey. The questions focused on who are you, where is your business located, and has the street closure helped or hurt.

Vice Mayor O'Brien Keighran asked if she was correct that DBID's questions were different than Mayor Beach's questions. DBID President Keleher replied in the affirmative.

A citizen asked if a restaurant is not utilizing their parklet everyday, can neighboring restaurants use the parklet. (comment submitted via Zoom chat).

A citizen voiced their approval of the street closure and stated that the City should enforce face masks and social distancing requirements. (comment submitted via Zoom chat).

Burlingame resident Madeline Frechette asked that the City roll out the slow street program to additional areas in Burlingame. (comment submitted via publiccomment@burlingame.org.)

Sam Abbassi stated that the temporary street closure worked to bring people to the Avenue and support local businesses. He noted that he was concerned that the parklets would act as a deterrent to people visiting the Avenue and thereby hurt businesses.

Broadway BID President John Kevranian stated that the outdoor dining on Broadway is working well. He recommended that Burlingame Avenue be closed on the same days as Broadway.

Mayor Beach closed public comment.

Councilmember Ortiz stated that at the beginning, he was against parklets and in favor of the street closure. However, after the County went on the watchlist, he became convinced that the City had to do its part to prevent situations where COVID could easily spread. He explained that he believed that the environment created on Burlingame Avenue due to the temporary closure promoted a party like atmosphere that can't be controlled. He explained that the parklets will assist restaurants while deterring large groups from gathering.

Councilmember Brownrigg asked Councilmember Ortiz and Vice Mayor O'Brien Keighran what the discussion was about face mask enforcement at the ED Subcommittee. He explained that he had just come back from a city out of state where mask wearing was about 99.5%. He stated that this city gave tickets to those who didn't wear masks.

Councilmember Ortiz stated that his opinion is that the police shouldn't be used to issue tickets for face masks in order to increase compliance in the Downtown Burlingame Avenue District. He added that the City created a situation that encourages bad behavior, and therefore the City should end the situation.

Vice Mayor O'Brien Keighran stated that the City tried the closure. She noted that there has been an improvement in wearing masks but there has been an increase in socializing. She stated that according to the guidelines, the tables are supposed to be six feet apart and only households sit together. However, this isn't what is happening. She explained that she is seeing a large problem lately with younger constituents not wearing masks in big groups.

Vice Mayor O'Brien Keighran asked if she was correct that the side streets that are utilizing parklets have been doing well. She noted that she is disappointed in the DBID survey. She stated that she thought that the businesses were informed about the parklet alternative.

Councilmember Colson stated that she is warming up to the idea of parklets. She noted that she was on the Avenue on Sunday and noticed that most people were wearing masks and social distancing.

Councilmember Colson stated that since reducing the closure to Saturday at 5:00 a.m. to Sunday at 10:00 p.m., she has heard from the retail businesses that they are doing better. She expressed support for parklets as it would allow restaurants to be open for dining seven days a week.

Councilmember Colson voiced concern that by ending the Burlingame Avenue temporary closure program, the bikers and skateboarders would go to Broadway. She asked that the City issue tickets to those that violate the rules.

City Manager Goldman stated that while she shares Councilmember Colson's concern about bikers and skateboarders on Broadway, she didn't think it would be the same as Burlingame Avenue. She explained

that the cross streets are open on Broadway, and therefore bikers and skateboarders would have to be more cautious.

Councilmember Brownrigg stated that he believes it's great that people are coming to Burlingame Avenue; he just wishes they were doing it safely. He explained that it is to the City's benefit that the Avenue is a place for people to stroll, eat, and shop. He noted that a majority of people like the closure, and he would like to see the City enforce mask wearing and social distancing. He added that he wasn't convinced that this problem wouldn't also occur with parklets.

Councilmember Brownrigg stated that he would be a vote of dissent on moving to parklets because he believed the City should try enforcement first.

Vice Mayor O'Brien Keighran stated that she doesn't necessarily disagree with Councilmember Brownrigg's statements on enforcement. She explained that whatever direction the City goes with, she believes that the City needs to increase enforcement. She discussed citing people for not wearing masks. She added that the City should also put up signs addressing bicycling and skateboarding, and that if people continued to not follow the rules, they should also be cited.

Councilmember Colson asked if the temporary street closure would continue until the barriers for the parklets were installed. City Manager Goldman replied in the affirmative.

Mayor Beach discussed the feedback she received about the temporary street closure. She noted that it was a toss up with some people liking it and others not. She stated that she believed the parklets were more equitable as all restaurants in the downtown area could be open seven days a week for dining. She added that it also seemed like a longer-term investment.

Mayor Beach noted that she liked the street closure and suggested revisiting it in the summers when social distancing and face masks aren't required.

Councilmember Ortiz made a motion to adopt the recommendation of the ED Subcommittee and end the temporary street closure of Burlingame Avenue when barriers are purchased to create parklets; seconded by Vice Mayor O'Brien Keighran. The motion passed by roll call vote, 4-1 (Councilmember Brownrigg voted against).

Mayor Beach asked her colleagues to discuss whether personal services businesses should be allowed to operate outside.

Mayor Beach stated that in reviewing the ED Subcommittee meeting minutes, she was intrigued by the idea of offering parklets in a City parking lot for personal services businesses versus parklets in front of storefronts. She asked what parking lots were considered and if staff thought this was a feasible opportunity. City Manager Goldman stated that she had heard from the County Manager that the County was thinking of doing this for businesses in unincorporated areas. She explained that staff explored using Lot J, which is the lot behind the Apple store. DPW Murtuza stated that staff also discussed Lot O.

Councilmember Brownrigg asked if the City conducted any surveys with personal services businesses about operating outside. City Manager Goldman replied in the negative. She noted that there are a lot of restrictions in terms of what you can do outside as a personal services business. She gave the example of hair salons and stated that they aren't allowed to wash hair or chemically treat hair.

Councilmember Colson stated that she called around to some of the salons and received feedback that even with a parklet, it would be hard for them to operate. She discussed different concerns she had heard from the salons including access to equipment and supplies, and their staff needing to be home to take care of their children.

Councilmember Colson discussed how hard the closures are impacting female-owned businesses and female workers. She stated that she wished the Governor would allow salons to reopen as this wasn't where COVID was spreading, and these businesses were doing a good job of keeping their staff and customers safe.

Mayor Beach noted that San Mateo County Public Health Officer Dr. Morrow agreed with Councilmember Colson and thought that salons should be allowed to reopen.

Vice Mayor O'Brien Keighran stated that allowing personal services businesses to operate outside is new territory. Therefore, the ED Subcommittee didn't have time to conduct a survey. She stated that the ED Subcommittee was trying to think outside the box and provide options for businesses.

Mayor Beach opened up public comment.

Salon consultant Jaki Berry discussed the regulations that have been put in place by the State, county, and local governments for personal services businesses. She explained that it is very difficult for a salon to know what they can and can't do. She stated that a lot of the salons are feeling like they are being pushed aside. She noted that she didn't believe a parking lot would work because of the amount of equipment that salons have and the need to go back and forth to their shop.

Buyantod Rinchin discussed her nail salon (La Vie) on Burlingame Avenue and explained how hard hit her business was by COVID. She asked that the City work with salons to help them open up much in the same way the City assisted restaurants. She noted all the processes she has in place to protect her clients.

Jeff Silverman discussed the challenges hair salons would face if they operate outside in a parklet. He stated that the parklets would take away parking from retail and personal services businesses.

Mayor Beach closed public comment.

Councilmember Colson asked if people had filed complaints about Ms. Rinchin's salon operating on the sidewalk. City Manager Goldman replied in the affirmative. She explained that the nail salon has an extension cord stretched across the sidewalk, and that it is a tripping hazard.

City Attorney Kane discussed the complaints that the City had received. She explained that staff's approach has been to guide the business in other options that they could pursue so that there isn't an encroachment on the path of travel.

Councilmember Colson stated that if the City was to offer the salons the opportunity to have a parklet, the issue would just be in making sure that all water and other products were collected and brought back into the store for proper disposal. City Attorney Kane replied in the affirmative. She added that the City would have to review the encroachment permit to make sure the parklet is safe and in compliance. She discussed the possibility that it might be better for salons if they have rear access to operate in a back parking lot. She noted that it would be a case-by-case basis.

Councilmember Colson noted that her guess was that a majority of the personal services businesses would not avail themselves of the opportunity to have a parklet.

Mayor Beach stated that what she was hearing from Councilmember Colson and Vice Mayor O'Brien Keighran is what can the City do to lean in and assist personal services businesses. She discussed the City of San Mateo's policy and its restrictions. She thought the Council should consider the following things:

1. Is the City comfortable with anything in the public right-of-way
2. If comfortable, does the City have concerns with personal services such as nail or hair salons being close to restaurants

Councilmember Ortiz stated that the one thing he keeps coming back to is the requirement to have three sides open if there is a tent enclosure. He explained that if the City gave the personal services businesses parklets, then three sides of the tent enclosure would have to be open. He stated that he felt for all the businesses but didn't think that they should be allowed to set up on the sidewalks. He suggested allowing personal services businesses to utilize parklets. He added that he didn't believe a parking lot would work, and he wouldn't want them close to outdoor restaurant tables.

Vice Mayor O'Brien Keighran stated that she has concerns about allowing personal services business parklets near restaurants. She asked if there is a minimum distance from restaurant requirement. Ms. Berry stated that she hasn't read anything about distance requirements from restaurants. She noted that there wouldn't be a lot of salons that could take advantage of a parklet, but that this should be allowed to help some.

Mayor Beach concurred with Ms. Berry and explained that this is why she thought utilizing a parking lot might be something the City should explore.

Vice Mayor O'Brien Keighran stated that if there is a way to allow some of the businesses to function, even though it is extremely limited, she would like the City to offer this option. She noted that in regard to the restaurants, she was not keen on a salon being adjacent or in close proximity to a restaurant. She thought the City should explore the parklet idea as long as all safety criteria are adhered to. She added that she didn't know how reasonable it would be to open up a parking lot for salons. She explained that they have heavy equipment, and they wouldn't be able to reset up every day unless it is right at their backdoor.

Vice Mayor O'Brien Keighran asked how the City was defining chemical. City Manager Goldman stated that the State Board of Barbering and Cosmetology memorandum discusses permissible outdoor services and states that no chemical hair services are allowed. She noted that it doesn't address nail salons. Ms. Berry stated that she wasn't aware of requirements about chemicals for nail salons.

DPW Murtuza stated that to prevent water pollution, whatever the nail salons are using would need to be specially handled to ensure that the chemicals don't end up in the storm drain system.

Councilmember Brownrigg suggested allowing the ED Subcommittee to work with staff on a plan for personal services businesses. He noted that he was skeptical that the Council could come up with the best answer at the meeting because the matter was complicated. He added that he didn't think it fair to tell some salons they can't operate because they are next to a restaurant and others that they can because they aren't next to a restaurant.

Councilmember Brownrigg stated that it might make more sense to take an obscure parking lot for salons. He suggested the Library Parking Lot's upper tier. He noted that if there is a sufficient demand, the City could put a tent over the top and let people rent space from the City.

Councilmember Colson stated that Ms. Rinchin's business has shown that clients aren't concerned about getting manicures and pedicures in a parklet. She agreed that kicking this issue back to the ED Subcommittee might be the best way to handle this matter. She added that her concern about setting them up in a parking lot is that they would have to carry all of their supplies and water from their stores. She stated that it wasn't practical.

Mayor Beach stated that her concern is that kicking it back to the ED Subcommittee wouldn't give staff enough guidance to deal with the matter. She explained that it sounded like the majority of Council is leaning into doing something. She stated that Council agrees that salons shouldn't operate on sidewalks. She asked if her colleagues were open to allowing salons to operate in a parklet in front of their stores that could be near or adjacent to restaurants.

Councilmember Ortiz voiced support for the City of San Mateo's regulations that required 50 feet between a salon and restaurant.

Vice Mayor O'Brien Keighran stated that she agreed with Councilmember Ortiz. She noted that her biggest concern is distance from restaurants. She added that for consistency reasons, she felt that the 50 feet requirement was reasonable. She stated that she would also be open to giving them one or two spaces in a parking lot. She also suggested utilizing private alleys with permission from the landowner.

Councilmember Colson asked why a restaurant gets priority over a nail salon. She asked what would happen if a salon isn't within 50 feet of a restaurant so the City gives them a parklet, but then the storefront next to them is leased to a restaurant. She asked if the restaurant has to stay closed. She stated that she has a real

issue with picking one industry to survive over the other. She explained that she isn't as concerned with the 50 foot requirement. She stated that she just wanted it to be fair to everyone.

City Attorney Kane stated that Council should determine what issue they are trying to regulate and then how it can be addressed. She stated that if it is strictly a matter of airspace or visual space, then that is a distance requirement. She noted that if it is an issue of making sure that there is no detritus that goes from one use into another, there may be other ways to address that that aren't based on a 50 foot distance.

Mayor Beach asked the City Attorney if she had any thoughts on Councilmember Colson's suggestion that parklet priority be given to the business that gets there first. City Attorney Kane stated that any action that the Council takes has to be fair and equitable. Therefore, whatever the Council's decision is, there must be a record that supports the basis for that decision.

Vice Mayor O'Brien Keighran stated that she isn't picking one business over the other. She explained that the reason she discussed separation is because she is looking at it from a health perspective. She noted that if there are ways to cover these concerns so that restaurants and salons can both operate outside within a smaller distance, that would be great.

Mayor Beach stated that she could support the first-in priority for salons and restaurants. She explained that she liked Councilmember Ortiz's suggestion of going with the City of San Mateo's regulations for 50 feet between a salon parklet and restaurants. However, she noted that she also agreed with Councilmember Ortiz that the City should go further than the City of San Mateo and offer public parking lots.

Councilmember Colson stated that she understands the health concerns of having salons close to outdoor dining. She explained that she believes that the State has created a much bigger problem by not allowing salons to operate indoors.

Mayor Beach asked Councilmember Ortiz if he wanted to formulate a motion.

Councilmember Ortiz stated that he was struggling because the Council was stating that they wanted to adopt similar regulations to the City of San Mateo with a few exceptions, including allowing salons to utilize public parking lots.

City Attorney Kane stated that she thought the Council wanted to consider allowing salons to operate in parklets but only if it is setback from existing adjacent restaurants.

Councilmember Ortiz agreed. He stated that he would say no sidewalks but is okay with the use of parklets in the public right-of-way and outside the 50-foot setback from existing restaurant uses.

Vice Mayor O'Brien Keighran added the caveat that if a restaurant moved in after, that the salon would have priority in utilizing a parklet.

Mayor Beach asked the City Attorney to articulate the motion.

City Attorney Kane stated that she believed the motion was:

- To allow personal services businesses in the public right-of-way, in parklets, but not on sidewalks,
- To allow personal services businesses in City parking lots, subject to review by the Public Works Department, and in private outdoor spaces,
- The personal services business must comply with State regulations and reasonable regulations from the City regarding health and safety, and
- The outdoor operations of personal services businesses must be 50 feet or more from an existing restaurant use.

Councilmember Ortiz made a motion utilizing City Attorney Kane's outline of the motion.

Councilmember Colson asked if there was a restaurant next door to a salon that is choosing not to serve food, could the salon get the parklet. She asked what would happen if the restaurant decided that it did want outdoor dining. City Attorney Kane stated that the motion could be clarified to say existing restaurant use in the public right-of-way.

Councilmember Ortiz stated that he would like salons to have the same requirement as restaurants--that the parklet has to be used at least three days a week.

DPW Murtuza asked about Councilmember Colson's hypothetical. He asked if she was stating that if a restaurant initially doesn't take the City's offer to have outdoor dining but later asks for an encroachment permit when a salon is already in place, the City should deny the restaurant's request.

Councilmember Colson replied in the affirmative.

Councilmember Brownrigg stated that he believed that DPW Murtuza's question was whether the restaurant would be allowed to obtain the encroachment permit but that the salon could stay open.

Councilmember Colson stated that she was fine with that.

City Attorney Kane stated that this creates a slight logical problem because if the 50 feet is necessary for health and safety, than those reasons are still there no matter who came first.

Vice Mayor O'Brien Keighran stated that the way she was understanding it is that the restaurants had the opportunity to utilize a parklet. Therefore, if the restaurant declined that opportunity and the nail salon took it, then the salon shouldn't be punished if the restaurant changes its mind.

Councilmember Ortiz stated that even if the restaurant is closed, the City should not allow a salon to open a parklet if it is within 50 feet of the restaurant.

City Attorney Kane discussed the issue of health and safety. She noted that the Council should consider if the restaurant is only operating as takeout and doesn't have outside dining, is there still an issue of health and safety.

Mayor Beach stated that the issue she believes the Council was trying to address was the incompatibility for health, safety, and privacy of two parklets operating next door to each other, where one is a restaurant and one is a salon. She noted that she didn't believe she heard concern about a salon operating outside in a parklet with a restaurant only doing takeout.

Councilmember Ortiz stated that in his mind, the 50-foot distance was required whether or not the restaurant was operating outside.

Vice Mayor O'Brien Keighran agreed with Mayor Beach and stated for her it is the outdoor activity.

Mayor Beach stated that she was comfortable with the premise of allowing either to have a parklet depending on who got their first.

Vice Mayor O'Brien Keighran concurred with the Mayor.

City Attorney Kane stated that for clarity, she is assuming that who got there first means submitted a complete application for an encroachment permit rather than physical presence, if physical presence hadn't been established yet.

Mayor Beach concurred with the City Attorney.

City Attorney Kane asked if she was correct that the 50 feet was in all directions. Therefore, if a restaurant was utilizing a sidewalk but not a parklet, the salon's parklet would need to be 50 feet from the sidewalk tables.

Vice Mayor O'Brien Keighran stated that it seemed like the City was arbitrarily picking 50 feet based off of the City of San Mateo's requirements. She asked if the City could do less distance and still maintain health and safety. She noted that she didn't know what the distance should or shouldn't be. City Attorney Kane stated staff doesn't know what the basis for the 50 feet was. She noted that this might be something that staff needs to look into a little bit more.

Mayor Beach asked if typical store fronts for restaurants in the downtown area are 50 feet. CDD Gardiner stated that they are usually 25 to 35 feet.

Mayor Beach stated that it is imperfect information that the City has; however, she thought Councilmember Ortiz's motion (articulated by City Attorney Kane) was correct.

Councilmember Colson stated that the City should first reach out to the salons and see who is interested. She explained that then the City could draft a policy.

Councilmember Ortiz stated that he believed the motion needed to be clarified that it is outdoor restaurant operations as opposed to just a restaurant.

Councilmember Brownrigg suggested having Mayor Beach write to Governor Newsom, supporting San Mateo County Health Officer Dr. Morrow's assertion that salons should be allowed to remain open.

City Attorney Kane stated that Councilmember Brownrigg's suggestion doesn't require a motion just majority support.

Vice Mayor O'Brien Keighran questioned the 50-foot distance.

Councilmember Colson noted that 50 feet would prevent a salon from operating outside if there was a restaurant across the street. DPW Murtuza replied in the affirmative.

Councilmember Ortiz recommended decreasing it to 25 feet.

DPW Murtuza stated that the space between parklets across the street from each other is approximately 21 feet.

Councilmember Colson suggested decreasing the required distance to 20 feet.

Mayor Beach suggested limiting the distance requirement to same side of the street.

Councilmember Colson noted that the distance requirement needed to be consistent if the issue was health and safety.

Councilmember Ortiz stated that 20 feet made sense.

Councilmember Ortiz made a motion:

- To allow personal services businesses in the public right-of-way, in parklets, but not on sidewalks,
- To allow personal services businesses in City parking lots, subject to review by the Public Works Department, and in private outdoor spaces
- The personal services businesses must comply with State regulations and reasonable regulations from the City regarding health and safety,
- The personal services business must be operating 20 feet or more from any existing outdoor restaurant use in the public right-of-way,
- The personal services business must utilize the parklet at least three days a week, and
- If a restaurant decides later to have outdoor dining and the outdoor tables fall within 20 feet of an existing outdoor salon, the restaurant is not allowed to have outdoor dining because the salon already established itself outside.

The motion was seconded by Vice Mayor O'Brien Keighran.

The motion passed unanimously by roll call vote, 5-0.

City Attorney Kane stated that she wanted Council direction on if there are violations of the reasonable life safety and health restrictions that the permits can be pulled on one violation.

Councilmember Colson stated that there are a lot of different violations. She asked what would happen if a customer is not wearing their mask, would it count as a violation.

City Attorney Kane suggested that staff draft a short list of the very serious things that would qualify as a violation for terminating a permit. She explained that this could be given to the ED Subcommittee for their review and approval.

Council agreed.

Mayor Beach asked if Council agreed to her sending a letter on behalf of the City to the Governor outlining their objections over State regulations of personal services businesses. Council agreed.

City Manager Goldman asked for Council direction on the Broadway street closure.

Mayor Beach opened the item up for public comment. No one spoke.

Councilmember Brownrigg made a motion to extend the Broadway street closure; seconded by Councilmember Ortiz.

Councilmember Ortiz commented on the motion; stating that the City has to keep an eye on the violations on Broadway to make sure it remains under control.

The motion passed unanimously by roll call vote, 5-0.

11. COUNCIL COMMITTEE AND ACTIVITIES REPORTS AND ANNOUNCEMENTS

a. MAYOR BEACH COMMITTEE REPORT

12. FUTURE AGENDA ITEMS

Councilmember Brownrigg asked that the Council agendaize allowing cannabis delivery service businesses to establish themselves in the city. Council agreed.

13. ACKNOWLEDGEMENTS

The agendas, packets, and meeting minutes for the Planning Commission, Traffic, Safety & Parking Commission, Beautification Commission, Parks and Recreation Commission, and Library Board of Trustees are available online at www.burlingame.org.

14. ADJOURNMENT

Mayor Beach adjourned the meeting at 10:56 p.m. in memory of Doug Freeman and Gwen Kingsmill.

Respectfully submitted,

Meaghan Hassel-Shearer
City Clerk