

Meeting Minutes Ad Hoc Committee on Economic Development February 23, 2022

Meeting Recording:

https://us02web.zoom.us/rec/share/-C27uF41JlI6a1KKlOlqjqFnCDU_U8EZ6dVc_13GXJtWLRFI416qO901zC9izQ.v7BlkjAVal1cb316

Access Passcode: n1\$RaDcS

Attendees

Heather Shand, Chair, Councilor Ward 3
Sharif Zeid, Councilor Ward 1
Jim McCauley, Councilor Ward 5
Jennie Donahue, Councilor Ward 2
Andrew Levine, Chief of Staff
Richard Jones, City Clerk
Craig Holt, Licensing Board Chair

Agenda

ODNC098_10_12_2021 - Permanent Parklets Legislation

Chair Shand outlined discussion topics:

- Fee schedule
- Process
- Schedule

Fee Schedule

Councilor Zeid: info from Clerk on how many parklets last year was very helpful. He still wants to make sure we have a good picture of the cost - not sure we quite understand that yet.

Can DPS give a 3-5 year lookout? He asks because he is unsure the money shown will be enough to sustain the program. Based on data, he does not believe a flat fee would be fair. Believes it must correspond to square footage ... replicable, covers variation and different types like the retail parklets (which are small).

Chair Shand: she did try to get a look ahead. Deputy DPS Director Tucculo was hesitant to give anything beyond \$20 - \$30k and \$280 for replacement pieces. Last year DPS did not do the full setup, so they're still guestimating. Chair Shand recommends setting a baseline and re-evaluating next year when more actual data is available.

Councilor Zeid: looked at old paperwork. Contractor was paid \$34k. He's confused how DPS came to the lower number if we paid contractor more.

Councilor McCauley: believes estimate is based on \$10k/week for DPS labor. They need 2 weeks on front end and 1 week on back end. Maybe Ad Hoc can reverse engineer and back into number. He

likes square footage, which seems fair. He likes a figure of \$5/sf of parklet --- and \$4/sf for anyone using public land and their own materials. Based on info from Clerk, those fees cover costs with a bit extra for maintenance. If maintenance unused, it can be carried over to next year.

City can explain to restaurateurs that grant money is gone and city is only trying to recover its costs.

Chair Shand: agrees; she also did the math and came up with \$5/sf. If there is excess cost we can put into the designated fund for when we need to begin doing maintenance.

Councilor Zeid: only analog to this is using the sidewalks. \$5/sf would generate appr \$55k revenue per season. He would hesitate to use the downtown paid parking fund because that has already become broad. Suggests speaking with Finance Director establishing a dedicated fund to let monies accrue for when the big material purchases come. He wants to avoid a free cash request being made for parklet materials.

Chair Shand and McCauley agree about segregating funds.

Councilor McCauley: his yearly estimate came to appr \$47k, factoring in Mission Oak that uses city property and their own materials. He also didn't include push carts --- maybe not charge for those because they're small and used by the retailers.

Councilor Zeid: two points regarding rates for parks. He believes Council needs to set the fee schedule and not put that burden on the Parks Commission. He also believes Parks are more valuable because a parklet there takes open space from people rather than merely a parking space. Though he doesn't have a firm opinion about a differential rate either way.

He notes cost creep highlighted by Councilor Donahue of DPS needing to make adjustments to the materials or do inspections and ensure compliance. Also raises question about customer service expectations, e.g. how quickly a DPS person will be sent out. For most parklets, city is acting as landlord and service – whereas for Brown Sq it's only landlord and renter services own materials.

Councilor Donahue: last year Dennis Morel had to go out during lunch hour every day to check for ADA compliance on sidewalks and parklets. Had to constantly go into businesses and adjust their setup to remove barriers. Council on Disabilities heard from wheelchair users, etc regarding non-compliance. Also heard from a number of residents who witnessed setups "getting out of hand" on weekends when Dennis was not doing the daily monitoring. Council on Disabilities asked Dennis to submit his hours to the City Council because this monitoring was above and beyond his regular job duties. Councilor Donahue says cost of daily compliance needs to be factored into fees – or impose fines for non-compliance with ADA. Need to send a clear message to the establishments that ADA compliance cannot be overlooked – so that our downtown, which is already a bit difficult for disabled to navigate to become accessible. She also notes the parklets, in some cases, are easier for disabled to navigate than indoor settings.

Councilor McCauley: ADA is a process of education. He quotes police mantra regarding enforcement: before they enforce the city needs to educate and re-educate. He thinks codifying within a fee schedule is tricky.

Councilor Zeid: suggests “putting a pin” in setting a cost because parklets involve additional labor from a number of departments. There are other also costs for Building Dept, Health, Police – if they’re assigning extra patrols downtown, Clerk’s office, Parks. Can the administration quote a cost for all the additional labor (versus if parklets did not exist) and that can be factored into the fee.

Chair Shand: stresses urgency of setting fees to give applicants, Clerk’s office, licensing etc sufficient time before the season starts.

Councilor McCauley: previous applications included \$100 processing fee to help cover the miscellaneous costs. He believes the estimates and calculations they have assembled to date is probably the best we’re going to do. In general, city will expend appr \$40k to extend outdoor dining this season. The fees discussed seem to cover these costs. He is now inclined toward a flat fee of \$5/sf for all, whether or not applicant is providing own material.

Public Comment

Ted Epstein, 15 Pleasant Street – Loretta

Only speaking for himself; has not conferred with any other restaurateurs. City has been very generous and he is very appreciative. The parklets have been good for Loretta. There are still people who are uncomfortable about coming inside, as well as people who simply love eating outside. He is in favor of whatever the city charges – and would be willing to pay a fee retroactively if the city realized it wasn’t covering its costs. He asks if it would be whether some of the insurance fees can come down. Also asks that season be as long as possible. They have heaters and also provide blankets for some diners, and people just really appreciate being outside even in September and October.

Kim Turner, former Chair of Parks Commission

Commission still discussing whether to continue to allow and expand parklets. Thinking fee should be higher than street due to the value of parks. Would want Parks Commission to be part of the discussion.

Fee Schedule

Chair Shand asks if Councilor Zeid wants to use the figures at hand to set the fee because we do need to move forward.

Councilor Zeid: \$10k/week does not include opportunity cost for DPS. His trouble with fee is that DPS is heavy downtown and it’s hard for the neighborhoods to get attention. He believes at \$5/sf we are not covering costs and the city is subsidizing parklets.

If this does need to get out of Committee, he says an Ordinance needs to be written to distribute funds (and he recommends a few of them ... Parks Revolving Fund, License Commission).

Clerk Jones: he was contacted by Portsmouth and Somerville to ask what we're doing. Everyone wondering what they will do about parklets. Portsmouth charges for downtown parking. Each spot generates \$5k/season and so that's what they have used as a basis for their fee. Somerville has 130 parklets ... they're thinking of charging \$1,000 but may wait. So there is a wide variation.

Process

Clerk Jones: His concern is time because last year everyone was rushing to get the process done and everything set up. He believes if all paperwork submitted by April 15, season can begin May 1. He notes it may be possible, as a way to expedite, to empower the License & Permits Committee to act as the Ad Hoc did last year. That is quicker, but leaves the full Council out of the process.

Chair Shand: likes the idea of empowering the License & Permits Committee and wonders if the process can be that all paperwork goes before full Council end of March so they get to see it and then it moves through in an expedited fashion. Clerk Jones said he had similar thoughts though wonders how the expedited process would work in the event an applicant needed to make a change.

Craig Holt, Licensing Board Chair: Licensing Board appreciates getting applications sooner than later so they don't have to schedule a special meetings to get them processed. He notes the applications last year contained errors and they needed to work with applicants to get an accurate count of tables and chairs. He also agrees it is a good idea to run into September and October to allow restaurants to recoup the licensing fees.

Chair Shand: suggests scheduling another meeting for Monday before the Council meeting so they can bring this to the full Council in the 2/28 session.

Councilor Zeid: can yield on winding down Committee review in order to get it back before the Council. He cannot yield on excluding the full Council because he says it would set a dangerous precedent that a Council Committee would be speaking for the full Council. He's flexible about timing, provided it is the full Council that is making the deciding vote.

Chair Shand: concurs about coming through the full Council for a deciding vote and describes a timeline: that applications go through a Council Committee and Licensing Board all the applications are brought before the Council at its first meeting in April. Then, pending approval, the DPS can begin work on April 15 for a May 1 start to the season.

Council McCauley: Licensing Board needs applications come in clean. Applications would need to be cleaned and screened (seating diagram and count are correct, insurance is sufficient) before going to the Board and full Council.

Council Zeid: it is the applicant's responsibility to submit a clean application --- much like any other land use application. He also asks Council McCauley to work with city solicitor to draft a user agreement between the city and the applicant.

Action Items

1. Councilor McCauley – codify the operational details discussed as needed into process documents and applications.
2. Councilor McCauley – codify fee schedule.
3. Councilor McCauley – work with city solicitor to draft a user agreement between the city and the applicant.

Next Meeting

Next meeting scheduled for February 28 at 6:30 with the goal of pulling all the paperwork together and submitting to the Clerk as a late file for that evening's Council session.

Committee adjourned.