

MEMORANDUM

TO: Michael G. Herring, City Administrator
FROM: Mike Geisel, Director of Public Services
SUBJECT: Planning & Public Works Committee Meeting Summary
Thursday, November 5, 2015



A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, November 5, 2015 in Conference Room 101.

In attendance were: **Chair Connie Fults** (Ward IV), **Councilmember Bridget Nations** (Ward II) and **Councilmember Dan Hurt** (Ward III). **Councilmember Flachsbart** (Ward I) arrived at 5:35 p.m.

Also in attendance were: Harry O'Rourke, Interim City Attorney; Planning Commission Chair Stanley Proctor; Mike Geisel, Director of Public Services; Jim Eckrich, Public Works Director/City Engineer; Tom McCarthy, Parks, Recreation & Arts Director; Mindy Mohrman, City Arborist/Urban Forester; Purvi Patel, Project Planner; and Kathy Juergens, Recording Secretary.

The meeting was called to order at 5:30 p.m.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the October 8, 2015 Committee Meeting Summary

Councilmember Nations made a motion to approve the Meeting Summary of October 8, 2015. The motion was seconded by Councilmember Hurt and passed by a voice vote of 3-0.

II. OLD BUSINESS

A. Snow Removal Reimbursements for Private Streets

STAFF REPORT

Interim City Attorney Harry O'Rourke stated he was directed to review the City's current policy of reimbursing subdivisions for a portion of their snow removal costs to determine whether that benefit could be extended to include subdivisions that have private, gated access. He noted that the State Constitution prohibits the use of public money for private purposes. However, there is an exception that private benefits can occur, but the benefits that accrue to the private interest need to be *incidental* to the public purpose and not the *main benefit*. Mr. O'Rourke stated that in his opinion it would be questionable whether extending this service to gated subdivisions would withstand a judicial review if challenged.

(Councilmember Flachsbart joined the meeting at this point.)

Discussion

Councilmember Hurt expressed his opinion that expanding the policy would be defensible and recommended expanding the snow removal reimbursement policy to include private, gated subdivisions.

Chair Fults asked for information about the costs involved if the policy were to include private, gated subdivisions and whether it would decrease the amounts reimbursed to non-gated subdivisions.

Mr. Geisel explained that the policy was developed for subdivisions with open access for all and excludes subdivisions with gated streets. The policy also includes language that reimbursement will be provided *to the extent funds are available*. It was pointed out that the City budgets \$160,000 annually for snow removal reimbursement. Mr. Geisel stated that the number of streets would increase substantially if gated streets are included in the policy, which in turn could decrease the amount of money reimbursed to subdivisions with non-gated streets unless the total reimbursement is increased.

Chair Fults expressed concern that an expanded policy may be legally challenged by subdivisions with non-gated streets if their reimbursement costs are dramatically affected. Further discussion included the possibility of expanding the allocation in order to include gated streets.

Councilmember Flachsbart suggested changing the policy to define a specific percentage of time a gated street would need to be open to the public in order to qualify for the snow removal reimbursement. Chair Fults felt specifying a particular percentage of time for gated streets to be open could prove contentious. Mr. O'Rourke pointed out that in order to survive a legal challenge, any requirement must not be found to be arbitrary and unreasonable.

If Council elects to expand the Policy to include gated streets, Mr. O'Rourke recommended that the focus be kept on the public purpose that would be served. To that extent, Chair Fults suggested that the policy include language stating that all residential streets are to be uniform, safe, and passable during the winter season.

It was then agreed to have Staff provide more information regarding the total length of private streets – both gated and non-gated – and the potential reimbursement costs at the next Committee meeting.

III. NEW BUSINESS

- A. **P.Z. 09-2015 Friendship Village of West County (15239, 15249 & 15255 Olive Blvd)**: A request for a zoning map amendment from a “NU” Non-Urban District to a “R-4” Residential District for 2.13 acres located at the northeast corner of Olive Boulevard and Braefield Drive (18S640272, 18S640326 & 18S640162).

STAFF REPORT

Purvi Patel, Project Planner, stated that the subject site is comprised of the following three parcels:

- 15239 Olive Blvd (0.83 acres). This parcel was previously occupied by American Family Insurance, but is currently vacant. The applicant plans on demolishing this structure in the near future.
- 15249 Olive Blvd (0.81 acres). The single-family home on this site was demolished in April 2015.

- 15255 Olive Blvd (0.49 acres). The single-family home is vacant with plans for demolition in the near future.

The Petitioner's ultimate goal is to include these three parcels into the existing Friendship Village campus, which would be accomplished through a Conditional Use Permit. The Petitioner intends to submit a Conditional Use Permit Application if the current request is approved.

Staff has reviewed the request for compliance with the Comprehensive Plan and the zoning regulations of the City and it has been found to be in conformance. Since this is a conventional zoning district, there will be no preliminary plan or Attachment A with this legislation. If approved, the parcels will have to adhere to the established regulations of the "R-4" District and all other applicable city code requirements. At the time a Conditional Use Permit Application is submitted, conditions could be listed in the Permit.

The Public Hearing for this petition was held on October 26, 2015 and at that same meeting, the Planning Commission unanimously recommended approval of the zoning change. There was a speaker at the Public Hearing representing other residents, who requested a sidewalk be provided on Olive Boulevard along the frontage of the subject site. The residents were informed that sidewalks would be required and that Staff would review the matter at the time a Site Plan or Conditional Use Permit Application is submitted. The Petitioner has been working with MoDOT with respect to the sidewalk requirement as the right-of-way is maintained by MoDOT.

PLANNING COMMISSION REPORT

Mr. Stanley Proctor, Planning Commission Chair, stated no issues were raised by Planning Commission during the Public Hearing.

Discussion

Utilities

Councilmember Hurt suggested pursuing the possibility of having the utilities located underground in this area as they constitute a visual pollution along Olive. Mr. Geisel stated that everything within the site is below ground, but the distribution feeder lines are above ground.

Sidewalks

Chair Fults asked what recourse the City has to ensure the construction of a sidewalk in the event the Petitioner runs into issues with MoDOT not allowing sidewalks within its right-of-way. Mr. Geisel replied that the City could require sidewalks on the Petitioner's property, outside of the right-of-way, which could be accomplished during the Site Plan stage.

For the record, Chair Fults stated she wants to see sidewalks on the Site Plan as they were specifically requested by the residents and she will vote against approving a site plan if it does not include sidewalks. Mr. Geisel reminded her that the City also has the option of including sidewalk requirements as a condition of the Conditional Use Permit.

Councilmember Flachsbart noted his agreement with requiring sidewalks in this area.

The Petitioner stated that MoDOT has approved the continuation of sidewalks within its right-of-way and Friendship Village has agreed to the installation of sidewalks along Olive Boulevard within, or outside of, the right-of-way.

Councilmember Flachsbart made a motion to forward P.Z. 09-2015 Friendship Village of West County (15239, 15249 & 15255 Olive Blvd.) to City Council with a recommendation to

approve. The motion was seconded by Councilmember Hurt and **passed** by a voice vote of 4 - 0.

**Note: One Bill, as recommended by the Planning Commission, will be needed for the November 16, 2015 City Council Meeting.
See Bill #**

[Please see the attached report prepared by Aimee Nassif, Planning and Development Services Director, for additional information on P.Z. 09-2015 Friendship Village of West County (15239, 15249 & 15255 Olive Blvd.)]

B. Emerald Ash Borer Preparedness Strategy

STAFF REPORT

Mike Geisel, Director of Public Services, stated the City has been preparing for the inevitable arrival of the Emerald Ash Borer (EAB) infestation for several years. Now that the infestation has been confirmed in West County, the City is faced with accelerating a response to the threat. Staff previously estimated the cost to remove Ash trees from the City's rights-of-way to be in excess of \$3.5 million at current contractual price levels. Staff has since developed a more cost-effective preparedness plan to systematically remove Ash trees from the City's rights-of-way. The plan is provided in detail within the memorandum provided to the Committee and summarized below:

Introduction

The Emerald Ash Borer beetle is not the typical pest that attacks diseased/stressed trees. The EAB is not something that can be destroyed by an insecticide. The insect will completely annihilate the Ash species. The beetle only lives three to four weeks but with every lifecycle, the female lays approximately 60 eggs, one at a time, in crevices all over the bark of healthy Ash trees. When the eggs hatch as larvae, they tunnel through the bark and into the tree's cambial tissue and eventually kill the tree. By the time the infestation is visible, it is already five to eight years into the infestation period. After initial infestation, all Ash trees are expected to die within 10 years. When all Ash trees are eliminated, it is expected that the Emerald Ash borers will die off.

Treatment

The most effective treatment option is Emamectin Benzoate injections. The average cost per tree is \$200. The chemical is injected directly into the trunk of the tree. The treatment typically provides protection from EAB for up to two years. However, over time, the tree will eventually die from the treatment itself. The EAB infestation will affect public trees as well as private trees. Staff does not recommend treating any public trees as the treatments are not cost effective, must be done for the life of the tree, and have no guarantee of success. For residents that would like to treat their private trees, the City Staff will provide a list of contractors and prices.

Current Inventory

The City's forestry practices were most recently adjusted in response to a regional ice storm that occurred in 2008. City crews worked over 11,000 man-hours clearing fallen trees and debris during that emergency response. As a result, and partially funded by grant funds, the City hired Davey Resource Group to perform a complete tree inventory that is linked to the City's GIS system. Upon completion of this inventory, the number of Ash trees totaled 8,167, or 36% of the total street tree population. Staff has since been able to reduce the Ash population by 1,458 trees. Ash now comprises 28% of our street trees, and no new Ash trees are being planted.

However, 6,709 Ash trees still remain. Some neighborhoods have a very heavy density of Ash trees and removal will greatly affect these neighborhoods aesthetically.

Assessment

The EAB is not selective and there is no realistic expectation of Ash survival. The EAB infestation will affect the entire region. When the disease becomes widespread, the demand will greatly impact the availability of reputable tree contractors. Service, response and quality will be negatively affected as will contractual pricing for tree removals.

Plan

Based on the City's current contractual cost for tree removal, Staff estimates it would cost over \$3.5 million to contractually remove the remaining 6,709 Ash trees in the City's rights-of-way. Staff does not recommend contracting out the removal of these trees due to the cost and difficulty in managing this huge undertaking. Accordingly, Staff has developed an alternative plan to minimize costs and maximize efficiency by proposing to utilize existing personnel to perform tree removals. In order to obtain a labor force of this magnitude, Staff recommends temporarily postponing sidewalk work currently being completed in-house. Instead, the City should increase funding for contractual sidewalk replacement.

The City utilizes bucket trucks when removing/trimming trees. Employees are not allowed to climb into trees for safety and insurance reasons. Due to the increased volume of tree removals, the purchase of a second bucket truck and one additional chipper will be needed. Staff was initially concerned that we may have problems disposing of chips due to the magnitude of the tree removals. However, after talking to local resources, it appears there will be sufficient ways to dispose of the chips.

Stump removal is accomplished by a grinding method. Stump grinding is not something that should be done in-house due to the cost of the equipment and risk of injury. The City currently has contractors performing this work and Staff is confident that an exclusive contract can be obtained to continue performing this work for the City.

Strategy

The most efficient way of removing all the Ash trees is to start at one end of the City and work through to the other end. Staff does not recommend this method, however, and has developed a seven year plan. Staff proposes concentrating on trees that are in poor condition first. Subsequent removals will be based on size, concentrating on smaller and larger trees to spread the removals throughout the entire City in order to minimize the impact on any individual neighborhood. To accomplish the seven year plan, four trees per day will have to be removed, in addition to the City's typical daily tree maintenance activities. A separate crew will be dedicated specifically to Ash tree removals.

This is a seven year, \$3 million program that Council can elect to fund annually. Funding can be started and stopped in any given year. To implement the program, \$640,000 will be needed for the first year to cover the cost of one additional chipper and bucket truck; thereafter, \$400,000 will be needed annually for the remaining six years. This \$400,000 will primarily fund contractual sidewalk replacement and stump grinding.

Public Information Campaign

This plan will necessitate a very extensive public information campaign. Many residents are not even aware of EAB and will be opposed to tree removals. Staff has already begun preparing the public information materials.

Reforestation Considerations

As detailed in the memorandum, City Council will need to determine whether to fund the replacement of any of these trees. The City has no obligation to fund the replacement of street trees. However, the City's current street tree program allows residents to contribute \$100 toward a tree to be planted within the right-of-way. The City funds the additional cost of the tree and contracts out for the purchase and planting of said tree. If Council elects to fund reforestation, it is expected that reforestation of this magnitude could not be effectively managed with existing staffing levels.

Given the significant expense in dealing with the EAB infestation, the growing problem of Horned Oak Gall, and normal annual expenditures associated with maintenance of public trees, if reforestation is desired, Staff recommends that City Council consider that future street trees not be placed within the public right-of-way. It would be preferable to place the trees behind the sidewalk on private property but within 8 feet of the sidewalk so they still function as a street tree. Additionally, Staff suggests a \$200 stipend per tree and all provisions of the street tree species and other criteria will still apply. The estimated cost of reforestation at that level will be one million dollars.

Summary

To implement this program, three independent decisions need to be made:

1. Should Council fund the Ash tree removal program as recommended in the memorandum by Mr. Geisel? This involves the re-allocation of street maintenance personnel and additional funding through General Fund – Fund Reserves to supplement contractual sidewalk replacement and other costs detailed in the memorandum.
2. Does Council desire to fund reforestation? If the Council desires reforestation, regardless of where the trees are placed, there will be an additional \$1 million over the course of the program or another \$140,000 annually.
3. If Council desires reforestation, where should the trees be placed? If within the right of way, no additional changes are needed. If, as Staff recommends, these trees are moved to private property, as opposed to between the sidewalk and curb, it is also recommended that the Unified Development Code be revised to relocate trees in any new developments to behind the sidewalk as well.

Discussion

Preparedness Plan

Chair Fults and Councilmember Hurt both complimented Staff on the creation of the Plan, as detailed in the memorandum by Mr. Geisel. Ms. Fults stated that she appreciated the duration of the plan and using in-house labor for tree removal while contracting out additional sidewalk work.

Councilmember Flachsbart made a motion to approve the in-house removal of Ash trees, contracting out for additional sidewalk work, and additional expenses as detailed in the Plan presented by Mr. Geisel. The motion was seconded by Councilmember Nations and passed by a voice vote of 4-0.

Councilmember Hurt stated that in 2019, the City financially will be in a better cash flow position because of some debt reduction. He agrees with the seven year approach but noted that the funding schedule may have to be adjusted if necessary. Mr. Geisel stated that no additional permanent staff will be hired during the seven year period and it is not realistic to accelerate the program without additional staff. The program will be implemented in Year One, as soon as

approval occurs and implementation can begin. Each successive year of funding is independent. Funding can be stopped, supplemented or reduced each year.

Councilmember Hurt suggested that the seven year plan be accepted as a basic plan subject to funding adjustments. Councilmember Flachsbart suggested implementing Year One immediately and then re-evaluating the program throughout its duration. Mr. Geisel pointed out the budgeted money is not funding tree removal as Staff will be doing this work. The money is funding contracting out sidewalk activities. Mr. Jim Eckrich, Public Works Director/City Engineer, stated EAB is imminent and we need to address it now. If funding becomes a problem, the magnitude of sidewalk replacement can always be adjusted later. That is one of the many benefits of this plan.

Councilmember Flachsbart recommended approving the preparedness plan (as detailed in the memorandum from Mr. Geisel) as a base plan with yearly reviews and possible adjustments. Mr. Geisel noted that the projected costs are target numbers only.

Reforestation

Councilmember Flachsbart agreed with the basic concept of reforestation regardless of where the trees are placed. Councilmember Hurt also noted his agreement with reforestation.

Councilmember Flachsbart made a motion recommending approval of the basic concept of reforestation at an additional estimated \$1 million over the course of the program, including a \$200 stipend to homeowners desiring to replace an Ash tree. The motion was seconded by Chair Fults and passed by a voice vote of 4-0.

Councilmember Flachsbart made a motion to forward to City Council, with a recommendation to approve, the Emerald Ash Borer Preparedness Plan, as detailed in the memorandum from Mr. Geisel, including funding for Year One, successive annual reviews, and that the program begin as soon as possible. The motion was seconded by Councilmember Nations and passed by a voice vote of 4-0.

Location of Trees

Councilmember Hurt questioned why Staff is recommending that any replacement trees be placed in the property owner's yard and not in the right-of-way. Mr. Geisel stated there are several reasons for this recommendation. He pointed out that the City is currently dealing with the EAB infestation, as well as Horned Oak Gall, and feels that the City has a responsibility to mitigate all known liabilities. Once trees are placed in a homeowner's yard, the City is no longer responsible for those trees.

For clarification purposes, it was noted that installation of street trees on private property would be a requirement for any new subdivisions and would be subject to all the same requirements of the Street Tree Program with the exception of where they are planted. With respect to reforestation, the City would provide a stipend to residents for tree replacements on their property with the distinct understanding that residents would be responsible for the maintenance of those trees. We would have to make it clear to the residents that the trees are now their property.

Councilmember Hurt noted his appreciation of Staff's effort to save the City money; however, he pointed out that this aesthetic is one of the reasons a tree is incorporated into the City's logo. He added that several citizens are aware of this recommendation and are opposed to it. He would be agreeable to allowing the residents to choose where to place the trees, but believes the

majority will want them along the street. Consequently, Councilmember Hurt noted his opposition to changing the location of street trees.

Councilmember Flachsbart made a motion recommending that street trees for new subdivisions be placed on the property itself, within 8 feet of the right-of-way, but for replacement of existing trees in the right-of-way, residents be allowed to choose whether to keep the trees in the right-of-way or placed on their property. The motion was seconded by Chair Fults.

Discussion on the Motion

Mr. Geisel clarified that under this program, the City will not have the ability to implement the Street Tree Replacement program as it is currently run, i.e., issuing the contracts and managing the installation. For this reforestation, the City will fund the tree purchase, but the residents will have to contract for the trees in accordance with the City's specifications.

Councilmember Hurt stated that the above motion basically eliminates the City's responsibility of taking care of the trees in future developments and he is concerned that there is no incentive for the residents to replace the trees, which he feels will negatively affect the look of the City. Councilmember Hurt recommended that street trees continue to be maintained by the City.

Mr. Geisel stated that St. Louis County and some other municipalities do not allow trees within the right-of-way. This was a conscious decision by the City to allow street trees within the right-of-way. After further discussion of the pros and cons of placing street trees on private property, **a vote was taken on the above motion which passed by a vote of 3-1 with Councilmember Hurt voting "no."**

[Please see the attached report prepared by Mike Geisel, Director of Public Services, for additional information on the Emerald Ash Borer Preparedness Plan.]

C. Volunteer Assistants

Councilmember Flachsbart stated that the Parks and Recreation Citizens Advisory Committee (PRCAC) is a very active committee but there are not enough committee members to handle all the activities in which they are involved. To address this need, PRCAC has recommended using people identified by the PRCAC members to serve as Volunteer Assistants at various functions. PRCAC also agreed that this possibility should be further discussed and explored by the Planning & Public Works Committee and specifically whether background checks should be required.

Mr. Tom McCarthy, Director of Parks, Recreation & Arts, provided information on the types of background checks available:

- A \$12.00 background check through the Missouri Highway Patrol provides information about DUI traffic tickets, marijuana possession, and registered sex offenders.
- A \$20.00 background check provides more in-depth information from both the State and FBI. The potential volunteer would have to request this type of background check.
- A larger FBI nationwide check is also available.

Mr. McCarthy felt that the type of background check required should be dependent upon the work the volunteer would be doing, along with the amount of volunteer time. In researching other organizations, Mr. McCarthy has learned that background checks are generally not required for volunteers for one-day events as long as they are not involved with children or seniors.

Mr. Geisel stated that Staff would like to prepare a policy for the Committee's review that would define what kinds of background checks would be needed for persons volunteering for various events. **The Committee then directed Staff to prepare a policy relating to Volunteer Assistants and background check requirements.**

Councilmember Flachsbart requested that this Committee authorize, on a temporary basis, permission for PRCAC members to bring their friends/family members in as Volunteer Assistants for any events in which they are involved. **The Committee members indicated their consensus of this request.**

IV. **OTHER** - None

V. **ADJOURNMENT**

The meeting adjourned at 6:55 p.m.