



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
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Date: April 25, 2022

Time: 1:00pm

Location: 1st Floor Conference Room; Cyrus K. Holliday Bldg 620 SE Madison
(virtual attendance option also available)

Committee members present: Councilmembers Karen Hiller, Christina Valdivia-Alcalá, Spencer Duncan. Committee member Neil Dobler was absent.

City staff present: Mike Haugen (Director of Property Maintenance), Amanda Stanley (City Attorney), Mary Feighny (Deputy City Attorney), Monique Glaude (Director of Community Engagement), Hannah Uhrig (Deputy Director Public Works), Travis Tenbrink (City Forester), Ryan Kanwwyer (Webpage Developer)

1) Call to Order

Committee member Hiller called the meeting to order at 1:00pm. Committee members and staff introduced themselves.

2) Membership

At the April 19, 2022 Governing Body meeting, the Body voted to add a fourth Committee member to serve for the duration of the Changing the Culture of Property Maintenance processes. Deputy Mayor Spencer Duncan was elected to serve in this capacity.

Election of 2022 Chair

Committee member Valdivia-Alcalá made a motion to elect Committee member Hiller to serve as the 2022 Public Health & Safety Committee Chair. Committee member Duncan seconded. Motion approved 3-0-1. Committee member Hiller will serve as Chair.

3) Changing the Culture of Property Maintenance

[All items discussed at this meeting will be available to view at:

<https://www.topeka.org/citycouncil/public-health-safety-committee>]

Chairwoman Hiller noted there were two pieces to be addressed at today's meeting. To talk about some draft amendments to the City's version of the Property Maintenance code regarding vegetation, and then to touch on a few other things regarding the Change Our Culture of Property Maintenance Initiative.

a. Draft IPMC Amendments - Vegetation

City Attorney Amanda Stanley provided the ordinance for vegetation as it currently appears within the International Property Maintenance Code (IPMC), which also includes some proposed changes for the Committee to consider.

Changes include:

- Line 17 - Definition change to definition of “weeds” to the more broad definition for vegetation.
- Line 18 - Changes language from “premises and exterior property” to “property, including easements or public right-of-way abutting the property”. This is a broader definition that makes it more clear so everyone knows what is being talked about.
- Line 20 - “Vegetation” is defined in excess of twelve (12) inches in height, all noxious weeds as defined by Kansas Statute shall be prohibited. The Kansas Department of Agriculture reviews and updates those rules and regulations on an annual basis, as needed.
- Line 23 - “Vegetation means, but is not limited to, weeds, woody vines, volunteer trees, brush, grass and uncultivated plants”. The definition goes on to exclude natural gardens.
- Line 25 - “Natural gardens are defined as areas cultivated for growth of vegetables, fruits, herbs, flowers, or other plants that provide food for consumption or the attraction and aid of wildlife.” This was in response to concerns about natural gardens and not wanting them to be lumped into vegetation.
- Line 31 - Removal of word “weeds” and replaces with “vegetation”.
- Line 33 - Creates a new section for owners of undeveloped property that exceeds one acre, to make it clear that they are only responsible for removing or destroying vegetation within thirty (30) feet of the property line.
- The rest of the ordinance is cleanup through the various violation sections. For example, line 75 has removed “weeds and grasses” and replaced with “vegetation”, under the violation fee breakdown, for consistency.

Chairwoman Hiller inquired about when the ordinance should be taken to the Governing Body, and implemented. She commented that she did not think it would necessarily be implemented until after the 2022 growing

season. City Attorney Stanley stated the Committee could choose to wait, or, could move recommendations to the Governing Body quickly with a delayed implementation date.

Attorney Stanley noted the Committee had also received the Forestry provisions in their agenda packet. This was included because there may need to be some revisions to the Forestry provision after decisions have been made to the Vegetation ordinance, for consistency purposes.

Committee member Valdivia-Alcalá agreed with the majority of the proposed changes, and felt it would provide some expanded room for people who may begin coming on for native grasses, native flowers, etc, to attract pollinators. She voiced concern over the piece that states “gardens which are defined as areas cultivated for growth of vegetables, fruits, herbs, flowers or other plants that provide food for consumption or the attraction and aid of wildlife” and to be aware of how this may be perceived by neighbors who may have concerns about a property that they feel is overgrown, but is actually meeting some of these terms. She suggested some type of educational piece be created to not only clarify things for inspectors but also for the public. Division Director Mike Haugen stated these types of complaints are rare. However, there are a few and oftentimes, some communication with the property owner and Property Maintenance staff clears up any concern and informs the owner as to correct code expectations. He noted that adding the clarifying language within the code helps the Code Inspectors with discernment on their end, however since his time as division director, this issue has not come up but for a handful of times.

Committee member Duncan inquired about Noxious Weeds and if there was any training for City staff, or if the City relied on the Shawnee County Noxious Weeds director. Division Director Haugen stated that all of his inspectors had received Noxious Weeds training. He noted there are only four noxious weeds in Shawnee County that are prevalent. He indicated that noxious weeds complaints do not usually come up, and rather they are usually related to tall grass or weeds that reach 12 inches.

Chairwoman Hiller asked for Attorney Stanley to explain what the source is for what Shawnee County considers to be a noxious weed. She indicated that

there are other weeds that some people feel should be added to the noxious weeds list. Division Director Haugen noted that Kevin Seik had provided the training and had given each inspector a notebook full of photos, descriptions, and other information as to what the noxious weeds were. Attorney Stanley stated that Noxious Weeds comes from State Statute; KSA 2-13-13a. She noted this is negotiated every couple of years between the state legislature and counties who care a lot about noxious weeds. They are defined under the State's Department of Agriculture Rule and Regulation authority, who complete a review of the list year or two, to see if there are new species that need to be added to the list in Kansas. In addition to the trainings, counties are also happy to assist with their expertise as needed.

Kevin Seik, Shawnee County Master Gardners, provided some information about noxious weeds. He stated that being able to clarify the difference between noxious weeds and invasive plants would be important to consider in the ordinance. Something like the honeysuckle bush is an invasive plant, and was introduced to the area as ornamental plants, without the knowledge that they are invasive. He feels education for the public will be the best starting point. The approach will be long-term with both time and resources to begin addressing the issue, however some public education is a place to begin.

Committee member Duncan voiced support for this change, as it reflects what is in the State definition of noxious weeds. With regard to invasive weeds, the training Mr. Seik provided will help Code Inspectors have a better definition of what should be around and what needs to be eliminated. There is a difference between invasive plants that some people do not like, that others do like, and this information would help guide Code on how to limit allowances for something, like honeysuckle, without letting it get out of hand.

Chairwoman Hiller inquired if adding language "volunteer trees and shrubs" to lines 23-24, would be beneficial for Code Inspectors? As many times, the volunteer shrubs are what become overgrown and problematic. Division Director Haugen did not have a preference. Mr. Seik offered using "volunteer trees and other woody plants", which would then include everything that has a woody stem, such as trees, shrubs and brush.

Chairwoman Hiller noted she was looking at this as something that local people are looking at and wanting to ensure it is easy to understand.

Chairwoman Hiller noted that discussion had occurred regarding what to do with undeveloped property, and the fact that the City has what appears to be uncultivated vegetation around its own retention ponds. She inquired as the best way to accommodate and distinguish the difference between those properties in the past that the City decided to “let it go”, versus citing it. She inquired if the location of all of the City’s retention ponds, and all retention ponds, were? And, if those are generally an acre or more in size, so that this definition would accommodate them without needing more exclusion language? City Attorney Stanley received information from Utilities that all of the City’s land with a retention pond are more than one acre and sited requirements from KDHE. Chairwoman Hiller noted that the change, then would require maintenance of the 30 foot rule. However, she recalled that they have generally mowed the perimeters. Division Director Haugen confirmed that the sites are generally well groomed and that the tall vegetation is part of the riparian buffer.

Chairwoman Hiller stated that sometimes, there would be a need for the property owner to mow in a ways to meet the code. Division Director Haugen stated the 30 feet was a number he set, and could be changed. However, he felt that 30 feet was comfortable for how far back from other properties the property should be cleared. Chairwoman Hiller inquired about parcels that were under an acre, and if Property Maintenance had performed any research into that number in order to know how many properties would possibly run afoul of this? Division Director Haugen stated he had not done any checking into the numbers, however he was able to refer to past complaints that had been received. Most of these areas are larger than an acre. He detailed a recent case on how to cite multiple parcels that are owned by one individual and in one location. Would it be considered one issue or would each parcel be one issue? In the specific case Division Director Haugen referenced, he was able to negotiate with the owner for the owner to cut the grass off the street by 30 feet, and not receive a citation.

Chairwoman Hiller inquired about the interface between the Vegetation and Forestry ordinances. City Attorney Stanley stated currently, under the City’s

Municipal Code, the City Forester has certain powers to spray, treat, or remove trees, hedges, shrubs, etc from City public property such as alleys and streets. They are able to order a property owner to clear the alley and the abutting property. There is a process, similar to the Property Maintenance, for duties of the private property owner that the Forestry Agent can file a complaint, the owner has a right of appeals. Attorney Stanley stated that a lot of that is similar to the Property Code, but is done through Forestry. Division Director Haugen noted that the changes to the ordinance will not change much between what is currently being done by Forestry, however it may improve areas by allowing Property Maintenance to cite a property and get it cleared out so that Forestry does not have to be involved in those instances. City Attorney Stanley recommended carrying over the same language from the Vegetation ordinance to the Forestry TMC for consistency. She noted that Forestry has an important power that Property Maintenance does not have; they have the authority, when a tree is infested with disease, insect, pest or larva that could be detrimental to other trees within the city, to order those removals. Whereas Property Maintenance is dealing with overgrowth and growth. Chairwoman Hiller directed Staff to include notes on that within the implementation plan because typically, a lot of the Council members get constituent calls about removal of a tree that is dangerous, and the stock answer is that Forestry is not only responsible for it but will only address trees that are in the right-of-way. There is a difference if there is an infestation. Attorney Stanley confirmed and read the language from TMC 12.65.090.

Forestry Division Director Travis Tenbrink noted that the code, read by Attorney Stanley, was likely added to help address Dutch elm disease. And now, it helps to address mostly emerald ash borer insects, which are specific to ash trees. And possibly pine wilt, pest, which has mostly worked its way through our area. He confirmed that Forestry has the ability to notify property owners if a tree is harboring pest or disease that, if left uncontrolled, can affect the rest of the Urban population, regardless if the tree is on private or public property. He noted that the process of having to require someone to remove a tree is not done often. Division Director Tenbrink addressed brush in alleys, saying that all they are required to do, even if they cite the property, is only to clear the street, alley or sidewalk. If a bush is on private property that has grown two feet over the sidewalk, all Forestry is able to do is trim the bush back to the curb line, but that is the

extent of their ability if it is on private property. However, if it is still on City right-of-way, Forestry could decide to clear it out. In the case of alleys, it is a small area of right-of-way, and the area is cleared just enough to allow travel down that alley.

Chairwoman Hiller stated that in addition to synching up the language between the two codes, and clearly defining the two “duties” definitions, most of it will be synching up the functions. She commented that both divisions have seemed to be working in tandem, but with upgrading the vegetation rules, it may be more efficient for both areas to have the clarifying language. She inquired if either division had partnered with Billing. Both division directors stated in current practice, they do not work with Billing. Division Director Tenbrink noted that historically, owners were not cited for the clearing of public right-of-ways. He noted that the reason was primarily because they were not set up for that function, as they did not have the capabilities currently to do that, and that the citation function may have fallen under Property Maintenance. He stated that although it could be a function that Forestry began doing, all of those powers would also be able to continue to be covered under Property Maintenance. Division Director Haugen noted that he had trepidation for continuing operations that way, when it comes to bushes that sometimes reach feet in height. His division does not have the budget, equipment or manpower to take on addressing these types of issues. They are equipped to mow grass and have one chainsaw. This may be something to review for 2024 budget if necessary.

Attorney Stanley referenced language, in the draft being considered, under “vegetation” that states “property, including any easement or public right-of-way abutting the property...” which would give Property Maintenance authority to cite areas of the street, which all currently are not included.

Chairwoman Hiller noted that many years ago, this had been in the Code, and is important to bring back.

b. Updates on Other Changing the Culture of Property Maintenance Project Initiatives (video 43:00 minute mark)

Deputy Director Hannah Uhrig provided some information about a mowing program. This RFP is being finalized for a pilot program to begin later in the summer. Essentially, the goal is to solicit proposals from different organizations for how they would approach such a program that would help the LMI neighborhoods in getting ahead of code enforcement, and instead of being reactive can be proactive on the mowing portion. This program will be promoted as being part of larger-scale push to ignite the Change Our Culture of Property Maintenance initiative. A new website is under development and will be a place for community partners and citizens to use as a central location for some of the history of the public sessions that were held in the Fall of 2021, as well as the goals of the initiative and how to get involved. This will also be where key findings from the May8 Consulting engagement will be placed. As a current update, Karen Black of May8 Consulting, has been hired to come to Topeka and engage in a variety of meetings and round-table discussions with both internal and external groups and stakeholders. More information will be added to the website as the date gets closer.

Division Director Monique Glaude provided a recommendation to utilize the Topeka Volunteers platform to set up the mowing volunteer opportunities. The Community Engagement division would manage adding opportunities to the Topeka Volunteers page. She did suggest working with City Attorney Stanley to create a hold harmless agreement that could be included, as an attached waiver, for volunteers. She also suggested a push with City4 to identify other volunteer groups to be able to really kick off to ask them to be part of it. City4 would also collaborate to create a very aggressive marketing plan that would take place from here until the end of the season and then again in the beginning of the season in 2023.

Chairwoman Hiller would like to see the website and pilot mowing program get into place this season. The conceptual design for the education campaign is to not only capture volunteer opportunities through this combination of websites, but also to design a place within the Changing Our Culture website for people who have made their own commitments with a neighbor or on a neighborhood block, to count them and celebrate stories of their accomplishments and experiences.

4) Other Items

Chairwoman Hiller noted the next meeting is scheduled for May 23rd at 1:00pm in the Holliday Building 1st Floor Conference Room (and virtually). Consultant Karen Black will be attending and providing a presentation, which will cover most of the topic that day. [This draft was revised 5/25/22 to note that the meeting scheduled for May 23rd had to be cancelled and rescheduled. The Committee will meet June 14, 2022 at 9:00am in Classroom A of the Law Enforcement Center. Additional information and agenda will be provided to the Public Calendar at: <https://www.topeka.org/calendar/>].

Chairwoman Hiller noted that broadband was a major issue that the Committee had been working on over the past year and provided a brief update that had been submitted to her by Committee member Dobler. The note described that the subcommittee had been continued to work on items such as funding sources. She would like for the Committee to receive an update on broadband at a near future meeting.

Committee member Valdivia-Alcalá noted ongoing problems with chronic unsheltered populations within the city. She stated she felt that some information could be presented at the June meeting on the Built for Zero initiative. And that City Manager Cochran may have some additional updates on projects that the City is working on to address this issue.

Chairwoman Hiller inquired about the issue of a Bee ordinance. City Attorney Stanley noted Staff was currently working to see if this would be something that could be covered through Planning and Zoning, or if it would need to be an ordinance that would add it to the Municipal Code. Legal is currently working to draft the ordinance. Committee member Valdivia-Alcalá inquired as to if this ordinance would be more for addressing a small increase of bees in yards based on pollinator plants, or will it also be addressing community gardens who have beehives/colonies to help increase their pollinators? City Attorney Stanley said it was still a work in progress, but that the initial concern came from a neighbor of someone who has a number of hives and almost commercial activity within their backyard.

Chairwoman Hiller inquired if the third or fourth Monday from 1:00-3:00pm worked for Staff and Committee members to schedule additional meetings. All

agreed that the third Monday would work. Additional information will be sent out and available on the City of Topeka's Public Calendar.

5) Adjourn

Chairwoman Hiller adjourned the meeting at 2:00pm.

Meeting video can be viewed at: <https://youtu.be/QjJ3fUMTWO0>