



City of Lafayette

Minutes

City Council Meeting

Teleconference Meeting – Watch on the City of Lafayette’s YouTube Channel at <https://bit.ly/LoveLafayetteYouTube> August 23, 2021
Submit public comments to cityhall@lovelafayette.org 6:00 p.m.
before or during the meeting.

To protect public health, our residents, officials, and staff, and aligned with the Governor’s recent executive order N-29-20, certain teleconference requirements of the Brown Act have been suspended, including the requirement to provide a physical location for members of the public to participate in the meeting. Here is how to participate in the meeting and provide public comment:

- 1) **Watch or Listen:** Meetings are broadcast on the City of Lafayette’s YouTube Channel: <https://bit.ly/LoveLafayetteYouTube>. An archived, on-demand video of each meeting is maintained on the channel as part of the public record.
- 2) **Submit Comments Before the Meeting:** Members of the public can provide public comment by sending an e-mail to cityhall@lovelafayette.org (for City Council meetings). Those e-mails will be distributed to the members of the City Council, the City Manager, and the City Attorney, and will be posted as part of the public record.
- 3) **Live Remote Public Comments:** Members of the public may submit live public comment via [Zoom conferencing](#). You must download the Zoom app or software. Zoom meetings can be accessed by telephone, computer, or smart device. When the Mayor invites public comment for the item on which you would like to comment, please use the "raise hand" feature (or press *9 if connecting via telephone only) to alert staff you have a public comment to provide. Each speaker is allowed three (3) minutes to speak. Any graphic a speaker wishes to use as part of public comment must be emailed to cityhall@lovelafayette.org for City Council meetings by 3:00 p.m. the day of the meeting. Zoom Webinar joining instructions will be posted on the meeting agenda prior to the start of the scheduled meeting.
- 4) **Join the Meeting Remotely:** Use the links below to join the meeting and provide remote live audio public comment.

<https://us02web.zoom.us/j/86511899035?pwd=cXFYME5YYnRBR3RCaEFoZUdPY0Qrdz09>
Passcode: 247858 Or join by phone: Dial 1 669 900 9128; Webinar ID: 865 1189 9035
Passcode: 247858

1. CALL TO ORDER

Mayor Candell called the Regular City Council meeting to order at 6:00 p.m. via teleconference.

2. ROLL CALL

Present: Mayor Candell; Vice Mayor Gerringer; Councilmembers Anduri and Dawson

Absent: None

Staff Present: Niroop Srivatsa, City Manager; Mike Moran, Engineering and Public Works Director; Suzanne Iarla, Communications Analyst; Mala Subramanian, City Attorney; Mike Maurer, Attorney BBK; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Dawson/Gerringer) to adopt the agenda. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

4. PUBLIC COMMENTS (for Closed Session Items Only)

SCOTT SOMMER spoke of his recent letter and previous letters wherein he provided documents, copies of court cases, minutes, illegal Brown Act meetings, her bad record in litigation cases, and other instances documenting the City Attorney's authority and mistakes which have been costly to the City.

MICHAEL GRIFFITHS, President, Save Lafayette, requested the Council 1) consider explaining to voters violations of the Brown Act, CEQA, the Political Reform Act, the Constitutional right of citizen referendum and associated legal costs reducing the reserve and General Fund well over \$1 million; and 2) asked the Council to replace BBK with another firm as the City needs better legal counsel representation.

LINDA RIEBEL reiterated points made by Scott Sommer and said if the City has lost over \$1 million due to mistakes it could have used that money for better purposes. She thinks the City has been patient with the City Attorney and recommended she provide legal services elsewhere.

ELIOT HUDSON spoke of his significant legal experience and said he detailed comments about the City Attorney in his letter regarding the need for competence, confidence and trust and stated her actions have led to a decade of contentiousness, litigation, strife, ill feeling and enormous expense. He asked the Council to remove Ms. Subramanian and hire an attorney to act in the City's best interest. If she is not removed he that a public hearing be held.

PETER CLARK spoke of his local involvement with civic affairs over the last 30 years and while he does not have many complaints, he voiced concern with the City's willingness to sacrifice citizen's land use rights to aggressive developers threatening legal action. He then spoke about the City Attorney's inability to win future legal battles over land use and developers.

ERLING HORN read a letter into the record from Patricia Curtain regarding her shock when reading negative public comments regarding Item 5C. She questioned the push to rid the City Attorney for enforcing new State mandates requiring provisions for housing in the community, cited Safe Lafayette letters where some authors do not live in town, and noted she is not using the State's actions against the person doing their job and educating those who do not understand the predicament the State has put the City in. Many BBK attorneys are smart, hard-working, willing to seek a plausible and favorable compromise without litigation, are responsive and are on top of the laws, and she asks not to let a few voices divide the town.

CAROL SINGER voiced concerns about the mean-spirited personal attacks on the City Attorney which she read into the record. She knows the Council has received letters from former Councilmembers and Mayors who have kept Ms. Subramanian and BBK on with the City. She suggested the Council ask other law firms of greater qualifications what they think of BBK and their representatives and she urged the Council to retain the firm and Mala Subramanian.

5. CLOSED SESSION

The City Council adjourned to Closed Session at 6:32 p.m. to discuss the following matters:

- A. Public Employee Performance Evaluation (Gov. Code 54957)**
Title: Niroop K. Srivatsa, City Manager

- B. Conference with Labor Negotiators (Gov. Code Section 54957.6)**
City designated representative: Mayor Candell
Unrepresented employee: Niroop K. Srivatsa, City Manager

- C. Public Employee Performance Evaluation (Gov. Code 54957)**
Title: Malathy Subramanian, City Attorney

- D. Conference with Legal Counsel – Existing Litigation**
Government Code section 5495.9(d)(1)
Save Lafayette vs. City of Lafayette Contra Costa Superior Court Case No. N20-1413

REPORT OF CLOSED SESSION - OPEN SESSION

Mayor Candell reconvened the regular meeting at 7:00 p.m. and announced there was no reportable action taken in Closed Session.

6. PUBLIC COMMENTS – 7:00 p.m. (For items not on the agenda)

DAVID CLARK referred to creek setbacks and asked that the City work to retain them given pending legislation. He indicated that the City has 7 different creeks that meander through the Downtown area and asked that Townsend Public Affairs follow the legislation.

7. PRESENTATIONS

- A. Mike Moran, Engineering and Public Works Director**
Introduction of New Employees
Engineering Construction Inspectors Matthew Polcer and Chris Witschi
Recommendation: Receive and file.

Engineering and Public Works Director Mike Moran introduced new Engineering Construction Inspectors Matthew Polcer and Chris Witschi and provided a brief background on both new employees.

Mayor Candell and Councilmembers welcomed the two new employees to the City of Lafayette, and Mr. Polcer and Mr. Witschi thanked Councilmembers and said they look forward to working for the City.

8. CONSENT CALENDAR

Councilmember Anduri referred to Item 8.F and asked that whoever implements it to review Dawn Eames's August 18, 2021 email and her suggestions.

Mayor Candell asked if there were requests for removal of items or public comments, and there were none.

- A. July 26, 2021 Minutes**
Recommendation: Approve.

B. 3457 Monroe Avenue – Request for Construction within the Creek Setback

Recommendation: Approve the request for a creek setback exception and authorize the City Manager to execute the required agreement with the property owner.

C. Consideration of City positions on the following bills – AB 215 (Chiu), AB 602 (Grayson), SB52 (Dodd), SB 109 (Dodd), SB 556 (Dodd) and SB 619 (Laird); Legislative Update and List of City Bill Positions

Recommendation: Approve the legislation committee’s positions on the six bills and authorize the Mayor to sign the letters. Accept the legislative update and list of bill positions.

D. Upcoming State Funding Opportunities for Business and Non-Profits

Recommendation: Receive and file.

E. Update on Efforts to Accommodate Remote Zoom and Live Meetings

Recommendation: Receive and file.

F. Donation of Surplus Equipment

Recommendation: Declare the equipment described is surplus property and donate or sell as appropriate.

ACTION: It was M/S/C (Anduri/Dawson) to adopt Consent Calendar Items A, B, C, D, E and F. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

9. OLD BUSINESS – None

10. STAFF REPORTS

A. Jennifer Wakeman, Assistant Administrative Services Director

Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ending June 30, 2020.

Recommendation: Receive and file.

Assistant Administrative Services Director Jennifer Wakeman presented the Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ending June 30, 2020, and she briefly described the mission statement, purpose of the award, and stated this is the City’s 6th consecutive year of receiving the award.

Mayor Candell opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Gerringer/Dawson) to accept the Certificate of Achievement. Vote: 4-0 (Ayes: Candell, Gerringer Anduri, and Dawson; Noes: None).

B. Mike Moran, Director of Engineering and Public Works and Siavash Shojaat, Associate Traffic Engineer

Proposed Pilot Study for the Safe Routes to School (near the Burton Valley Elementary School)

Recommendation: 1) Affirm installation of traffic calming and visibility improvement strategies in Burton Valley, including: 11 speed humps, vegetation pruning and painting curbs red near corners to improve line of sight, a stop sign on Indian Way at Merriewood Drive, striping 10-foot vehicle lanes on Silverado between Indian Way and Rohrer, and adding reflectors where emphasis is needed to help drivers remain in the vehicle lane; 2) Direct staff not to install a berm-protected pathway; 3) Provide direction regarding use of the parking shoulder for pedestrians and bicyclists and regarding restricted parking; 4) Allocate up to \$20,000 from the traffic calming sinking fund to be used for the pilot study.

Director of Engineering and Public Works Mike Moran introduced Siavash Shojaat, Associate Traffic Engineer who has worked on the visual aids and assisted with the pilot study for the Safe Routes to School near the Burton Valley Elementary School. Mr. Shojaat then provided an overview of the proposed pilot study.

Vice Mayor Gerringer referred to the sidewalk option, assessment district, funding and grants and asked if the City would be able to apply for grant funding in addition to potentially having the neighborhood implement an assessment district or something similar to Reliez Valley Road's efforts where donations and monies were raised.

Mr. Moran said the City has had neighborhoods donate towards pathways such as Happy Valley, Acalanes for traffic calming, center medians and sidewalk improvements, and the Safe Routes to School Funding for Springhill Road the City received is a small grant. The City may potentially receive \$100,000. The Safe Route to School has been consolidated into another grant that the City will not likely receive. It will go to a disadvantaged community and a street that has no shoulder or no paved side access. It is possible to offset this, but he did not believe they would get the design fees back out of it.

Construction costs for a pathway or sidewalk for one side of the street for one street is fairly expensive and this is the reason for assessment districts where the City would have to recoup it over a period of time or have some other mechanism such as a bond, a tax measure, etc. to pay for it. There will also be on-going maintenance of it, as well, and honestly, he did not see monies being raised for what is being proposed.

Mayor Candell asked if there were other options different than a berm that could be somewhat delineating but would not trigger ADA.

Mr. Moran deferred this question to Mike Maurer, BBK Attorney.

Mike Maurer, BBK Attorney, said he is a colleague that assists clients with ADA related issues. Because the way ADA defines an alteration that would trigger ADA compliance, it is based upon a change that affects the usability of the feature. Increasing or changing the type of use it will be is the ADA trigger. Here, it does state an alteration is a physical change or some sort of construction which is why at the berm level there will be some level of construction. When painting something which will affect how a facility is used to delineate something is where it is a grey area to argue on one side where it is not a structural alteration but then there is the counter that it is painting that affects the usability.

Mayor Candell questioned painting a no parking area, and Mr. Maurer said he thinks this would not be an ADA trigger, but it may be a grey area.

Councilmember Anduri asked if a berm is clearly triggering the ADA. Mr. Maurer said yes; however, the DOJ has not passed specific regulations for rights-of-way but most likely the outcome is that it would be considered an alteration.

Councilmember Anduri questioned if it would not be in compliance with the ADA because it has a 4-degree slope. Mr. Maurer said the concept is that when doing work, it is the time to bring something up to ADA compliance. There is an established standard under the existing ADA guidelines that says you cannot have more than a 2% cross slope or left to right or right to left. Because this area would have that 2% cross slope, if they are looking to establish ADA guidelines it would not comply with that.

Councilmember Dawson said it sounds like paint now is pushing ADA and she asked if putting a stripe on the ground outside of the parking area would be included. Mr. Maurer said it normally does not, but what the DOJ says is that it is a change that affects usability which is construction, rehabilitation, remodeling, and then it says it does not include painting but leaves open a lessened effect for usability. The focus is taking one use and making it a new use. When painting a line to establish a shoulder it is generally not thought of as establishing an ADA change that would trigger upgrades. If truly creating a pedestrian path, they would then look at standards for one.

Mr. Moran added that the striping or 2-foot buffer zone is not something that rose to top and is not included in the recommendations from the Transportation and Circulation Commission (TCC). After hearing Mr. Maurer's comments, it would be no change in use because they would still have the vehicle travel lanes as they are used now, the shoulders parked as they are used now and literally better delineation between the two, and this does not trigger ADA.

Councilmember Anduri said if the Council decided they did not want parking 24/7 or one-half hour in the morning and they did nothing to the road and put "No Parking" signs above the curb, he asked if this would be an ADA problem.

Mr. Maurer said he did not believe it would be because they are not making any physical alteration. Again, it is not a black and white issue but what triggers an ADA requirement is alteration to the physical site.

Mayor Candell said there are pathways all around Lamorinda and she asked why this one is different or not different.

Mr. Moran said the ones pathways built in Lamorinda are built with that cross slope that meets ADA because the berms were put in as part of a pathway construction. For this one, they would be retrofitting an existing street where the cross slope is not compliant. He then spoke of the many pathways where they could achieve a 2% cross slope and it was not just putting a berm on a shoulder which is one of the things proposed for this pilot study.

Mayor Candell asked and confirmed the \$20,000 being requested is in addition to the \$55,000 that the Council is already giving or a total of \$75,000 which would allow funding to remove what was put in place if needed, as well.

Mayor Candell questioned the assessment district, noting the vote would need to be 50% + 1 vote of the assessment district, and she asked what would occur thereafter.

Mr. Moran said before the vote the City must let residents know what they are voting for. They would need to hire a consultant that would look at the linear frontage of properties and a detailed Engineer's estimate on how much a total section of sidewalk would cost. His understanding is the voters of the assessment district are those directly impacted, and it is a pro rata-based system based upon size or area. There will need to be some analysis on costs as to how long the assessment district would be.

Mayor Candell opened the public comment period.

Public Comments:

RAINI, Project Earth Team Member, Stanley Middle School, presented a video showing comments from their entire team and said she could answer questions. The team voiced support of the pilot proposal because of community benefits, safety improvements, and the environment which reduces driving vehicles.

LYNN HIDEN, TCC, said when residents get to discussing a sidewalk in the Springhill area, this is asphalt. This neighborhood would probably want to continue the cement concrete which will be more expensive than the asphalt. She thanked Mr. Moran and Mr. Shojaat because Rohrer Drive has never looked so good and so safe.

DAVID MARTINO, Merriewood Drive, said currently they have pathways on either side of 6'6" wide, are available for people to walk on either side so it is not a major issue. They should be walking and riding bikes in the direction of traffic flow which does not always happen. He is supportive of traffic calming, said he wrote to Mr. Moran about one sided parking which he described as ignoring the safety of residents, and did not think it was a reasonable trade-off. Also, the berm and proposal are not an improvement of existing conditions.

JOSHUA BAKER, Merriewood Drive, said the proposed pilot project includes his side of the street in front of his home. He is permanently disabled and spoke about how the proposal will significantly and negatively affect him. He has MS among other symptoms, cannot walk safely without a cane and will likely need a walker or wheelchair. These limits, plus having two young daughters, prompted their move to Lafayette in 2011 and buy their single-story home in 2014. The proposed berm and parking restrictions will negate his ability to walk safely and will worsen current and future impacts. He has no objections to reasonable measures directly targeting vehicular speed, but this proposal has no basis or fact. Speed humps, speed limits, crosswalks, enforcement of existing laws and regulations are fine, but the proposed parking restrictions and berms are different and prejudicial to mobility impaired and are bad policy and unsupported by evidence.

Mayor Candell confirmed Mr. Baker is at the corner of Merriewood and Sandalwood and sees the path and his driveway. It looks as though he has two ways to get to his house; the garage and/or the front door.

Mr. Baker added that they use the front door, park in the driveway or during school hours usually park in the driveway or on Sandalwood because they try to keep the path clear voluntarily. Their mailbox is on Merriewood and the driveway is on the side and presumably they would have one long continuous uninterrupted strip of berm in front of their house which means he would be dodging cars to get to the mailbox which is across the road.

Councilmember Anduri asked how Mr. Baker would feel about a no parking restriction in the morning when kids are going to school such as 7:45 to 8:45 a.m.

Mr. Baker said he would say more restrictive is better. Whatever the constraints are, the better. He pointed out that unlike the photo in the proposal taken at the height of COVID when every single family drove here in person to drop off their kids every day, most of the time during school hours there are almost no cars on the side areas because residents do not park there and because of the traffic stop and go, there is no speeding. So, he does not see any upside to it or how it makes anyone safe.

Councilmember Anduri asked how Mr. Baker feels about ADA sidewalks along the west side of Merriewood. Mr. Baker said he would prefer that to the berms or a permanent parking ban. Obviously, he has funding concerns about that given the nature of the assessment district but would like more useful and even sidewalks than what has been proposed and so that he and others can still get to the house.

CAROLINE RHAME shared a video showing how kids commute into Lafayette at the other schools. They do not want to remove anyone's access to driveway or to their house but want to demonstrate how dangerous the situation is for commuting kids. Removing parking on one side of the street would not be as fancy as what kids get at Happy Valley or Springhill but would work for many commuters.

Councilmember Anduri said Ms. Rhame heard the City Attorney and her colleague talk about issues with ADA and he asked for Ms. Rhame's position about the berm and sidewalks.

Ms. Rhame deferred the berm question to specialists and thinks a berm protected pathway is not necessary. A dedicated space is all that is required and removing parking 24/7. They are coming down to paint so at the very least, paint would do the trick. Sidewalks would be amazing as well as a dedicated space which she recognized as a more costly option.

JOHN CUNNINGHAM said he is in complete support of the traffic calming project including the protected public walkway. His kids attended Burton Valley Elementary and rode bikes with friends to and from school. Parents rotated escorting the kids because of dangerous driving behaviors and it was made very clear there was not much interest in enforcing speed limits in the neighborhood, so they need an option for kids to get out of the street. He has no interest in using his tax dollars to maintain public parking and thinks a higher and better use is the use of the right-of-way for this safety project. He voiced support of the protected walkway and traffic lane.

CARL DIGIORGIO said the TCC considered two main factors when discussing changes—speed issues and physical separation issues which drive the safety of people in their interactions with vehicle traffic. The idea of the berm separated walkway was a way to provide a physical separation for a practice already in place with people walking on the edge of the road and not a mixed use pathway so people can walk to school and this is also a pilot program for Burton Elementary. Transportation issues extend to all parts of the City and he asked the Council to go back and see if there is any additional provisions in ADA law that allow them to do a temporary project with berms in other locations but not in Burton Valley. It is a complex issue but there are opportunities to improve safety by using a berm as a physical separation from traffic.

Regarding sidewalks, it is unlikely that anyone wants to increase their taxes on top of their mortgages. He thinks the Council should look at something similar to the creeks setback. One possible strategy for long-term implementation of sidewalks would be to require sidewalks to be built when ownership is transferred. This alone would take a lengthy process but would have a significant negative reaction from most homeowners. But, if the goal is for safety to walk, this might be one mechanism. Lastly, he thanked staff and all those residents who contributed comments on what is a complex issue.

Councilmember Anduri said the Council discussed earlier the subject of changing the speed limit to 15 mph. It was explained this is something the TCC did look at but decided it should be rolled into a broader review at all schools. He is personally willing to defer to the TCC and how it thinks that should be handled. He therefore asked if the TCC prefers this as opposed to looking at Burton Valley right now.

Mr. DiGiorgio said the first question is whether 15 mph limits would be obeyed or are enforceable. He described situations where people speed, and the issue of enforcement is hard to reconcile as to what police will really do and what will citizens do. He thinks physical impediments to speeding such as speed humps is the way to approach it in the first phase and then see whether or not speeds should be reduced for added safety.

SHARON HUNT said she and her husband, and two teenagers live on Burton Drive and are in favor of the speed humps and traffic calming measures introduced and against the 24-hour walking pathway and loss of 50% of the parking. The proposals are dangerous for children, bikers, walkers, cars and homeowners and are not suitable for the elderly or disabled. The pathway with or without the berm will not be wide enough to hold all children, parents and bikers in it in the morning going to school, cited jaywalking, sporting events on weekends, concerns during school in the mornings and afternoons and suggested no parking only for those limited times.

JENIFER PAUL said she has been a supporter of any safe route to school and is supportive of this project. In 2006, she worked to get a pathway from Quant Court to Quant Road to Pleasant Hill Road which took 9 ½ years to implement. They got pushback from homes who lost some parking in front of, but the general mentality was thank goodness they did it because everyone enjoys it and it has been a game-changer for safety. It also opened up other people to start to look at how important it is to have a pathway and commitment not just used during school hours, and hopes the improvements move forward.

MEGAN MITMAN said there have been several generations of people in Burton Valley who have pushed for increased safety and this is urgent and important. However, she was dismayed that at the 11th hour City staff decided the berm protected pilot walkway, which was the subject of hours of community dialogue and volunteer efforts, has now been determined to not be a feasible solution based upon ADA concerns. In rejecting the berm protected walkway, City staff has gone away from TCC's recommendation and has offered no other alternative for the pilot effort that would sufficiently meet the safety need that has been extensively documented and also noted by the third party, U.C. Berkeley Safe Trek report. It is not within the spirit of ADA to use it to block a project that improves safety for pedestrians and bicyclists, and that would also improve accessibility for those traveling throughout the community in wheelchairs or using canes to navigate facilities.

With current conditions, a wheelchair user has to travel around parked cars and into the travel lanes. A visually impaired pedestrian has no physical way to know they are leaving the shoulder and entering the travel lane. A berm protected walkway would significantly enhance accessibility for disabled residents by clearing the path of parked cars and providing a detectable berm where they can cane and understand where vehicle traffic could be present. She would hope City staff will weigh the financial concern associated with potential ADA lawsuit versus that of a safety lawsuit as a result of inaction. As heard from Mr. Maurer, this is a grey area anyway. She also did not receive an answer to the nature of this being a pilot or to many of the other protected types such as armadillos or other devices people could be using.

She continues to feel a protected facility is the ideal safety solution to protect people the best. However, if the Council's concern tonight is mostly related to the ADA trigger and the potential liability, she would urge the Council to fall on the 24/7 parking restriction as the recommendation. This would not trigger ADA review and it would make sure the City provides for the needs of all neighbors, including those in wheelchairs who would not necessarily be traveling just during school hours. She thinks a sidewalk would take years, will lead to a popularity contest and it is very expensive and hard to pass an assessment district vote.

Councilmember Anduri said Ms. Mitman heard the presentation from Mr. Maurer and the Council asked him where berms are and are not triggering ADA issues. He seemed to clearly state berms would trigger ADA. He asked if Ms. Mitman was saying the City should weigh the cost and the lawsuit against the safety of the individuals, but most certainly the lawsuit that will come will not result in a berm pathway and they would be spending legal fees and several years litigating. He asked what Ms. Mitman would therefore recommend.

Ms. Mitman said Mr. Maurer has not responded to the question whether or not a pilot study matters for ADA. He also did not respond as to whether the City could use some other type of protected feature such as armadillos or plastic bollards or others. The ADA experts she knows note that the City should be commensurate with the scale and scope of the project. This is a \$50,000 pilot project so the expectations for ADA accommodations would be to ensure some ramps are provided and truncated domes at the start and finish, so they close a gap with the sidewalk here. They should also make sure there is a full ADA compliant transition plan so that if the pilot is successful they move into something like a formal sidewalk or decide to raise the slope and put this as an asphalt path. She thinks experts lead her to believe that the berm does not have to be off the table but if it is she questioned whether the Council has explored some of the other options that may be more in that grey area.

Also, should the City face ADA lawsuits it might be a few thousand dollars and the reaction would be to bring the facility into compliance versus the multi-million dollar lawsuit the City would face if they were found to be liable for inaction to take a safety action.

Councilmember Anduri said between a sidewalk and a berm protected path he asked and confirmed Ms. Mitman that if money was no object she would prefer a Class I multi-use path that would be 10 feet wide so pedestrians and bicyclists could easily share the space together. It is the best way to provide safety and they would not need to talk about losing parking. Ms. Mitman said she lives on Merriewood and would lose parking as part of this. She does not think this will happen quickly and is also not convinced this is something that would pass a popularity contest.

ROBERT TAUKEER, Silverado Drive, said he moved to the City for its semi-rural environment 45 years ago. There were no sidewalks and people seemed to enjoy life. He has enjoyed the thousands of kids walking by his house on school days without problems. When school traffic is here there is no one driving more than 15 mph and the only problem he sees are kids not walking in the direction they should be walking but bikes are generally obeying the law on the right side. Other than slowing down traffic which is impossible even with speed bumps, drivers do not slow down, and he thinks the same will occur here. Most traffic into this area comes from Michael Lane and down Lucas and up Burton. Once they get to this street they are at a standstill and not moving more than 15 mph. Speed humps might be a good start but people now drive over the lanes into the sides of the streets going both ways and he thinks those complaining about traffic are those speeding every day that do not stop at stop signs and almost run him over in the crosswalk.

JOE DOUGHERTY said he is a 16-year resident with 3 children through Burton Valley and Stanley and in his opinion Burton Valley is the safest neighborhood to walk and bike in Lafayette. Many people use the current roadways in their current condition without issues. Similar to Mr. Bauer, Matt Chaney used to ride around Burton Valley in his recumbent 3-wheel bicycle and now with his ALS is in a motorized wheelchair. He would not be able to go down Merriewood if this plan is approved. Burton Valley is also a commuter neighborhood. No matter how much people want to get rid of cars and enhance biking, cars are here, and people need them because they live so far away from essential services. Burton Valley is also not a neighborhood school. Thanks to the school district, shutting down Saranap White Pony, 300 students equal 1200 vehicle trips a day that come into Burton Valley, so many cars coming in are self-inflicted. He asked those families that live in Saranap if they would like to walk and bike to their neighborhood school, but they do not have that luxury given the hill terrain difference and geography to get there.

Also, Burton Valley is the largest youth sports recreation facility in Lafayette and is used by all of Lafayette. This past weekend they saw Rohrer Drive and Merriewood packed up with cars all Saturday afternoon because of the start of the soccer season. He also asked to call out the school district between their two driveways on Rohrer which is the incline of the hill and there is no sidewalk there. Bikers and walkers have to walk around the cars in the middle of Rohrer Drive to get up.

He suggested getting the school district involved to have them evaluate and fix their own property as well to help out Burton Valley. He also pointed out that Burton Valley has shorter driveways, multiple families with teenage drivers with multiple cars, and two driveways on Quant are extended long driveways that have multiple cars, can allow for delivery vehicles or home service vehicles, so again, Burton Valley is a unique neighborhood. They all like the concept of safe routes to school but they do not agree with the fact that the City is going to penalize neighbors and take away parking, which is just not right. He would ask Mr. Cunningham who does not like the public funds used on this. He has a parking space in front of his house, and he asked if delivery or home service vehicles park in front of his house because according to him, it is a bad use of public money. He would argue this is not something to do to neighbors let alone the school district doing it to their own neighbors and penalizing them for living where they do. This is the problem with this plan.

He also said the City did this for Springhill and Happy Valley and he asked who paid for those berms and pathways. He asked there is only an assessment district issue for Burton Valley. He asked those on Marsha and Lucas also be part of this as part of the assessment district.

STELLA WOTHERSPOON said she is speaking as a citizen and not as a TCC member. She believes there is a need for a protected pathway outside of Burton Valley Elementary School. Staff analyzed the conditions and identified the need for improved road safety and brought back proposals for traffic calming and a protected path. She does not speak for her fellow commissioners, but her vote was support for the overall goal of improving road safety around schools, support for protected pathways as a minimum standard for pedestrian routes, and support for the programmatic implementation in this location with an asphalt berm-protected pathway.

She understands that subsequent analysis of the asphalt berm protected pathway option identifies constraints that are inherent to that solution; however, she would ask the Council to affirm the goal of improved road safety around schools and support protected pathways as a minimum standard. The analysis of a protected pathway solution for Burton Valley needs to be continued under City leadership and initiative and she appreciates that community members propose two options, but further staff or consultant analysis may bring forward another option where consensus might be reached.

MICHAEL GRUBMAN, Silverado Drive, said he is a retired lawyer and occasionally gets involved in legal things. He has an interest in ensuring the ADA law is complied with. He spent countless hours looking at these issues here, spoke with expert attorneys at the DOJ and a large San Francisco firm and he would say that rather than relying on ambiguous oral information from counsel or Megan Mitman who is not an attorney and, in absence of an ADA coordinator, the City would be served by getting a written opinion from outside counsel from a large firm in the City that specializes in ADA and commonly litigates it.

The advice tonight he heard is incomplete and believes it is inaccurate starting with the statute itself, and the regulations for general prohibitions against discrimination and the cases he forwarded to the Council that say anything a City does is a service program or activity that is protected by the general prescriptions against discriminating against the disabled. This includes on-street parking facilities. This neighborhood was built and designed for two sides of the street and on-street parking facilities that have existed for 60 years. If moved from one side to another they obviously discriminate against a disabled person like Mr. Baker or anyone visiting him or people on that side of the road who need to pull up a van to a level space to access either their residence or the place they are visiting. This obligation has not been addressed, citing 28CFR; 35.130; General Prohibitions Against Discrimination, and he could answer other questions about the advice he heard tonight which is incomplete and inaccurate.

Councilmember Anduri asked to expand on the last comment.

Mr. Grubman said the first thing that has not been addressed is the discrimination against services caused by removing parking as to the disabled. The second thing is the idea that they have scoping issues where, if you alter a facility such as a roadway facility. His street was altered when the City did milling and repaving and there was no ADA compliance on the slope when that happened. He assumes the reason there was no ADA issue is there was no dedicated pedestrian facility on the road. State law provides a right-of-way to vehicles and pedestrians can use it subject to giving the right-of-way to vehicles, including bikes and cars. The actual state and federal regulations say yes, you look at a change in use; what is the starting use; do you have a roadway facility or a parking facility.

Councilmember Anduri asked for Mr. Grubman's view is on if the berm is a pilot. Mr. Grubman said there is absolutely no exception for pilot programs.

Vice Mayor Gerring asked Mr. Grubman if the parking issue comment is different than what was received in his communications.

Mr. Grubman said it is a clarification from what he has heard tonight from Ms. Mitman who is completely wrong and counsel who said it is a grey area. The grey area has to do with what occurs if they just put up signs. Clearly, there is a parking facility that exists on that side of the road. If parking is moved over, what is being created? It is exactly what the Burton Valley safety residents want—a dedicated space. This is the intention and it is created by striping and by a no parking sign which is a physical change. The California regulations does not say physical change but “a change in use of any existing facility which here is a roadway facility, a parking facility to be changed, including any element, which includes an architectural component of any facility space or site.

PAUL PHAGOPIAN said he lived on Burnt Oak Circle for 10 years which is a 5-home cul-de-sac off of Rohrer across the street from Burton Valley Elementary School. He can appreciate everyone's opinion but his opinion as a dad and as a father of two young ladies who attend Burton Elementary School is that he thinks people are losing their way a little bit and not thinking about what is important here which is the lives of kids that use those streets more than just going to school for that one hour or coming back from school. He has seen cars rip down Rohrer and it is not just people who live in Saranap or other areas of Lafayette. It is people who actually live here. There are no speed humps, no crosswalks that go from the streets over to the school, and something needs to be done. His daughter is in 5th grade and he is petrified from being able to have her cross the street even during the weekends or after hours. At the end of the day, this is a pilot study and people need to let it happen to fail or succeed.

DOROTHY MOORE, Silverado Drove, said this has been an interesting experience for her and she has suddenly learned a lot about traffic safety. She said Mr. Tauker is 95 years old, walks the neighborhood twice a day, and she is seriously concerned he could trip over a berm. He also does not use the side driveway of Mr. Baker's residence all the time. They bought their home so they could drive a van up and unfortunately eventually bring a wheelchair up to the front door, which is flat. There are people who have different accessibility issues and the Council and staff should think about this when planning. She is in favor of sidewalks, thinks there is a lot of political will for sidewalks but not a lot of money. She thinks the Council needs to look deeper at the legality of banning parking and believes it invokes ADA and she read *Stafford v. City of Los Angeles* on August 12, 2020, “On street parking that cannot properly be considered accessible without consideration of how disabled individuals reach the sidewalk from a parking space.”

Because a parking space is useful, it is only to the extent it permits individuals to reach businesses and other establishments that are connected to on-street parking by a public sidewalk. In other words, if on-street parking is removed they are changing the intent of the facility and are not making it a pathway, and that pathway will not meet ADA standards. She thinks Lafayette has had an unfortunate recent history of divisive litigation that has been a horrible waste of resources. These resources are precious and there are solutions to slow down traffic such as voluntary no parking and others that follow the law and she thinks the Council should look to those first in the spirit of compromise.

Councilmember Anduri said he is intrigued with what Ms. Moore said about voluntary no parking and asked her to expand in her comments.

Ms. Moore explained they live in a home with two adult children. Initially, their 30-year-old daughter was parking on the street, and they asked her to move her vehicle to their driveway. She has noticed that more and more people are doing that. In fact, the day school started there was only one car parked on the street and it was actually Ms. Mitman's nanny's car that was on the street all the way from her house up to the school. So, she thinks it is possible with community involvement to get people to not park on the street and be more aware. They all understand they should not have kids walking around cars. Striping has given people a lot more room to walk around the cars, but she would start with a voluntary approach.

ABIGALE FATEMAN said she has had two kids go to Burton Valley, Stanley and Acalanes, has been invested in this process for over a decade and traffic calming, traffic safety and pedestrian/bicycle safety is something this community and the City has not solved and it will keep coming back until it is solved. She thinks they are fortunate that though there have been so many close calls they have not had a huge number of major incidents here in the community related to this issue though they have had some tragic incidents all throughout the City and some recently in the community.

Regarding the status quo, there is no way the status quo is ADA compliant. She understands the review is triggered when there is a change, but in being real about what is occurring on the street, there are people moving in and out in unpredictable times into the travel lane. Someone in a wheelchair will need to move along the street in the current cross slope and move into the travel lane to move around a parked car to continue along the street. This is absolutely unsafe and there is no way it is ADA compliant. She understands they have to have something to trigger the ADA compliance review, but she asked to consider what is actually safe on the street.

She also understands the removal of parking is an emotional issue that people feel is being taken away from them, but there is no right to park a car on the street in front of your house. The City and homes in Burton Valley are zoned to require two off-street parking spaces. This, in addition to one side of street parking is more than adequate than what is seen in the community and parking needs. When there are emotional issues like this, there is City policy to lean back on to help them understand what goals and priorities are as a City. They have decades of adopted City policy that prioritizes looking for ways to improve mobility for non-motorized people moving through the community. It is in the original General Plan when they incorporated, in the Bikeways Plan and in Environmental Plans, and even in the 2012 General Plan Update that state they should look at publicly owned rights-of-way to enhance connectivity for cyclists, pedestrians and transit users to schools, parks, commercial areas, civic destinations and regional non-motorized networks. This is the opportunity to fill the gap between the regional trail, schools, parks, swim clubs and people are being held hostage by incomplete information around ADA and what triggers a review and whether things are compliant or not. She therefore asked the Council to find real solutions.

Mayor Candell said on the weekends for soccer or swim meets she asked where those people park.

Ms. Fateman said she tries to avoid those streets because it is unsafe to walk on them, but people park on the street and at the Community Center. She thinks many more would ride bikes or walk if they felt safe doing that. She thinks Merriewood and Rohrer are probably the most impacted around street parking and this could be alleviated if school parking lots were opened up or other ways to get to the fields, which would be kids riding their bikes.

JOHN DORR said he has been a resident on Merriewood for over 25 years and lives at the entrance to Burton Valley Elementary School and knows what the traffic is like on weekends. People's yards are jammed and if parking is taken it will be insane. He is opposed to the berm project. Ms. Mitman said they have a choice between two different lawsuits, and this is unsafe, too narrow, and they will force kids into the street on bikes and he questioned where skateboarders and scooters will go. The effect of the school after hours program will have no parking as well as during open house, parent's meetings and holidays when both sides of the street are jammed. He is totally opposed to both programs. He said this would also give up 50% of the space for he and his neighbors to walk if they remove parking on one side and force everyone to park on the other side or force themselves into a narrow walkway. This is a one hour a day problem, 5 days a week and questioned why the Council would implement a 24/7 schedule. He likes the idea Mr. Moran has come up with regarding the speed bumps and the red marking next to his driveway will give a bit of visibility so he can pull out now, but to shutting off parking could be done just before school and after school. He asked for common sense. No one wants to be in a lawsuit, but people are not getting any younger. Visitors want ADA access to their homes moving forward, and he asked for no berms and no 24/7 parking restrictions.

Councilmember Anduri asked and confirmed Mr. Dorr would support a one-hour restriction on parking in the morning and afternoon which would keep the street flowing when coming up to the school at both times.

KATHI TORRES, Silverado Drive, said she lives one block from Burton Elementary School for over 19 years and loves that it has broad, flat walkable streets with fog lanes and homes close together which is probably why so many families come to this neighborhood to trick or treat. What works elsewhere may not work here. She asked that the Council approve the installation of speed humps but not the partial berms along the fog lane lines. City staff has indicated they are not ADA compliant and a number of other problems. Two members of the TCC commented and proposed further evaluation and several residents who will be directly impacted have expressed their strong opposition. She would like to see equity, inclusion and belonging put into action and consider everyone who lives here. She agrees even though they have never had an accident it does not mean they should not address risk factors which is why so many people are in favor of speed humps. They can only address a vehicle speeding problem if it has been identified. She does not think they have done the necessary work to analyze the impacts of partial berms or established criteria to measure their effectiveness. She asked how they will know whether it is a failure or success without measuring it.

Her husband served on a traffic calming Neighborhood Action Team, but no NAT was ever convened for this. They had a public meeting in July where widely disparate options were displayed including a photo of three streets with no homes that look nothing like Burton Valley with the berm. The next thing they knew the TCC was handed a mandate for a walkway that would be closed to bicycles except for the littles. She did even think the supporters got that memo because they heard tonight from people who think it is a bike path. So, she asked if more kids will ride to school if they are pushed into the street. If talking about a pilot program, she would like to see a study of traffic flow and pedestrian and biking patterns done. She thinks the timing would be right, in-person school is back in session and she feels something as concrete as partial berms should not only be legal but based on data and should involve a process with broad neighbor engagement.

MANJU LIND said she had two kids that recently graduated from Burton Valley and they tried their hardest to not be an additional car on the roads during school times and afterwards and beyond during weekends because they live within a mile of the school. They would walk, but she quickly realized they were never going to be allowed to walk or ride to school without an adult because the last half mile stretch of road is treacherous. It is not just weaving around the cars but the fact cars are so high and everyone is so distracted by the fact there are bicyclists, people walking dogs, and it is hard to fit two kids, an adult and a dog on the side of the road and navigate around cars and not go into the roadway or people's yards. It just is not safe.

She was really surprised when they transitioned to Stanley to see just how many kids ride or walk to that school because they have a protected pathway. She therefore asked why every other school in Lafayette has some protected pathway leading up to the school that physically separates everyone from the flow of traffic. Why isn't there a sidewalk near the other two entrances of Burton Valley on Sandalwood where there really is no car traffic there and on the top part of Rohrer Drive, but not at the main entrance at the school where most of the traffic flow is. She says this not just as a parent, but as a runner as well, running up Rohrer, through the trails, back down on Burton all the way to Merriewood in order to get her car and then drive home. Honestly, it was just not safe enough to walk with her kids. She would be one less car on the road if there was a safe place to travel. She asked the Council to work with experts to find a creative solution that would help physically separate everyone from the flow of traffic.

DAMION JURRENS said he is an attorney but will not give any advice on how to handle this. He was upset tonight to hear their takes on how things will shake out legally. He is a neighbor of Manju Lind and echoed everything she said. They have two daughters, one at Burton Valley and he is sad that she will not benefit from anything happening in this pilot program because it has been stalled by many bad faith arguments from people who seem to forget the importance of child safety and how ludicrous it is to send a child to school in the neighborhood. They have many times tried to arrange their daughter to walk or bike to school regularly but it is not possible. He thinks proposals put forward are workable and should be tested. ADA compliance has not come up previously in discussions which should be sorted out, but most importantly they should look at safety issues for kids and at some point this is a situation of either dealing with compliance and coming up with a solution that works or not doing anything that could end up with personal injury or accidental death lawsuit. So, he begged the Council to come up with a solution that works.

YVONNE GRACE said she has lived on Merriewood Drive for 18 years, have raised 2 boys and they walked to school. They also promised they would ride their bikes to Stanley which lasted for a week. The reality is kids should not be deciding what will happen with the neighborhood. She is very much in favor of traffic calming, has wanted the speed humps and suggested slowing the traffic and give that a chance. Without any parameters she was not sure how the Council could call this a pilot program. She thinks many people who live on Merriewood feel they are being railroaded and would like to feel they are included and safe.

WILLIAM FALKSON said he lives on Merriewood Drive right at the entrance to Burton Valley. He is the one that has been bothering the Council with all of the email over the last three months. He wished he could promise to stop. In 2014, Leah Greenblat said, "The City's traffic calming program is designed to bring differing points of view together to develop a plan with the intention that the outcome of the process will be a compromise and not a result of any extreme proposals that benefit one group at the expense of another." The City used to have a traffic calming guidebook that lists three equal elements as necessary for approval of any neighborhood traffic project of this nature, which include neighborhood acceptance as well as TCC view and City Council approval is a pre-requisite prior to any implementation. The process requires a 2/3 voting approval of all property owners immediately abutting the physical feature. Burton Valley Safe Streets now has 280 signatures and 75% of the property owners on these affected streets state that they are against the proposed berm project.

They would like to know when the voting process is scheduled to take place. It appears that a leading proponent of the project; Megan Mitman, has been working on it for 3 ½ years. That is the same amount of time her third car has been parked on the street in front of her house on Merriewood. If parking on the street is so dangerous why is she contributing to the problem. In fact, during morning school commute time the one car alone is responsible for 25% of the problem. There are typically only 4 cars parked on the west side of Merriewood at that time of day. A voluntary part-time no parking program which their group had originally suggested might prove effective here. Their group also originally recommended that the solution fit the perceived problem—if cars parked on the shoulder were a problem for kids commuting to and from school for ½ hour in the morning and ½ hour in the afternoon then parking should only be restricted on one side of the street during those commute times on a portion of Merriewood Drive. That solution has worked at Lafayette Elementary School. He asked why it would not also work for Burton Valley Elementary School.

Also, any restrictions on parking must take into account the rights of the disabled under the ADA. The disabled are 20% of the US population, the country's largest single minority group. While children between the ages of 5 and 9 are only 7.3% of the population. They also know that most of the 280 Burton Valley residents do not want to lose the parking in front of their homes. Their neighborhood is already safe for all of their residents as evidenced by their 60-year history. This is why parents bring their kids on Halloween without tripping over any berms.

Councilmember Anduri said the group originally was proposing no parking in the morning and evening. He asked if he was still in favor of no parking 1 hour in the a.m. and 1 hour in the afternoon.

Mr. Falkson said they have been consistent in their approach and after meeting with the Mayor, they affirmed their approach which is what he described. However, after listening to Joshua Baker tonight, he almost thinks he should be in charge of where parking should be. He does not see how anyone including Megan Mitman can debate or challenge Mr. Baker on what he needs regarding his disability in regards to parking.

SHIRLEY MILLER said she lives on Merriewood for 17 years and in Burton Valley for over 30 years. Four of her kids have gone to Burton Valley. She loves the town and the Council's commitment and is hopeful they will be getting the speed humps but has concerns about the berm. She thinks the berms could be a danger with regards to people double-parking, trash, deliveries, work vehicles, and it will create more trouble than it will solve as a tripping hazard, not getting cars out of the road, and for pedestrians. She said if this is a test or pilot study, she asked what criteria is being used to decide if it is successful or unsuccessful.

FREEMAN CULLOM said he has been a resident since 1976 and his wife is a retired teacher from Burton Valley, raised two children and loves the City, especially their home in Burton Valley. He heard comments from parents so concerned about the safety of their children going to and from school and while they live pretty close to the school, it was never a concern. He encouraged his kids to ride their bikes to Stanley and insisted on it unless it was raining. To go from here to Stanley means crossing streets and this meant learning safety and other things. He knows some of this emotion or feelings have been prompted by the tragic accident that occurred at the mouth of the school access road, but by the same token, he has to think about how free his kids felt when they got to ride their bikes to school, go to their friends' places and not feel restricted or in any way compromised. He has seen the information about speeding in the community, particularly speeding in Burton Valley, but it is not a problem. People can say it is or feel it is and maybe there are some moms that run stop signs occasionally, but if someone goes to Burton Valley at 8AM, stood on a street corner and watched the process. They would not see one speeder or might see someone turning the corner without stopping at a stop sign. He cannot get out of his driveway on Sandalwood Court because many people do not stop at the corner.

JAKE MOSS said he is an attorney and lives on Lucas Drive and has two children who attend Burton Valley, 8 and 5. He honestly trying to get over the lies from Bill Falkson. Megan Mitman is an expert in this field, and it is what she does for a living. She should be listened to and Mr. Falkson should not be listened to. He is in favor of the berm which is the solution that makes the most sense for the community, but he can see the City Council might not have an appetite for an ADA lawsuit and the costs that come. It also does not seem the City is concerned with being involved in a lawsuit that involves an injury which would be more costly. Another lawyer stated if the City puts no parking signs on the street it is somehow an alteration that triggers ADA. He has been researching this the last week and it does not seem credible. It might be that this person does not want to lose their parking, but parking should not be the primary concern for the City Council and instead, the safety of children, pedestrians and everyone in the community.

The staff report noted the potential ADA lawsuit and the money to make the roads ADA compliant. If those are two concerns, safety should be number one, but if those are the two concerns the Council is worried about, then voting for 24/7 parking restrictions on one side would be perfect. It does not trigger the ADA and it costs next to nothing, so he thinks the Council should choose this compromise solution. He would encourage the Council to vote for the berm but if not, to choose the 24/7 parking restriction. No parking for two hours a day will not do anything, but it might make it safer for those going to school.

BETH FALKSON, Merriewood Drive, said they live right at the entrance to Burton Valley School and said none of the proposals have been presented with any data to indicate or support the need for a change. Also, none included any criteria to use should any of the items be put into place as a pilot program for determining whether the program is a success or failure after a year of implementation. The original proposal for change to the street was presented as a way to provide additional safety for children walking and biking to school. The next iterate on was the asphalt berm and was presented as a way to connect us with other neighborhoods and communities, though this proposal put adults and children older than 9 years old on bikes in the traffic lane with cars. In both cases, Burton Valley Safe Streets brought to the City's attention that neither proposal meets state and federal safety mandates and the berm project violates ADA compliance requirements. It is a substantial concern to her that neighborhood residents and not professional engineers brought these things to light and no project should serve as a pilot program when its initial proposal is unsafe and illegal.

Additionally, she finds it difficult to hear Megan Mitman and Mayor Candell question what constitutes valid ADA issues in the light of Mr. Baker's clearly stated explanation of his needs and needs of others with limited mobility. The idea that an ADA lawsuit won't be too expensive or too inconvenient for the City is absurd and the City's goals should not be to avoid triggering ADA compliance issues but to ensure all community members have safe and easy access to their streets. Burton Valley already has two pedestrian and bike pathways on both sides of each of the primary streets of Burton Valley, which is an 8 to 10 foot wide section of pavement as defined by the painted white line on the traffic side and the gutter and curb on the property side. These paths run throughout the neighborhood and connect to the three entrances to Burton Valley Elementary School as well as to the Lafayette-Moraga Regional Trail on both the west and north sides of the subdivision.

They do not have many cars on their street anytime other kids coming to and from school. The rest of the time it is unusual for two or more cars to be traveling down the street at the same time. Therefore, waiting 15 to 20 seconds to wait for a car to pass for someone waiting on a parked car really makes it okay to go around it in the unused traffic lane. She thinks parking being limited on Merriewood during school start and stop times would really meet the need for keeping kids safe and not having to go around parked cars when there are a lot of cars in the street and they have stated many times over the last months that the majority of Burton Valley residents believe that the singular change that their streets need to make a difference for pedestrian and bike safety is traffic calming. That is why again the streets group propose to the TCC and City staff the level 3 traffic calming elements of speed humps, painted curbs and improved site lines to be added to their long, wide empty straight streets to slow cars down and provide additional safety for all residents.

ERON ASHLEY said most of the neighborhood knows his three children. They are petrified by speeding and people generally pull into their parking lane. On a regular basis, cars exceed 30 mph and he has a speed gun but it would be great if the City put one in. He thinks it is terrific to see consensus around speed humps and other measures but he would like the Council to add a 15 mph speed limit on Merriewood and Rohrer as well as restricting left turns out of the Merriewood school driveway and they need a crosswalk on Rohrer from the south side to the north side of the street by the entrance to the school.

What is really frustrating is that so many neighbors are against what seems like a widely advocated desire for more safety. He feels he pays a lot in property taxes and would love to see the City install sidewalks. The \$100,000 spent on the berm could go a long way towards sidewalks which would solve safe routes to school on a permanent basis.

JENNIFER LIEBERMANN, Lucas Circle, thanked the Council and staff for their work on the topic, said factually speaking Burton Valley is the only public school in the City of Lafayette that does not at least have one-half mile of either sidewalk or protected pathway. Both staff and TCC in their reports have indicated the lack of a dedicated pathway poses a safety risk. She is not wed to any one solution and many people have proposed many solutions all of which neighbors find problematic to lose their parking. If the City approves TCC's recommendation to install a berm she requested removing parking 24/7 if they are truly interested in inclusion for everyone in the community. The City needs to acknowledge there are high speeds which Mr. Baker cited even at night. There is a lot of traffic on weekends, as well and there is the 24/7 need for parking restriction so all members can have a dedicated space. Finally, many people are talking publicly about their support for active transportation which is in the General Plan. This is the time for the Council to take a bold stand and support that.

CRAIG ISAACS said he was on the NAT in 2013/14 with Leah Greenblat and there were hundreds of options discussed and they finally came up with the least expensive option which is to put the crosswalk paddles in place. They were promised to get a follow-up of data that worked, what did not work, speeds, and nothing came from it. He thinks it is ridiculous that the Council is now talking about this now without actual data. It is a waste of everyone's time and money, and he asked for data, a target for that data and a plan to reach that target. Excessive speeds occur at night but during the day when school is in session it is 20 mph and not 35 mph. He cited a lot of emotion and finds this exercise ridiculous without data.

RAAP FAMILY said the reason her family moved to Lafayette was for the schools. They chose Burton Valley because they liked the wide streets and room to walk and ride bikes. Over the years they have never felt unsafe but they also took the time to teach their kids to walk and ride their bikes properly and safely so they could go to and from school. This has been an emotional issue and is completely in support of traffic calming, speed humps, is completely against the berm which will cause more safety problems. She cited an example in Walnut Creek and people cutting through neighborhood streets and speeding and she suggested the Council try a pilot study to have no parking for ½ hour at each times of the a.m. and p.m. of the school day which she thinks will work.

ROBIN FOX said she lives three blocks up from Burton Valley school and there is no one who lives in Burton Valley that is not concerned about safety. She and her husband raised her three sons here and they all walked to school and all biked many days to Stanley. Personally, they were risk takers. Everybody thinks the berm is safe, but her kids would have ridden the berm on top of it with their bike and there are many kids that will consider that as a fun challenge. If they fall, they will fall inside the berm or into the street. So, she asked not to install the berm. She also walks all over town and believes mainly if the Council is talking about parking she asked to conduct data. Not all parents get in line and dutifully park and let their kids off in the circle of cars. They pull over on the street and help them across the street. If there is no parking on the side of the school, they will be traversing across the street. She asked for studies and thinks many more people are walking their kids to school and next year there will be less because of COVID. Lastly, there is no more dangerous time to walk the trail than when the kids are going to Stanley. Sharing a restricted zone with young bikers is not always safe for everybody.

CHRIS SCHOFIELD, Silverado Drive, said they sent to kids to Burton Valley and all want safe streets to school. They have walked their kids to school for the past 10 years, is against the berm which creates an unsafe environment for all that live in the proposed berm area. Any carpool, visitor, delivery, contractor, etc. will either have to pull in and out of a driveway on the only side of the street you can walk or ping pong across the street which is unsafe. Bikers that have to be outside the berm will not be able to get back inside the berm. Garbage cans in the berm will take up half of the space and this has not been fully thought through. On the parking side of the street between crosswalks people will not be able to access the berm walkway without either jay walking or navigating now in between past twice the number of parked cars and he asked for all speed humps, narrow lanes and work at the corner which should be given a chance to make the difference. It would also be impossible to evaluate the success or failure of the pilot berm alongside these new traffic calming measures let along against the current safety record.

KIM BAKER said Joshua Baker is her husband and she emphasized they are not opposed to safety but asked for actual data instead of feelings. She voiced concerns with all cars being on one side of the street and thinks traffic calming measures are supported by the community.

CHARLOTTE, Merriewood Drive, said they live at the base of Burton Valley and said her kitchen window looks out on Merriewood and she is also in her garden all the time and loves seeing all of the neighbors and kids that go to school. The traffic in the middle of the day, on weekends and during summers is not much. It is literally 20 minutes in the a.m. and another ½ hour in the afternoon when kids come and go from school. A surveyor was out there, and he thinks the City is trying to solve something that does not exist. She said many kids have their helmets not strapped and someone coming out of a driveway did a U-turn there and the crossing guard did not know what to do, so she thinks there needs to be education on how to ride and walk to school. She thinks the berm is off of the table and is against it.

As far as parking, she thinks having restricted parking 24/7 is unrealistic as there are so many people coming and going here. The school parking lot is closed and people park on Merriewood so if the school lot opened up it might ease the situation. She also thinks people will park and then walk their kids part of the way or they will park and then walk to the corner to pick up their kids to bring them home. So, limiting parking would be a problem. She loves her neighborhood and she suggested trying not parking on the street while kids are going to and from school during specific a.m. and p.m. times. With the traffic calming, everybody may feel a bit better.

INES VANIMAN said she lives off of Silverado Drive and walks her kids to school every day and began after COVID. She was very excited when they got the flyers about the proposed pilot project and she knows many people are bothered about the possibility of losing parking which is valid. People's driving habits are different now than 30 years ago and people are rushing, and vehicles are larger. She asked if the Council could help the neighborhood to be better, help kids get to school more safely, and anything that would help them get closer to a dedicate path to school would be great. The berms sounded like a good solution because of added security in terms of protection inside the berm, but she is not an expert. She also asked the Council to pay more attention to the corner of Rohrer and Silverado where there are many bushes that block visibility coming from Silverado and Rohrer which is a key corner in terms of getting to Burton Valley school.

JONAS TICHENOR said all neighbors want safety in Burton Valley and want their kids to be safe. This is why many of them have left cities like Berkeley, Oakland and San Francisco. Because of that, they do not want their neighborhood transformed into something it was never intended to be. This work has morphed so many times. It began as a berm-protected pathway, a bikeway, a thoroughfare to get everybody from one place to the other, and then it turned into a berm protection project, now traffic calming measures, and he thinks there is a sense they are all fighting for the same thing. He thinks traffic calming is a huge opportunity to do something that has not been done in over a decade. He thinks parking is an issue they have to figure out how to overcome. The discussion around restricting parking 30 minutes before and after school holds some consensus but he has lived in Saranap where his kids would ride their bikes on the trail to get to Burton Valley to play and to school. He has lived on Rohrer where they were able to walk to Burton Valley. Now they live on Merriewood where it is Halloween Central where there are well over 700 kids. He did not think a berm-protected pathway would get navigated well in the dark with all of these kids. He appreciates the time taken to hear consideration on all sides and he would hate for this to get turned into an ADA lawsuit discussion and thinks data is critical in coming to a resolution.

BREAK

Mayor Candell called for a break at 10:40 p.m. and thereafter reconvened the meeting at 10:45 p.m.

Mayor Candell suggested addressing traffic calming first unless Councilmembers have questions.

Councilmember Anduri asked if the pathways along Happy Valley Road, Springhill, and Reliez Valley Road usable by bicyclists 8 or 9-year-old children and up.

Mr. Moran said technically yes because in Lafayette a bicyclist can ride on the sidewalk and must yield to a pedestrian. The pathways are effectively more like a sidewalk width. The Police Chief has weighed in on this so he confirmed any sidewalk can be used by kids to ride to school. While it may not be the preferred practice if there is a better route for an older rider such as a shared lane but yes, they would not be cited for doing so because it is allowed in Lafayette.

Councilmember Anduri said some people have said that the problem with the berm is that riders 9 years to 16 years would not be able to ride inside the berm but they would have to be in the lane with traffic.

Mr. Moran said they could be within the protected berm. As a rider gets older they start riding faster and then there is more potential for conflicts between pedestrians and riders, but they can do it.

Councilmember Anduri asked if the City has speed data for the area to judge the effectiveness for speed humps.

Mr. Moran said the City has dated speed data and has not done a speed survey at the beginning of this process.

Mayor Candell said anecdotally on the Springhill trail, everybody was on the sidewalk before and after school. Some kids were going to Acalanes and they just all used the sidewalk which seemed to work. Older kids did not go fast because they could not, so all ages use it and it works successfully.

Vice Mayor Geringer said she likes the idea of going with the suggested traffic calming. She saw that another calming method was for no right turns and she asked where this was removed from the list and why.

Mr. Moran said he does not know exactly where, but there are trade-offs for everything. The biggest concern for that proposed right turn only was to reasonably get a flow of traffic so that vehicles are not crossing pedestrians and kids. But this will still happen because rather than go around the block, drivers will go up 50 feet and make a U-turn at Indian Way and head back which is now being done. He would not say it was dropped but it did not rise to the top later in conversations.

Vice Mayor Geringer said someone mentioned there were surveyors out and she asked if the City was collecting information.

Mr. Moran said he was not sure what they are referring to. It may be there was a surveyor for City or a utility project, but the City does not have a speed surveyor out there. Anyone can provide their opinion when asked a question, but it does not necessarily mean the City sent them out there to gather information.

Mayor Candell suggested starting with speed humps on page 8 of the staff report. Proposed are 5 speed humps; 2 on Merriewood and 3 on Silverado. Then they have the 1 down Silverado, 2 on Burton, 1 on Rohrer, 1 on Lucas and a proposed 1 for Michael. Some people indicated they wanted another speed hump on Silverado around the turn, but staff is not recommending that one right now.

Mr. Moran said they did not recommend it at the time because it was not a strong suggestion at the time. They were acknowledging that people cut the shoulder there and still had a delineation improvement they were planning to do lumped in with the speed humps. This is a pilot study and part of that could be adding, deleting or relocating. Even though they have sited the speed humps aerially, they are not exactly where they would be placed necessarily. They are just very close. But there would be a process for even siting the speed humps should staff be directed to install them.

They would also provide a resident feedback period where they would be chalked out first. Not everybody will always be happy with their exact location so they would be open to feedback. Staff would prefer a recommendation tonight as to whether or not to install them as proposed.

Vice Mayor Geringer asked and confirmed there would be 11 speed humps including Michael.

Councilmembers discussed whether to vote on each of staff's recommendations.

Mayor Candell said she would like to discuss the crosswalks separately, and Councilmember Anduri said there are no crosswalks in the recommendations, and he was prepared to make a motion on the recommendations.

Vice Mayor Geringer said while not in the recommendation, in visiting Burton and Lucas and Silverado she asked if staff has looked at crosswalks here. Definitely the vegetation needs to be pruned where Burton, Lucas and Silverado come together but also the way the path is now, there is not a crosswalk right across and she asked if staff looked at the crosswalk at that location.

Councilmember Anduri said he would feel more comfortable dealing with the items that have been reviewed by the TCC and recommended by staff, then taking up separate items the Council wants to see.

Councilmember Dawson said crosswalks noted exist now, and she asked if the TCC discussed additional crosswalks. Mr. Moran said enhancing crosswalks did come up such as having zebra crosswalks. This is built into Recommendation #1 for existing crosswalks. Regarding the other intersection where there is not an existing crosswalk this came up as a public comment or email, but it was not discussed at a meeting. The other locations and existing crosswalks were to also be enhanced for visibility improvement.

Mayor Candell asked and confirmed that Councilmember Anduri wished to vote on the 11 speed humps, vegetation pruning and painting curbs red near corners, and then a stop sign on Indian Way at Merriewood Drive, striping 10-foot vehicle lanes on Silverado between Indian Way and Rohrer, and adding reflectors where emphasis is needed to help drivers remain in the vehicle lane.

Mayor Candell asked and confirmed with Mr. Moran that this does not include the 2-foot buffer on Silverado Drive; however, it does include making 10-foot lanes that used to be 12-foot lanes, so it is effectively there. It just does not include the zebra striping, but it does provide more room on that shoulder.

Mayor Candell asked if Councilmembers would be willing to include paint for the 2-foot buffer.

Councilmember Dawson said she likes the idea of a visual, flat stripe and not a physical separation. Mr. Moran agreed with this and this was why it was proposed but it was not popular uniformly even for those who want the traffic calming measures. They would rather just have the wider shoulder and not confuse people as to whether it is a bike lane or not, what they can do in the zebra striped area, as it is not a standard.

Councilmember Anduri said this would also be his concern as it is confusing, and he did not want to vote for something that will not add to safety. If in a year they determine it would be better to put the 2-foot buffer in, the Council can talk about it then. He asked though it might increase in cost, which Mr. Moran said the striping unit cost is not usually that great but getting a striping on site is expensive.

Councilmember Dawson asked if they will collect data or not.

Mr. Moran said they will conduct speed data after installing the speed humps and it could be compared to what was done before. The general trend is that speed has not improved over time. It may be just as bad as it was, but it is not any better. They are hoping the traffic calming measures will be effective and average speeds will drop. He noted they do not have accident data and they are hoping to prevent some that almost happened, but another measure is data from past years where kids have walked to school and have ridden their bikes to school during non-COVID years, and whether those numbers will increase if they put any of these measures in place. The hope is that the school's bike parking lot would fill up or that more kids would walk or be walked to and from school.

ACTION: It was M/S/C (Anduri/Gerringer) to 1) approve a one year pilot study and directed staff to install 11 speed humps as described in the staff report, prune vegetation and paint curbs red near corners to improve line of sight, add a stop sign on Indian Way at Merriewood, stripe 10-foot vehicle lanes on Silverado between Indian Way and Rohrer, and add reflectors where emphasis is needed to help drivers remain in the vehicle lane. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

Mayor Candell then referred to Option #2; Direct staff not to install a berm protected pathway, and she asked for discussion.

Vice Mayor Gerringer asked what would return if the Council requested having more creative solutions and an ADA opinion.

Mr. Moran said the creative solutions are placing physical things along a shoulder of a roadway, such as armadillos, bollards, etc. It is going to be similar to a berm. There could be 3 delineators, a gap and another 3 delineators. Some of the first comments were that they were not supported aesthetically. All of these types of things are high maintenance issues, given they are hit and must be replaced, and he is not a fan of them. Any of these would constitute a physical change to the roadway and this was a grey line as far triggering ADA compliance. This is why he discussed that if existing parking is removed, maybe the best thing to do for the trial is nothing for the roadway other than put up signs that say they are restricting parking.

Councilmember Anduri said ADA came up a number of times in comments and he asked if any additional advice can be given based on what he has heard and issues that were raised.

Mr. Maurer said he did not have any additional comments and could follow up on a couple of points that came up, mainly there is not any ADA exception for any sort of a pilot project or temporary project. What was mentioned at one point are a few 9th Circuit cases that say the ADA applies anything a public agency does, so under this, anything the City does would include a pilot project and permanent project. The concept of a transition plan is different. If there is an alteration, you cannot do an alteration that does not meet ADA standards and then phase in ADA accessibility. What a transition plan is for is that it goes back to when the ADA was adopted, and facilities were not compliant, and it was a plan to bring them into compliance. So, he had no additional advice or research beyond what he presented earlier.

Councilmember Dawson asked then if “No Parking 24/7” signs would change the use of the shoulder.

Mr. Maurer said it does not seem like it would, but ultimately if changing an area from parking to no parking, an alteration is not being made. He thinks there is a difference when making a regulatory change as opposed to an actual construction change.

Councilmember Anduri referred to the berm and if the Council were to approve and install a berm on a pilot basis recognizing ADA applies to it, he asked if there were any mitigations or accommodations they could put in place when constructing it that would make the City compliant.

Mr. Maurer said yes and no. As the staff report notes, it can be made compliant at a cost so if the issue is cross slope the City can always level at the cross slope. He does not think this is what Councilmember Anduri is getting out because it could be mitigation, but essentially the question is whether it could be done so it is brought into compliance. Given the road is existing, there is a chance it would fall under “the program access standard” which looks at accessibility as a whole and enables the City to do mitigation that would work. What that level of mitigation is or other factors he does not know off hand, but hypothetically in some cases a path cannot be made accessible, but there might be an accessible path elsewhere that serves the same purposes. In theory, they could look at the big picture and say there is an accessible-serving path over here, but this is not an analysis they have done as far as this project. It is just to say that in theory, there are mitigating factors beyond paving the street that could apply.

Mayor Candell asked about removing the parking and changing disability access.

Mr. Maurer said this is another one that came up and he thinks it is a slightly different issue. What they have been talking about with ADA issues so far are creating a path using a berm or something similar and then looking at whether that path is actually compliant. The issue one of the speakers raised is whether it also would be an ADA violation if this is done and there is no longer parking there and/or parking is moved elsewhere. He does not think this is necessarily the case. The ADA requires that the City’s services, programs and facilities be accessible, but it does not necessarily require things like on-street parking. There is no over-arching rule that once you have parking you cannot then go to no parking.

The issue in the case mentioned is there was a bike lane that was added, parking that was then placed outside the bike lane so then ADA users had to cross the bike lane while bikes were on-coming. So, the issue was not removing the original parking. It was creating parking that created an ADA hazard because bikes were coming across. So, it is something to think about which is if removed, where would parking go and is there accessible parking in that manner. But there would not be a hard-line rule that you couldn't make it no parking because now there is not parking on the road when there was before. This would not be an ADA issue.

Mayor Candell asked if an existing drop off is okay to use in those areas that are a "No parking" zone.

Mr. Maurer said he does not see that as being an ADA issue and is similar to a loading zone.

Mayor Candell pointed to whether or not to install a berm and asked if the Council could discuss this.

Councilmember Anduri suggested addressing whether or not to reduce the speed to 15 mph, to address the crosswalks, parking restrictions and protected pathway.

Ms. Srivatsa stated it is almost 11:30 p.m. and she asked the Council to extend the meeting.

EXTEND MEETING

ACTION: It was M/S/C (Anduri/Gerringer) to extend the Council meeting to 12:15 a.m. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

Councilmember Anduri said the City has made huge progress over the last 10 years in the neighborhood in that they now have a pilot project for traffic calming. He recognizes no one will come away with everything they wanted, but he thinks they need to step back and acknowledge they have made progress with traffic calming and they need to see what impact that has. He thinks it particularly applies to speed reduction, and studies would need to be done for that so it is probably better to put traffic calming measures in place and then do the traffic studies towards the end of the pilot period and see whether they need to formally reduce the speed limit from 25 to 15 mph within the 500 feet around the school. He would be in favor of waiting on speed reductions. Councilmembers concurred.

Regarding the new crosswalk on the west side of Burton Drive, Lucas and Silverado, Mayor Candell said that corners goes wide, and she asked if there was going to be anything additional for that corner.

Mr. Moran said no, and he noted it also includes Somerset. He does not know why there is not a 4-way crosswalk there but is pretty certain there is a reason. The City paved that and the sidewalk on the corner was added 15 years ago. It could be that there was not a walkway connected or possibly it was better to route people this way instead of that way, but he did not know the history. He is almost certain it was evaluated sometime in the fairly recent past or in the last 15 years. He is not against adding it but pointed out it was not added probably for a reason and possibly it is moot at this point.

However, if they are updating the striping at other crosswalks, they would like to do it at the same time so this is the opportune time and he thinks unless there is not a reason not to add it, they would have to change the ADA ramp at the corner for another \$10,000. This is similar to not putting in the crosswalk at Rohrer which is next on the list. He agrees it would be a good thing to add although it is a mid-block crosswalk and would connect a walkway to a sidewalk and an entrance to a school. It makes sense to have it, but it would cost more money to do it which might be \$25,000 for the two ramps and not just striping a crosswalk.

Mayor Candell said she was in favor of staff looking into it and doing it unless an issue gets in the way.

Regarding the Rohrer crosswalk, Councilmember Anduri said this reminds him of the St. Perpetua situation and he would like to know more about the need. If people feel they need it, he thinks the City should do it. If this is one they can fast-track with the TCC and have it ready by the time the stripers get there it would be worth considering. He would want to know how much it would be used and whether it would be a benefit for them.

Councilmember Dawson said Mr. Moran has indicated it makes sense for adding a crosswalk at Rohrer. Councilmember Anduri said if there are neighbors who think this might add to safety, he would be in favor of allocating funds for a curb cut but would want to know it has been reviewed by the TCC and recommended to the Council. Councilmembers concurred and suggested a vote for the crosswalks.

ACTION: It was M/S/C (Anduri/Gerringer) to direct staff to add a crosswalk at the intersection of Burton Drive, Silverado Drive, Lucas Drive and Somerset Drive, if after researching the historical record, Director Moran finds no reason not to add; direct the Transportation and Circulation Commission to look into adding a crosswalk at the Rohrer Drive entrance to Burton Valley Elementary School and return to the City Council with a recommendation. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

Mayor Candell asked and confirmed that parking and the berm can be discussed together and then they can vote on either or both. She is hearing that with the parking options there is a voluntary, a.m. and p.m. restriction, staff recommendation for a 7-4 and then the 24/7. It does not sound like they will hit ADA issues by removing parking.

Councilmember Dawson said she thinks in her opinion it seems that both the berm and the 24/7 parking could cause unintended consequences. She suggested a limited parking time around school hours because parking is a premium when the school lots are closed and there are many activities and would not know where parking would go otherwise. The City has not talked to Burton Valley School on opening the parking lot.

Mayor Candell asked if the Council talked with Burton Valley school about use of the parking lot.

Vice Mayor Gerringer said the Council agendaized it for the City/Schools meeting held last week and no decision was made. The Superintendent and School Board member heard it, and Superintendent Whitmore felt that looking at it was something administratively he would do. There is no answer yet but residents spoke where one of the concerns is the cost of someone having to come and open it and in the past residents and neighbors have not been supportive of having the two gates open 24/7 because of parties, etc. The school is aware, and they are looking at its different ideas on how they might have keys and volunteers.

Councilmember Dawson said she would opt for a limited parking plan during drop off and pick up hours. She confirmed this would not include a berm as she believes it has not been fully studied as an additional safety issue, creates the need for ADA compliance, and she was not supportive of a berm.

Councilmember Anduri said most residents have said they would like to see a protected pathway that would get kids safely to school but would also serve as a pathway for all in the community to connect to the trail and get people downtown. He thinks that has got to be their goal. He is also of the view having gone to the 45th anniversary of the Lafayette-Moraga Trail and being mindful of the discussion they had 10 years ago about the pathway along Murray Lane and hearing about Jennifer Paul's experience on Quant that there is always huge opposition. The leadership moved forward with it and now it is seen as a huge asset. He thinks the path along Murray Lane is also seen that way. Once people get used to it, they see it as a benefit. But, on this project it cannot be done.

He thinks they have made progress in terms of traffic calming, but the question is how they move forward to next year. They need to find an approach that provides a more protected and safer way. People made the point that it is safe now, but he thinks the standard has to be higher than just not having an accident. One of the solutions is a sidewalk and thinks they need to look at that and whether they want to move forward with one along Merriewood and down Silverado.

He suggested the Council bring in a consultant to work with the City and neighborhood to look for the best solution for a protected pathway during the same time they are conducting the pilot. Then, if they are not going to have a protected pathway now, then are they going to have any parking restrictions.

Vice Mayor Gerringer said she agrees with the commitment to working for the Council to have the goal of a protected pathway. Right now, for all reasons cited she does not feel the asphalt berm is something they should do at this time. If they are looking at parking as well, she agrees with Councilmember Dawson to limit parking around the school times of either 30 minutes before and after, but it is more like an hour in the morning and an hour in the afternoon.

In thinking about volunteers, she was not sure this is a policy decision but something neighbors have been trying to do in terms of not parking during school times. She also wants the Council to look at how they continue to move forward with solutions for a protected pathway and asked and confirmed with Mr. Moran that a next step would be for a consultant to look at the issue.

Mayor Candell said she thinks the berm is not that bad of an idea. Just seeing how the sidewalk went in Springhill there were all the same issues, but people use it well. People are not in the street and use it the right way. However, because of ADA, the City cannot afford it.

Regarding the parking restriction in the hour in the a.m. and p.m. is a tough as well and knowing when school is in session is difficult. She was more amenable to go with the 7AM to 4PM to free it up for more time and get people used to having it freed up.

Councilmember Dawson said the example Mr. Moran included for the Lafayette Elementary School sign was 7AM to 9AM and 2PM to 4PM and this would be good to be consistent. She asked and confirmed the 7AM to 4PM would only be school days.

Vice Mayor Gerringer said she thinks similar to Lafayette Elementary School being out there during the day when there is no pick up or drop off, the area is pretty open so she was more amenable to the hour around the morning and the hour in the afternoon.

Mayor Candell confirmed the Council was in agreement to commit to a protected walkway but not the berm and for the timing to also be included in one motion.

Mr. Moran pointed out that the bell schedule he has for 2021/22 is 8:30 a.m. start time Monday through Friday and a 2:42 p.m. end time Monday, Tuesday, Thursday and Friday and a 1:42 p.m. end time on Wednesdays. Therefore, he asked for specificity to bracket those times on a sign. He also noted the kindergarten schedule is different, with an 8:15, a 9:30, a 12:45 which is an early group, a whole group and late group so they could still capture the 8:15 with a prior time to the 8:30 start. He would assume kindergarteners are being dropped off or walked with an adult. If the Council was considering a before school time they might want to bracket the 8:15 a.m. as well and start it at 8:00 a.m. at the latest.

Council discussion ensued and the Council agreed to posting the sign during the pilot period Monday through Friday to limit parking on the north side of Rohrer (Merriewood to Silverado), the west side of Merriewood, and the west side of Silverado between Merriewood and the Lafayette Community Park trail entrance located approximately 100 feet south of Burton Drive from 7:00 a.m. to 9:00 a.m. and 1:30 p.m. to 3:30 p.m. Monday through Friday.

ACTION: It was M/S/C (Gerringer/Dawson) to direct staff to eliminate parking on the North side of Rohrer (Merriewood to Silverado), the West side of Merriewood, and the West side of Silverado between Merriewood and the Lafayette Community Park trail entrance located approximately 100 feet South of Burton Drive on weekdays between the hours of 7am to 9am and 1:30pm to 3:30pm Monday through Friday for the one year pilot study. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson,; Noes: None).

Regarding next steps, Mayor Candell suggested including a consultant but also education. She asked if the consultant would include the possibility for study of an assessment district. Councilmember Anduri recommended directing staff to return with a recommendation for a consultant to help the Council with the goal of developing a protected pathway to Burton Valley Elementary School which could include any form of pathway including a sidewalk, and then options for an assessment district for a sidewalk and/or the City installing the sidewalk.

Mr. Moran said a traffic consultant would be someone different than someone undertaking an assessment district program so he was uncertain if the City Manager should weigh in.

Ms. Srivatsa said she sees this as a report that outlines several options to get to the goal of a safe and protected pathway. Staff can contact people who are experienced in setting up assessment districts, also talk with traffic engineering firms to see if they have other ideas for protected pathways. So, Mr. Moran's memo will offer a menu of options with costs and the Council may choose to follow both paths on a parallel track or choose to pick one or the other. It will take some time to gather this information so she would say the earliest would be the second meeting in September. She recommended a motion, so it is documented for staff.

ACTION: It was M/S/C (Anduri/Dawson) to direct staff to hire a consultant to study options for a protected pathway to Burton Valley Elementary School and return to the City Council with recommendations. Vote: 4-0 (Ayes: Candell, Gerring, Anduri, and Dawson; Noes: None).

Vice Mayor Gerring suggested another item to allocate up to \$20,000 from the traffic calming sinking fund.

Councilmember Dawson asked if there are additional funds from the crosswalks and she asked and confirmed this would be one of the reasons Mr. Moran would bring that back to the Council after getting more information on actual costs and that he would update the Council.

ACTION: It was M/S/C (Gerring/Anduri) to allocate up to \$20,000 from the traffic calming sinking fund to be used for the pilot study. Vote: 4-0 (Ayes: Candell, Gerring, Anduri, and Dawson; Noes: None).

Regarding receiving more information on education at all schools, Vice Mayor Gerring stated she spoke with Superintendent Whitmore and shared information they received on the Diablo Street Smarts program. They are moving forward with this and she asked that the City notice the schools on all of the changes made tonight and communicating through the parent newsletters and other areas. She asked and confirmed with the City Manager that she could provide a status update at the next meeting.

11. PUBLIC HEARINGS - None

12. ITEMS REMOVED FROM CONSENT CALENDAR - None

13. COUNCIL / COMMISSION REPORTS

A. Councilmembers report on activities and consideration of matters a Councilmember wishes to initiate for placement on a future agenda.

This was continued to the September 13, 2021 Council meeting.

B. City Manager's Update

This was continued to the September 13, 2021 Council meeting.

C. Councilmember Dawson

Resolution 2021-37 Appointing members to the Youth Commission.

Recommendation: Adopt Resolution 2021-37 Appointing members to the Youth Commission.

ACTION: It was M/S/C (Anduri/Gerringer) to continue to September 13, 2021. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

14. WRITTEN COMMUNICATIONS

A. Annual Conference Resolution for Consideration at the League of California Cities' 2021 Annual Conference September 22-24.

Resolution 1 – Calling on the State Legislature to Pass Legislation that Provides for a Fair and Equitable Distribution of the Bradley Burns 1% Local Sales Tax from In-State Online Purchases, Based on Data Where Products are Shipped to, and that Rightfully Takes Into Consideration the Impacts that Fulfillment Centers Have on Host Cities but also Provides a Fair Share to California Cities that Do Not/And/Or Cannot Have a Fulfillment Center Within Their Jurisdiction

Resolution 2 – Calling Upon the Governor and the Legislature to Provide Necessary Funding for CPUC to Fulfill its Obligation to Inspect Railroad Lines to Ensure that Operators Are Removing Illegal Dumping, Graffiti and Homeless Encampments that Degrade the Quality of Life and Results in Increased Public Safety Concerns for Communities and Neighborhoods that Abut the Railroad Right-of-Way.

Recommendation: Discuss and direct voting delegate.

ACTION: It was M/S/C (Anduri/Gerringer) to continue to September 13, 2021. Vote: 4-0 (Ayes: Candell, Gerringer, Anduri, and Dawson; Noes: None).

15. ADJOURNMENT – 12:15 a.m.

APPROVED:

Susan Candell, Mayor

ATTEST:

Joanne Robbins, City Clerk