

Neighborhoods Commission, Nov. 12, 2014

>>informal<< notes by L. Ames, with personal observations [in square brackets]

>> made for informational use by D6NLG: you're welcome to adapt & customize as desired.

Additions/corrections are most welcome!

Agenda online at >[link](#)<

Very full agenda, very full audience (standing room only!), and >six< local station TV cameras(!)

Three big issues: Police surveillance, AirBnB's, and BART.

Police Surveillance:

Four topics:

- 1: registration of privately-owned cameras -- already approved by Council
- 2: stationary hot-spots: City-owned cameras at parks, etc., to monitor graffiti: in process of being explored by City; they'll report back as plans develop. Q: how many locations? A: ?
- 3: body-worn cameras: in discussion w/ Police Union
- 4: Unmanned Aerial System (UAS) -- "drones".

Discussion was entirely on 4th topic: Drones.

Presentation by Dep'ty Chief Dave Hober (see >[charts](#)<)

- * drone has been bought, but not yet flown. Hober admits not handled correctly politically -- should have discussed publicly and established rules before buying.
- * bought for the bomb-disposal unit.
 - * Dept. now use a robot to examine suspicious devices, but robots are constrained as to where they can go (e.g., stairs). SJPD thought of the drone as an aerial robot.
 - * useful to check perimeter when they "disrupt in place" (explode bomb rather than disarming: but need to make sure no one is nearby)

Drone bought in Jan 2014. Not yet used.

- * awaiting community approval, + city attorney to approve policy (yet to be written).
- * Century NEO 660 Hex-rotor, \$6,965, ~1.5 lb, ~30" across, equipped w/ GoPro model G3 camera. [Not much more than a toy, but still can be useful...]
 - * battery-operated, 15-20 min max flight
 - * w/ manual radio control

Issues:

- * needs to comply w/ FAA:
 - * max height: 400 ft.
 - * line-of-sight
 - * not near airports
 - * not over large crowds (in case of crash)
 - * Fed rules not yet written; they're granting waivers -- "Certificates of Authorization" (COA)
 - * SJ does not yet have COA

- * needs to comply w/ State and Fed rules.
 - * but State hasn't adopted rules yet.
 - * 4th Amendment concerns about unwarranted search-and-seizure

Planned usage:

- * bombs
- * tactical: hostage; active shooter
- * search & rescue?
- * natural disaster? -- fly up to inspect damage to roofs, etc.

SJPD asked three questions of us:

- 1: Is it appropriate for SJ to have drones?
- 2: what are the policies for its (their?) use
- 3: when can SJPD get community feedback?

Nghbrhd Cmsn questions:

Q: used by other agencies? A: some: only LA in Calif, but also elsewhere

Q: need training? A: yes

Q: audit its use: is video public (so we can see how it's used (A: no)) or private (used as evidence)

LLA questions & comments:

* I'm worried about "mission creep": bombs is fine; disasters -- okay; what about following a fleeing suspect? Who sees the video? -- will, for example, Code Enforcement be able to watch (then or later) and learn of unpermitted room-additions while police follow suspects?

* are Command-and-Control signals encrypted? A: no. But that means hackers could hijack the drone.

* is downlink video encrypted? A: no. But then Police scanners can intercept signal: bad guys can see where drone is searching and take action to avoid.

* can drone be used indoors (e.g., in auditorium)? A:?

* can camera view body-heat in dark using IR? A: no, only visible.

* Q: nice to say drone has only 15 min flight and lo-res visible camera, but technology is improving: need to establish boundaries now.

* on recent trip to Minnesota, I was [followed by a drone](#). 'Twas unnerving.

* What are rules for surveillance from helicopters? Can they be adapted for drones?

SJPD wants to collect public input & comment. ACLU has weighed in, is okay w/ some use.

Various minority and interest-groups w/ concerns.

Collect and fold in community input, develop draft policy, have trial pilot program w/ review after a year?

Public Comment:

* Bob Sippel: supportive

* Marta Rodriguez: Q: how many drones? Suggests sharing video w/ public to assure privacy is being respected. A: no: likely to be kept for evidence.

- * Sameena Usman: Q: what was source of funds? A: general budget; not reimbursable from Fed. Govt. Also: concern that drones will be used to track & follow Muslims & other groups.
- * Charlotte Casey, SJ Peace & Justice. Not appropriate for SJ; don't want militarization of police. She presented to SJPD a copy of 1,600-signature petition against drones.
- * Joycee Benavides: a (private) drone almost crashed into VTA bus; public doesn't want to be spied upon; unofficial drones already looking into girls bedrooms; folks will try to shoot or knock down the drones
- * Mike Favela: Q: how many bombs or hostage situations in SJ? A: averaging 3-5 responses per 2-wk period. Drones would have been helpful in a couple of those situations.

What's next? SJPD would like broader public comment.

- * Is one mtg enough, or should it be in every Council district, or in the four corners? A: try 1, see if need more...
- * Are we at NC ready to give input now, or should we wait for SJPD to present draft policies for discussion?
- * SJPD would like a public mtg before year's end, and NC Staff has reserved mtg room for date/time.

Motion: NC host a Public Forum on Drone Policy, Sat., Dec. 6th, 10 AM - noon, at SJ City Hall, rm 118 (West Wing). [validated parking in underground garage -- enter from 6th St.]

Discussion: some want to wait until draft policies are available next year, others want to accommodate the SJPD. Vote 8 - 7 to host Dec. 6th mtg.

>> look forward to invite to Dec. 6th mtg at City Hall

Short Term Rental Zoning Ordinance

Sal Alvarez, Jenny Nusbaum -- SJ Planning. (see >[charts](#)<)

- * Proposing a draft ordinance for renting out of rooms or houses for 30 days or less
 - * technically it's currently illegal, but happens anyway: Bed-and-breakfasts (B&B), AirBnB, etc.
- Goal: collect the 10% Transient Occupancy Tax (TOT, aka "Hotel Tax")
 Want to "level the playing field"
 Currently 269 AirBnB hosts in SJ.
 Want to assure minimal impact on neighbors.
 Plans to go to Planning Cmsn Nov. 19; to SJ Council Dec. 9.

Proposal:

- * Don't need permits for B&Bs, etc.; do need written notification of neighbors (so they know who to complain to if there are issues).
- * applies to short-term (<30 days).
- * will coordinate w/ hosting agencies (e.g., AirBnB.com) for collection of tax: don't want to impede w/ cumbersome req's or processes.

Public comments:

- * Sarah McDermott: from Hotel Union, worried about low cost competition to union jobs
- * Charisse Ma Lebron: impact on hotels and on affordable housing.
- * Rebecca Morgan: in favor: good experience, folks see more than hotels & downtown; good for local businesses.

* Steve Landau: take time to do policy right. See notes from Public Mtg Oct. 30. Different rules for “urban” and “suburban”.

>> Staff to forward notes to Cmsnrs.

* Nancie Yomtom: make sure they pay their 10% tax. Q: liability?

* Antonina: --(?)

Q: any benefits from paying tax? A: become legal.

Jenny Nusbaum: rentings are now technically illegal, but it do exist: want to Legitimize, Regulate, and Tax.

[Disclaimers:

* when my wife and I travel, we frequently stay at B&Bs -- it’s a great way to see the “real” town and not the sterile strip-malls and touristy downtowns. We’ve had many great experiences.

* my eldest son & his wife run an AirBnB in Oakland. Young couple; rents help pay the mortgage. Oakland seems happy just to have law-abiding citizens wanting to visit.]

Info only: No action was requested or taken.

Alum Rock BART Station

[My last-minute addition to an already full agenda.] (see >[charts](#)<)

* VTA has long planned for SJ stations at Alum Rock, Downtown, Diridon, and Santa Clara.

* East-side residents have embraced BART plans and have designed “Five Wounds” Urban Villages about it.

* Recently, VTA Staff decided on their own to eliminate the Alum Rock and Santa Clara Stations in their submission to Fed. Govt. And if they do eventually have an Alum Rock Station, it’d be at 23rd St. rather than the originally planned 28th St.

Public comment by Davide Vieira, Korey Richardson, Carlos DaSilva, Charisse MaLebron, and David Zisser in support of retaining Alum Rock Station as originally planned.

* VTA is “slighting” East San Jose yet again

* Title VI concerns

* lack of due diligence

Ann Grabowski, staff to Council Liaison Don Rocha, points out that Nghbrhds Cmsn can write to SJ Councilmembers, but not to VTA Board (which has both some SJ Councilmembers and others).

Discussion: we Cmsnrs don’t approve of how VTA handled the matter, but feel we don’t know enough about details to weigh in on 28 vs 23rd St. location.

Motion: LLA, Juan Estrada (D5), Desiree Barragan (D3), plus public Davide Vieira and Charisse MaLebron, will draft Letter to Council regarding the process that VTA Staff used to change long-standing plans. Letter will address Process on how VTA Staff can make decisions w/ or w/o Board oversight, and on the need for Public Engagement; won’t discuss merits of the various alternative plans.

Motion passes unanimously. Ad hoc cmte will draft letter, Staff (Ernest) will distribute to NC for comment, and Chair is authorized to sign and submit letter to Council on behalf of NC.

Staff Report

- * NC's Work Plan (see p.4 of >[LLA Sept. notes](#)<) to go to SJ Council Rules Cmte in Dec.
- * No NC mtg in Dec.
- * the Dec. 6th mtg on Drones is not an official NC mtg: Cmsnr attendance is not required.

Goodbye to staff liaison Ann Grabowski, who is moving to Seattle.
Adjourned at ~9:30 -- it was a (very!) long (and productive!) meeting!

~Larry Ames, 11/13/14
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