



STAFF REPORT

AGENDA NO: 11c

MEETING DATE: December 4, 2023

To: Honorable Mayor and City Council

Date: December 4, 2023

From: Michael Guina, City Attorney – (650) 558-7204

Subject: Adoption of a Resolution Adopting a Surveillance Technology Policy

RECOMMENDATION

Staff recommends the City Council consider this staff report and the draft Surveillance Technology Policy (“Policy”) and adopt the proposed Resolution adopting the Policy. In the alternative, staff recommends the Council provide direction on any amendments they wish to be incorporated into a Policy.

BACKGROUND

At its meeting on April 17, 2023, the City Council considered whether to adopt a Surveillance Technology Ordinance (Exhibit A: Staff Report and Minutes from Agenda Item 10.d.). At the conclusion of its deliberations, the Council directed staff to prepare a Surveillance Technology Policy, instead of an ordinance. The attached draft Policy responds to Council’s direction.

DISCUSSION

For purposes of the proposed Policy, “Surveillance Technology” is defined as software, a device, or an electronic system used primarily to collect and retain data on an individual or group. Examples of Surveillance Technology would include Automated License Plate Readers (ALPRs), gunshot detectors, facial recognition software, video cameras, as well as software designed to monitor social media or criminal activity.

The proposed Policy would require the City Council to consider the following criteria before authorizing the purchase of Surveillance Technology:

- **Purpose:** including a description of which the Surveillance Technology is intended to advance
- **Authorized Uses:** including a description of uses of the Surveillance Technology which are authorized and which uses may be prohibited
- **Data Collection/Access/Protection/Retention:** including a description of the information that can and will be collected by the Surveillance Technology, as well as Data Access, Data

Protection, and Data Retention

- Data Sharing: including a description of the circumstances under which the collected data could be shared with Third Parties including other Public Agencies
- Auditing and Oversight: including a description of the mechanisms and/or processes for ensuring compliance with the Policy

The Policy would require any staff report requesting authority to purchase Surveillance Technology to include a discussion of the factors listed above. The Council could use the information in determining whether and under what circumstances to authorize the use of the Surveillance Technology.

FISCAL IMPACT

There is no fiscal impact in adopting a Surveillance Technology Policy. The fiscal impact of any proposed Surveillance Technology would be analyzed in a staff report seeking authorization to purchase the technology.

Exhibits:

- A: Staff Report and Minutes from April 17, 2023 City Council Meeting
- Proposed Surveillance Technology Policy



BURLINGAME CITY COUNCIL
Approved Minutes
Regular City Council Meeting on December 4, 2023

1. CALL TO ORDER

A duly noticed meeting of the Burlingame City Council was held on the above date in person and via Zoom at 7:03 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The pledge of allegiance was led by Lee Thompson.

3. ROLL CALL

MEMBERS PRESENT: Beach, Brownrigg, Colson, Ortiz, Stevenson

MEMBERS ABSENT: None

4. REQUEST FOR AB 2249 REMOTE PARTICIPATION

There were no requests.

5. REPORT OUT FROM CLOSED SESSION

There was no closed session.

6. UPCOMING EVENTS

Mayor Brownrigg reviewed upcoming events in the city.

7. PRESENTATIONS

a. HIP Housing Calendar Presentation

HIP Housing Board Member Mary Leahy reviewed the work that HIP Housing undertook this year in Burlingame including:

- received 52 inquiry calls and worked with 72 Burlingame residents

- housed 14 Burlingame residents through the home share program and six through the self-sufficiency program

Ms. Leahy discussed HIP Housing’s annual calendar competition where local San Mateo County students are asked to draw a picture of what home means to them. She recognized Choko, a local student, whose design was chosen for the month of June.

8. PUBLIC COMMENTS

AFSCME members from Burlingame and other municipalities spoke on behalf of their union regarding the City’s current labor negotiations and unfair labor practices. The commentators included: David, John, Al, Don, Amanda, Rosa, Delilah, Ann, Melissa, Tom, Adrian, Lisa, Ryan, Richard, Joy, Kanani, Dante, Chris, Filipe, Rich, Joey, Rory. Their comments included:

- Issues over free speech
- Employee turnover is high
- Retaining employees is difficult
- Difficulty in hiring
- Cost of living has increased, leading to employees not being able to live in the area
- Appreciation for work done
- Need to increase wages to be equal with neighboring cities
- Reserve funds, General Fund balance, and enterprise funds could be used for increases
- Inability to live on their employee wages

9. APPROVAL OF CONSENT CALENDAR

Mayor Brownrigg asked the Councilmembers and the public if they wished to remove any item from the Consent Calendar. Vice Mayor Colson pulled item 9c. Mayor Brownrigg pulled item 9d.

Councilmember Ortiz made a motion to approve items 9a, 9b, 9e, 9f, and 9g; seconded by Councilmember Beach. The motion passed unanimously by roll call vote, 5-0.

a. APPROVAL OF CITY COUNCIL MEETING MINUTES FOR THE NOVEMBER 20, 2023 CLOSED SESSION

City Clerk Hassel-Shearer requested Council approve the City Council meeting minutes for the November 20, 2023 Closed Session.

b. APPROVAL OF CITY COUNCIL MEETING MINUTES FOR THE NOVEMBER 20, 2023 REGULAR CITY COUNCIL MEETING

City Clerk Hassel-Shearer requested Council approve the City Council meeting minutes for the November 20, 2023 Regular City Council Meeting.

c. ADOPTION OF AN ORDINANCE OF THE CITY OF BURLINGAME AMENDING SECTION 10.40.038 OF TITLE 10 OF THE BURLINGAME MUNICIPAL CODE REGARDING LEAF BLOWERS; CEQA DETERMINATION: EXEMPT PURSUANT TO STATE CEQA GUIDELINES SECTIONS 15378 AND 15061(B)(3)

Vice Mayor Colson discussed her concerns with the proposed ordinance as written including:

- Importance of education over punishing individuals who violate the leaf blower hours
- Extending the hours for leaf blowing from 5:00 p.m. to 6:00 p.m.
- Clarifying the language regarding how to report violations

Sustainability Program Manager Michael explained that past complaints regarding leaf blowers have been about usage on the wrong day. She added that in speaking with the Code Compliance Officer, she was informed that the City has only sent out one citation in the past eight years.

Mayor Brownrigg voiced support for issuing citations.

Vice Mayor Colson asked when can homeowners use leaf blowers. City Attorney Guina replied that homeowners can utilize leaf blowers on their designated weekdays, on Saturdays between 9:00 a.m. and 2:00 p.m., and Sundays between 10:00 a.m. and 2:00 p.m.

Mayor Brownrigg proposed that homeowners using electric leaf blowers can leaf blow when they want.

Councilmember Beach disagreed with the Mayor and stated that she didn't think the Council should re-litigate when leaf blowers could be used.

Councilmember Ortiz agreed with Councilmember Beach.

Vice Mayor Colson stated that many residents had voiced concern about the need to leaf blow after work and before storms. City Manager Goldman replied that a resident wouldn't be issued a citation for leaf blowing prior to a storm. She noted that if the City was to extend the hours of leaf blowing it would be later than the codified construction hours in the city.

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

Vice Mayor Colson stated that the following changes should be made to the proposed ordinance:

- Extend leaf blowing hours to 6:00 p.m.
- Cleaning up the language of the ordinance (removing the word punishment, etc.)
- Leaving the fine at \$50.00

Vice Mayor Colson made a motion to bring back the proposed ordinance with her above outlined changes; seconded by Councilmember Stevenson. The motion passed unanimously by roll call vote, 5-0.

d. ADOPTION OF A RESOLUTION AWARDED A \$306,455.10 CONSTRUCTION CONTRACT TO RAY'S ELECTRIC FOR THE CITY-WIDE PEDESTRIAN SAFE ROUTES AND MOBILITY IMPROVEMENTS

PROJECT, CITY PROJECT NO. 86510, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT

Mayor Brownrigg stated that in light of time and the number of issues still to discuss on the agenda, he would take up his questions with DPW Murtuza.

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

Mayor Brownrigg made a motion to adopt Resolution Number 142-2023; seconded by Councilmember Ortiz. The motion passed unanimously by roll call vote, 5-0.

- e. **ADOPTION OF A RESOLUTION AWARDED A \$245,625 CONSTRUCTION CONTRACT TO BAYSIDE STRIPE & SEAL, INC. FOR THE BURLINGAME BICYCLE BOULEVARD AND MERCY NEIGHBORHOOD TRAFFIC CALMING PROJECT, CITY PROJECT NO. 86640, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT**

DPW Murtuza requested Council adopt Resolution Number 143-2023.

- f. **ADOPTION OF A RESOLUTION APPROVING THE PROCUREMENT OF THREE FULLY VEHICLES FOR THE CITY'S FLEET SYSTEM AS PART OF THE FY 2023-24 VEHICLE REPLACEMENT PROGRAM IN THE AMOUNT OF \$175,609.68**

DPW Murtuza requested Council adopt Resolution Number 144-2023

- g. **ADOPTION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO EXTEND THE TERM OF THE PROFESSIONAL SERVICES AGREEMENT WITH ICF JONES & STOKES, INC. (ICF) TO DECEMBER 31, 2024, TO PERFORM ENVIRONMENTAL REVIEW SERVICES FOR THE PROPOSED DEVELOPMENT OF A NEW PUBLIC NATURE/RECREATION PARK AND EDUCATION CENTER BUILDING AT 410 AIRPORT BOULEVARD**

CDD Gardiner requested Council adopt Resolution Number 145-2023.

10. PUBLIC HEARINGS

- a. **PROPOSITION 218 PUBLIC HEARING AND ADOPTION OF A RESOLUTION ESTABLISHING SOLID WASTE RATE FOR CALENDAR YEARS 2024-2028**

Finance Director Yu-Scott introduced Garth Schultz of R3 Consulting Group.

Mr. Schultz stated that Burlingame is a member of the South Bayside Waste Management Authority Joint Powers Agreement ("SBWMA"). He explained that on October 16, 2023, the City Council adopted Resolution Number 132-2023, setting December 4, 2023, as the public hearing date to consider proposed increases to solid waste rates. He stated that staff prepared and mailed notices to each property owner

and customer informing them of the rate increases, the reason for the increases, and the public hearing schedule to discuss the proposed increases. He noted that the notice was mailed on October 20, 2023.

Mr. Schultz reviewed the City’s history with SBWMA:

- Burlingame holds a franchise agreement for solid waste collection with Recology
- Post-collection processing, recycling, composting, and disposal is done at the Shoreway facility, owned by SBWMA
- City approves solid waste rates to cover costs for collection, post-collection, SBWMA programs, and City programs
- City may adopt up to five years of rates

Mr. Schultz reviewed the proposed increases:

		Proposed Monthly Solid Waste Rates				
		2024	2025	2026	2027	2028
		(Proposed)	(Proposed)	(Proposed)	(Proposed)	(Proposed)
Residential	20-gallon	\$ 29.53	\$ 32.19	\$ 34.77	\$ 37.20	\$ 39.06
	32-gallon	\$ 32.81	\$ 35.76	\$ 38.62	\$ 41.32	\$ 43.39
	64-gallon	\$ 65.63	\$ 71.54	\$ 77.26	\$ 82.67	\$ 86.80
	96-gallon	\$ 97.39	\$ 106.16	\$ 114.65	\$ 122.68	\$ 128.81
Commercial	32-gallon	\$ 32.81	\$ 35.76	\$ 38.62	\$ 41.32	\$ 43.39
	64-gallon	\$ 65.63	\$ 71.54	\$ 77.26	\$ 82.67	\$ 86.80
	96-gallon	\$ 97.39	\$ 106.16	\$ 114.65	\$ 122.68	\$ 128.81
	1-cubic yard	\$ 207.05	\$ 225.68	\$ 243.73	\$ 260.79	\$ 273.83
	2-cubic yards	\$ 414.14	\$ 451.41	\$ 487.52	\$ 521.65	\$ 547.73
	3-cubic yards	\$ 621.14	\$ 677.04	\$ 731.20	\$ 782.38	\$ 821.50

Mr. Schultz explained that even with the increases, the City’s rates will remain low.

Mayor Brownrigg stated that the cities on the lower side of solid waste rates are a part of SBWMA, and cities with higher rates are generally not part of SBWMA. He noted that SBWMA has helped to keep costs low.

Mayor Brownrigg opened the item up for public comment.

Mr. Payne spoke in protest of the proposed rates.

A member of the public spoke in protest of the proposed rates.

Eric commented in protest of the proposed rates. (comment submitted via publiccomment@burlingame.org)

Mayor Brownrigg closed public comment.

Mayor Brownrigg stated that the rates for the 20-gallon containers have always been low. He explained that the real cost is the picking up and handling of the containers and that this is why the rate was being increased as it wasn't about the size of the container.

City Attorney Guina discussed the error in the notice that the City sent out to all rate payers. There were two different dates by which protests needed to be submitted, November 20 and December 4, included in the notice. However, he explained that the notice was sufficient because all the staff reports and meetings cited December 4 as the deadline.

Finance Director Yu-Scott asked the City Clerk how many protests were received. City Clerk Hassel-Shearer replied that 31 protests were received, which does not constitute a majority protest.

Vice Mayor Colson stated that rate payers utilizing the 32-gallon containers would be paying approximately five to six dollars more per pick up. She explained that she believed this was reasonable and was in favor of the proposed rate structure.

Councilmember Ortiz voiced support for the proposed increase and acknowledged that it would be difficult for some.

Councilmember Beach asked City Attorney Guina for more clarity on the noticing discrepancy. City Attorney Guina replied that the notice sent out to the rate payers had two dates on it, with the earlier date being in reference to a different schedule of the proposed hearing. He added that the community was given more time to send in protests.

City Clerk Hassel-Shearer added that the City also noticed the public hearing in the newspaper with the correct date.

Mayor Brownrigg made a motion to adopt Resolution Number 146-2023 of the proposed solid waste rates increases; seconded by Councilmember Ortiz. The motion passed unanimously by roll call vote. 5-0.

b. PUBLIC HEARING AND ADOPTION OF A RESOLUTION APPROVING AND LEVYING 2024 SAN MATEO TOURISM BUSINESS IMPROVEMENT DISTRICT ASSESSMENTS ON HOTEL BUSINESSES WITHIN THE DISTRICT

Finance Director Yu-Scott stated that on September 5, 2023, the City Council adopted Ordinance Number 2018, which established Chapter 6.55, "San Francisco Tourism Marketing District," of Title 6 of the Burlingame Municipal Code to allow for formation of a new Tourism Marketing District, the San Francisco Peninsula Tourism Marketing District (SFPTMD). She noted that the SFPTMD will become a modernized version of the TBID and have a five-year life, beginning January 1, 2024.

Finance Director Yu-Scott explained that while the new SFPTMD begins operations on January 1, 2024, the current TBID still has a balance of prior assessments that need to be collected or spent down. In order to allow for the TBID to continue to collect the remainder of its assessments for the calendar year 2023 and to spend down its reserves, the TBID must be renewed through a public hearing process for the 2024 calendar year, with a \$0 annual assessment. She noted that this will allow the TBID to spend down its remaining reserves on continued tourism promotional activities. She stated that the expenditure of the remaining TBID reserves will act as a bridge until the new SFPTMD has enough balance to take over the BID activities. She added that once all TBID revenues have been expended, staff will bring a separate agenda item to the City Council to dissolve the TBID.

Finance Director Yu-Scott asked City Clerk Hassel-Shearer if any protests were received. City Clerk Hassel-Shearer replied in the negative.

Mayor Brownrigg opened public comment.

SFPTMD CEO John Hutar thanked Council for their support.

Mayor Brownrigg closed public comment.

Vice Mayor Colson made a motion to adopt a Resolution Number 147-2023; seconded by Councilmember Ortiz. The motion passed unanimously by roll call vote, 5-0.

11. STAFF REPORTS AND COMMUNICATIONS

a. DISCUSSION OF ADOPTING TERM LIMITS FOR COUNCILMEMBERS AND COMMISSIONERS

City Manager Goldman stated that at the October 16, 2023 Council meeting, Mayor Brownrigg informed the Council that he intended to agendize a discussion of term limits and whether the Council should adopt term limits for Councilmembers and/or members of the City's Boards and Commissions.

City Manager Goldman explained that term limits are a legal restriction on the number of terms a person may serve in a particular elected office. She noted that there can be consecutive term limits or lifetime term limits. She stated that:

- Councilmembers serve four-year terms with no term limits
- Members of the Beautification Commission, Library Board, Parks and Recreation Commission, and Traffic, Safety, and Parking Commission serve three-year terms with no term limits
- Planning Commissioners serve four-year terms with no term limits

City Manager Goldman noted that in San Mateo County, six cities out of 20 have term limits, and seven have term limits for one or more commission.

City Manager Goldman reviewed the pros and cons of term limits:

- **PROS**

- Encourage political participation by newcomers and can encourage more people to seek out leadership opportunities in their community
- Regularly electing new Councilmembers can also bring fresh ideas and perspectives to the dais
- **CONS**
 - Term limits can also lead to a loss of experienced and effective leadership
 - Takes time for newly elected officials to learn the issues under their purview and establish relationships with other officials
 - Can also reduce the City's influence with regional agencies like the San Mateo County Transportation Authority, OneShoreline, RethinkWaste, and C/CAG as newly elected Councilmembers are unlikely to be appointed to leadership positions within these agencies during their first several years in office

City Manager Goldman stated that staff are agnostic as to whether the City should adopt term limits. She explained that the City's terms for Councilmembers and Commissioners are included in the Burlingame Municipal Code. Therefore, if the Council decides to implement term limits, staff will need to bring back a proposed ordinance to amend the Burlingame Municipal Code.

Mayor Brownrigg stated that he wanted to focus the Council conversation on whether his colleagues were in favor of term limits. He explained that if the Council was in favor of term limits, they could discuss what that looked like at a later meeting.

Councilmember Ortiz stated that the City's Council and Commission history hasn't made him think that term limits are necessary. He added that he believed the City also needed to wait to see the impact of district elections prior to determining if term limits were necessary.

Councilmember Stevenson stated that he thought it should be left up to the voters to decide who should be on Council and whether someone shouldn't be re-elected.

Mayor Brownrigg opened the item up for public comment.

Howard Wettan discussed his experience as a commissioner on Traffic, Safety, and Parking and now on Parks and Recreation. He explained that it was important to have both institutional knowledge on the commissions and new voices.

Former Mayor Keighran voiced support for revisiting this issue at a later date, after the City understood the implications of district elections. (Comment submitted via publiccomment@burlingame.org)

Mayor Brownrigg closed public comment.

Councilmember Beach discussed the negative impact of term limits and empowering the community to decide how long an individual should serve through their power to vote. She also discussed the importance of regional boards and commissions and how term limits could hurt the progress that Councilmembers are

making in these positions for the community. She added that she hoped that Councilmembers would know when to move on without having to have term limits.

Councilmember Beach stated that she would be open to a discussion about term limits for commissioners as it is a gateway to public service.

Vice Mayor Colson discussed the term limits at the County Board of Supervisors. She noted that, perhaps because of the term limits, there isn't a lot of competition against incumbents. She stated that she was against term limits for Councilmembers and Commissioners.

Councilmember Stevenson stated that Commissioners have to interview when their term is up, and the Council can decide if it is time to move on to a new voice.

Mayor Brownrigg thanked his colleagues for the discussion.

b. DISCUSSION OF THE FUTURE OF THE PARKLET PROGRAM BEYOND JUNE 30, 2024

CDD Gardiner stated that in 2020, the City Council initiated a series of measures to facilitate safe outdoor dining in the midst of the COVID-19 pandemic. He explained that after first piloting a weekend street closure to allow expansion of outdoor dining, the City pivoted to a parklet program. He noted that parklets were favored because they allowed an expansion of outdoor dining, but with fewer impacts to traffic circulation or parking compared to the street closures.

CDD Gardiner stated that at the August 16, 2021 City Council meeting, the Council considered a longer-term version of the parklet program, recognizing the popularity of the parklets and the economic development benefits to restaurants rebuilding business coming out of the pandemic. He explained that the Council extended the program through Labor Day 2022 but required that parklets be utilized at least four days a week. The Council also directed staff to develop a rent/fee structure for use of publicly-owned space and cleaning cost recovery.

CDD Gardiner stated that at the September 19, 2022 Council meeting, the Council voted to extend the program again, this time through June 2024. He explained that on October 11 and November 8, 2023, the Economic Development Subcommittee discussed parklets and whether or not they should be extended once again. He stated that the subcommittee considered several different options should the program stay, including extending the program to allow retailers to have parklets, or changing the program to require no roofing and more rigorous cleaning and aesthetic requirements.

CDD Gardiner stated that the subcommittee reviewed staff recommendations for modifications and concurred with the suggestions should the program be extended longer-term. Staff recommended the following modifications to the program:

- City should increase enforcement of safety concerns based on program guidelines. These concerns include: obstacles in the pedestrian pathway, ADA accessibility of parklets and parking spaces, and motor/parklet user conflict because of close proximity and parklet extension into the travel way.

Additional analysis to ensure parking accessibility should also be explored. Both of these initiatives would require increased staffing.

- Any future parklets should be restricted within 25 feet of a controlled intersection. This assists with providing visibility to existing crosswalks, stop signs, or stop bars.
- The parklet should be designed to allow for drainage flow and shall not cause obstruction to the drainage flow and/or storm inlets.
- Any future parklets should be required to have access points to Trash Capture Devices and storm inlets, such as floor hatch or removable flooring. This could help with concerns over maintenance access to underground utilities and catch basins over which parklets have been installed, as well as with rodent/trash cleanup.
- Parklet owners should be required to perform preventative maintenance and repairs of the parklet structures to keep them in good condition, independent of staff cleaning measures. Parklet owners shall ensure the spaces below the parklets are clean to prevent rodent infestation.
- Staff recommends that, in the event the above recommendations are adopted, existing parklets also be required to comply with the new requirements, with the exception of the restriction within 25 feet of a controlled intersection. That would only apply to new parklets. Enforcement would be on a phased approach, likely to include more comprehensive construction and safety standards.
- Staff recommends that an annual fee adjustment based on CPI apply to any parklet permit fees and ongoing maintenance costs associated with the program.

CDD Gardiner stated that beyond the staff's recommendations, the committee expressed a desire for consistent standards surrounding aesthetics, equity, and safety, including:

- Suggestions to address safety and visibility: no roofing; no propane or electric heaters (or only using a heater or storage system vetted by the Fire Department, if feasible); proper drainage considerations (removable flooring, hatch ramps, etc.).
- Suggestions for aesthetics: covering orange barriers but leaving the top uncovered (or covered with a removable top) to allow refilling/inspection; some type of sturdy lumber for orange barrier covers and flooring; disallowing "stacking and storage" of furniture in parklets when not in use, and instead requiring that furnishings be taken inside after service or left out for public use.
- Moratorium on new parklets; existing parklets would remain after rebuilding (see below), and restaurants replacing other restaurants could continue to operate a parklet. If such a moratorium were adopted as part of the new program, retail spaces converting to restaurants, or a restaurant opting to remove their parklet at any point, would remove the ability to allow parklets at the location in the future.
- Existing parklets would have to be removed and rebuilt to new standards as decided by staff and City Council after additional community and business owner feedback.
- The subcommittee asked staff to study the ideal rental rate for parklets based on other jurisdictions' programs. One suggestion was made to change the current flat rental rate of \$1,590 to \$10 per square foot of parklet space, annually, which is the rental rate in Mountain View.

Mayor Brownrigg opened the item up for public comment.

Francesca voiced support for parklets. (comment submitted via publiccomment@burlingame.org)

Mayor Brownrigg closed public comment.

Councilmember Beach asked about the safety and visibility issue. CDD Gardiner replied that if the parklets were to be long-term, they should really be bolted down for safety. He noted that Los Gatos allows for roofs, but only cloth or retractable material so they won't be blown away in the wind, and the structure wouldn't have to be bolted into the street. He added that the structures tend to block the views of some storefronts, and some might block visibility of intersections.

Councilmember Ortiz asked if there was any data on the usage of parklets. CDD Gardiner replied that he would need to get back to Council with this information.

Councilmember Stevenson stated that it costs approximately \$17.00 per day to have a parklet. He voiced support for modifications to the program in order to make the parklets safer.

Mayor Brownrigg asked his colleagues if they thought the parklet program should continue.

Councilmember Stevenson voiced his support for the program.

Vice Mayor Colson stated that the Economic Development Subcommittee met with many parklet owners, and they were very sympathetic to the non-restaurant businesses. She stressed the importance of creating a balance in the program so that the downtown business district didn't turn into a food court. She added that property owners informed her that very few retailers want to lease space next to a parklet.

Vice Mayor Colson explained that parklet owners were open to standardizing parklets. She stated that this would allow parklet owners to bring in umbrellas and heaters. She added that some parklet owners are open to leaving furniture out to be used by other establishments during times when they are not being used.

Councilmember Ortiz stated that he favored ending the program.

Councilmember Beach stated that outdoor dining is nice to have. She noted that the parklets need some modifications as they do have some issues. She asked if retailers wanted parklets of their own.

Vice Mayor Colson replied that she didn't think there was a strong push in the retail community for parklets.

Councilmember Stevenson asked how county health codes are applied to parklets. City Attorney Guina replied that the laws around sanitation and cleanliness are extended to parklets.

Vice Mayor Colson voiced support for the parklet program with modifications.

Mayor Brownrigg stated that the majority of Council supported extending the parklet program. He voiced concern about heaters and not allowing restaurants to utilize heaters.

c. **ADOPTION OF A RESOLUTION ADOPTING A SURVEILLANCE TECHNOLOGY POLICY**

City Attorney Guina stated that at the April 17, 2023 City Council meeting, the Council considered whether to adopt a Surveillance Technology Ordinance. He explained that Council directed staff to prepare a Surveillance Technology Policy, instead of an ordinance.

City Attorney Guina stated that for purposes of the proposed Policy, “Surveillance Technology” is defined as software, a device, or an electronic system used primarily to collect and retain data on an individual or group. He gave examples of surveillance technology including:

- Automated License Plate Readers (ALPRs)
- Gunshot detectors
- Facial recognition software
- Video cameras
- Software designed to monitor social media or criminal activity

City Attorney Guina stated that the proposed Policy would require the City Council to consider the following criteria before authorizing the purchase of Surveillance Technology:

- Purpose: including a description of which Surveillance Technology is intended to advance.
- Authorized Uses: including a description of uses of the Surveillance Technology which are authorized, and which uses may be prohibited.
- Data Collection/Access/Protection/Retention: including a description of the information that can and will be collected by the Surveillance Technology, as well as Data Access, Data Protection, and Data Retention.
- Data Sharing: including a description of the circumstances under which the collected data could be shared with Third Parties including other Public Agencies.
- Auditing and Oversight: including a description of the mechanisms and/or processes for ensuring compliance with the Policy.

Mayor Brownrigg stated that this policy is a great first draft, but it needs more work. He suggested creating an ad hoc committee to work with the City Attorney.

Councilmember Beach concurred with Mayor Brownrigg. She hoped to see the impact report analysis and view it through the eyes of civil liberties. She noted she would be happy to sit on the ad hoc committee.

Vice Mayor Colson stated that she was okay with the Policy as written. She noted that it is a living document that can be updated as needed.

Councilmember Ortiz concurred with Vice Mayor Colson. However, he stated that if his colleagues felt a strong need for a more robust Policy, he was okay with the creation of an ad hoc committee.

Councilmember Stevenson asked about the protocol of amending the Policy. City Attorney Guina replied that once the Policy is adopted, any amendment would need to be adopted via resolution.

Councilmember Stevenson voiced his support for an ad hoc committee.

Mayor Brownrigg opened public comment. No one spoke

Vice Mayor Colson suggested that the ad hoc committee consist of Councilmember Beach and Mayor Brownrigg.

The Council concurred with Vice Mayor Colson's suggestion.

d. DISCUSSION OF REMOTE PUBLIC COMMENT DURING COUNCIL AND COMMISSION MEETINGS

City Manager Goldman stated that in March 2020, in response to the COVID-19 pandemic, the City Council and Commissions began holding virtual meetings through Zoom. She noted that over the course of the first year of virtual meetings, staff fine-tuned how the meetings were set up and established best practices to allow for public participation.

City Manager Goldman stated that the City experienced a "Zoom-bombing" at its Annual Goal Setting Session in January 2021. She explained that Zoom-bombing is an unwanted and disruptive intrusion by individuals during a video meeting that makes it impossible to continue the meeting in an orderly fashion. She added that as a result of the Zoom-bombing and to ensure the safe and effective administration of public meetings, staff changed City Council and Commission meetings from "Zoom Meetings" to "Zoom Webinars."

City Manager Goldman stated that staff continued to allow public comment via Zoom chat until staff encountered repeated instances of inappropriate chats. This feature was then turned off.

City Manager Goldman stated that following the expiration of the declared public health emergency, the City Council and Commissions returned to in-person meetings, with the following entities holding hybrid meetings:

- City Council
- Traffic, Safety and Parking Commission
- Planning Commission

City Manager Goldman stated that hybrid meetings have been an excellent source of transparency for local government as they allow members of the public more opportunities to participate. For hybrid meetings, the City had continued to accept public comment in the following manner:

- Allowing live, in-person commenting
- Allowing members of the Zoom audience to speak during the public comment portion
- Reading emails sent to publiccomment@burlingame.org

City Manager Goldman stated that recently, several cities in the Bay Area experienced a new form of Zoom-bombing. She explained that City Clerks from around the Bay Area reported accounts of City Council meetings being disrupted and derailed during public comment by individuals using the platform to espouse anti-Semitic rhetoric. She noted that the City of San Mateo was hit twice by Zoom-bombings, with more than ten individuals utilizing derogatory/crude/sophomoric screen names and espousing anti-Semitic and racist language. She stated that as a result of these incidents, Burlingame staff made the decision to stop allowing members of the Zoom audience to speak during public comment. This decision was publicized via the City's eNews and social media. She noted that Burlingame is the only City that reads emails received during the meeting, rather than adding them to the public record after the fact.

City Clerk Hassel-Shearer stated that, if the emails are not read aloud but instead added to the public record after the fact, the City Clerk's Office will have to redact personal information and upload the messages to the website. She noted that in reviewing how different cities in the Bay Area handle this, it is not always easy to find the emails nor figure out which item on which agenda each particular email relates to. She explained that the majority of City Clerks have additional staff support during the meetings. However, the City of Burlingame utilizes only the City Clerk during Council meetings or one staff member during Commission meetings.

City Clerk Hassel-Shearer stated that the City hasn't received any negative feedback regarding staff's decision to disallow members of the Zoom audience to speak during public comment.

Mayor Brownrigg voiced his support to continue to not allow remote public comment via Zoom during City meetings.

Councilmember Stevenson asked for clarification about reading emails during specific agenda items. City Manager Goldman responded that emails are read if the discussion of the item has not yet been completed. She noted that if the email is received after the item has been closed, then the City Clerk forwards them to Council for them to read.

Councilmember Ortiz stated his support for staff. He voiced concern that by not allowing public comment via Zoom, the City might not hear from the younger generations. City Manager Goldman replied that the younger generation might also be emailing.

Councilmember Beach thanked staff for reading the public comment emails. However, she noted that she would like to hear the public's comments in their own voice. She added that she worried about the accessibility issue as not everyone can come into City Hall.

Mayor Brownrigg asked Councilmember Beach if she watched any of the San Mateo City Council meetings that were Zoom-bombed. Councilmember Beach replied in the negative.

Mayor Brownrigg stated that the zoom-bombings were not just vile, but also very disruptive and threw off the rest of the meeting.

Councilmember Stevenson concurred with Mayor Brownrigg.

Vice Mayor Colson agreed with the staff's recommendation. She noted how rattled she had been when she was the target of hateful comments via a Zoom-bombing.

Mayor Brownrigg stated that there was consensus to continue to not allow remote public comment via Zoom. He thanked Councilmember Beach for adding this discussion to the agenda.

12. COUNCIL COMMITTEE AND ACTIVITIES REPORTS AND ANNOUNCEMENTS

Council reviewed their committee appointments.

13. FUTURE AGENDA ITEMS

There were no future agenda items.

14. ACKNOWLEDGMENTS

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

15. ADJOURNMENT

Mayor Brownrigg adjourned the meeting at 10:10 p.m. in memory of Sandy Comaroto's mother and former Supervisor Don Horsely.

Respectfully submitted,
/s/
Meaghan Hassel-Shearer
City Clerk