

City Council Questions

October 11, 2022 Council Meeting

ITEM 6.1 Firearm Safety Legislation

1. Where does the County stand on each of these items? How would we work to get these adopted by the County?

It is unclear where the County stands on each of these items, but the County did just take recent action supporting gun safety. The County Board of Supervisors were presented with a [Cost of Gun Violence in Santa Clara County](#) report at their meeting on August 30th, 2022. The report highlights several recommendations and approaches related to stemming gun violence. Last week, the Board of Supervisors approved the creation of a countywide Gun Task Force to focus on gun related crime and preventing individuals who are prohibited from possessing firearms from having them. The Gun Task Force would combine resources from Alcohol, Tobacco, and Firearms (ATF), local police departments, and the District Attorney's Office. The County will provide partial reimbursements to participating agencies and the ATF would cover overtime costs. PD has not yet evaluated participation in this potential task force and would need to weigh participation with ongoing resource and staffing constraints.

2. What are the statistics for incidents including gun violence locally?

In the first quarter of 2022, there were 8-gun related calls for service. Of these 8 cases, 2 were actual crimes (robberies) where a gun was used. One case involved a neighboring jurisdiction which served a search warrant and recovered some guns, including a ghost gun. The rest involved threats of a gun to a victim or police dispatcher but none were actually used or seen. Gun related cases in 2021 are summarized in the attached infographic.

3. Are the local schools getting threats of active shooters?

PD has responded to a few this past year but all of them were "swatting" incidents. In these cases, callers use the internet to anonymize their information and make threats against a location to create a large response by law enforcement. MVPD aggressively investigates these cases and identified a local student responsible for the majority of these calls. On occasion, school staff will contact PD with concerns about students or vague threats. In these cases, MVPD's threat assessment team evaluates the threat and works with School Resource Officers and school administrative staff to contact the student(s) and work with their parents to provide appropriate counseling and resources.

4. If there is a law in California requiring guns to be safely stored in vehicles, why did Mountain View pass a similar law? How are the laws different? When did California pass the state law?

Council directed staff to bring forward a safe storage ordinance during its Strategic Roadmap Action Plan for Fiscal Years 2021-23 in June of 2021. California law does not have a universal requirement for safe storage of firearms in vehicles. Penal Code section 25140, which went into effect in 2017, generally requires all persons to securely store handguns when leaving them in unattended vehicles, requiring handguns to be secured either in a locked trunk, in a locked container that is placed out of plain view or permanently affixed to the vehicle's interior, or in a locked utility box that is permanently affixed to the bed of a pickup truck or other vehicle that does not have a trunk. However, there is no such requirement for long guns, such as shotguns and rifles. The City's ordinance, which was adopted on March 8, 2022,

applies to all firearms, not just handguns. The City’s ordinance also required additional elements of security, including a locked container within the trunk of a vehicle or an affixed locked container inside a vehicle.

5. Just to be clear – none of the nearby cities have the current six regulations that Mountain View has as listed on pages 5 and 6 of the staff report, correct?

The following table provides information as to which nearby cities have the City’s current six regulations:

	Sunnyvale	Palo Alto	Los Gatos	San Jose	Campbell	Morgan Hill	Mountain View
Possession on City Property		X		X		X	X
Safe Storage	X	X		X		X	X
Building Code							X
Discharge of Firearms		X	X	X	X	X	X
Possession/Discharge in City parks		X	X	X	X	X	X
Zoning Regulation of Shooting Clubs							X

6. What projects/work would staff have to delay in order to do Option 1? What about Option 2? What about both Options?

Both options require significant staff work including drafting and amending of ordinances, and also require additional legal analysis and investigation. For Option #1, this would include where the City can expand the prohibition of possession of firearms, and for Option #2 this would include the length of amortization periods for existing firearm dealers. Staff needs more time to assess what projects would have to be delayed, and any new projects would need to be assessed within the context of the Council workplan in February 2023. Much of the CAO workload is controlled by issues that arise quickly, including litigation matters, court deadlines, and State laws.

7. What are the workload requirements of each of these four measures?

Please see the answer to the previous question. Both options require significant staff work, including drafting and amending of ordinances, and also require additional legal analysis and investigation. For Option #1, additional legal analysis and investigation would be required regarding where the City can expand the prohibition of possession of firearms. For Option #2 a licensing framework would need to be established, including the formation of applications and resources to process applications. In addition, additional legal analysis would be needed to determine an appropriate length for amortization periods for existing firearm dealers if Council directs staff to not grandfather them in. It may also be required to go to EPC prior to Council if amendment of the Zoning code is necessary.

8. The staff report indicates that Option 2 requires amendments to the zoning code, requiring EPC and Council review. Can staff provide more information about resource and staff capacity impacts should Council proceed with this option, including any CEQA/environmental clearance that may be necessary?

An amendment to the zoning code would be required if Council directs staff to prohibit firearm sales as a home occupation, specifically Section 36.28.90, which lists prohibited home occupation uses. This would require EPC and Council review, and staff would present the ordinance to EPC for their recommendation prior to bringing it to Council. This would have minimal resource and staff capacity impacts. The consideration of firearm safety ordinances falls under the General Rule or Common Sense CEQA Exemption (CEQA Guidelines Section 15061(b)(3)), so no additional CEQA/environmental clearance would be necessary.

9. The staff report says that typically, the length of time to be provided for amortization should be commensurate with providing the property owner a reasonable opportunity to recoup their investment. What does recouping one's investment entail in a case like these?

Staff will need to analyze what level of investment the firearm dealers have made to conduct their businesses. For example, total cost of property and improvements and the cost of relocation would be taken into account, if applicable. There is no set formula, however, so staff will need to analyze this specifically to the existing businesses.

ITEM 7.1 Public Hearing on Downtown Business Improvement Areas

1. Vacant storefronts in the downtown are causing blight. Can we use BIA fees as a deterrent to having so many vacancies? Can we charge more for storefronts that are empty? Even more for storefronts that have been vacant for more than 6 months? Require owners in the BIA area to put up attractive displays in the windows if they don't rent them out?

Business Improvement Area (BIA) assessments are levied on classifications of businesses within the BIA based upon the amount of estimated benefit they receive from the BIA. Similarly, the improvements and activities funded by the BIA assessment must benefit the businesses within the BIA.

The recommended basis for assessments, and improvements and activities for their use, are consistent with prior years. If Council were interested in exploring options for an alternative basis for levying the assessments and additional improvements and activities for use of the funds, staff could evaluate whether the BIA could be modified accordingly. Such modifications would require compliance with additional procedural requirements, including revisions to the annual report and resolution of intention to levy the assessments, as well as adoption of a City ordinance.

In order to levy the assessments in a timely manner for the upcoming calendar year, should Council wish to explore these modifications to the assessments, staff would suggest this occur during evaluation of the following year assessments. This would provide staff time to evaluate potential changes. In addition, a vacancy storefront program, which is being evaluated as part of the Economic Vitality Strategy (and discussed in question 2 below) may also serve as a mechanism to help address these concerns.

Regarding window display requirements, the City Code requires that buildings under construction must provide shielding of the windows typically with plastic or paper. In addition, the City's sign code does not allow for more than 25% window coverage. Currently there is no City Code provision specific to vacant store front windows. The Mountain View Chamber of Commerce along with the Downtown Association and TheatreWorks piloted an active storefront display program for vacant storefronts. The work required extensive outreach to property owners and only one owner was willing to participate in the active storefront window display. The often-cited reason for not participating was concern about liability. A vacancy storefront program is being evaluated as part of the Economic Vitality Strategy (as discussed in question 2 below), which could consider inclusion of window display regulations.

2. Where are vacancy taxes in force? If we adopted one, would it need to be approved by the voters?

City of San Jose, City of La Miranda, and City of San Francisco have a vacant storefront program. Such programs require vacant storefronts to register with the city, obtain periodic building, and pay a fee. Vacancy program regulations have also addressed security, maintenance, and upkeep requirements for the vacant storefront. In addition, some cities have a vacancy tax (including for example City of San Francisco and Oakland). As part of developing the Economic Vitality Strategy, the City's consultant Community Attributes will be evaluating a commercial vacancy program for the City. As part of this process, and depending on the requirements of the program, staff will evaluate whether any such recommended program would include payment of a fee or imposition of a tax. Under State law, a tax would require a vote of the electorate.

ITEM 7.2 Castro Street Pedestrian Mall-Variou Actions

1. Who serves on the Ad Hoc Pedestrian Mall Committee?

The Ad Hoc Committee members are Councilmember Sally Lieber (chair), Vice Mayor Alison Hicks and Councilmember Lisa Matichak.

2. Table 2 in the Initial Study Traffic Analysis shows a reduction in bike ridership. My observation was that biking and walking generally went up during COVID. Please explain.

The data presented in Table 2, Attachment A of the Initial Study, represents comparison of pedestrian, bicycle and vehicle volumes from 2019 to 2022. These are the actual count data (also shown in the Appendix of Attachment A). While the walking and biking volumes may have generally gone up for areawide numbers, there are fluctuations at individual corridor levels.

3. What is being considered to improve the California/Castro roundabout?

The configuration of the California/Castro intersection with a landscaped circle and signals is not a true roundabout and did not function as a roundabout prior to COVID. With the current Castro Street closure to vehicular traffic north of California, the intersection of Castro/California operates as a three-legged intersection with the flashing red lights serving as a stop control on each approach. The proposed improvement at this location is to convert the intersection into an actual roundabout. Specifically, it would be a single-lane roundabout with pedestrian and bicycle accommodations, signals removed, and appropriate signage for all movements. It will take around two to three years to design and construct the new roundabout configuration. In the short term, the traffic signal will be reactivated with a change in the signal phasing to remove the vehicle left-turning conflicts from California with pedestrians.

4. Were VTA's comments about the bus routes incorporated into the final version of the IA?

As indicated in the Council memo, the City has been engaging with VTA over the past two years on VTA bus rerouting through the Downtown area with the Castro Street closure to vehicular traffic. Staff determined that VTA's comments on the Initial Study/Negative Declaration are editorial in nature and do not change the findings of the Negative Declaration. Staff will continue to coordinate with VTA on intersection design to ensure bus circulation (turning radii, etc) is taken into consideration.

5. Please explain again why the tents on Castro Street had to be removed.

The City of Mountain View temporarily closed a portion of Castro Street to allow businesses to utilize the street beyond the original space identified under the Sidewalk Café Program. At the peak of when local emergency health orders did not allow for any indoor dining, the City allowed the use of tents through the Castro StrEATs pilot program. The pilot helped support local restaurants during economically challenging times. By summer 2022, all restrictions on in-door dining had been lifted. In July 2022 the City began to verbally communicate with businesses that tents were no longer going to be allowed for three primary reasons: compliance with a fire permit for materials such as a tent structure; improve the City's ability to maintain the public space (clean the street, gutters, trim trees); and allow the installation of new string lighting to traverse Castro Street. On August 2, businesses within the 100, 200 and 300 blocks of Castro Street that had outdoor tents were officially notified to remove the tents as they were no longer permitted under the Castro StrEATs pilot program effective August 15, 2022. Although tents are no longer be permitted, restaurants are able to put up umbrellas that can provide shade for patrons.

6. Will there be both interim and then later permanent repaving of the street?

Staff is planning to repave Castro Street in spring 2023 for the interim pedestrian mall to remove all street markings and allow for new pavement markings designed for the interim mall. For the permanent pedestrian mall, it is expected that the full street and sidewalks would be reconstructed with all new surfaces at one level.



GUN TRENDS 2021



MOST FREQUENT CLASS TYPES INVOLVING GUNS:

- #1: Armed Robbery (5 cases)
- #2: Infliction of Corporal Injury (5 cases)
- #3: Concealed Weapons Violation (4 cases)
- #4: Brandishing a Weapon (4 cases)
- #5: Suspicious Circumstance (3 cases)

RECOVERIES

Guns were recovered in 49% of all cases in which they were involved; an increase from 2020 when guns were recovered 46% of the time.



GHOST GUNS

Ghost guns (privately made firearms that lack commercial serial numbers) were involved in five of our forty-one gun-related cases in 2021. In 2020, ghost guns were involved in three of the thirty-four gun-related cases.

SHOOTINGS

Nine of the forty-one gun-related cases in 2021 involved an actual shooting. Of these, four injuries and zero deaths occurred.

Three of the thirty-four gun-related cases in 2020 involved an actual shooting. Of these, zero injuries and one death occurred. The death involved a suicide by firearm.



LOOKING FORWARD

Gun cases increased by 17% from 2020 to 2021. This is in line with a trend upwards across the Bay Area of guns on our streets. MVPD continues to work diligently to solve these cases, and we remain committed to keeping our community safe.

Clearance Rates:

In 2021, MVPD closed 61% of all cases involving guns. 27% of cases involving guns are still under active investigations. The remaining 12% of cases were suspended due to lack of evidence.

In 2020, 68% of gun cases were closed and 21% of 2020 gun cases are still under active investigation. 11% were suspended due to lack of evidence.

QUESTIONS?

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