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Council decides on updated tree ordinance

By Lou Fancher

Senior Planner Arly Cassidy brought a staff report updating the city's Tree Protection Ordinance to the meeting on April 22. In a joint meeting with the Planning Commission, staff requested the council and commissioners discuss and provide direction on several key elements relevant to the city's declared priority of addressing wildfire safety.

The key issues outlined in the update included adding language clarifying which trees are protected by the ordinance, streamlining the permit and improvement process for removing trees, measures for balancing environmental and aesthetic benefits of trees when assessing fire risks and fuel management, delineating distinctions between trees in the downtown and trees in residential neighborhoods, resolving existing and future conflicts between trees and utilities/infrastructure, particularly in the downtown, mitigating planting requirements and enforcement, creating recommended tree lists with approved species and planting seasons, and other technical matters.

Staff has been working with planning consultant Healthier Coleman to update the ordinance. She asked for feedback on specific issues and for overarching amendments necessary to proceed with the proposed work plan.

The ordinance was adopted in 2003 and amended in 2010 and 2014. During the subsequent decades since it was adopted, the council has gained experience and received feedback from the public about ways the ordinance can be improved, according to Coleman. In 2023, the city updated its Safety Element (SE) and established policies related to defensible space. One specific part of the SE includes references to the fire risks created by dead, dying, and non-native trees. Among the priorities for the FY2024-25 is wildfire safety - giving reason for the project to proceed immediately to address the key issues. As part of the staff request to move forward promptly, the report emphasized having adequate time to receive public comments and to research and analyze the alternatives as the ordinance develops and a final draft is prepared for council approval.

Coleman said meetings with stakeholders are ongoing and will include the fire department, community groups, the public, and elected officials directly involved in the issues. She said city meetings open to the public are a major component of the outreach, and including the announcements in the city's "Weekly Roundup" will invite more feedback from the community.

Questions from the planning commission began with a request for staff to provide greater clarity on specific language in the ordinance and the ordering of priorities identified as key issues. Council members asked about additions, word definitions, narratives expanded to include new elements, and greater clarity related to CalFires' "protected space" terminology and the SE's "defensible space" references. Economic issues related to fire insurance and impact on zoning were also introduced as topics council said should be addressed.

Public comments highlighted the importance and value of receiving input from professional arborists and master gardeners when developing the ordinance, consideration of the cost of tree removal for homeowners, and the positive and negative impacts of a tree protection ordinance on fire insurance policies. Staff plans to consult with nearby cities to learn about their tree protection ordinances. Council member Susan Candell said the list should include cities in high fire risk zones similar to Lafayette's location. Mayor Gina Dawson urged staff to include Orinda and Moraga because their information and input would be highly relevant and directly applicable.

In response to timing questions posed by staff, the commissioners and council supported staff proceeding with the planned ordinance update without delay. Council member Wei-Tai Kwok said, "What we didn't know in 2003, when the ordinance was first done, was that-fast forward to today-that 21 of the last 22 years measured have been the hottest years since we established this. The last ten years have been the hottest on our planet and last year, 2023, was the hottest of all." He encouraged everyone to look at the ordinance as a plan for the next 20 years that is necessary for making the community safe. He emphasized using the two-word phrase, "public safety," as the master approach for organizing thoughts and discussions on the complex decisions and issues as the project moves forward.

The staff's request to proceed was approved by council, with emphasis on suggested amendments and keeping in mind the priority of getting the TPO update done right above completing it swiftly.

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