

0005 Mayor Barbara Larsen called the Workshop meeting of the Castle Rock City Council to order at 7:30 p.m., with the following councilmembers present: Jack Reilly, Greg Marcil, Earl Queen and Mike Mask. Councilmember Khembar Yund was absent. The following Park Board Commissioners were present: Roy Henson, Lynda Frantsvog, Marguerite Ogden and Linda Moody. Commissioner Mark Damschen was absent. Members of the public included: Wayne Hamilton, Patricia McVey, Donna Williams, Joy Parker, and Doug Parker. Purpose of the workshop meeting was to review and discuss the proposed draft policy for maintenance of trees located within city rights-of-way.

0118 Public Works Director David Vorse reports that, at the direction of City Council, the Park Board has been working for over a year to develop a Tree Policy for the planting and maintenance of trees in the city right-of-way.

Vorse reviewed the events that led to the Park Board's development of the draft Tree Policy, as outlined below:

- November 27, 2006 Regular Council Meeting, Councilmember Smith observed that guidelines should be developed for the planting and maintenance of trees in the right-of-way. He requested that the Park Board work to develop a policy.

- January 22, 2007 Regular Council Meeting a request for removal of a tree in the right-of-way on the 500 block of Second Avenue SW was denied. Councilmember Smith stated that historically council wanted to preserve the trees on the eastside of Second Avenue SW and relocated the street to the west in an effort to preserve these trees. City policy has not allowed the removal of healthy trees that are not a hazard.

- Public Works Director David Vorse brought Council's request for development of a tree policy to the Park Board during the Regular Park Board Meeting on February 21, 2007. At subsequent meetings the Park Board examined tree policies from the City of Vancouver, Longview and Woodland as well as Pierce County.

- During the June 25, 2007 Regular Council Meeting, correspondence was reviewed from Jeff Horton, 356 C Street SW, regarding the removal of a tree located in the city right-of-way. Approximately one year earlier Mr. Horton had asked to be placed on the agenda to request permission to remove this tree. However, he did not attend that meeting and did not further pursue that request before removing the healthy mature tree.

The Park Board considered that:

- The Tree Policy should set a standard guideline with City Council making any decisions to divert from that policy

- A list of acceptable tree species should be developed. Tree characteristics that can create issues must be considered - such as height, visibility, fruit, leaves, roots, water or the tendency to drop limbs. The Park Board favored the extremely detailed list of trees developed by the City of Vancouver as it provides a directory of characteristics.
- Liability and safety issues are of primary concern. Determining responsibility also determines liability. The City could encounter liability issues from the improper maintenance of trees such as - street sight visibility issues, property damage or an injury to either a pedestrian or resident while pruning or due to a lack of maintenance. Homeowner's insurance does not cover damage or injury that occurs in the right-of-way.
'The City has an obligation to protect the public from a danger that is known or should be known' (reprinted from an AWC Article by Risk Manager Fred Crumbley)
- The Tree Policy should define enforcement authority
- The Tree Policy would be a working document with changes made as needed

Currently there are approximately 300 trees and 65 bushes/hedgerows located in the City right-of-way. This count does not include the trees in undeveloped rights-of-way.

After numerous meetings, the Park Board developed the following proposed Purpose Statement and Tree Policy:

Purpose Statement

A. The Castle Rock City Council finds that the protection and proper maintenance of street trees serves to protect the public's health, safety, and welfare; and that street trees constitute a vital environmental, historic, visual, and economic resources for the benefit of the city's residents and visitors.

B. The purpose of this chapter is to:

1. Establish permit requirements for work on street trees; and
2. Establish competency requirements for the major pruning of street trees by requiring major street tree pruning to be done or supervised by a person who has obtained a street tree worker license; and
3. Delegate authority to the City Public Works Director to determine appropriate street tree selection and to determine where street trees should be planted on existing and new streets. The City Public Works Director may also implement administrative regulations to process applications for street tree work permits and street tree worker licenses, so long as such regulations are consistent with the requirements of this chapter; and
4. Regulate appropriate street tree species selection, where street trees must be planted, and how street trees must be maintained and protected.

C. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this chapter.

Tree Policy

1. A species list can not be all inclusive but rather should be used as a guide outlining desirable characteristics. The City of Vancouver has an extensive species list with many characteristics noted. That list specifies if the species can be located under an overhead utility line, width, height, drought tolerance and soil type.
2. Tall species should be restricted from areas with overhead utility lines.
3. There must be sufficient ground area for the root system. A minimum ground strip of five feet in width should be required for street trees.
4. The City should be responsible for pruning trees in the right-of-way.
5. If a resident wishes to remove a tree in the right-of-way, they must request approval from City Council and the tree must be removed by a bonded, licensed tree service after obtaining a right-of-way permit. This is done at the expense of the resident. The Public Works Director can approve the removal of a tree that is dead, diseased or injured
6. The sidewalk ordinance eliminates the need to address the issue of tree maintenance as residents are already responsible to keep the sidewalk clear. Castle Rock Municipal Code 12.04.020 It shall be the responsibility of the owner of property abutting upon a public sidewalk to maintain the sidewalk at all times in a safe condition free of any and all obstructions or defects including, but not limited to, ice and snow.
7. The City Council should adopt a policy manual instead of an ordinance.
8. The policy manual would define enforcement authority.
9. The current law against defacing public property should include damaging street trees.
10. The policy manual should outline procedures to petition City Council if a resident does not agree with a determination.
11. If a tree is planted illegally then the resident can be notified that it must be removed. If a resident does not follow policy then the job can be contracted and a lien for payment placed on the property.
12. The tree policy manual would be a working document with changes made as needed.

0868 As an example of the wrong species of tree being planted, Vorse reviewed pictures of trees located in the city right-of-way that are growing under utility lines and have been topped. Topping severely weakens a tree and is prohibited by many cities. To avoid future issues, a tree species must have the appropriate characteristics for the area that it will be planted.

A different photo shows an overgrown hedgerow that has not been maintained and is protruding into the street. Another photo showed a cedar hedgerow with one side cut away. Severe pruning will destroy a cedar tree. Other photos showed examples of trees damaged from severe pruning. Vorse noted that although most residents have the best of intentions, a tree never achieves its full potential after an improper pruning. Some residents do not know how to prune properly or even the correct season to prune. Most pruning guidelines state that

you should never remove over 50% of the foliage. One photo showed a tree that was pruned so severely that it will eventually die. The City could be held liable for damages if that tree were to fall. Vorse stated these are some of the issues that should be addressed with a tree policy.

- 1218 Resident Patty McVey believes that tree maintenance responsibilities should be outlined in the Real Estate Title when purchasing a home. Vorse responded that an education component could be developed as part of this policy.

Councilmember Mask cautioned that the City does not have the funds or manpower to maintain the trees in the right-of-way. The City does not have the budget for this responsibility. Residents would be forced to take matters into their own hands. Vorse agreed that the workload is an issue.

Commissioner Frantsvog responded that liability must be considered. The City could be held liable if damages are incurred as the result of a resident pruning a tree in the right-of-way.

Commissioner Henson believes that if tree maintenance is the responsibility of the property owner, then they would also have the right to remove the tree.

Councilmember Queen stated that in the past, trees were planted in areas that they were not suitable, since no list of characteristic was available. He noted that the City has planted trees that damaged the sidewalk. Commissioner Frantsvog responded that this is the reason to establish a list of acceptable tree species.

In response to an observation from Ms. McVey, Vorse explained that the purpose of this meeting is to first identify the issue involved in establishing a tree policy. The issues that have been recognized are:

- Funding is not available for tree maintenance
- The Public Works Department does not have the manpower to take on this additional workload
- Residents can become possessive of trees abutting their property, particularly if they planted those trees
- There has been no policy in the past, no guidance nor consistency
- Liability concerns must be considered

- 1687 Councilmember Reilly noted that the City should establish pruning guidelines to assist residents.

Ms. McVey added that it would not be difficult to find instructions on pruning trees. There are non-profit groups such as the Master Gardeners that would teach the proper method or instructions can be obtained from the internet.

Resident Donna Williams explained that many residents do not know how to prune trees properly. The City should develop and distribute tree maintenance guidelines.

Councilmember Mask would like a policy developed that allows individuals to prune the trees abutting their property. However, council must approval the removal of a tree. He does not want the City to become a “Big Brother” entity telling residents that they cannot trim the tree abutting their property.

Councilmember Queen noted that when the City hires a contractor, prevailing wage requirements must be met. Therefore, it is a great deal more expensive for the City to hire a contractor to work on a tree then it is for a private resident to do so. In addition, he was extremely upset when he received a Sidewalk Program letter stating that his tree needed to be trimmed for pedestrian passage. He felt that a lien should not be placed on property for tree maintenance.

Vorse clarified that the City Attorney specified the enforcement language contained in the Sidewalk Letter. The City has an obligation to address street sight visibility issues as well as sidewalk obstructions that may hinder pedestrian passage. He referred to the AWC Article by Risk Manager Fred Crumbley which indicates that the City has an obligation to protect the public from a danger that is known or should be known.

Councilmembers Reilly and Marcil favor establishing pruning guidelines which could be obtained at City Hall.

Vorse indicated that pruning responsibilities must belong to either the City or the property owner abutting the right-of-way. The City of Longview fines residents if they prune a tree in the right-of-way. However, the City of Woodland allows residents to perform minor pruning. He read the City of Woodland’s definition of “Minor Pruning - pruning or cutting out of water sprouts, suckers, twigs, or branches less than three inches in diameter; or cutting out of branches and limbs constituting less than fifteen percent of the tree’s foliage bearing area and retaining the tree’s natural form. Removal of dead wood, broken branches and stubs are also considered minor pruning”.

Side B

- 2466 Councilmember Mask suggests that the City develop tree pruning guidelines and make them available at City Hall. The property owner could then receive a letter stating that their tree needs to be pruned. The letter could include pruning guidelines or it could instruct the resident to pickup the guidelines at City Hall. Enforcement language could be added, stating that if the property owner fails to perform this maintenance within a specified period, the City will perform this maintenance and charge the property owner for the service. The resident should bear pruning responsibilities.

Vorse clarified that currently the only time the City becomes involved in tree pruning is when there is a hazard. Normally, if the proper species is planted, pruning is not needed. Letters should only be sent when there is a hazard - it would not be an efficient use of staff time to do otherwise.

In response to a question from Commissioner Henson, Councilmember Marcil stated that a Liability Release Waiver does not release the City from all liability. It only helps to reduce the amount that can be awarded.

Vorse indicated that he would ask the City Attorney and the Association of Washington Cities (insurance pool) to determine the City's level of liability.

Councilmember Marcil noted that the City requires street trees to be planted as part of a new subdivision. He asked if the City wants to require the planting of these trees and then require the resident to prune them. Vorse noted that these trees will fill a requirement of the Subdivision Code. However, no maintenance is required when the proper species is planted.

Councilmember Mask would like residents to be responsible for tree pruning. The resident would first be required to obtain a Right-of-Way Permit. Along with the permit residents would also receive instructions on the proper method of pruning. If a resident does not first obtain a permit, the City should have the ability to penalize them. Vorse believes that a first violation would provide an opportunity to educate the resident. A penalty should not be imposed until the second time a resident over prunes a tree.

Councilmember Queen feels that City Council must make the decision to remove a tree.

In response to a question from Commissioner Moody, Councilmember Mask suggests mailing residents educational material. Councilmember Queen stated that a newspaper article could be beneficial. Councilmember Marcil recommends using the reader board to notify residents of the tree policy and availability of educational material. Vorse suggests making a handout available at City Hall which could also be furnished to new customers. Once adopted, the new policy will warrant a public education effort.

Councilmember Marcil reviewed photos of trees obstructing street signs. In addition to creating a hazard, this also can make it difficult for visitors to identify streets. Vorse noted that the Police Department partners with the Public Works Department to identify street visibility concerns. The City must reserve the right to prune a tree for safety purposes. Vorse would like to be notified whenever street sign obstructions or other visibility issues are observed.

Commissioner Henson clarified that the City will prune a tree to reduce a hazard but will not prune a tree at the request of a property owner. Vorse expanded that the policy must make clear that the City reserves the right to prune a tree to reduce safety hazards.

- 4328 Commissioner Frantsvog pointed out that a letter describing the tree program must be composed to state what the policy is. Mayor Larsen also would like to see a “Minor Pruning” policy adopted.

Councilmember Mask summarized what he would like the tree policy to require:

- No tree in the right-of-way is removed without prior council approval
- Residents must care for the trees abutting their property by obtaining a Right-of-Way Permit and pruning guidelines before pruning
- The penalty for disobeying this policy must be outlined

Councilmember Reilly added that the policy must include a “grandfather” clause for existing trees. In addition, property owners should be allowed to perform “Minor Pruning” within the established guidelines.

Commissioner Frantsvog noted that the Park Board can work to develop a tree policy. However, City Council should outline the penalty component.

Councilmember Queen pointed out that those property owners that have been diligently caring for “their” trees over the years, will resent receiving a letter.

- 4643 Vorse summarized that he will check with the City Attorney and the Association of Washington Cities to determine the City’s level of liability and to ascertain requirements for the “Minor Pruning” aspect. In addition, pruning guidelines must be developed and distributed. A balance must be achieved between liability and workload/funding concerns. Once the Park Board has developed a “Draft” Tree Policy, it will be sent to councilmembers for a preliminary review.

Tape 2 of 2

Side A

Vorse stated that a reasonable education component must be included in the formation of a new policy. Commissioner Frantsvog suggests including the pruning guidelines with the same mailing as the Annual Water Quality Report. Councilmember Marcil pointed out that a newspaper article could help educate residents on the new policy. Councilmember Reilly suggested that the reader board could also be used. Councilmember Mask recommends recruiting a volunteer youth organization to distribute flyers door-to-door. Multiple methods can be utilized.

- 1666 Vorse summarized that the development of the tree policy requires:
- An education component
 - Clarification of liability concerns

- Development of pruning and tree placement guidelines

0477 There being no further business, Mayor Larsen adjourned the meeting at 9:11 p.m.

Mayor Barbara Larsen

Clerk-Treasurer