

STRATEGY SESSION

The City Council of the City of Charlotte, North Carolina convened for an Strategy Session on Monday, June 3, 2019, at 5:06 p.m. in Room 267 of the Charlotte Mecklenburg Government Center with Mayor Vi Lyles presiding. Councilmembers present were Dimple Ajmera, Tariq Bokhari, Ed Driggs, Larken Egleston, Julie Eiselt, Justin Harlow, LaWana Mayfield, Greg Phipps, and Braxton Winston, II.

ABSENT: Councilmember Matt Newton

ABSENT UNTIL NOTED: Councilmember James Mitchell

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INTRODUCTION

Mayor Lyles said this is our Strategy Meeting where we hear from Committees, what work they are doing, what they are thinking about, and we all get to comment and weigh in on questions, ideas and recommendations for action as well as comments. Depending on how the conversation goes, we can either move it forward to a Council agenda, or we could ask the Committee to review it again. That is the intent of our meeting as well as anything that we are doing and any referral updates.

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ITEM NO. 1: COUNCIL COMMITTEE ACTION UPDATES

Noise Ordinance

Councilmember Harlow, Neighborhood Development Committee Chairperson said the Noise Ordinance Update was voted out of the Neighborhood Development Committee; it started in the Community Safety Committee and transitioned to the Neighborhood Development Committee. Over the past year, there have been five or six Committee meetings discussed on this topic, and over the past several months there has been more community engagement sessions. We brought in Willie Ratchford and his teams, had surveys on several stakeholder conversations from the construction community, neighborhood associates and other parts of the business community, healthcare community and everyone to really participate with this update and make some changes to the Noise Ordinance.

During the April 17th meeting, the Committee received information on proposed changes around noise buffers, entertainment zones, revisions of fines and penalty schedules, some additional noise measurement scale, noise mitigation plan for construction, and the Committee voted to forward the proposed Noise Ordinance changes to the full Council for review. Just review tonight and possible approval on a Policy Agenda later this month. Before you are the proper printout that gives a layout of current and proposed changes particularly around defining some more specific definitions around where certain amplified sound can happen, what certain penalties are, escalating fines over time, how we are proposing to change some measurement scales and some small administrative technical updates as well from the Attorney's side of things. The Committee: Mr. Driggs, Mr. Winston, Mr. Newton, and Mr. Phipps have talked about this at length and a lot of other Councilmembers have attended those meetings and have also had some other conversations with each other around what really is into this. If they want to get into dialogue tonight we can, but we've had a lot of those conversations, but we are open to whatever questions the Committee may not have answered for other Councilmembers.

Mayor Lyles said I failed to do something that was very important which is introduce the Mayor's Intern tonight who is Alissa Pacheco. She is a Queens Senior; she is triplet, one of three. Her favorite vacation spot is Puerto Rico; she is a Political Science Major, and she hopes to work in our organization one day. Welcome to our office; she will be with us for the summer and thank you for letting me make that introduction.

Mr. Harlow said the Deputy City Manager has been the great Manager and staff resource on this for the Committee, so I will turn it over to Ms. Joy-Hogg.

Sabrina Joy-Hogg, Deputy City Manager said I didn't do this by myself, so Willie Ratchford also serves as staff to the Committee, and I'm just doing the introduction because we actually had a great work team that was put together for this Noise Ordinance. As you can imagine, it is very multifaceted and issue that we selected had multiple issues even to that. The work team that we had comprised of Community Relations, Willie and his staff; Code Enforcement, Pam and her staff; Planning, Taiwo and his staff. We had legal representation from Patrick's office, also the CMPD Attorneys. We had C-DOT at the table; we had Budget and Strategy and of course we had the City Manager's Office there. This is a work team that met almost every week while the Committee was in session, taking up various items to talk about what could happen, all of the unintended consequences, so in your packet last time you received a side by side which shows what the current ordinance has and then also what we are proposing.

When the Noise Ordinance was sent to Committee it was back in the fall of 2018 and the Committee asked us to look at the topic areas with three different lenses; one was entertainment, another was construction and the third was speech and expression related. The entertainment, as we discussed it in the work team and realized that it had many, many issues to it and because we have a growing City we are recommending that it go towards the Comprehensive Plan and the UDO work and our Planning Director will speak to that. The construction, we are proposing some changes to that and one of the staff members will speak to that as well. Speech and expression related which is where we are talking about establishing noise buffers for the first time in the City of Charlotte.

As Mr. Harlow said, there were six Committee meetings held; there were 11 community engagement session, three of which were online surveys. I won't read these to you, but at various points the Committee took up different issues. At one point, after we did the first round of community engagement they asked us to go back out and specifically look at noise buffers and entertainment zones.

So, tonight's discussion you will hear about the community input that Willie Ratchford and his team did, talk about the legal considerations and enforcement and education. Again, back to the recommendations that we are making the noise buffers, we are also asking to revise the fine and penalty schedule; we are including an additional noise measurement scale to help the police enforce noise better, and also, we are adding provisions for the construction industry into the noise mitigation planned.

I will tell you there are various speakers that are going to come up so Willie Ratchford will kick us off with the community engagement and then we will move on to Bobby Sullivan with the City Attorney's Office and then Taiwo Jaiyeoba will be talking about the entertainment zones and Roger McCalman will cover the Police legal side of things.

Willie Ratchford, Community Relations Director said thank you for this opportunity for us to come and present information that we've collected as we've worked doing this project over the past several months. As Sabrina has indicated, the Community Relations Committee, in part our responsibility in this process was to engage the community and get feedback from them on what they felt about the Noise Ordinance and the possibility of changes being made to the ordinance. We had two rounds of listening sessions which included three online surveys, and we had 2,832 responses in those surveys. We also had eight in person sessions, and we had 191 participants with those in person sessions. As you can see, we have a total of 3,023 points of contact with the community where we actually received feedback on the Noise Ordinance. It should be noted that the online surveys and the in-person sessions were not scientific in nature, they were not intended to poll responses, they were not a vote, and they were not a referendum on what should be included in the Noise Ordinance. They were used to gather general information as a part of a larger community engagement process as we did this work.

Once we got all the feedback in the surveys and the in-person sessions we reviewed that information and we actually came up with some themes for the information that was received. The first was an economic theme where a lot of the participants talked about impacts on hotels. We had many hotels in downtown who were concerned that they had to provide refunds to customers. They were getting bad reviews and this caused an economic impact on their business. We also had situations where there was impact on businesses and customers that were in close proximity to targets of protest. Then there were concerns about property resale values. We had multiple conversations with individuals who live in the condominiums downtown, and many of them complained that as a result of noise from bars, music, motorcycles and cars that they had a hard time selling their property if they chose to sell.

Another theme was health and safety and there was a great deal of talk about impact on sleep. We also had people to talk about impact on patients seeking medical treatment as a result of amplified sound and these were businesses that were not targets of the protest but they were impacted by the noise as a result.

We had a policy related theme where we talked about regulating base sound. We also received a great deal of information on buffer zones and we had people who were for buffer zones and we had just as many people, if not more, who were against buffer zones. There was a lot of feedback on the need for us to continue to safeguard free speech and there were some who indicated that we should consider the possibility of increasing fines against violators.

Another theme was enforcement; there is a perception in the community that enforcement is either inconsistent or just non-existent and we heard that quite a lot. There was a perception that we were intentionally seeking to limit free speech and there was a construction noise and private trash collections concerns in that there are certain times that you should be able to participate in construction activities or to collect trash and there were concerns that the ordinance was being violated with regards to time restrictions.

With regards to public outreach, one of the interesting things we noticed as we were going through this process is that a lot of folks are not educated on exactly what the Noise Ordinance means and people talked about better mitigation and implementation plans with the ordinance and then a need for more clarification on amplified sound permit process. One of the things we are going to do, and I will talk about this a little later on is that we are going to develop and put together a comprehensive education plan to educate the community on the Noise Ordinance and any change that you all might make or consider.

Taiwo Jaiyeoba, Planning Director said I would like to think this is where it all comes together for us as we go into our 2040 Comprehensive Plan. In some other communities, what they would typically do in a Comprehensive Plan is to have noise element. We are not going to do that because our focus is really on the outcome. The outcome of a Comprehensive Plan itself is that at the end of the day, we are not looking to creating similar communities or perfect communities for really one that is healthy and complete. When you talk about health one of our goals would be looking at creating vibrant hearts and entertainment district or what I call created districts where noise would definitely be part of the fabric of the communities, but also as we do that it's got to be in an equitable manner so that not one segment of the community feels that they are being burdened as a result of activities in a vibrant and thriving community like Charlotte.

So, as we are doing our Comprehensive Plan, we are going to be looking at a number of planning considerations; one of those being when you go into your place types how do you address incompatible uses? How do you make sure that there are certain uses? For example, we have people say we preserve the character of our neighborhoods? How do we make sure that we can reconcile that with the fact that we continue to grow with the need to have an environment where construction activities continue to grow? So, the Comprehensive Plan over time, during the next two years as we have community engagement the Comprehensive Plan will talk about development of creative districts where we have a lot of entertainment activities going on, but it also looks at programs and policies that address land use compatibility with the type of noise that will definitely [inaudible] as we

extend light rail, [inaudible] provide bus rapid transit or even streetcar inside corridors. I like to think this is really where it comes together but this is where the vision comes together in terms of the type of community we want to live, but then as we move into our Unified Development Ordinance that is where we are going to start talking about what are those tools that will help us to implement those things in such a way that it becomes equitable for everyone in the community.

Councilmember Mitchell arrived at 5:23 p.m.

Bobby Sullivan, Senior Assistant City Attorney said I will turn now and start talking about some of the specific proposals that came out of the Committee and one of them is the potential adoption of noise buffers, which are regulations that are designed to protect certain noise sensitive developments from excessive noise. Basically, this would be for schools, houses of worship, and healthcare facilities and would create a zone around them where excessive and disturbing noises would be prohibited.

The first slide we have is just to show that this is not a concept that we are coming up with from scratch. A number of cities have some sort of noise buffer concept, and these are just some examples that we found, some from North Carolina and some from other parts of the country. How they go about protecting noise sensitive developments does vary a great bit in terms of how big the buffer is and what exactly is prohibited in it, but the underlying concept is the same. Identifying noise sensitive developments, developments that are especially sensitive to disturbing noises and regulating that noise into some degree.

In terms of the legality of noise buffers, before we get into the specifics of what we are talking about here, the courts in our part of the country that govern Charlotte have not clearly weighed in on what they think about noise buffers, but we do have some good authority from other parts of the country where courts in Florida, Maine, and Texas and other places have considered these kind of buffers and have held them to be acceptable and constitutional. So, if you do decide to adopt noise buffers there are certainly some unknown and some risk in doing, so because in large part we don't know exactly how our courts will view them, but we have some good authority and some good arguments from other parts of the country to defend them. The particular proposal for noise buffers that came out of the Committee, as I said before, would be to create these buffers around schools, houses of worship and healthcare facilities. The key provisions would be that the buffer would extend 200-feet from the property line and the two things that would be prohibited within that area would be the use of sound amplification equipment like megaphones and bull horns and then also there would be a prohibition of what the ordinance would call unreasonably loud and disturbing sounds. This is to capture noises that aren't created by sound amplification equipment but are still loud and disturbing. The concept of prohibiting unreasonably loud sounds is already in our ordinance. There is a provision that says you can't create an unreasonably loud and disturbing noise anywhere in the City, so this borrows from that and adds that to the noise buffer concept. Those would be all that is prohibited in the buffer zone; I think it is important to stress that this is not a physical buffer, people are allowed to go into that 200-foot area, hold signs, talk at normal volume, hand out literature and do things like that. It is just loud and disturbing noises that would be prohibited.

The buffers would not be in effect 24/7. They would only be in effect when noises are likely to cause a disturbance. So, for a school, the school actually has to be in session for the buffer to be in effect or a house of worship there has to be a service going on inside. For a healthcare facility, the facility has to be open or caring for patients, so it is not a round the clock kind of prohibition. In keeping with that, there are sign requirements that would apply; for houses of worship and healthcare facilities, these would essentially be opt in provisions. The house of worship would have to have signage alerting people to their services, so people would know when they should be quiet around the house of worship and healthcare facilities would have to opt in by posting a quiet zone sign letting people know that they are in a healthcare facility quiet zone.

A few other key provisions, as I'd talked about earlier, one of the things that would be prohibited would be unreasonably loud and disturbing noises. This revision would add some factors that would help govern when a noise is unreasonably loud. Not only its volume but

things like the ambient background noise in the area, how long the sound last, things like that. The ordinance would confirm that the content or the message is not part of what goes into determining if the sound is unreasonably loud so it is not what someone is saying, it is the volume at which they are saying it. Some emergency or public safety exceptions would apply, so it would be a violation to have emergency sirens in a noise buffer or to use your car horn if you are trying to avoid an accident and anything that is contained with the building would also not be a violation of the noise buffer because that is not going to disturb the school or the house of worship or the healthcare facility.

A final important point to know is that the noise buffers would take precedence over other regulations in the code that deal with nose. The two big examples being if you get a parade permit under the code you are allowed to use amplified sound with that generally, but if you had a parade route that went through a noise buffer while the buffer was in affect the amplified sound would have to be turned off during that portion of the route. As well, bars, restaurants are allowed to have outdoor amplified music on their patios and decks but if you happen to have a bar or restaurant with a deck or patio in the noise buffer they wouldn't be able to do that at least while the buffer was in effect. If you have a restaurant right next to a school while school was in sessions they wouldn't be able to have outdoor amplified sound because the buffer would take priority over everything else. That is how the noise buffers will work, and I'll be happy to answer any questions.

Roger McCalman, Assistant City Attorney said I will be talking about the enforcement portion of this. We heard the Committee and as to enforcement we are asking to move to a -tier approach on the enforcement. The first violation of the Noise Ordinance would be \$100, \$500 and then \$1,000. If it is a front loader trash truck that would start at \$200, \$500 and then \$1,000. The chronic noise producer section will stay the same; that is \$1,000 for non-compliant corporations and also there was a recommendation for a late fee. We discussed the \$50 late fee to occur after 30-days; the 30-days was determined, because that is the period of appeal as governed by our statute.

The next thing would be what is CMPD going to do; we are going to continue to respond 24/7/365 to noise complaints. One of the issues that occur in trying to delegate the responses is we do not know what people are stepping into. We are the only Department in the City who is equipped to respond a multitude of complaints. A lot of our domestic situations come in as a noise complaint from a neighbor. We will begin and continue to track in electronic data basis incidents that involve noise so we can monitor any trends that may occur and we are asking for the ability to measure our commercial establishments and outdoor venues in dv(C). db(A) is currently what we use and that picks up the higher standards but db(C) will allow us to go down and pick up the base which is causing us a problem within the City.

We also have a plan in place to work with Code Enforcement. After we respond to a commercial establishment after hours, we will then refer them to Code Enforcement; Code Enforcement will be looking to utilize staff with sound audio engineering or a similar background so they can work on a noise mitigation plan telling them how and where to set up their equipment. That way it creates the least amount of disturbance to the general public. That person would be able to work with the community and help them with understanding the Noise Ordinance, how noise travels, the effect that a noise may be having in an uptown environment and once again work with potential violators on noise mitigation strategy.

As to the chronic noise producer the only thing that we are asking there is that the construction sites be able to be considered chronic noise producers. That will allow for a mitigation plan to come in place if Code deems necessary. That would be a tool in the belt of CMPD, it is not something that we would proactively use. What moving forward would look like is an education and communication plan, which is July to September. CMPD will establish guidelines and procedures on how we plan on enforcing this. We would conduct training to make sure that the standard is being enforced evenly and we are asking for an effective date of October 1st so that between the time of passage to the effective date we can put the policies in place to meet whatever Council recommends.

Mr. Ratchford said as I had indicated earlier, one of the things that we want to do as a part of this process once a decision is made is to do a better job than we've done previously in educating the community about the Charlotte Noise Ordinance. When we were actually meeting with people in the community and hearing back from folks on the survey we realized that we as the City had not done a good job in educating our community and what got us caught up on this idea was doing what a couple of the in-person sessions; we actually had a couple of people who suggested that we go about educating the community about what can and cannot happen under the current Noise Ordinance or any noise ordinance that might require change. We are looking at working with Communications and Marketing, I was about to call them Corporate Communications, because that is what they were for a long time, but we will be working with them to create a robust web resource system to get information out to the community about the rights under the Noise Ordinance.

Obviously, we are going to use social media because that is a great way to reach a large part of the community. We are looking to continuing to partner with individuals that we have met during this process as well as others who might be impacted by this ordinance. We are looking at engaging with neighborhood associations and business owners as well as healthcare professionals with the continued discussions. One of the things that we talked about during the process with those who answered the survey as well as those who showed up in person; we asked them if they wanted to continue this conversation and if so how best to do that. The vast majority of folks indicated that they were interested in continuing the conversation and a lot of them indicated that e-mail might be the best way to do that, but obviously, we will do more than just e-mail.

We will also be developing an education campaign and tool kit, and we will do this in multiple languages, because we want to get this out to as much of the community as we possibly can, and we will look at staying connected to those who have participated in this process via e-mail.

A summary of the proposed changes that have been presented here is that we establish noise buffers around schools, houses of worship, and medical facilities, that we add an option to include db(C) sound weighting scales for measurements to better capture bass component of sound, which was one of the big issues during this process; that we add clarifying language such as examples of construction machinery and noise references; that we add construction sites to chronic noise producer regulations; that we look at increasing penalties; and that we have a technical clean-up of department references and sections to the correct names and references and citations and add a severability clause.

The expectation is that City Council will consider a vote on this at your June 24, 2019 Business Meeting and that you also consider coordinating with the County to align related initiatives, because this does not just impact the City of Charlotte, it also impacts Mecklenburg County.

Councilmember Eiselt said with regards to our existing ordinance, Section 15-61 and 15-63, it addresses loud and disturbing noises, sounds impacting residential life, which I'm wondering with the new changes you can still really clarify what that means and define what constitute a disturbing or unreasonable loud sound. Maybe it is the decibel reading, but what is a disturbing sound. How are you going to clarify that?

Mr. Sullivan said there is by necessity you have to have that catch all provision and a lot of jurisdictions do, because it is really hard to define all the possible ways that a sound might be unreasonably loud, but I think one of the things that this proposal would do is, yeah, you said we already have an unreasonably loud and disturbing provision in our ordinance, but there are no factors right now that really explain how you determine if something is unreasonably loud. So, what this would do is add a list of factors to be considered, not only for the general unreasonable loud standard but also for the unreasonably loud and disturbing standard that would go into the noise buffers. Things like how does the sound last; is it repeating? Is it a single instance; what is the character of the surrounding area? Things to help provide guidance but trying to define it more specifically than that you probably end up excluding things that you really wanted to cover and that is why there is that catch all provision in there.

Ms. Eiselt said the second part of that question is and this is a question for CMPD, I wondered if you feel like this is going to make these ordinance sections more enforceable, because that was the question at first that CMPD had is what can you do to make this enforceable? It says all that in the current ordinance, but it is really hard to enforce, because it is outdated. Do you feel like this is going to make it more clear for you and give you the ability to actually enforce the ordinance?

Mr. McCalman said as to the unreasonably loud yes. The decibel readings we currently use only account for the higher frequency so under the proposed ordinance we would be able to use the standard that allow us to capture base and lower frequency; so, that would help in many facets in the City in enforcing the Noise Ordinance and something that we are currently not doing. As to unreasonably loud, that is something that an officer determines when he arrives on scene and through training and with the definitions we would be able to further enforce that section.

Ms. Eiselt said that is the part that I'm concerned about, because that is what sort of started this whole conversation; officers were saying don't make us interpret that, give us some clear guidance as to what is unreasonably loud or what is disturbing because residents are going to read this and say it sounds impacting residential life, well this sound is impacting my residential life, so you feel as if there is criteria in there that gives you the ability to be really specific with residents as to whether or not that constitute a violation?

Mr. McCalman said stated by Mr. Sullivan, the more specific we are with the section, the more we will exclude, and so we have to keep it as subjective as possible and it encompasses everything that is going on in the area to determine whether it is unreasonably loud and disserving.

Ms. Eiselt said the second question I have is about tracking incidents and under the current ordinance one of the problems and specifically this is residents behind Park Road Shopping Center and one other shopping center that one of our Planning Commissioners would send us a lot of pictures on where she lives, and they were taking pictures at 3:00 in the morning of the garbage trucks coming in and collecting and sort of playing a game of chicken. They would call CMPD and CMPD would show up and the truck was gone; they would come back later and get it again and they would leave again, and so is that what you were referring to with tracking incidents? Can neighbors call and say we have a picture; here they are again. Is that going to constitute an incident that gets recorded?

Mr. McCalman said what we would anticipate would people calling 311 or 911 however appropriate and that would be part of tracking, yes. We would be able to compile that data and see what the trends are.

Ms. Eiselt said lastly my question is with regards to schools; CMS had some concerns that if they have construction going on their own property would that be a violation of the construction portion?

Mr. Sullivan said the buffers only apply when school is in session and only if it is so loud that it is disturbing classes. It would only be a violation if they were a class in session and they were disturbing their own classes. We are happy to talk to them about their concerns in more detail, but I think that is a situation that should come up relatively infrequently, if at all.

Councilmember Phipps said on the slide that had Next Steps on it; bullet point number two, I would like for you to elaborate more on that. Does this mean that if this is ordinance is approved that we would like to see that the County would adopt something similar or would this ordinance be applicable in the ETJ areas? How would that work?

Mr. Sullivan said our ordinance wouldn't be applicable in the ETJ. We've been coordinating with the County through this process and have sent them drafts as we have worked through it. This would be just to coordinate, for example, in the issuance of sound permits, the County handles that in County Parks, and we work with them to try to coordinate and make sure that what we were doing fits together with what they are doing.

Councilmember Bokhari said I would just say that I'm uncomfortable with how we have arrived at this point, and I think that is evidenced by there is so much specificity around noise buffers and a lot of detail there yet there are parts of the construction piece we can drive a truck through, and we know they need to be fixed and more time needs to be spent there. When we started the conversation, it was about CMPD and helping their work load where we saw how many man hours a year they go responding to complaints that aren't really emergencies by any stretch of the imagination, and I don't see a reduction and in fact the move away from db(A) to db(C) I think that will only increase. So, I hope we can work over the next couple weeks to figure out a way to solve some of these other things. I will just lightly express my discomfort.

Councilmember Winston said I said everything in Committee and good job.

Councilmember Driggs said at the Committee meeting on this which was my first as member of the Neighborhood Development Committee, I expressed some concerns about how we are going about this and the discussion that is taking place with opponents of this, and I believe that the situation at Latrobe Drive is not good. I think we agree on that; it is intrusive. It causes distress; it could be dangerous, but on the other hand I think the way we are going about trying to deal with it is less than completely transparent, and I don't believe that two wrongs make a right. The reason I believe it is not good is basically there is kind of a false pretense here. This came out of concerns about Latrobe Drive; our attempts in the past to deal with Latrobe Drive ran into obstacles, and what we see here is pretty apparently just an effort to circumvent those obstacles, and I will mention in part the construction and hospitality industries have both told me that they did not feel involved or included in the conversation, that they didn't even see a draft of the proposed changes until after the Committee meeting and their assumption was that this was a Latrobe Drive thing we were dealing with, and it didn't affect them. So, they kind of woke up.

There are some continuing concerns I think, especially from the construction industry about these issues such as chronic noise and the ability that some people might have to designate what they are doing and the noises they are creating as being offensive or intrusive, and you might have a situation where people that don't like a rezoning start to protest about normal construction noise and actually use this as a weapon. I'm really thinking that we need to do more work on this. I will mention also just for context, 50 decibels are the level of a normal conversation between two people who are sitting together. That is how loud 50 decibels are. The sound level inside a Rolls Royce traveling at 60 mph is 60 decibels. I used an apt on my phone to measure the barking of the dogs on Latrobe Drive, because I've been there a couple times, and it registered close to 80; so, I think we need to be clear about the limits we are proposing to impose here and I'm not sure they are realistic. I think we need to do more work about that. I will also mention that in response to a question I asked in Committee, there were no complaints from any other healthcare facilities; so, the healthcare facilities themselves have not told us that they need this and the truth is if you think about what goes on at healthcare facilities, my wife was in the hospital for 10-days after back surgery and a helicopter was landing outside her room several times a night, taking off, etc. The equipment in the room makes all kinds of racket if you measured it you would probably find that that was a pretty significant noise level, and in another personal antidote my grandmother in the final month of her life when she was in intensive care unit complained to me that the nurses were playing loud music on the nurse station, and the patients there were usually in a semi-conscious state but were able to hear it. So, I think this sensitivity around noise as such away from the underlying controversy, which I think we know is what this is all about is misplaced. I'm really concerned also that if we go ahead with this there could be unintended consequences. For example, we could see an escalation of this unfortunate confrontation that is taking place between two groups with strongly held beliefs and therefore I'm not really sure it solves our problem. I know we are in an environment also as I think the rest of you are aware with the underlying subject to which this really relates has been taken up by southern states and has led the court cases and things. Do we really want to put ourselves in the middle of yet another one of these controversies? So, I'm very apprehensive about this and again I don't mean to be unsympathetic to the people that are troubled by what is happening at Latrobe Drive, but I

really think that this is an attempt on our part to pretend we are doing one thing when we are actually doing something else.

Councilmember Mayfield said I want to go to slide #18, Proposed penalties for noise violations based on Committee input. Just for clarification, next to the last, the chronic noise producer that refuses to cooperate, that \$1,000 civil penalty which is our current and we have no change, is that a one-time fee or is that fee also an elevated fee? The reason I'm asking is in comparison; if we now have an elevated fee structure and if you know that the chronic producer that the total amount, is it that amount every time that we are called out and they have been identified as being out of compliance? Just for clarification what does that penalty look like?

Mr. McCalman said before someone would reach to the chronic noise offender status, they would have already exhausted the \$100, \$500, and the \$1,000 fee for that portion and then CMPD as designated could designate that person as a chronic noise producer, and yes, any subsequent violation of the ordinance would be the \$1,000 per day as dictated per North Carolina General Statute.

Ms. Mayfield said I wanted clarification on that and the second part on that is the last line, the late fee. So, currently we are looking at the \$50 fine after 30-days from issuance. Is that \$50 every 30-days or is \$50 escalated every day after the 30-days?

Mr. McCalman said no ma'am, not as currently written. It is the one \$50 fee after non-payment or appeal within the 30-day period.

Ms. Mayfield said I'm going to ask for us to get a little bit more clarification for that because if it is going to be a penalty then it needs to be a penalty, and that is not a penalty if it is not going to be escalated. So, before we come to full vote it will be helpful to find out if we have the ability for that to be looked at the same way as we are looking at the chronic noise producer to ensure that they recognize that if we move forward with this new language that there are clear penalties in place and not just a slap on the wrist.

Mayor Lyles said so, it is \$50 fine for the 30-days; when another 30-days clicks in is it an additional \$50?

Mr. McCalman said [inaudible].

Mr. Winston said Committee members, please correct me if I'm wrong, but I think we had this discussion around the penalties. We wanted to make it a penalty for folks that might not have seen this as a penalty and were just ignoring the kind the cost as a cost of doing business, but I think we also wanted to look at individuals that this may become more of a punitive response than needed to be for certain people in certain situations, so we wanted to add teeth to the first, second and third violations but people that maybe low-income earners we didn't want them to be just punished on top of punishment just because of the economic situation.

Mr. Harlow said I agree with you. No, you are not wrong. A good bit of discussion, particularly around the fees and the penalties we were seeing this as folks just saying cost of doing business, this means nothing to me, and so we upped those penalties. I think to Ms. Mayfield's point. I think you are talking about two different things, and I see where you are going if someone is refusing to cooperate, and there is no further escalation. That I think is worth of a conversation. I'm not so certain that has to be a lengthy conversation and correct me if I'm wrong, what would our process be for just adding some language, and I don't know what that looks like but just for escalating fines for just that one-line chronic noise producers that refuses to cooperate.

Mr. McCalman said the Council can modify that portion. One thing that we have to make sure that we are being careful of is the eighth amendment, stating that we can't unreasonably burden people, so we have to make sure that we are not making the late fee the penalty. If someone has a \$100 penalty and now we are talking about tacking on \$1,000 in late fees

the court may view that as unreasonable enforcement on someone. So, that is the line we have to be able to walk.

Ms. Mayfield said just so that have full transparency and clarification, two separate questions that I have, the one specifically around the \$1,000 penalty and that is for the chronic noise producer of which you have answered that for me. Separate question regarding the late fee and the fact that that is a one time, and what I have requested and I believe the City Manager captured it based on my initial request and the Chair heard my request is to bring back what would an escalated penalty be, because if it is a late fee after 30-days and if that late fee, because you have not adhered to these then again, the whole point of this to my understanding is that we create the protection and the claw back in place so that as my colleague mentioned, it is taken for granted. We have seen too many times over the years where we have had habitual offenders, and it is just the cost of business, and we may have had language in place but unfortunately that language has not been as enforceable based on interpretation. What I'm understanding from reading through what was presented to us over the weekend and listening to today's presentation is that we are trying to actually put the enforcement language in place in order to help. I'm just asking specifically for the late fee that if we are going to have a late fee on there, and that is because you are not adhering because it took a number of steps for you to get to this level for there to be these fines and penalties. If we are going to have a late fee \$50 is what I'm asking; is that amount an amount that can be escalated in order to let it be known that we are very serious about the protection of our community and let it be clearly known what the expectations are if you are doing business within the City?

Mr. Winston said I think we could let staff come back, but just looking at the numbers would my colleagues be more comfortable with something like a percentage, because we have \$50 and that first line is \$100; that is up to 50%. So, instead of putting a punitive number like you are saying a \$1,000 late fee for a \$100 fine might not be proper but maybe a \$500 late fee on a \$1,000 bill might be more in line and might carry more teeth and would be equitable over all types of offenses.

Mr. Harlow said I want us to be careful of undue burdens of higher late fees, but I certainly believe that we shouldn't be just saying we are writing off something after the first 30-days, and they are not doing anything after that. I follow you Mr. Winston, but with the 50% thing you lost me, so if you could try to clarify where you are trying to go.

Mr. Winston said the concern is that this is not just written off as a cost of business. We heard the lawyer say, we don't want to create an undue burden, right. So, if you wouldn't want to put a \$1,000 late fee on a \$100 fine. So, if you want something that still has teeth so people don't ignore but do it in an equitable fashion so that it is the same you can look at a percentage. For instance, a \$50 late fee fine on the first violation of \$100 equates to a 50% penalty. If you put the fine at a percentage of the violation then it has more teeth at the higher level, so again people will be incentivized to pay but still be equitably distributed across the spectrum of violators and violations.

Mr. Harlow said I understand, and I like that. I think that is a good balance actually so, we are not getting \$1,000 fines on top of \$100 initial fines. This is what I would consider the Council's proposal now coming from the Committee, but as Chair I'd like to recommend that new proposal or that new change for chronic late fees to attach a 50% surcharge is what we are calling it.

Mr. Winston said we can ask the staff to come back and consider a percentage for late fees as opposed to a hard number, and they can come back to us with something that makes sense and is enforceable.

Mayor Lyles said this week-end I read an article in the New York Times about a person that got a \$150 ticket and she ended up owing almost \$13,000 when all the fees were tacked on as a result of late fees, and it was kind of like that escalating. I lost my license. I lost my insurance, and it kept rolling on. I think the percentage could work, but I also think you could say a late fine every 90-days. There are options to do this that might be feasible, because

what you are saying is you've already got the escalation there, so if you start escalating the late fee it almost becomes like another fine.

Councilmember Egleston said I've got a specific question; in our packet it is at the top of page seven. From a process perspective it is like Mr. Harlow and Mr. Winston's proposal there on the 24th we would be able to propose amendments before we voted on it. We are not looking to make amendments tonight; you are looking to discuss it and then make the amendments prior to the vote on the 24th.

Mayor Lyles said I think it would be fair to get all of your questions out if you have something that you would request a change to go ahead and say that now so that at some point the Chair may have to weigh whether or not it is another meeting or if it is something that could be moved rather quickly. I think any question is a good question.

Mr. Egleston said I just want to square something that I'm reading versus what I think I heard. It was said that a chronic noise producer that refuses to cooperate; the \$1,000 civil penalty would come after they would have already gone through the \$100, \$500 and \$1,000 fines but then at the top of our page seven which if 15-65.3 says a business or construction site may be a chronic noise producer without having violated this article. So, I'm wondering if it should say may not be or if I missed something. To me it reads like you are saying someone could just go from not having been in violation to suddenly being labeled with the crime of noise producer which doesn't to my ear doesn't square with what was just said that you would go through the \$100, \$500 and \$1,000 level and then at some point thereafter you would be in the chronic noise producer.

Mr. McCalman said that portion of the ordinance has not been touched. What we are anticipating is we are working the system, we want to work with the community as to enforcement goes and that would make us exhaust these three steps before the chronic noise designation would kick in. It is not our intention to just receive a complaint and then deem someone a chronic noise producer.

Mr. Egleston said would there potentially be a need for a correction in the way that is worded?

Mr. Harlow said I was going to bring that up in my comments, so we've had conversations with the construction community, representatives from their trade organizations, particularly about this one provision that kind of points out that someone can technically be a chronic noise producer without actually ever having violated the ordinance. This was brought up to us after we had moved this from the Committee to the full Council, and I was actually going to recommend tonight that I do think a fairer approach is that someone must violate the ordinance first before receiving the designation. It is literally one sentence, the last sentence of that paragraph before you get to Clause B there and actually just revising the ordinance in that one statement and actually just removing that statement altogether. The statement, business of construction site may be a chronic noise producer without having violated the ordinance. Just striking that. It was brought to our attention and I would just say through oversight we would just strike that. There is no need to not have violated it before being designated.

Mr. Egleston said I concur with the Chair's recommendation.

Mr. Winston said what I heard staff saying is the ability to designate a construction site as a chronic noise producer; what that triggers is the ability for us to not necessarily to fine them immediately but to compel a noise mitigation plan so that we can account for that ahead of time without going through the rigmarole of violating and disturbing the community at large around it.

Mr. McCalman said that is what is anticipated in that portion of the statute is that often times officers are working with people and sometimes those things break down and so, the way it is currently written is we could be working with someone, and they are no longer working with us and then that designation could kick in. That is the way it is currently written. So,

there may not be a formal violation; however, the site business may have already been in violation; it is just they've been working to try and mitigate it.

Mr. Harlow said can we not just have a noise mitigation plan without them being a chronic noise producer?

Mr. McCalman said we can however, we heard objections along the way about just doing a broad spectrum noise mitigation plan and one of the issues is that something such as building goes through the County, and we would have to work with the County to make sure nothing we put in our ordinance was in conflict with what their building permits come out with. It was a larger issue than just making a noise mitigation plan.

Mr. Egleston said I will just wrap up by underscoring my discomfort with someone being labeled a chronic noise producer if they've not been formerly sited for violating the noise ordinance. I think Mr. Harlow is right; to me you take out that language, and you do go through the process and you give people a chance to reform and do better before you would potentially label them as a chronic violator. To me that wouldn't make sense to say you could be a chronic violator on your first offense.

Mr. Harlow said how many businesses have been designated as chronic noise producers?

Mr. McCalman said to the best of my knowledge, two sir; I know one was Calloo, which was a restaurant/nightclub, and I do not know the second one.

Mr. Phipps said in our analysis of the complaints did we see any broad-based distribution of complaints by the particular entities we are trying to protect like schools, churches, and medical facilities? Did we do an analysis of those complaints to see how they came out?

Mr. McCalman said yes sir we did; around house of worship we had 57 complaints within a 500-square foot radius. This is for 2018. For schools there were 653 within a 500-foot radius and for medical facilities there were 483 within a 500-foot radius and in for entertainment venues, that was 1,432 within in a 500-foot radius.

Mr. Phipps said our plan I guess with the Comprehensive Plan to look at how we would enforce the noise barriers in entertainment districts that is going to be a part of that process; my concern is that is going to be a two-year process, so I'm concerned about the uneven application and enforcement of the Noise Ordinance given it is going to be taking that long whereas we are going to be piecemealing the implementation of this particular ordinance if it is approved. Is that correct?

Mr. Jaiyeoba said I can only speak to the Comprehensive Plan. It is not an enforcement document, it is a document that develops policies and programs that actually provide a platform for the enforcement to take place. The Comprehensive Plan will shape those programs and policies; the Unified Development Ordinance will talk about districts and what exactly can be applicable in those areas. We [inaudible] as really going into detail that we have in the Noise Ordinance but provide the platform for that enforcement to happen, but the Comprehensive Plan is not the enforcement policy. What the Comprehensive Plan will do through community engagement is to ensure that every community engagement opportunity that we involve the community in will pretty much be all over the community where we will be able to entertain questions related to the impacts of this on neighborhood characters and also on business establishments. That is the only thing that can really provide that equability in terms of policies and program development and not necessarily the enforcement piece.

Mr. Phipps said but as of right now there is no attempt in this particular draft ordinance to do anything with so called entertainment zones?

Mr. Jaiyeoba said right now I believe there is not. That is where the Comprehensive Plan will begin to shape us by the policies and programs that will then feed into the ordinance.

Mr. Driggs said am I right to assume that the court cases to which you referred were very similar in terms that they were about demonstrations near abortion clinics, or are we inferring something from issues that they addressed?

Mr. Sullivan said I think at last two of them, and I believe all three of them were.

Mr. Driggs said were about protest around abortion clinics.

Mr. Sullivan said yes.

Mr. Driggs said the 200-foot buffer, if I am at 210-feet, the way this is written can I set up speaker?

Mr. Sullivan said yes, it only prohibits amplified sound in the buffer.

Mr. Driggs said so it doesn't pertain to the volume of the sound arriving at the building, is that right?

Mr. Sullivan said the idea is that the way the amplified sound would travel that the 200-foot buffer, even though you can set up an amplified sound speaker outside that it would provide enough of a buffer to keep that from being loud enough to disturb the facility once it reaches there.

Mr. Driggs said you should go to a Rock Concert. Okay, I'm just curious to know how it works.

Mayor Lyles said Mr. Harlow, do you want to comment or catalog what you've heard and see what your next steps are and if everyone would agree to what those next steps are?

Mr. Harlow said thanks Council for the discussion and also thanks to the staff for hanging in there and answering all the questions, not just today, but the ongoing questions that have been had since we've been taking this us and certainly since we've moved it out of Committee before today. I know there have been some questions raised about whether the prohibition on reasonably loud noise in the noise buffers affect construction. I do want to point out a few things as it relates to construction, and we are not changing the restrictions around time; we are changing how we measure sound but it should be noted we already have a provision in the ordinance that prohibits unreasonably loud noise anywhere in the City and construction activity is already limited by that. I know there has been some comments about the construction industry wasn't involved in this; they didn't know, and I think we have helped to educate the construction industry a little bit about what already exists and that might have pushed back and they may say we are sorry we brought that up to you. We didn't know we were already breaking the rules. I think there has been a good education component to it, but the noise buffers meanwhile would be limited to just the schools, medical facilities and houses of worship. Noise would unreasonably loud for those purposes if they are actually disturbing or threatening whatever business or activity is going on in those sites and developments. Also, those places must advertise that they are open and that they are doing such business. In my opinion, there is burden on both sides. I consistently mentioned over the course of these discussions and Committee meetings that I do feel like we've reached a pretty good policy when we are doing some good but both sides are kind of unhappy. One side feels like we didn't go far enough and the other side feels like we went too far and when you reach that middle and try to find that fairer approach, knowing that yes, there is one particular elephant in the room as Mr. Driggs has mentioned, but this Noise Ordinance encompasses so much more than that then just talking about medical facilities, clinics or noise buffers.

I think on the whole for staff when we are looking at the fines just making sure we understand we want to bring something back for after those late fees hit, how can those continue to incur without violating the eighth amendment. I think again, and Mr. Bokhari brought this us about a few concerns around the development community. We've met with them a few times and very recently in fact; they had really three specific kind of requests one of which was addressing this amplified sound and unreasonably loud noise as part of the current

ordinance. That is what I just mentioned; there are things already in the current ordinance that some folks are violating, so it is more about CMPD's portion of enforcing it. Mr. Egleston brought up the second request that they had as it related to taking away just that one sentence designating a chronic noise producer without having violated the ordinance. I would stand by that and say that is something we can look to remove while understanding that there aren't many chronic noise violators at all it sounds like, so to me it gives us even more reasoning to remove that.

Finally, this request to include some exemptions around construction work that might happen outside of normal business hours. We've outlined a lot of different things, and you will see it in the redlined version here; specific types of construction machinery that are included but not limited in the scope of what can and can't be used at certain times. There is also the noise reference chart that we are adding in to give us a better sense of what true decibel levels are for various equipment and things like that. I don't think we should be further broadening that; there will be a lot of residential stakeholders who would oppose that as well. Overall, I think we've reached a good policy document here with some changes that help with enforcement and fines that help with updated measurement levels around sound that give some better definitions and teeth to allow for our officers to enforce properly, and yes, we are creating one new thing as well, we are creating a buffer zone around medical facilities, churches, and schools. I believe that this will not solve all the problems; we won't ever do that, but we've gotten to a place where we know that there are issues. We know we get these complaints.

Thank you Mr. McCalman for giving the stats around those complaints, and I think when you add all those complaints that you mentioned; entertainment, medical facilities, schools, houses of worship we are looking at about 40% of all of the complaints. Then other things like domestic issues and things like that and there are a lot of those so, overall, I think we are targeting what is a good sizable chunk of where the complaints are coming from, that is what this policy has helped to design to fight against. We are giving CMPD an opportunity to enforce some rules, and we've for some fines to help deter people from breaking the ordinance. I appreciate it, and I'm sure there will be more questions, and I look forward to more dialogue, but I think we've gotten to a really good place.

Mr. Driggs said the hospitality industry, in conversations I've had, the people with the restaurants are making the noise, the people at the hotels, so are we straight with those guys?

Mr. Harlow said we are and I think this is where Taiwo and his team really comes in and Mr. Phipps I know you've got concerns about are we just kicking this problem two-years down the road but I think larger issues around building design and noise mitigation is as it relates to these places where we want entertainment, we want our City to be a City that is a destination; so, there has to be a reasonable expectation to noise, but I think a lot more of those conversations will be had in this Comp Plan and discussion around entertainment districts and entertainment zones.

Mayor Lyles said I've tried to keep a list so construction; I think Mr. Harlow is saying that is a check. I'm just looking to see if there are head nodding. Not everyone agrees with that, I don't know if there is something there. Hospitality, is that a check for the Council?

Mr. Harlow said I think it is a check in the sense of knowing there is more to do as we tackle the Comprehensive Plan.

Mr. Bokhari said you might want to validate a couple of these.

Mayor Lyles said I'm just trying to go through the list of what I've heard from everyone to make sure as we summarize it that we either know we are going forward or not. These are some of the major things and I think what you are suggesting Mr. Bokhari is that there be some further conversation to make sure everybody is comfortable with the construction and hospitality sectors. The change in chronic noise seemed to be something everyone agreed with, that statement at the end. Then I think I also heard the decibel levels that they reflect everyday speech and everyday life, and we are using that as noise. I don't know how to

resolve that, but I think Mr. Driggs was saying a lot of the decibel levels that we are talking about are everyday sounds or everyday sound noise levels. Is that what I heard you say Mr. Driggs?

Mr. Driggs said I'm saying that these are very low thresholds compared to ordinary sound.

Mayor Lyles said I'm understand the decibel level when it comes to trying to address Mr. Driggs' concern. Is that possible to address?

Mr. Harlow said could we have someone from the staff speak to the analysis we received from the sound technicians? We did engage some industry experts around this.

Mr. Sullivan said the primary input we got from the sound technicians had to do with the decibel scale that we are using; we are using the A scale as we alluded to which doesn't really capture base and switching to the C scale does that. In terms of the actual decibel levels that we are using in the ordinance, we are not proposing to change any of those except for switching from the A scale to the C scale. The decibel levels that we are using are the ones that have been in there for a number of years.

Mayor Lyles said I will ask it another way; we are having a conversation around this table; we've got some amplification; would the A scale be different from the C scale if you measured it at this place? I'm just trying to figure this out.

Mr. Sullivan said I think it would be different, because it is more the high frequency is what the A scale is capturing, so that is better from what we understand from our experts for capturing things like speech and sounds like that and it is more music that is better captured by the C scale.

Mr. Winston said what we have is the measurement device only captures one frequency of sound. For instance, that base that you hear coming down the block from that car that has 12's in the back basically, those sounds would not get picked up by the equipment that we use, because we are not measuring on that level. To get the full spectrum of sound, we have to measure sound on all of those different wave links. From what I actually heard, and I didn't necessarily agree with what Mr. Egleston and Mr. Harlow were pointing out about the chronic sound in that statement, because what I heard staff saying is that it allows again to trigger that mitigation plan, and it allows our staff, our Police Officers, our Code Enforcement Officers that have specific knowledge of certain areas to work with not just businesses but people that might be coming into, for instance Latrobe Drive or at the Epicenter that are able to enforce the standards as it relates to the makeup of the neighborhood that it exists in. I think pulling that out, from what I hear could be taking away a really important tool and kind of doing away with and stretching a solution out longer than it needs to be if we are able to kind of pre-empt as opposed to just being reactionary.

Mayor Lyles said now I'm confused, because I thought B covered all of that. The next section without it being that sentence in Section A and maybe I've just lost it. So, it comes out of Section A but then in B it says specifically that the Chief or designee can designate a business, construction site, commercial or industrial as a chronic noise. I think it was just the sentence in A but B included the detail of how it would work.

Mr. Egleston said I think the disagreement you have is he thinks in certain circumstances that you would leapfrog what would otherwise be a multi-step process of violation one, violation two, violation three, and then you can be chronic. Mr. Harlow and I are saying it should always have to go through that multi-step process. Mr. Winston is saying that in some certain circumstances it should not maybe have to.

Mayor Lyles said I haven't been in the Committee meetings so I'm reading it like –

Mr. Egleston said I don't know that B is necessarily what we are referencing so much as the multi-step violation process leading up to someone potentially being designated as a chronic noise producer.

Mayor Lyles said it says the Chief of Police or designee may designate a construction site, commercial or industrial business as a chronic noise producer; in making such a designation the Chief or designee shall take into considerations the following factors.

Mr. Egleston said right, and we are saying that number one in those following factors should have to be a specified process or set of steps that it is an arbitrary thing for someone to decide in one case that you go after the first violation or someone else after the third violation or someone else before there is a violation, but that it should be prescribed.

Mr. Bokhari said I think the concern is that on the other side of it is that this could become tool where almost like a [inaudible] type approach of well they are making noise and the zoning passed and here is another way where without any other violations they could say let's go after the fact that the do concrete pours or something like that without them having experienced a violation.

Mayor Lyles said I wanted to make sure I understood what you were saying and Mr. Winston doesn't agree with that.

Mr. Driggs said Mayor, if you are making a list of outstanding issues, I realize I may be alone here, but I would like to question whether or not this is a good faith effort to update our ordinance and not something that is aimed at the Latrobe Drive protestors to be included in the outstanding issues.

Mayor Lyles said how would you validate that question?

Mr. Driggs said I think it is a subject for Council to debate, and I may well get shot down, but I don't think it should be ignored as a question that was raised.

Ms. Mayfield said we've been debating this for five-years.

Mayor Lyles said I think that is a question, but I'm not quite sure how there is an answer.

Mr. Driggs said I thought you were going through saying what are the things we still need to think about.

Mayor Lyles said yeah, I agree with that. I'm just saying I don't think there is an answer.
Mr. Driggs said that to me is still something we need to think about.

Mr. Winston said I can tell you this was not simply for that; September 2016 and the days after that there was conversations about how CMDP is enforcing amplified sound ordinance on people that were protesting and being thrown to the ground for using mega phones. So, I know from personal experience these are questions that I and many of my constituents have had on many different levels and this is definitely not a single issue effort here.

Mr. Phipps said that was generally the basis of my question to try to see how the complaints spread out across the different entities to see if it was something that was uniformly substantive to several areas as opposed to just the one medical facility.

Ms. Eiselt said to the converse we are getting complaints from residents and others who feel as if the conversation has been very one sided and they didn't get the opportunity to express how they feel enough whether it be the construction industry, residents with regards to Ed's Tavern. I don't think those folks are very happy about this, and they don't want to wait two-years, and I don't think they are going to be considered an entertainment district to help houses around there so hearing one side and there's may be others that actually didn't feel there was more of an issue and this doesn't even go far enough to address. I also think the extend of the work that staff did; I just find it a bit maybe insulting to suggest they went to this work because it was a ruse for one issue.

Mr. Driggs said I think there is a well-documented history of concern about Latrobe Drive, and I think we can trace the origins of the conversation we are having right now to earlier discussions in which that was the sole topic, and I've been told by people that participated

in some of the community meetings that nothing else was talked about except Latrobe Drive, including representatives from the construction industry. So, I don't think it is completely farfetched to suggest that the impetus for this came from one particular place, and I just think that we really need to be honest about, not necessarily that [inaudible] if that is the will of Council, but I'm uncomfortable with the idea that we are wrapping around something that we've been struggling with for a couple of years. Let's separate it; let's talk about the quiet zone around medical facilities as a separate topic, because it so charged with a whole bunch of other political and social baggage and let's go ahead and pass all the other things.

Ms. Eiselt said why don't we go back to CMPD and ask them how this came about, because this came about under the last Council, and they are saying we need some help. So, this wasn't one issue that was brought up by Council; it was CMPD who brought it to us saying you need to update the Noise Ordinance, because it is not applicable in more than just one situation, and I believe it came from the entertainment district to begin with. We've been talking about Latrobe Drive for years, and the point is that CMPD came forward and said look we've got more issues than just Latrobe, and our Noise Ordinance doesn't address it. Just because everybody wants to talk about one issue doesn't mean that the others aren't valid and doesn't mean that we don't the right to address a Noise Ordinance that is outdated, and the bottom line is CMPD has to stand out on the street like this without enough teeth in an ordinance to actually enforce something. A lot of this, to your point, is already in the law and it is not being followed and CMPD is saying don't make us interpret it; put some meat onto this ordinance that has to do with today and now. When was this ordinance written in the first place, what year; do we have any idea?

Mayor Lyles said if I recall it was when the train brought in the wheat from out of town to the mill in Fourth Ward. That was a big deal down there.

Mr. Ratchford said I don't know when the original Noise Ordinance was actually written, but this current ordinance was last revised in 2011.

Councilmember Ajmera said I just wanted to mention a couple of points. I know we are having the conversation about how this is only to address one group; I remember several weeks ago I had met with several folks from the Hospitality Industry, and one of them had brought up the concern around the Noise Ordinance, especially around the concert. They had sent us an e-mail and Deputy City Manager had looked into this so some of their concerns were addressed, especially around the base of the sound and they were fully supportive of that. I just wanted to make sure that I shared that with you.

The other question I have is about the ATVs, there have been several e-mails that I have received about those six wheels ATVs and creating sounds in several residential neighborhoods. Does this ordinance have anything to do with that?

Mr. Sullivan said the proposed amendment doesn't have anything to do with motor vehicles aside from the general prohibition of unreasonable sound. There are some provisions already in the ordinance that deal with the use of motor vehicles to create improper sound such as prohibition against spinning tires and racing engines and doing that kind of thing. There is some language in the ordinance that may already be there that could address what you are talking about but this proposal wouldn't change any of that.

Ms. Ajmera said I know the latest request I had received was around certain noise that the vehicle was producing because of the alteration to the vehicle; so, would that apply here?

Mr. Sullivan said there is a prohibition that says you can't operate a vehicle where the noise control equipment has been removed; so, there is altered and maintained to create unreasonably loud and disturbing noise, so there are provisions already in there that if you modify your vehicle in such a way that it is creating unreasonably loud noise that you are in violation of the current language.

Mr. Harlow said Mr. Ratchford, if you could just briefly explain the construction engagement that we've had. There have been some suggestions that this is one sided, no other portions of the community were included, so could you speak to that for us?

Mr. Ratchford said actually on May 3rd, we did have an opportunity to meet with members of the development and general contract industry and the issues and concerns that they had with the ordinance you all have already discussed. It was the discussion about the noise mitigation plan, and I think those concerns have already been addressed. I'm sorry; the meeting with the development and general contract was on May 10th. On May 3rd, we met with the hotel industry downtown, and the only concern that they had was enforcement of the ordinance. They just want to make sure that whatever you all decide that someone is out to actually enforce the ordinance.

Mr. Harlow said I think with that, a good robust discussion and this was actually expected, not unexpected, but I do appreciate the staff's time for continuing the follow-up we've had. I think we have a fantastic proposal. If you have not read the whole thing yet and looking at the redline whether you are looking at the summary of going through the whole thing, this is much more dense than one issue. There is no doubt there. I think every District Rep for sure gets a bunch of e-mails from constituents talking about noise in some capacity whether it is the insect repellants, the lawn mowers or it is actual construction by the highway or it is uptown at a restaurant or something like that so, this does address some of those things. I think we are doing a good service to our constituents by tackling this. We are doing a good service to our Police Department who has asked us to give them a little more meat so we don't leave the interpretation up to officers on the scene and lastly, I think we've engaged a wholesome approach to different and various industries to get to this point. I'm sure there will be a little more discussion on the 24th, but I look forward to moving this policy through.

Mayor Lyles said are there any further discussion or comments; otherwise we will see this on the June 24th Council Agenda.

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Tree Canopy Goals

Councilmember Harlow, Neighborhood Development Committee Chairperson said this came from the original Environment Committee to the Neighborhood Development Committee around our 50 by 2050 slogan and goals. We had two discussions about the tree canopy goals at our April and May meetings and we believe that the recommendations brought to you tonight reflect a good path forward and maintain our commitment to environmental quality. We received information in a presentation from our City Arborist as well as staff from Engineering and Property Management. The proposal includes actually revising the slogan itself from 50 by 2050 to include some measurable outcomes that are what we are calling 50 Themed Goals, which will be more reflective of the unique needs in different place types that we are looking to address. We learned a lot of information from our Arborist, we are the City of Trees, we are doing a lot more than most American cities and have some ways to go to compete abroad, but over-all I think what you will be presented with tonight will be something that the Council is comfortable with moving forward as we start to try to be environmentally friendly, tree friendly, sustainable and continue being that City of Trees. Again, Deputy City Manager; if you could help introduce the staff that will be discussing this with us tonight.

Sabrina Joy-Hogg, Deputy City Manager said like the Noise Ordinance we also had a work team for the Tree Canopy Goal; it was populated with staff from Engineering and Property Management, of course our Arborist was there. We had Code Enforcement, we also had Planning there; we had Legal and we had Budget and Strategy and the City Manager's Office. Again, this team also worked I think legally we met at least once a week since the topic came to the Neighborhood Development Committee, and it is no less interesting than the Noise Ordinance. I have learned a lot about tree since that time so, between Mr. Harlow's presentation and mine, I'm not sure our Arborist has much else to say but we are going to bring him up anyway.

Tim Porter, City Arborist said thank you for another opportunity to talk about Charlotte's tree canopy with you and the overarching canopy goal the City and community have. This is a quick outline of the presentation this evening, just want to provide a little bit of extra context. The current goal 50 by 50 is dual natured on a high level of 50% canopy coverage

is one of those main focus areas that would include covering the City with 50% of it with tree canopy, leaves, twigs, any parts of the tree. The second nature of that goal would be a rallying cry to engage the neighborhood to increase awareness and value for the tree canopy. Historically, Charlotte has been a leader in urban forestry management and tree canopy management. One of the kind of standard assessment types is to kind of know where you are at as an urban tree canopy analysis. This is an analysis that is GIS based. It is top down, utilizes aerial imagery from airplanes or satellites in combination with Lidar Three-D imaging to produce a layer of coverage over a given area. So, what you see in this image is canopy coverage based on 2016 and some 2017 data utilizing Charlotte's 2018 City boundary and historically we've been a leader in this as well. We started doing canopy analysis in 2002, another one in 2008 and you can see the most recent two listed there. Historically, we have always fallen between the 46 percent and 47percent range. The margin of error for this latest analysis was very small, within one percent and for some extra context one percent of tree canopy in Charlotte currently equates to about 2,000 acres.

When thinking about a canopy goal, industry experts are currently looking at set of criteria before you here. Internally, staff also really values this set of criteria and we took an approach to look at 50 by 50 as it is currently organized to see how do we measure up for where we want to move forward. Is it attainable? It is unclear having a broad based with singular metric for an entire city such as the size of Charlotte. It is very challenging, and it is also not as telling as impactful as something that is more neighborhood scale, benefit driven. Is it sustainable? Most likely no. It is very hard to measure this with all the challenges Charlotte faces. The great growing economic boom it is going to be very hard to meet 50% canopy coverage. It is certainly inspirational, we know that 50 by 50 has resonated the tag-line that is second part of the dual nature. The bold and realistic tag-line has really been successful. Is it relevant and place specific? No, it is certainly not that; it is very broad and at the time in 2011 it was a leading approach, but at this point in time we think we can kind of get down in a smaller scale to be more impactful. We are not always qualitative focused; we do have a very broad metric again; 50% coverage is very quantitative. We think adding significant qualitative approaches to this would be very beneficial.

In researching this, the work team landed on three main options and is recommending the middle option in red to modify the existing goal to move away from a singular canopy coverage approach to keep the tag-line and focus on more attainable, qualitative but also quantitative strategies to really engage the neighborhood on a neighborhood scale and add some complimentary benefits driven and place specific strategies to move forward. Those specific buckets of benefits can be on a high level or broken out by providing shade, clean air, really targeting urban heat island situation which can have a really negative impact on the quality of life, looking to helping create safer neighborhoods, targeting character of Charlotte, property values and also the quality of life. It is a large bucket but it also includes things such as consideration for the systems in urban forestry such as wildlife, water, storm water. There is a real important focus in this recommendation to create more opportunities in that first bullet under quality of life to experience tree canopy and that is a real qualitative approach to create. This is modeled after a goal that Paris, France currently has to create 800 green spaces focused on tree canopy. We are looking to create 50; we are recommending 50, and these are specifically focused on tree canopy, not to say those are the only 50 that are going to be created out there and to add five canopies to the TCPP Conservation Program. This is not an exhaustive list; this is a list of the initial 50 themed strategies.

Taiwo Jaiyeoba, Planning Director said this is actually headed in the right direction. So, at the start of our Comprehensive Plan one of the things that we were going to do was to take a look at the number of plans and policies that the City and the County has. We looked at over 30 of those and one of them was the Urban Forestry Plan and for all of those plans we identified strength, things that we felt are well established today, things that we felt yeah, they are really great, but it can still be fixed. One of those things for the tree canopy was we wanted to make sure that the Comprehensive Plan explores the opportunity to expand the benefits of green infrastructure in the City. So, that is the approach we took; we added certain things in there, and so as we embark on the growth scenario we are now going into the second phase of our Comprehensive Plan where we are going to do scenario planning which really, the bottom line for scenario planning is that it informs us on how we can make

decisions for the future in terms of how do we want to grow. Do we want to grow along our transit corridors, do we want to grow along activity centers? For every growth strategy that we develop that will obviously be impacted on the environment, especially trees and the tree canopy. So, how do we make sure that we do this growth in a very equitable but also sustainable manner? So, we are embarking on that scenario development right now where we will be looking at the different place types and understanding exactly the impact of each one of these place types on tree canopy. The outcome obviously, is that when we come to you for the work session in October we would have arrived at what we call it preferred growth strategy where we've engaged the community, we've done a number of things, we've indicated where we think there is some community input where growth would mark those places. We will be able to identify exactly some of the things that Tim has said. If we grow by so much, what is the implication on our environment? We know that one of the things that we value and we've done this for five different world graphic that we've done right one, one of the things that we keep hearing all the time is Charlotte is a City of Trees. We also want to make sure that we move that conversation to what is greening of Charlotte as a City, because obviously it has very direct correlation with our environmental sustainability.

So, we come back to you in the near future, one of the things we will be showing you will be how some of this ways of measuring or at least how are we doing with our tree canopy how those are reflected in the ways we are growing and will be growing over the next 20-years, then when we get back to our Unified Development Ordinance we are looking at this in two different ways, the short time approach is what we are doing right now which is how can we make sure that we fix the Tree Ordinance that we have today in such a way that it does not become a burden on any particular group of people, but it also kind of allows us to still continue to save trees as we do and then the longer piece of it will be a part of the UDO which will happen after the Comprehensive Plan is adopted in terms of what kind of Charlotte to we want to be when it comes to how we related with our tree canopy.

Mr. Porter said I do want to add a few more comments; I believe this new goal really positions Charlotte to continue to be a leader nationally and globally as a tree canopy management, certainly in the municipal world. I think about other cities who have taken an approach; New York City comes to mind that focused really on a benefits driven engagement approach, million trees NYC where they had a goal to plant a million trees. Tucked in the background was a canopy coverage goal, continuing to focus on a singular canopy coverage goal I think predisposes communities to set themselves up for failure where we can really champion the benefits of trees in a different way. A challenging way but also obtainable by focusing on benefits and place specific. Taiwo mentioned some of those ways.

So, moving forward for next steps we suggest and recommend a modification of the current tree canopy goal and follow through and reform the Urban Forest Master Plan based on the efforts of the Charlotte Future 2040 Plan, the UDO and recommend Council consider a vote on June 24th.

Councilmember Eiselt said when a developer takes down a tree is it just one for one that they have to plant somewhere else?

Mr. Porter said it depends on a few things; it depends largely on if it is private property or if it is in the public right-of-way and if it is a type of development that is triggering the Charlotte Tree Ordinance and other ordinances that are managed by the Planning Department. If it is a City tree in the public right-of-way the City would seek mitigation. First, we would seek to protect it and find an alternate way to develop the site without impacting the tree. If there was no reasonable way to do that we would seek mitigation by either planting of additional trees to offset that loss or the developer to pay a mitigation fee to recoup the value of that City asset. On private property I'm sure there is a one for one requirement or strategy.

Ms. Eiselt said we have a zoning case that we are considering now and there is a beautiful huge tree that from a canopy standpoint probably covers a quarter of an acre.

Councilmember Driggs said it is 100-feet across.

Ms. Eiselt said if they take that down you are never going to get enough saplings to replace that canopy, and I don't know if that is something that we address it in our ordinance, if it is aspirational or if that is just an issue that we just don't think enough about.

Mr. Porter there are some incentives in the Tree Ordinance; they are not requirements. They are incentives for subdivision development. If there is a large character tree, to utilize a term, to provide incentive for a developer or customer to use that area with the larger canopy trees as their tree save. There is no specific protection level on private property trees for infill development or just in general. Atlanta has some level of that in comparison for certain types of trees, but we don't have anything in our ordinances to protect trees.

Ms. Eiselt said I'm not going anywhere with that. I'm not suggesting anything I just want to know how it really, sometimes we have our goals in different silos, and I just wondered how we think about it with our overall canopy goals.

Councilmember Ajmera said this has been an ongoing discussion for several months now. I was reading through this handout; if you go back to the new 50 theme initiative, so we plant at least 50% of quantity of street trees removed annually, so what is the percentage now?

Mr. Porter said it varies annually sometimes based on storm damage levels. We attain that at times right now, but two years ago we removed about 1,400 street trees, and our capacity to replant street trees is around the 600 to 800 quantity level, so it does vary based on some factors, aging canopy, storm damage. In a quieter year for storm damage, it will be a challenge, but I think it is attainable. We are currently looking at other strategies potentially planting smaller trees or partnering with communities in a coop approach to try to get more trees in the ground.

Ms. Ajmera said I understand that it could vary depending on some of the natural hurricanes that we have seen but what that would equal to in terms of percentage? I know currently we are targeting 50% of at least replanting those. If you were to translate that into percentage, what is it now?

Mr. Porter said I think it would range between- It is difficult to put a number on it, but I think it is probably in the 30% to 70% range. In my opinion if we come to a point where it is easily attainable then I would look to increase that goal by a factor of 50 as something to strive for. It is a struggle at times based on other factors in the environment that come into removing trees.

Ms. Ajmera said I like this whole 50 approach, because it goes well with the theme, but I also want to ensure that we are not doing less than what we did in previous years. I would like to see the comparison between what was done and what we are setting ourselves to and at the same time I want to make sure that we are setting the goals that are attainable, not just because it goes with the theme. The other question I have is the Tree Ordinance Academy, that is the first I've heard of it; is that for development community?

Mr. Porter said it is a new initiative; we intend to get something in this year to provide an engagement piece to educate the development industry, but also your general citizen. The development industry focus would not only include developers but industry groups such as HOAs, landscape, irrigation contractors, folks who are working on private property and public property managing vegetation. Then a second event geared at just engaging the community members, largely to provide a more awareness out there, but also in part to ensure that we are doing enough to inform folks as we move through ordinance enforcement violations scenarios and things like that.

Ms. Ajmera said I think that is great because once a tree is cut down or been taken out, it is very difficult to actually plant especially to Ms. Eiselt's point, if it covers quite a significant canopy. It is good that we are taking a proactive approach to educating folks about the ordinance. I also appreciate how we are doing more engagement events with Tree Charlotte, because they not only plant trees, but they are also educating and creating more awareness in the communities about Tree Charlotte and the value of trees. The last column that you have about 50 urban arboreta.

Mr. Porter said arboreta is an unusual term, but it is the plural of arboretum.

Ms. Ajmera said is that similar to the one that the Environment Committee had visited a few months ago?

Mr. Porter said yes, it is the exact same thing as that, but also looking at partnering with any public space that is created in maybe a capital project or another initiative. Also, I think we would explore any reasonable partnership opportunities with Economic Development both City and externally driven. These would-be spaces where the equality of the canopy on that site is very high tree diversity, but also the experience meaning it is something that a resident could walk into to experience tree canopy in a way that is not available. We want to look at an equitable way to implement this as well so it covers as much of the City as we can.

Ms. Ajmera said are there any efforts to collaborate with the County on this?

Mr. Porter said I think that is something we want to explore. Right now, we don't have anything set with the County, but given their Parks and Rec mandate that is something that would certainly make a lot of sense.

Ms. Ajmera said the last bullet point you have about adding five or more acres; what is it that we are currently doing under this program? I know this is going to vary based on the funds that come in from development community, but I would like to know what it is now and how we came up with that target.

Mr. Porter said it varies also based on the timing of real estate acquisition process and in some years, we may have significant amount in the fund, but the timing of acquisition may take many months and we may have zero acres, but the following year we could have 100 plus acres. So, right now I don't have an average. I'll have to do some analysis and come back and provide that.

Ms. Ajmera said if you could provide a timeline or what has happened in this program, I know it has been one of the very successful programs, and I know we have visited some of the sites during our Environment Committee meeting and that was very useful to see how this funding is being used to preserve our natural resources, especially around wildlife.

The last question I have around place specific coverage goals, and I really like how it is aligning with our UDO approach and overall visioning, but I would like to know what are some of the specific goals. I know that might still be underway but I think that would be important, because I don't feel removing the existing goals- I would like to know what would be the new goals.

Mr. Porter said we don't have any specific targets yet for any place types or neighborhood types, and that is something I think Taiwo can speak to on a larger scale than me.

Mr. Jaiyeoba said it is too early in the process to be very specific about that, but that is why we are in the second phase of our Comprehensive Plan as we begin to get the specificities in terms of what neighborhood place types would look like versus other place types as well.

Ms. Ajmera said what is your timeline around that along with the Tree Ordinance?

Mr. Jaiyeoba said the Comprehensive Plan is sometime around this time next year we will have an administrative draft of a Comprehensive Plan for review, but a final draft will be available for review by fall of next year, but ready for adoption until maybe a few months after that. You don't want us to put a stop to the Unified Development Ordinance; what we've done is we are looking at pieces of the Unified Development Ordinance. One of them you have already adopted as the TOD Ordinance, and now we are looking at the Tree Ordinance right now. We broke that into two. What can we do today rather than wait for the Comprehensive Plan in terms of how can achieve setting goals in our ordinance? Then after the Comprehensive Plan is done with community input and input from different stakeholders

we will come back again with overall UDO itself and then have a more robust review of our Tree Ordinance so that we are looking at it in two ways.

Ms. Ajmera said going back to the question Ms. Eiselt brought up earlier about the trees that have been removed, especially with CATS, I know there was an e-mail that was sent out with the summary of the media coverage, and it had a paragraph on CATS that the organization has identified 38 sites with more than 150 trees along the alignment for removal. I know there have been sites that 150 plus trees would have to be removed for some of the work that the department is doing; are there any efforts underway to address replanting of those trees?

Mr. Porter said yes, there is a new initiative; it is not mentioned on this slide, but it is an approach that is a tree canopy neutral approach for capital projects in the same vein as a carbon neutral approach that would seek to offset any canopy loss implemented by a capital project. The idea would be that if a project removed 30% tree canopy from its footprint, that would be offset within that project or some other way based on the timeline that is yet to be determined to essentially have a neutral canopy loss gain reality.

Ms. Ajmera said I'm sorry, I'm not following you.

Mr. Porter said we have some work to do develop the actual initiative, but the idea was that any capital project would have a canopy neutral outcome regarding tree canopy. Likely focused on a tree for tree approach.

Ms. Ajmera said that would also include CATS in this neutral target. Am I correct?

Mr. Porter said yes but we would have to navigate any type of constraints regarding right-of-way or any type of utility impact. We would certainly look to enforce that canopy neutral approach. I think it is a reality where trees may be planted to offset the loss within project footprint but also in other areas within the City.

Ms. Ajmera said I know we don't have a plan as of right now about what do we do with these 150 trees that will be taken out with the work that is underway. I would like to know is there some sort of plan to replant some of these trees, and some of these trees are mature trees. So, planting is great but we also have to make sure preservation is important, especially around the mature trees. I think the final point I will make here is that how we are aligning with the SEAP goals and how at the end of the day this is really to create sustainable place to meet some of our 2050 goals.

Councilmember Mayfield said on the same slide, I was just wondering when you come back, I'm just trying to see if we can an overlay for the provide 5,000 trees and 5,000 seedlings for neighborhood planting annually. I think we are tracking what neighborhoods have utilized the planting the most in order to tie into the community engagement so that we can target other communities so that we just don't have a concentration of certain neighborhoods that have figured out how to maneuver the process. It would be helpful if we could have a map overlay along the District map so we can have a better idea of who is utilizing it, and we can speak to our neighborhood leaders to try to encourage them to do it.

Mr. Porter said we have that data and we can provide a map, absolutely.

Mr. Driggs said I appreciate this work and I think it is an improvement over what we've been doing, so in that sense full speed ahead. A question I've been asked at rezonings and things like that is we take a tract of land that is like 90-acres, and it is just forest. It's got trees on it and it gets approved for a rezoning, and they clear cut the thing with a small tree save. Where exactly are the trees that replaced those trees going to arise and is it a reasonable replacement, and this is in line with a couple questions you've been asked about quality and the fact that we are planting new trees and the case to which Ms. Eiselt referred is this enormous 100-year old, 100-foot canopy, and there is actually another one on the site. I don't have the answer for one, when people ask me that. There is a 200-acre tract of land around Waverly that is also being targeted for development. So, where does the new growth

come from? Is it in the arboreta, or do we buy other tracts of land or is it just the planting in the public right-of-way. How do we replace those big losses?

Mr. Porter said it would depend on the development type; if it is single-family sub-division the replacement would be any type of street trees that were planted and any type of trees planted by citizens on their yard or a common open space. For coverage percentage approach, it likely would not be replaced on an even scale. If it were more of a commercial driven approach there may be trees in a parking lot, maybe trees in a common open space or internal trees placed elsewhere on the property based on ordinance requirements. It is 100% forest it is likely it won't be replaced on an equal level.

Mr. Driggs said right, I subjectively looking at the pace of development I feel like we are losing ground which may be inevitable, but I know when I moved here one of the reasons was I flew in and everything was green, and I thought whoa, this place looks beautiful.

Mayor Lyles said I want to follow-up on that Mr. Driggs; I think we all feel that way, but none of us have stepped up to say we are going to do anything differently and we are in a place where we are losing forest or significant acreage of cluster of trees and even with the tree planting that we have as a result of getting a tree save area, that forest isn't very big, and it is not going to create, so this creating the arboreta and adding more preservation I think that is on us. We all love the trees; everything I fly in it is just beautiful, but if we continue not to have either the replacement for one for one or change our sub-division ordinance or construction. I don't know what it is, which would not be an easy thing to do, because we know it is a lot easier to put a bulldozer and dump truck in a cleared path than try to maneuver around and save the trees that has the markings to be saved. It is just flat out about us and what we decide to do. I think this is one of our biggest challenges; if we all love this tree canopy so much we either have to step up and say we are going to do something differently, or we are going to get what we've got for the future generations that are coming. I feel it is a real loss and 5,000 trees and seedlings; you go to the Carolina Room at the Library and you see how they brought in the trees from Italy and other places with huge root balls, and they had to haul them in on trailers and things like that. We are not making anybody that. If we tried to make someone do it I believe there would be a little bit of an uprising, not on our streets, but perhaps in an office building somewhere close to Kenilworth Avenue. I think we've got a real challenge here of balance, plus you want more rooftops. It is one those dilemmas that I can't figure out how to meet every goal that we want, a beautiful tree canopy, places for people to live, I just can't figure it out. So, I think talking about it is great but I sometimes don't even want to talk about it, because I don't think we've got the ability to do anything more than this.

Mr. Porter said to add a little bit more context if I may Ma'am Mayor; our canopy coverage seems to be holding within that range I mentioned earlier but I can tell you that we do know that the types of canopy within that greater coverage are changing. We are having less larger tracts as you mentioned, larger patches of forest that are five plus acres. We are having many more individual trees and smaller patches, which is great, but the benefit level which we can measure may be dropping because those larger contiguous forest are really the workhorse of providing benefits, the clean air, the storm water mitigation, the carbon sequestration, so I think that is something that is also important to know.

Mayor Lyles said I'm generally very optimistic; Charlotte has a history of trying to do things with incentives and trying to do things well in partnership with others. I think we either have to start talking about new incentives or new partnerships, because regulatory reform or regulatory change just doesn't happen. I'm always worried; Taiwo, I would love to talk about this, but every time it is like the 2020 Plan, the 2030 Plan, the 2040 Plan. I may not be here. I definitely won't be here but it is a little bit scary to hear we won't get these policies of place making. Nobody is stopping and waiting on us to get to place making. They are making a place, so I'm going to stop, thank you for saying that Mr. Driggs.

Mr. Driggs said my point in fact was that if you just listen to this presentation, it sounds as if we are kind of on an even keel, and it sounds as if we can get to 50 by 50, and we would need some harder nose projections about what the outlook is in order to have a basis for a policy conversation, because you are right, if we have that conversation it is going to be a

tough one. We are going to have a lot of economic interest and job creation priorities that are compromised if we impose these restrictions, but we can't have the conversation without having a context and the context is that the alarm has sounded, look guys we are targeting 50 but we are going to be at 38 the way we are going and that brings me to my other question which is as we look at the plan that you have are we thinking about what resource commitments will be needed over time and if you talk about arboreta, for example, that cost money and the maintenance of those cost money. I think again, in order not to having an idle conversation we need to get our arms around some of the hard truths, what provision do we need to make in order to follow the timeline that you are contemplating with this plan? Then we can debate whether that commitment of resources in competition with the other things we are trying to do is the right level. I guess that is just an observation, and you don't need to respond, but you get the point.

Mr. Porter said absolutely.

Mayor Lyles said I think it would be worth thinking about. What would that data be, what would it look like? As much as we have for mapping in this community where are we seeing the greatest deforestation taking place and where are our saved areas and what would look like compared to these 20 and 50-year old trees as opposed the tree planting, which would take 50-years to get done. I think it is worth a conversation around what are those real numbers that we would be able to actually begin to think about that.

Mr. Harlow said Mr. Porter; I appreciate you being here and I remember in the Committee meeting you spoke to some of those kinds of projections if I remember correctly. Since part of why we are kind of trying to modify the standard concept of 50% tree canopy by 2050, you pretty much told us straight up that won't happen. I appreciated that candidness to say hey, we are probably more; I think you mentioned 41% in the slide if I remember that correctly.

Mr. Porter said that is correct. Based on the current land use prior to UDO and the future plan our consultant and the Master Plan suggested at full buildout by 2050 if that occurred 41% would be the maximum canopy coverage.

Mr. Harlow said I think there are some concrete data points that we know about similar to that but I do appreciate us trying to be a little more benefits based and place specific based. I know you have spoken about the greening of the City. I remember the Committee presentation where this was kind of wall mural of wall greenery or whatever it was and that is not a one to one replacement of trees, but maybe the similar benefits that having that greenery along public space still provides to the community. I don't think we will ever get to the one to one ratio; I think we are setting a good goal to say hey, let's replant at least 50% of quantity of street trees removed every year, but I would like us to make sure we know that is where the focus is that there are these alternative ways. I think the arboreta is a cool idea; I don't think any of the Committee members knew what that was until we heard about it, but that type of creative concepting is good. I think everyone in here, and I imagine future Councils will keep this as a priority and making sure that we like this idea of yes, people flying in and saying whoa. My brother lives in Houston, and he comes here, and he is like it is not flat, and we don't want to see land out 100 miles away so being able to have that, and I know the County is doing some things with Parks and whatnot, but I don't want us to think that we don't any future projection data points around this. I know you gave some good concrete examples in the Committee meeting so just wanted to make sure everyone knew that we had some projections around that topic.

Mayor Lyles said I think the question is if you have the projections, how do you have a conversation or policy debate around them? I think we get that part, and I don't know how to begin that or whether we choose to because as Mr. Driggs and I both said, it is a difficult conversation to have because we don't regulate; we usually incent, and I think that is really tough.

Councilmember Winston said some of the discussion we've had in Committee around this has been touched on obviously, but one of the things I think we should really focus on is not just trees but this idea of overall greening of the City using different types of plant life. We

know that this can happen. I think a bunch of us were in the City Vision Awards, not this year, but last year when Charlotte Center City Partners had a presentation about the types of greening around the world that different cities were doing. For instance, using vertical gardens on structure like above ground parking decks. I do think that this is something that we can look at from a plan standpoint in the Com Plan if we are really progressive and forward thinking like that but as we are building our own buildings we have a couple of big structures going up right now, a Police Station in District 2, and we have our own parking decks. How can we set the example for how we do things like this or rooftop gardens for instance?

Also looking at ways to get back the bio diversity that this area and this part of the country and what we benefit from as we've kind of become civilization marked my how green our lawn in, that takes away from that bio diversity. If we find ways to incentivize and not just incentivize but promote getting back to that bio diversity and the way different plants grow in different places I think we don't just simply focus on trees we will find many different creative paths to get to where we need to go. Ultimately that is what we want I think from an environmental standpoint we don't just want a color. We don't just want trees for a slogan; we want it for the overall health and wellbeing of the people and animals that call Charlotte home for the next 250-years. I think there are examples here and around the world of how we can do it in policy if we just continue to encourage staff to look beyond what we've been doing. I do think the 2040 Plan is going to be an important place to really focus those efforts.

Mayor Lyles said I would like to ask that we actually look at our 50% for 50 and if we are at 35 or 40 to actually have a plan to see what 50 looks like so that we can assess whether or not we want to have a policy debate about how to get there. I would like for you to come back to the Committee and do that.

Mr. Jaiyeoba said you will have an opportunity to get into that discussion as part of the Comprehensive Plan. Sometime early next year is when we are going to start the policy shaping and there will be a lot of these conversations that we are having right now, because a lot of things that we do really don't have basis and policy, just statements made by somebody and then regulations or ordinances were developed based on those statements and that is not the way cities of the future do business. We've got to have policies that are based out of our values and the things that we really embrace that are very aspirational. As we begin to talk about this phase of scenario development [inaudible] that will be when we start pulling out some of the policies that are really outdated or where they don't even exist because vision statements and policies are not necessarily the same. That will come before you, and we will be able to have a very robust discussion around that. I think a lot of what will go into that is what this team has put here and somehow this will find their way into those policies where we will be able to make some policy statements for you at that time.

Mayor Lyles said so, we can talk about this in early 2020.

Councilmember Phipps said to be clear we are going to be working in tandem concurrently; we are not going to way for the 2040 Plan, and we are still going to be doing things with the Tree Ordinance and tree canopy goals all along, right?

Mr. Jaiyeoba said there is a lot of this in the Comprehensive Plan; one of the great [inaudible] of that is the tree canopy, so we are going to be working together. There was a question about how we are working with the County; the County I believe released their RFP for the greenway master plan earlier this year, and we were able to help contribute to that scope of work but with the mindset that what is reflected in there is consistent with what we are doing in our Comprehensive Plan. The beauty of that is that our Comprehensive Plan is several months ahead of that so when we have our own policy development it will fit into that. That is the same way we are dealing with every internal policy document that we have within the City as well to make sure they are concurrently working with each other.

Councilmember Bokhari said Taiwo, you hit well earlier of this is a lot of good in my own words of marketing and outward facing language that has to be backed up by policy at some point. When we get to that policy point I hope everyone there on your side and the staff's side recognizes that by adopting this when we do that doesn't necessarily mean we adopt

these 50 metrics that take place of the 50%, because that is where the real hard discussions are going to come, and I think that is where we really have to be presented with something that shows us on one side we are one of the best cities in the world with our tree canopy and then on the other side we are one of the most challenged with things like affordable housing, and these things absolutely correlate.

We have to make tough decisions on how much are we sacrificing in one area or another and maybe being the best in one place isn't necessarily the only answer when these things are inner related. I'm not making any prejudice on what those things are, but I think a world today where I've said it multiple times we have ordinances that are in absolute contradiction with one another and we have yet to have the will or the reason or whatever to go and actually make a call to say walking and sidewalks beat trees or vice versa. I think we have our work cut out for us.

Mayor Lyles said I think that is the last of this conversation. Mr. Porter, I don't know what you got out of this, but I'm sure you got something.

Mr. Porter said I appreciate an opportunity to come before you.

Mr. Harlow said just to understand the charge Mayor, what is it that you are wanting us to look at?

Mayor Lyles said I think what Taiwo wants us to do is let this sit until the beginning of the new year where he can point out where place making policies need to exist with Mr. Porter's help that would actually look like more what are our choices? I think that is what we are asking, but that is going to be a while.

Mr. Harlow said so, it is not coming back to the Committee.

Mayor Lyles said this actual policy is being asked for as one step going forward, so I'm not saying bring this back. What I meant was the bigger picture question won't be until next year; we ought to be doing this now. I think everybody is okay with that.

Ms. Ajmera said answers to some of the questions that I asked earlier, would that be in the follow-up report?

Ms. Joy-Hogg said yes.

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Committee Referral Updates: Clerk Evaluation, MSD and Public Forum

Councilmember Phipps, Budget and Effectiveness Committee Chairperson said I have some things I need to hand out about what's been referred. We've got two referrals to the Budget and Effectiveness Committee, and I would like to thank my Committee members. We've got two referrals, one of which we need to come up with an evaluation plan or process for the City Clerk. As you are probably aware, we are supposed to be responsible for the evaluation of three City employees: the City Manager, the City Attorney and the City Clerk, but for some reason we used to do the City Clerk's evaluation, but that stopped a while back, but we want to reconstitute it and one of these handouts is the process to which we want to try to go through that. It might come that we would probably adopt some of what we had before prior to around 2004 when we used to do it, but we want to come up with a plan that is similar to what we did with the City Manager. That is going to be something that we are going to be doing in the Budget and Effectiveness Committee.

The second referral has to do with the MSD; we are going to evaluate whether or not should that be some formal criteria to which MSD request a rate increases in the millage, should there be parameters around how they communicate and get support and input from the members of their respective MSD. That is something that we want to bring to the Committee to vet and discuss to see if we need a more formal process around that because this past time we did have an instance where MSD in University City and the MSD in the Center City decided that they did not want to go revenue neutral and they wanted to increase their

millage rate. I guess they wanted to basically keep it at the same levels, so we want to make sure we have a process or determine if there is a need to have a formal process to make sure that the support surrounding such an increase is adequately disbursed throughout the memberships in their MSD population. That is something that is also going to be in referral to the Budget and Effectiveness Committee and that is going to be by September 30th, and the other one we talked about dealing with the City Clerk is August 26th, so we are going to be working really hard on those things.

Mr. Phipps said we did discuss at our last meeting of the Committee which was in April of 2017, we did have a discussion on whether or not we would adopt a public forum residency requirement. We took a look at that and the bottom line was through consultations with our City Attorney; he explained to us that the statute does not explicitly authorize the City to impose such a residency requirement but it does allow cities to impose reasonable rules and he thought it would be defensible but he also pointed to some court rulings, particular *Roe vs the City of Coco, Florida* that was the 11th Circuit, they upheld such a practice, but we are in the 4th Circuit here in Charlotte and we haven't seen any evidence where they really looked at it and taken a position on it so we don't know what kind of legality if we did decide to adopt it that it would be effective.

We also discussed in addition to the residency requirement, the idea of whether or not giving Charlotte residents priority over non-residents. We debated that with much fan fair also and basically felt that it was important that the City hear from non-residents as well because speakers could be business owners, contractors, utility customers, employees or other elected representatives who do not live in Charlotte, plus we have other kind of agreements. We have jurisdictional type of agreements with other localities that may give rise to an opportunity that they might want to partake of speaking before the City. The bottom line is we decided after substantial discussion on a two to one vote that the Committee recommended to not impose a residency requirement for the Public Forum speakers at this time.

Mayor Lyles said so, that was the Committee's recommendation, right?

Mr. Phipps said that was the Committee's recommendation.

Councilmember Mitchell said City Attorney, thank you from a legal perspective. I think my whole goal was to make sure that we hear from our citizens and more and more as we struggle how to hear from folks, I don't think we were doing it the most effective way and every time we had a waiting list, I was frustrated that we had people who were not members of the City of Charlotte whether they live here or work here speaking, and we had some of our residents who we need to be held accountable to could not speak. I was looking for a way to make sure they could be heard first, but I think your legal representation is very good and the fact that the Committee thought about elected officials who might not live, but wanted to speak, I think is an excellent point. So, as much I was hoping we could get something else, Committee you did a great job.

Councilmember Harlow said I was just curious what was the one dissenting vote, but I understand, and I agree with the Committee's recommendation and not changing anything.

Mayor Lyles said hearing that I don't think we have to take any action by Council. We acknowledge the Committee report. Is there any action coming out of the Committee for the month of June? We have June 10th budget adoption will be on the agenda and then we usually meet in June, and I guess we will have a lot of zoning decisions coming up in June. We will meet in July and then we will have our August recess.

Mr. Mitchell said I do have one action item for all of us on June 19th at 6:00 p.m. we are having our Eastland Public Community Meeting, and I think it would be great if as many of us could [inaudible] at Calvary Church of the Nazarene, 4000 North Sharon Amity Road at 6:00 p.m.

Mr. Harlow said likely at our next Strategy Session we will be discussing minimal Housing Code. If the Committee votes it out this month, we've got our meeting June 19 and we had

one prior meeting about the minimum Housing Code Ordinance, and you guys got an e-mail from me early this morning talking about some community engagement sessions that will be discussing those revisions.

There has been two already, two more coming up tomorrow and on Thursday, so tomorrow at Eastern Hills Baptist Church on Albemarle Road and also on Thursday at the Camino Community Center discussing some of those changes to minimum housing code. We will take up that as an action item in the Neighborhood and Development Committee meeting in a couple of weeks.

Mayor Lyles said tomorrow we have an affordable housing announcement. I think all of you got an invitation to that. It is at the Foundation at 9:00 a.m. to 10:00 a.m.

ADJOURNMENT

Motion was made by Councilmember Mitchell, seconded by Councilmember Mayfield, and carried unanimously to adjourn the meeting.

The meeting was adjourned at 7:42 p.m.



Emily A. Kunze, Deputy City Clerk, NCCMC

Length of Meeting: 2 Hours, 36 Minutes
Minutes Completed: July 15, 2019