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Council postpones adopting State Model Water Efficient Landscaping Ordinance

By Sora O'Doherty

Although city staff recommended adopting a number of minor changes to the city's municipal code dealing with landscaping in order to bring the code into compliance with new state law, the city council on Feb. 7 decided to postpone taking any action pending clarification of a number of concerns expressed by council members.

The most prominent concerns of the council were whether the proposed changes would conflict with the Moraga-Orinda Fire District Fire Code, whether sports fields and golf courses would be affected, and whether there would be clear guidance on acceptable plants that would meet the new requirements. Council Member Latika Malkani also had specific questions about climate adaptive plants, and focused on the competing needs of drought conditions and slope stabilization during heavy winter storms. Mayor Inga Miller suggested that perhaps these issues could be examined in a joint meeting with the MOFD, and City Manager David Biggs said that he had reached out to the fire chief to discuss the issues of acceptable plants and mulches. The new law, the Short-Lived Climate Pollutants Reduction Act (SB 1383), according to the staff report, requires municipalities to adopt a local Water Efficient Landscape Ordinance (WELO) of their own or adopt the State's Model Ordinance to be implemented locally.

Staff suggested a number of minor changes that need to be made to Chapter 17.17 Landscaping of the Municipal Code that would bring the code into compliance with the new state requirements for water efficient landscaping. The Planning Commission, after holding a Public Hearing, also recommended the proposed amendments to the city council.

According to the staff report, the WELO requirements would apply to a number of projects, including new construction projects with a landscape area greater than 500 square feet and rehabilitated landscape projects with a landscape area greater than 2,500 square feet that requires a building permit, landscape permit, plan check, or design review. In addition, the requirements would apply to some extent to existing landscapes installed prior to December 2015, that are greater than 1 acre in size, to new cemeteries and existing cemeteries with water meters.

Although Richard Smeaton, a consulting planner who was presenting the staff report because Planning Director Drummond Buckley was ill, said that there was a "carve out for sports fields and golf courses," the council was concerned about whether or not the requirements would apply to city parks and to golf courses. Another area of concern is a requirement for residential areas that requires climate adapted plants that require occasional, little or no summer water to be installed for 75% of the plant area excluding edibles and areas using recycled water. Vice Mayor Darlene Gee wondered whether a state law requirement regarding the application of mulch would conflict with local fire code requirements.

Upon receiving advice from city attorney Osa Wolff about how best to proceed, the council decided to take no action at the time, but to renote the item when it is ready to come back to the council, perhaps in April.

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