

Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, December 7, 2015. Mayor Peggy Dunn presided.

Councilmembers Present: James Azeltine, Jim Rawlings, Lou Rasmussen, Andrew Osman, Carrie Rezac, Debra Filla, Julie Cain and Chuck Sipple

Councilmembers Absent: None

Staff Present: Scott Lambers, City Administrator Joe Johnson, Public Works Director
Patty Bennett, City Attorney Chris Claxton, Parks & Recreation Dir.
Brian Anderson, Superintendent of Park Richard Coleman, Community Dev. Dir.
Dustin Branick, Horticulture/Forest Supv. Debra Harper, City Clerk
Cindy Jacobus, Assistant City Clerk

Others Present: None

Discussion on Emerald Ash Borer [EAB] and Protecting Our Trees

Mayor Dunn welcomed attendees and introductions were made. She asked Brian Anderson, Superintendent of Parks, to make opening comments.

Mr. Anderson stated that in planning for the EAB and based on information gathered by staff over the past three or four years, the City had become aware that Ash trees are a large composite of street trees. It is important to ensure the Council and citizens are aware. He and Horticulture/Forest Supervisor Dustin Branick had worked together to develop the City's EAB Management Plan, a copy of which is on the City's website and has been provided to many Home Owners Associations [HOAs]. The plan clarifies processes and tree ownership from the City's perspective.

Mayor Dunn requested Mr. Anderson provide details of the City's technology-based tree inventory software. Mr. Anderson stated the software enables staff to record tree diversity, size and condition, as well as track planting, pruning and treatment. Another feature of the software is the ability to estimate the benefit a tree provides. This software could be utilized to fully inventory street trees. The economic value of Leawood's street trees presented in meeting documentation Item 1 was extrapolated from a partial inventory done with the Kansas Forest Service in 2012. There are approximately 34,000 street trees of which 24.7%, or 9,134, are Ash trees.

Councilmember Filla noted the software utilizes a global positioning system [GPS] which is helpful in regard to park trees. Mr. Anderson added a user can log into website to view an aerial photo/image. The software also features a work order module which can be used to make assignments to staff for tasks such as pruning.

Councilmember Rasmussen inquired if the City's tree replacement program was on schedule. Mr. Anderson stated replacement had been going well, but staff was behind schedule on the follow-up of planted trees. Removal and treatment of Ash trees has been completed according to plan. One-half of the 180 Ash trees selected for treatment were treated one year ago and the remaining one-half would be treated next year.

Councilmember Rasmussen asked if data were available to estimate the life span of a tree, and if citizens can be supplied with parameters to assist them with their economic determination of whether to remove or treat. Councilmember Filla replied that treatment for EAB is 90% effective, and cost can vary depending on the number of trees treated. Mr. Anderson added that treatment kills both EAB and other boring insects. The City utilizes a worksheet to assess tree health and value based on location, and he had been assisting residents and HOAs in this regard. Mr. Anderson recommends a full-cycle management plan consisting of removal, treatment and replanting.

Councilmember Rasmussen asked Mr. Lambers if there was a method and funds available to disseminate this important information. HOAs may have previously mis-identified tree species and underestimated the number of Ash trees. Mayor Dunn stated the City website and the Parks & Recreation Facebook page would be effective methods to provide information, including the "Best Management Practices During Construction" booklet that was recently approved by the Governing Body. Mr. Anderson stated he would continue to work closely and speak with HOAs as requested, but he does not have the time to survey each street tree; Mayor Dunn agreed. He stated HOAs may already have a tree service, which they could use to survey and make recommendations for their street trees. Leawood and Leawood Estates HOAs had compiled such lists and provided to him for review.

Mayor Dunn reminded not all street trees are the responsibility of the HOA; some are the responsibility of the home owner.

Councilmember Cain stated the EAB Seminar for HOAs hosted by the Parks & Recreation Department on November 18, 2015, was very beneficial and attendees were clearly concerned and looking for assistance. Councilmember Filla stated of the 31 attendees, 16 had signed up to receive further communications on the issue. She noted some HOAs had already treated their trees and second-round treatments were upcoming. Also, there was interest in a Tree Board.

Councilmember Cain reminded that EAB was first discovered in Michigan and 100% of her subdivision street trees were Ash. The City needs to be as proactive as possible. Mr. Anderson stated when the infestation in Michigan began they did not know what they were dealing with and there were no chemical treatments at the time. Mayor Dunn shared that in a conversation with a large commercial landscape business owner, the owner stated he was not in favor of chemical treatments as the chemicals are not a "green" method. The owner favored removal and replanting. Mr. Lambers stated the he favors removal and replanting for diversification.

Councilmember Azeltine requested information regarding removal, monitoring and annual benefits of trees. Mr. Anderson stated the City had owned 436 Ash trees in its parks, greenways and public building lawns. Mr. Branick stated 120 of those trees had been removed as per the original EAB Management Plan, and staff would continue to remove Park trees over a six year period. The annual benefits of privately-owned Ash trees are presented on Page 7 of the City's EAB Management Plan, and include storm water, air quality, cooling effects, aesthetics and increased property values. Mr. Anderson added the benefit data was generated by the U.S. Forestry Services' "iTree Model", which considers average tree diameter and condition.

Mayor Dunn asked Councilmember Filla if her desire was review each item of meeting documentation. Councilmember Filla stated she wished to acknowledge to attendees that she had previously spoken with Mayor Dunn and City Administrator Scott Lambers in regard to trees. She summarized the review of "Protecting Our Trees" agenda items as follows:

Item 1. – Had been discussed.

Item 2. – Recap of a prior meeting.

Item 3. – Should focus on right-of-way trees.

Items 4.a. and 4.b. – Need to understand City Ordinances and what each HOA is doing, and further discussion was needed.

Item 5. – Had been discussed.

Item 6 – Provides three examples of Tree Boards. Street trees and commercial landscaping are a major investment. A residential construction "Best Management Practices" policy had recently been adopted by the City.

Mr. Anderson stated the City's current code, Chapter XII, Article 4, Trees and Shrubs, presents requirements for street trees, tree placement, ownership, hazards, disease and code enforcement. Code Enforcement officers investigate concerns and issue courtesy notices, with Mr. Anderson and Mr. Branick providing input as required. The City cares for trees on public and City property. Street trees are the responsibility of the owner—either HOA or resident.

Councilmember Filla inquired if the City requires street trees. Mr. Anderson stated one tree for every 35 ft. of frontage was required. Mr. Coleman clarified one tree for every 35 ft. of frontage was required for commercial; residential lots are required to have one tree in the front yard. It was subsequently clarified the requirement of one tree per 35 ft. of frontage is for both commercial and planned residential districts.

Councilmember Cain questioned if the owner of a late 1980s subdivision lot that had lost one of two original trees in the front yard would be required to replant one tree. Mr. Coleman stated the requirement would vary depending on the subdivision. If a plan had been submitted and approved showing both trees, both trees would be required. If a plan is not maintained as approved and the City becomes aware of the violation, the City would contact and advise the owner. He stated approved landscaping plans have become more frequent in the last 20 years.

Councilmember Rezac inquired about code enforcement for dead trees. Mr. Coleman stated if the City becomes aware, Code Enforcement would issue a notice of code violation and a stated time of resolution before the owner was cited to appear in Municipal Court. The City would not remove the tree, but could if deemed hazardous. To date, the City has not had to remove a dangerous tree, but has used a contractor to remove weeds and grass, with invoice for service sent to the property owner.

Councilmember Azeltine asked Mr. Coleman if landscape plans become part of HOA deed restrictions. Mr. Coleman replied this varies by HOA. The City enforces only in regard to code as applies to street trees and any property tree.

Councilmember Rasmussen reminded the City had initiated an annual, summertime on-site review by staff of commercial landscaping to ensure the landscaping was according to approved plan. He suggested this same review could be performed if HOAs have filed landscaping plans, and stated his ward contained a number of Dutch Elm trees that were dead and had not been removed. Mayor Dunn commented courtesy notices should be issued. Mr. Anderson stated two “drive-by” teams had inventoried approximately 32% of the right-of-way trees in three weeks. The crews consisted of a driver and a passenger who recorded tree diameter within a range, type and general condition.

Councilmember Sipple called attention to code Section 13-408, Diseased, Dead Trees; Duty to Remove. He noted the City had authority to remove trees that harbor insects or disease that are a potential threat to other trees within the City. Mr. Anderson stated Dutch Elm Disease of the early 1970s was probably the impetus for the code language, but agreed with Councilmember Sipple that the ordinance would apply to EAB.

Councilmember Rawlings shared the actions and plans of the Leawood Estates for his residence, which had unanimously voted to budget \$41,000 for chemical EAB treatments based on tree caliper, in addition to their usual budget of \$47,500 for tree trimming in five rotating zones. An inventory of 4,100 trees was conducted by Arbor Masters. The condition of the 400 Ash trees was rated based on educational materials provided by the City. Twenty trees were removed and 40 diseased trees were treated. There was some resistance by residents to removal. New 3 inch caliper trees will be replanted in the fall. Arbor Masters favors removal and replanting rather than chemical treatment.

Councilmember Rasmussen inquired if a tree dies from EAB, would it still harbor EAB. Mr. Anderson stated the EAB does not feed on wood, but feeds and causes injury in the tree’s vascular system. Typically, once a tree dies the EAB moves on. The vast majority of female borers travel 100 yards to reach a tree, but can travel up to two miles. There is some research on EAB infection peak and potential declining curve in the number of trees infected. Milwaukee is now in a maintenance mode of treatment every four years. If in prior good health, an infected Ash tree may take three to four years to die, with small limbs the first to succumb. Because of less than favorable growing conditions, the average life span of any street tree is 15 to 25 years. Typically, trees in optimal locations, including Ash, can live 100 years.

Councilmember Cain inquired how a fallen tree is handled, if the base of the tree is in one yard, but a portion falls in a neighboring yard. Ms. Bennett stated that per code, the owner of the property where the tree debris lands must remove. They can seek legal remedy for the cost, if needed. Neighbors cannot enter the private property of another to clean-up. Mr. Johnson added if limbs of a right-of-way tree fall into the street, the City pushes the debris to the curb of the property where the base of the tree is located for clean-up by the owner. The City cannot be upon private property. However, during the ice event several years prior, the City did remove limbs that had been brought to the curb. The City received a \$1 Million federal reimbursement for removal.

Councilmember Filla asked each councilmember to share information on street tree ownership and maintenance for their residential area. Responses are summarized below:

Respondent	HOA - # of Homes	Active Y/N	Responsibility HOA or Individual?	Ash Tree Plan?	Street Tree Inventory & Diversity	Budget/Dues
Sipple	Sienna, 43	Y	Individual		225, all Maple	
Azeltine	Highlands, 144	Y	Individual and HOA maintains common areas	Owner decision	All Bradford Pear	
Osman	Leawood Lanes, 150	N	Individual			
Rezac	Steeplechase, 250	Y	Individual and HOA maintains common areas	No HOA plan and owner decision		
Lambers	Carriage Crossing, 250-300	Y		Yes		
Cain	Cherry Creek	Y	HOA		300, all Ash	
Rawlings	Leawood Estates, 1,300	Y	HOA	Yes	4,100 total, 400 Ash	\$41,000 budgeted
Filla	Leawood, 1,500	Y	HOA	Yes	489 Ash trees	\$117,000 held in escrow for chemical treatment over 2 years
Mayor Dunn	Oxford Hills	Y	Individual	No		

Councilmember Filla stated that both Leawood and Leawood Estates HOAs were basically self-insured and suggested the possibility of a City buy-in to a right-of-way tree plan. Mayor Dunn noted there are approximately 111 HOAs in the City and each has a unique identity. Councilmember Filla asked the Council to consider that Foxborough HOA had mailed a six-page letter containing decision criteria to each of their home owners, and inquired if the City should mail all HOAs using grant funds.

Councilmember Filla stated the City of Fairway had a limited number of HOAs and the city treats trees. Also, Prairie Village works closely with their HOAs in regard to trees. Mayor Dunn pointed out that Mr. Thad Carver had offered a group of volunteers to help inventory City trees and that Mr. Anderson had a management plan which did not include a Tree Board. Mr. Anderson stated he was working to identify college interns with horticulture skills that could be hired to assist the City's tree inventory effort. Another option could be to place a portion of seasonal hires on the City's forestry crew.

Mayor Dunn stated the discussion had been informative. She appreciated that the EAB Management Plan was on the City's website and stated the updated "Best Management Practices" brochure should be posted to the website as well, if copyright permits.

There being no further business, the Work Session was adjourned at 7:24 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk