

**COMMITTEE ON OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY
MEETING MINUTES**

June 24, 2015

THE AUSTIN CITY COUNCIL COMMITTEE ON OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY CONVENED IN A REGULAR MEETING ON WEDNESDAY, JUNE 24, 2015 AT 2PM IN THE BOARDS & COMMISSIONS ROOM, FIRST FLOOR, ROOM 1101, CITY HALL 301 W. 2ND STREET.

Council Member Leslie Pool called the meeting to order at 2:04 PM. In attendance were Mayor Pro Tem Kathie Tovo, Council Member Delia Garza, Council Member Don Zimmerman, Environmental Board Chair Mary Gay Maxwell, and Parks & Recreation Board Chair Jane Rivera.

Agenda Item #5: Discussion regarding changes to the City's boards and commissions enabling ordinance.

Environmental Commissioner Mary Gay Maxwell presented recommended changes to City Ordinance #20141211-204 recently approved by the Environmental Board. The changes speak on the membership and composition of the new Environmental Commission. The recommended changes to the City Ordinance were approved on MPT Tovo's motion and CM Zimmerman's second. Passed unanimously. Vote 4-0-0-0.

Agenda Item #1: Approval of minutes.

The minutes of the May 27, 2015 meeting were approved on CM Zimmerman's motion and CM Garza's second. Passed unanimously. Vote 4-0-0-0.

Agenda Item #2: General Citizen Communications

There were 3 speakers:

- Zoila Vega spoke on the damage and legal issues of the Cyclocross event held at Zilker Park.**
- David King spoke on the necessary protection of heritage trees and the strategy of replacing trees damaged during the Memorial Day flooding. King also spoke on the replacement of single family homes by McMansion developments and the resulted loss of green space.**
- Larry Akers spoke on the physical boundaries of the Town Lake Community Event Center Venue Project in terms of applicable venue revenues.**

Agenda Item #7: Briefing and discussion of: 1) construction staging, future use, and dedication for park and recreational purposes of 64 Rainey Street; and 2) future dedication for park and recreational purposes of the Emma S. Barrientos Mexican American Cultural Center. (Ricardo Soliz, Division Manager, Parks and Recreation Department)

Ricardo Soliz provided a detailed history of 64 Rainey Street in regards to the City Council's action on the property. Since its acquirement in 2003, the property has been managed by the City's Public Works Department with participation from the Parks and Recreation Department and the Office of Real Estate Services. In October 2012, a Council Resolution directed the City

Manager to remove the parcel for sale, develop a range of development options to address the needs of the MACC, and incorporate the land into the ESBMACC master plan. The City's Office of Real Estate Services has ordered an appraisal for 64 Rainey Street. The City's Law department is scheduled to proceed in reviewing the request proposed by the developer while creating terms and conditions for the use of 64 Rainey Street for temporary staging in return for developing a pocket park.

Agenda Item #4: Consider and develop recommendations on the appointment of one additional member to the CodeNEXT Citizens Advisory Group.

No action was taken.

Agenda Item #6: Consider and develop a recommendation on the Cemetery Master Plan. (Kim McKnight, Project Coordinator, Parks and Recreation Department)

Kim McKnight provided an overview on the City's Historic Cemeteries Master Plan which included specifics on the cemetery management and treatment guidelines, and policy and funding recommendations. The master plan has been recommended by the Land Facilities & Program Committee, the Historic Landmark Commission, the Urban Forestry Board, the Parks and Recreation Board, and the Environmental Board. The recommendation was approved on Council Member Zimmerman's motion and on Council Member Pool's second. Vote 3-0-0-1. MPT Tovo was off the dais.

Agenda Item #9: Consider and develop a recommendation regarding the grant of a temporary use area (8,832 sq. ft.) not to exceed 182 calendar days and a permanent use area (2,115 sq. ft.) on parkland located at 120 Red River. (Austin Transportation Department)

The presentation from the Austin Transportation Department was not presented but instead CM Pool simply asked for clarification on the desired action for the item prior to losing a quorum. Staff explained that the item is set for a public hearing at the August 20 City Council meeting so the item could go forward to that hearing with a recommendation from the Committee. CM Pool noted that a full briefing could be offered at the August Committee meeting if deemed necessary by staff. The recommendation was approved on Council Member Zimmerman's motion and on Council Member Garza's second. Vote 3-0-0-1. MPT Tovo was off the dais.

Agenda Item #8: Discussion regarding the proposed construction of State Highway 45 Southwest. (Chuck Lesniak, Environmental Officer, Watershed Protection Department; Willy Conrad, Environmental Policy Program Manager, Austin Water Utility; Mitzi Cotton, Attorney Senior, Law Department)

Chuck Lesniak provided a briefing on the proposed construction of State Highway 45 Southwest including the environmental impact statement, and record of decision. The draft environmental impact statement (EIS) was issued in the summer of 2014 which was followed with critical scientific reports which were issued after the public comment period closed; the City commented on both reports in December 2014. The final EIS was issued in January of 2015 and the decision, which is the final environmental approval for the roadway, was issued by TXDOT in March of this

year with a finding of no significant environmental impact. City staff feels that the conclusions in the EIS are not well supported by scientific data and will affect critical environmental features along with water quality areas and the exit onto Cesar Chavez. Furthermore, staff explained that the challenges faced with State Highway 45 Southwest lie specifically with Flint Ridge Cave, which is required to be protected in order to comply with the BCCP federal permit. Finally, the EIS and Record of Decision state that the highway would impact a small portion of the surface drainage basin, and currently these reports don't speak to the subsurface drainage basin. No action was taken.

Agenda Item #10: Discussion of future agenda items.

Agenda Item #11: Discuss legal issues related to considering and developing a resolution providing clarification of the physical boundaries of the Town Lake Community Event Center Venue Project

This item was postponed.

Council Member Leslie Pool adjourned the meeting at 5:35 PM.

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COUNCIL COMMITTEE REPORT
OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY COMMITTEE

Date: June 24, 2015

Agenda Item #: 5

Agenda Item: Discussion regarding changes to the City's boards and commissions enabling ordinance #20141211-204.

Vote The recommendation to make the changes to the City's boards and commissions enabling ordinance were approved on MPT Tovo's motion and on CM Zimmerman's second. Vote 4-0-0-0.

Sponsors/Department: Environmental Commission

Summary of Discussion

Environmental Board Chair Mary Gay Maxwell explained the recommended changes to the City's boards and commissions enabling ordinance. Chair Maxwell noted that the recommended changes are errors that are such that it gives the wrong direction to the Environmental Board about who can be appointed to the new commission as of July 1, 2015.

Public Comments

None

Direction

The recommended changes to the enabling ordinance must be approved by City Council in order for the ordinance to be amended.

Recommendation

See recommended changes to the ordinance attached.

Suggested Changes to Ordinance #20141211-204

PART 20. City Code Section 2-1-144 (*Environmental Board*) is amended to read:

“§2-1-144 ENVIRONMENTAL COMMISSION [BOARD]”

(B) The Environmental Commission ~~[Board membership]~~ should ~~[may]~~ include: ~~[a Barton Springs Edwards Aquifer Conservation District board member or staff person who has professional expertise in geology, hydrology, or ecology; and members who have:]~~

(1)~~[Persons who have:]~~ Members who have demonstrated concern for and the desire to improve the status of the natural resources and living environment of the City;

(2)~~[A person who has]~~ One or more persons who have professional expertise or who have demonstrated expertise in geology, hydrology, civil engineering, land planning, ecology, arboriculture, urban forestry, or landscape architecture; and

3) ~~[Expertise in arboriculture, urban forestry, or landscape architecture]~~ One Barton Springs Edwards Aquifer Conservation District board or staff person who has professional expertise in geology, hydrology, or ecology.

(C) A member described in Subsection (B) (3) need not be a City resident.

(D) Not more than ~~[three]~~ five members should be employed in land development or related activities.

(E) The department director and the director of the Development Services Department ~~[the urban forester, the city arborist, and the director of the Parks and Recreation Department]~~ are ~~[shall be an]~~ ex officio members of the commission ~~[board]~~ for the purpose of deliberation on a matter relating to ~~[the]~~ their respective departments. ~~[for which each of them works.]~~

(F) The commission may:

(4) ~~[Study, investigate, plan,]~~ Advise and make recommendations on any [action, program, plan, or legislation] issue which the commission determines necessary or advisable for the [care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs and other landscaping in public parks, along streets, and in other public areas.] enhancement and stewardship of the urban forest, both public and private.

(G) The commission shall:

(2)~~[Develop,]~~ Oversee the development[, establishment] and implementation of a comprehensive [urban forest] plan for the planting, maintenance, and replacement of trees [in parks, along streets and in other public areas] within the city's jurisdiction, and revise as necessary. When a portion of the plan has been developed and established, it shall be submitted to the city council for adoption before implementation.

(H)

(15) ~~[and]the [all matters pertaining to the City's]~~ urban forest, both public and private.



COUNCIL COMMITTEE REPORT

OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY COMMITTEE

Date: June 24, 2015

Agenda Item #: 6

Agenda Item: Consider and develop a recommendation on the Historic Cemetery Master Plan.

Vote A recommendation to approve the item subject to the addition of the recommendations of the boards and commissions was passed on CM Zimmerman's motion and on CM Garza's second. Vote 3-0-0-1. MPT Tovo was off the dais.

Sponsors/Department: Parks and Recreation Department

Summary of Discussion

Kim McKnight, Project Coordinator with the Parks and Recreation Department (PARC), provided an overview on the City's Historic Cemeteries Master Plan. The City of Austin's PARC staff manages the following five historic cemeteries that comprise more than 60,000 burials:

1. Oakwood Cemetery, 1601 Navasota Street.
2. Oakwood Cemetery Annex, 1601 Comal Street
3. Plummers Cemetery, 1150 Springdale Road
4. Evergreen Cemetery, 3304 E. 12th Street
5. Austin Memorial Park Cemetery, 2800 Hancock Drive

Cities throughout the United States are struggling with issues surrounding historic cemeteries, particularly historic urban cemeteries. The American population is increasingly mobile and less likely to remain root near the cemeteries where their relatives are buried. As a result, many of the nation's oldest cemeteries, both public and privately owned are largely abandoned by the communities they once served. In addition, Local governments faced with limited budgets find it difficult to prioritize cemetery upkeep when the needs of living residents are pressing and immediate. Faced with such challenges, those who manage and advocate for historic cemeteries are finding ways to reimagine the cemetery's role in the community and finding ways to creatively engage the citizens.

The City of Austin's Historic Cemetery Master Plan provides a long term framework for the five cemeteries listed above, which are all managed by the City. CM Pool noted that this plan represents the culmination of years of advocacy, community engagement, professional evaluation, and planning. McKnight explained that although other cities have undertaken similar

projects for individual cemeteries, this project may be one of the most sweeping cemetery master plans developed in the United States as it encompasses five separate and distinct different historic cemeteries established over the course of nearly a century.

- *Process to Date*

The Parks and Recreation Department took a great deal of effort to develop the scope of work with Parks Board Chair Jane Rivera who led the cause. PARD conducted many meetings to identify issues of cemeteries: four were conducted in the spring of 2012, followed by six meetings in the summer of 2013 to develop the scope of work with the community. After obtaining the contract with AmaTerra Environmental, they conducted five meetings with the community.

The draft Historic Cemetery Master Plan was posted to the City's website for public review and comment for seven weeks from January-March of 2015. PARD received hundreds of comments and then posted a revised draft in April of 2015, as a result of the public input received. PARD expects to post another revision prior to going to City Council in September of 2015.

- *Community Engagement*

PARD conducted twenty-five stakeholder interviews and distributed newsletters which were placed in senior centers, libraries, and recreational centers. In addition, signage was placed in the City's cemeteries and media advisories.

The outreach was targeted to Community Registry, the Austin Neighborhood Council, Save Austin's Cemeteries, Preservation Austin, and African-American Cultural Heritage District and cemetery organizations.

- *Historic Cemeteries Master Plan*

The plan is divided into three sections:

- Part I: Introduction/Natural, Historical, and Cultural Context
- Part II: Cemetery Management Guidelines
- Part III: Policy and Funding Recommendations

There is a section on General Management Guidelines with extensive information about tree care and management, site furnishings, and fencing etc. These guidelines apply to all of the City's cemeteries. Furthermore, the recommendations will be incorporated into PARD's maintenance standards.

- *Tree Survey*

Through PARD's partnership with the City's Park Forestry staff and the Urban Forest Replenishment fund of the Development Services Department, a \$65,000 tree survey and conditions assessment was funded which served as the baseline for PARD's Historic Cemetery Master Plan and general recommendations. More than 4,000 trees were surveyed and unfortunately 900 dead trees, snags, and stumps were identified.

- *Oakwood Cemetery (1839) and Oakwood Cemetery Annex (1914)*

Oakwood Cemetery and Oakwood Cemetery Annex are the oldest and they represent the earliest burials in Austin. The recommendations for improvements at these cemeteries have to do with appearance such as sidewalks, fences, roads, and rehabilitation of the historic chapel building. In addition, better signage, kiosks with information about the people buried there will make visiting them a better experience. The City is not actively selling plots in this cemetery because there is no space available.

- *Plummers Cemetery (1898)*

Plummers Cemetery is a small family cemetery of about eight acres that backs up to the Given's Recreational Center. It started in 1898 with private burials. In addition, it is traditionally an African American cemetery. The City purchased the cemetery with the acquisition of the Given's Recreation Center and has been managing it. The City is not actively selling plots in this cemetery because there is no space available.

- *Evergreen Cemetery (1926)*

Evergreen Cemetery dates back to 1926 and can be best described as a place representing the institutional segregation of the city. People were separated and segregated in life, but they were also segregated in death. As a result of the research conducted by the City in partnership with the community, the City has learned that some of the most significant civil rights leaders of the city are buried here. The recommendations for the cemetery include fencing, accessible restroom that currently does not exist, improvements to roads, and tree plantings. The City is actively selling plots in this cemetery.

- *Austin Memorial Park Cemetery (1927)*

Austin Memorial Park Cemetery is probably the cemetery most known to citizens as it can be seen when driving near Mopac and 2222. This was a private cemetery that started in 1927 until it was purchased by the City in 1941. Some of the improvement recommendations proposed by PARD for this cemetery include: moving the maintenance yard to the far north of the cemetery so it is not at the entrance where visitors come in; re-purpose a historic outbuilding to become accessible restrooms and a visitor facility; and construct a columbarium which is a decorative wall for cremated remains. Through community surveys and input from the consultant team studying national trends, the City learned that cremation is something that the community is interested in as this provides burial options as well as potential revenue generation for the cemetery. The City is actively selling plots in this cemetery.

- *Policy and Funding Recommendations*

McKnight primarily focused and discussed programming strongly supported by PARD and neighborhoods surrounding the historic cemeteries that are no longer active. Through this process, PARD has learned that across the country communities are trying to manage their less active cemeteries like Oakwood Cemetery, Oakwood Cemetery Annex, and Plummers

Cemetery. The City can continue to have the occasional family member drive through or the City can come up with ways to educate the citizen's about the history of the city, history of architecture through funerary objects, for example. There are many opportunities and there are many examples across the country of cemeteries doing this. This recommendation has caused some citizen's to be a little concerned and McKnight clarified that PARD is not recommending programming of any kind in the cemeteries that have active burials on a daily basis such as Evergreen and Memorial Park Cemeteries. PARD has programming happening through their partnership with Save Austin Cemeteries.

- *Recommendations from Boards and Commissions*

The Historic Landmark Commission (HLC) endorsed the proposed Master Plan in accordance with staff recommendation, which is to request that consideration be given towards the designation of Evergreen Cemetery, Plummers Cemetery, and Austin Memorial Park Cemetery as potential historic landmarks. These cemeteries are certainly eligible for this designation, unlike Oakwood and Oakwood Annex Cemeteries, PARD has not received assistance from the Friends Group to help with a historic designation. Additionally, HLC asked PARD to consider including a map, which was referenced in the Citizen Communications portion of the June 24, 2015 committee meeting. PARD accepts the HLC recommendations relating to historic designation and will document the recommendation and the map in Appendix S, which will appear in the revised Historic Cemeteries Master Plan.

The Urban Forestry Board's (UFB) recommendations had to do with irrigation and elevating the irrigation proposal for all cemeteries in Priority 1, and include specific language related to application of compost, mulch and supplemental watering of trees during periods of insufficient rainfall. Furthermore, UFB elevated tree planting, and making some small wording changes. PARD accepts the UFB's recommendations and will incorporate the recommendations into the final revision of the Historic Cemeteries Master Plan.

The Environmental Board's (EB) recommendations included a recommendation for a detailed study to determine feasibility and implementation strategies to improve irrigation practices and resources in cemeteries with a primary emphasis on tree irrigation during drought. Also, the board asked that the parking lot in the Austin Memorial Park be reduced from 30 spaces to 10. In addition, the Board asked that PARD prioritize the impacts to existing trees in constructing the new parking lot. PARD accepts the EB's recommendations and will incorporate the recommendations into the final revision of the Historic Cemeteries Master Plan.

The Planning Commission's (PC) recommendations included that PARD support all the recommendations for the Boards and Commissions. In addition, the PC asked that PARD consider removal of the north access gate at the Austin Memorial Cemetery or list the specific uses that would be allowed. The PC also asked that PARD consider hiring an outside multi-disciplinary consulting team to advise on cemetery irrigation. PARD accepts the PC's recommendations and will incorporate the recommendations into the final revision of the Historic Cemeteries Master Plan.

CM Pool wanted to confirm that the irrigation is going to be addressed more specifically as far as the cost and that there was a recommendation that the Environmental Commission and the Urban Forestry Board be included in those conversations. McKnight responded explaining that PARD

would be happy to return and generally PARD happy to explore this aspect of cemetery management more. CM Pool recommended that PARD include a realistic and attainable tree care plan that would comply with the Urban Forestry Board relating to composting, mulching, and irrigation during periods of insufficient rainfall.

In addition, CM Pool explained that there is 34-inch Texas Ash at the entrance of Austin Memorial Park Cemetery and wanted to know if it would be possible for the tree to be preserved and to possibly move the flag poles. Environmental Board Chair Mary Gay Maxwell asked the question if whether the tree was a Heritage Tree, and further added that any Heritage Trees have to go through Environmental Commission for consideration. PARD confirmed that it is a Heritage Tree and confirmed that before taking any tree down, PARD would consult with Urban Forestry Board and Environmental Commission, further explaining that as PARD moves through design development, which may take several years due to funding availability, PARD would have to go through the design development and site development process and the standard procedures that happen with site plans.

Public Comments

- Michael Fossum spoke against.
- David King donated his time to Michael Fossum.
- Sharon Blythe spoke against.
- David Llanes donated his time to Sharon Blythe.
- Walter Ivie donated his time to Sharon Blythe.
- Zoila Vega spoke against.
- David Orshalick spoke against.
- Dale Flatt spoke in favor.
- Kata Carbone spoke in favor with a recommendation.

Direction

Allow staff to address and revise the Historic Cemetery Master Plan to include all the recommendations from the Boards and Commissions. The Council will have an opportunity to review the final plan before presented to City Council in September of 2015.

Recommendation

A recommendation to approve the item subject to the addition of the recommendations of the boards and commissions was passed on CM Zimmerman's motion and on CM Garza's second. Vote 3-0-0-1. MPT Tovo was off the dais.



COUNCIL COMMITTEE REPORT

OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY COMMITTEE

Date: June 24, 2015

Agenda Item #: 7

Agenda Item: Briefing and discussion of: 1) construction staging, future use, and dedication for park and recreational purpose of 64 Rainey Street; and 2) future dedication for park and recreational purposes of the Emma S. Barrientos Mexican American Cultural Center.

Vote No action was taken.

Sponsors/Department: Parks and Recreation Department, Public Works Department, and Office of Real Estate Services

Summary of Discussion

Ricardo Soliz, Division Manager for the City's Parks and Recreation Department, provided a detailed history of 64 Rainey Street in regards to the City Council's action on the property. Since its acquirement in 2003, the property has been managed by the City's Public Works Department with participation from the Parks and Recreation Department and the Office of Real Estate Services. In October 2012, a Council Resolution directed the City Manager to remove the parcel for sale, develop a range of development options to address the needs of the MACC, and incorporate the land into the ESBMACC master plan.

In June 2015, the MACC Board considered and supported the developer's request to use 64 Rainey Street as a staging area for 2 years which would then be expressly dedicated as city-owned parkland and to support a permanent use of 25 feet along the northern boundary line to build a living wall in lieu of a solid firewall. Compensation for this use would include a financial contribution from the developer in the amount of \$400,000 to include design and construction of a pocket park after the two years, assistance with supporting the master planning of Phase II of the MACC, and absorbing all maintenance costs of the park in perpetuity.

The City's Office of Real Estate Services has ordered an appraisal for 64 Rainey Street and a value of what the staging area would be for the next two years. The City's Law department will be making a determination on the legality and the instrument that could be used if the City Council desires to grant the 25 foot easement. The Law department would then need to proceed in reviewing the request proposed by the developer while determining terms and conditions for the use of 64 Rainey Street for temporary staging in return for developing a pocket park.

Finally, the Public Works Department concluded the discussion by reminding the committee that the alley way and public right-of-way both serve a public purpose and so it would be difficult to recommend a vacation of the alley way as part of any future plans. Additionally, the 25-foot no build zone must remain even after the property has dedicated the parkland.

- *Ownership and use of 64 Rainey Street*

CM Garza inquired about the current ownership of 64 Rainey Street. Soliz explained that the property is currently owned by the City of Austin and is managed by the Public Works Department. CM Garza acknowledged that this property could be utilized in ways other than dedicated parkland and also asked about putting a restrictive covenant in place to allow certain things on the land. Howard Lazarus, Director of the City's Public Works Department, explained that the use of 64 Rainey Street as a staging area for a short amount of time would be in lieu of using the right of way on Rainey Street which would require some street closures on Rainey Street. Lazarus also explained that by using the right of way in the Rainey neighborhood the pedestrian traffic would be in danger. During construction it would benefit the neighborhood if the property was not designated as parkland because it would make it easier to lease the property; the property could then be dedicated as parkland after the lease period ends and the community has already shown support for that option and feel that the parkland is a commitment that has already been made. Lazarus finished by stating that by keeping the property zoned at CBD would provide more flexibility for the use of the land.

CM Garza also inquired about the past use of 64 Rainey as staging for construction on the Waller Creek Tunnel. Lazarus explained that the property once housed trailers but not any construction staging. The trailers were relocated towards the end of 2014 and the site has not been used by the City for a while. CM Garza noted that as recent as early June the site was used as a parking lot and asked who occupies it now. Lazarus responded that the land is most likely being used by the visitors in the neighborhood who see the site as a prime parking opportunity.

During citizen communication, CM Garza explained that she had never seen any of the renderings or MACC's master plans phases to include 64 Rainey. MACC board member Juan Oyervides, who spoke in opposition to the developer's proposal, explained that the renderings were just several options that were available but none of which were anything that the MACC board ever recommended, and therefore did not include 64 Rainey as an option. Additionally, CM Renteria explained that since development on the MACC began in 2005 he has received a lot of feedback about placing a structure nearby to serve as a visitor's center to help preserve the history of Rainey Street. By being able to move one of the district's historic homes to the site, it would allow visitors to have a place to see the history of the district and the MACC could increase revenue through use of the grounds, CM Renteria said.

CM Garza again inquired about the potential use of the land as desired by the MACC. CM Garza stated that she has a hard time understanding how the completion of the MACC's master plan competes with any potential plans for 64 Rainey. Citizen Valerie Menard, who also spoke in opposition, explained that unclaimed use of the surrounding City-owned tracts in the MACC's master plan was an oversight; the MACC and the Center for Mexican American Cultural Arts believe that the tracts should have originally been included and thus are attempting to rectify an oversight, she said. Additionally, she said she believes there should be a referendum for any further development. The proposed building will shadow the MACC and poses a threat to the

cultural significance of the MACC. Menard also suggested a partial moratorium until the MACC master plan can be rectified to include any surrounding tracts in the district. CM Zimmerman asked for clarification on the boundaries of the current MACC property in terms of the desire to acquire the small tract that is 64 Rainey. Menard stated that the MACC did not realize how vulnerable the site was until development in the area increased and threatened the entrance of the MACC.

- *Potential right of way fees for staging*

MPT Tovo inquired about the estimate of the type of right of way fees the developer would be facing if the staging took place in the right of way. Lazarus explained that it would ultimately depend on the frontage required by the site but assuming a 100 foot frontage with a 5 foot curb and a 10 foot lane, it would be approximately \$200,000; there are different rates for different uses. Tovo then asked if the \$200,000 would occur over the same period of time and Lazarus responded to explain that the amount would occur over the proposed two-year span of the construction by applying the right of way rates and applying it to the number of feet that could be used. Lazarus concluded by saying that the right of way rates would remain the same for the first 180 days and then increase after 360 and then again after 540 days.

- *Collected parkland dedication fees*

Following the comments of citizen Paul Saldaña, CM Garza inquired about the parkland dedication fees paid to the City by a previous developer. Ricardo Soliz explained that the total of the parkland dedication fees collected was \$128,050 and has not been spent. CM Pool noted that she would like to receive a full accounting of the parkland dedication fund and the historic designation fund for this area.

Additionally, Ex-officio member Jane Rivera inquired about the possibility of funding the parkland and the master plan through the parkland dedication fees. CM Garza asked staff if the \$128,000 parkland dedication fees could be applied to improving the land or funding the master plan. Soliz explained that the funds are meant for development and not planning, therefore they could be used for infrastructure development. MPT Tovo asked if this purpose is per a Council ordinance describing the uses of parkland dedication fees. Soliz explained that the fee that is collected is meant to mitigate for added density to the neighborhood which would include buying more land or adding more amenities for the density that is coming into the neighborhood, which does not include adding a master plan.

MPT Tovo asked about the developer's responsibility to resurface the alleyway if they plan to install lines. Lazarus explained that the criteria manual requires, depending on how much of the area is disturbed, just some patching of places and what they're offering is to resurface the alley from one side to the other, which would exceed the requirements.

- *Moving a historic home and a water line*

CM Renteria was present and inquired about the difficulty in fitting in a historic home on the site in question. Lazarus explained that property is about 100 feet from Rainey Street frontage and could fit in even with the 25 foot offset, but the challenge is that there's a wastewater easement that runs along the property and in order to put the house over the property it would be helpful to

have the wastewater line moved, which would be at the expense of the developer. MPT Tovo confirmed that the relocation of the water line would not be necessary if the land is designated as parkland without any structure built over it; the line could stay there in perpetuity.

During citizen communication, the Committee learned that a historic house that was saved for the Rainey Street history center has since been destroyed. Some committee members were not aware of that and requested additional information outside of the meeting because it is now a concern. CM Renteria did state that he was informed that the home was destroyed and recycled by the owner. CM Pool requested a written update for the committee on the Rainey Street historic district specific to the buildings that were located on that site and that were moved to the Guadalupe Economic Development Corporation. The district renovated some of the houses and used the moneys from the Rainey Street district fund.

- *Pocket park definition*

During the comments of citizen Juan Oyervides, MPT Tovo first confirmed his place as a MACC Board Member and was the only board member that did not support the recommendation from the to accept the developer's proposal. MPT Tovo then inquired about the technical term of a pocket park as used by the community. Oyervides explained that the term *pocket park* is a technical term that is in the parks industry and the decision to use the term was made during the MACC Board Meeting in order to best describe the site and how it would be referred to in a recommendation; the term was also selected based on the site's size, and nothing else. MPT Tovo further explained that there have been several discussions of using the land as something for other than a pocket park and wanted to be sure that Oyervides was not suggesting that it be considered for the use of a parking lot or anything else. Lazarus also explained that as he attended the MACC board meeting, the board's discussion included that whatever agreement was put into place would give the MACC Board approval over the design of the park and control of the programming to occur in the park.

- *Construction of 70 Rainey*

CM Garza asked the developer of 70 Rainey about the requirement of certain infrastructure for 70 Rainey. The developer explained that the construction of 70 Rainey will include green street improvements along the sidewalks adjacent to 70 Rainey but will not extend towards the City parcel unless the proposal for a living wall was accepted; the sidewalk improvements are part of the funds to be committed on behalf of the developer. CM Garza then asked about reported concerns regarding these improvements being part of construction that is already required for 70 Rainey. The developer explained that the \$400,000 to build and design a pocket park as stated in the proposal is not currently required. The developer also stated that he could pay the right of way rental fees which would go to the Rainey district fund, but would still pay the \$400,000 to help create the parkland.

MPT Tovo asked for clarification of the timeline for the construction of 70 Rainey. The developer stated that the schedule would begin with construction on October 1st, and due to the City's permitting deadline the developer will need to submit a building permit no later than mid-August. In doing so, the decision to proceed with a firewall or with a living wall will need to be made in order to proceed with the design of the building. Furthermore, if the proposal was not recommended by the Council Committee or by Council prior to mid-August, then the concrete

firewall will be pursued without holding up the timeline for construction. Lastly, CM Zimmerman requested renderings that portray the same perspectives and CM Pool asked for information on a Mexican sycamore that is included in the development.

- *Alleyway expansion*

CM Pool asked the developer for information regarding the widening and paving of an alleyway and costs associated with it. Lazarus noted that there is no obligation for the developer to widen the alleyway and resurface it along its entire length. By widening the alleyway, better entry will be allowed in the rear entrance of the public parking garage, which is needed in the area. But there is no requirement in the City's utility procurement manual for the developer to resurface the alleyway along its entire way. Finally, the developer would have to dedicate the right of way off their property for the widening of the alleyway so there would be a benefit to the City from that dedication of right of way. There would be a requirement for 64 Rainey Street to widen the alleyway as well as 70 Rainey Street and as properties are developed, the City's practice is to widen streets to a certain standard so as properties are developed along the same alleyway the City can seek dedication of right of way so that it's widened along its entire width. According to Lazarus, the alleyway serves a lot of purposes including an entrance for municipal service deliveries, so to make that alleyway more usable, as an alley and not as a public road, would add value to the city and to the developer.

CM Pool questioned the participation of the Rainey Neighborhood Association and the Rainey Business Coalition in the design of the park, along with the provisions of said participation and ownership of the process. The developer explained that without any action from Council in a timely manner then there will be no collaboration on the design of the proposed parkland.

Ex-officio member Jane Rivera expressed concerns regarding the possible creation of an alternative street and flow of traffic near 64 Rainey through the widening the alley way; the concern lies in the preservation of 64 Rainey and segregating the site.

- *Comments from MACC Advisory Board Chair*

From the dais, David Carroll, the Chair of the MACC Advisory Board, described the history of the developer's proposal and the consideration of the MACC board. According to Carroll, at a public hearing in November 2012 the community expressed their desire for a multiuse green space at 64 Rainey that has since been dubbed as a pocket park. On June 5, 2013, the MACC Board made a presentation to the advisory board meeting with a recommendation to build a pocket park on 64 Rainey and the vote was six to zero, all in favor of the pocket park. By way of this vote, the board saw an opportunity to enhance the entrance to the MACC by having a landscaped, green area on both sides of the street, Carroll said, adding the board agrees that the pocket park will only be temporary and the parcel will eventually be included in the next phase of the master plan.

Carroll said it's the board's understanding that there are currently no City funds available to design, construct, and maintain the pocket park; currently there is also no guarantee that funds from the Rainey district will be used towards the pocket park. Carroll also noted that the MACC architect record will update the MACC's master plan which was originally created in 2000. The updated plan will be vetted through a public input process and will include both 64 and 58 Rainey

in order to move forward with a financing instrument. Along with the update to the MACC Master Plan, Carroll also noted that the proposal will convert a vacant parking lot into the pocket park recommended by the public in November 2012, which will all be paid for by the developer at no cost to the taxpayer, with nothing being given up nor sold, without any need to change or transfer ownership.

- *Appraisal of 64 Rainey*

CM Pool asked staff about any appraisal of the land and whether there may be some relationship between the use of the land for two years as proposed and the appraisal of the value of the land. Lauraine Rizer, the City's Real Estate Officer, explained that an appraisal was done in 2012 and it was \$1,176,000 with the easement across it. Rizer further explained that staff is in the process of requesting an update to the appraisal since the land has increased in value since 2012.

MPT Tovo asked about the market value of a tract of land downtown and a comparable lease fee that might include a surface parking lot which would be rented to a neighbor for construction staging. Staff will research this information and provide it at a later time.

- *Rainey Street District Preservation Fund*

CM Garza inquired about the limits of the fund. Greg Canally, the City's Deputy Chief Financial Officer, provided a brief presentation to help explain the history of the fund which explained that in May of 2013, City Council directed staff to explore mechanisms to fund relocations of buildings in the Rainey Street district, creation of a history center, and future infrastructure improvement in the sub district. In October of 2013, City Council created the Rainey Street District Preservation Fund to preserve and maintain the district; to rehabilitate the district; to be revenue generated from temporary right-of-way fees, alley vacation sales and license agreements. The fund also appropriated \$600,000 as startup funds based on projections at that time from potential developments in the district; the City is not responsible for when these developments would occur. By November of 2013, City Council allocated \$500,000 of the initial \$600,000 to the Austin Housing Finance Corporation to work on the relocation and rehabilitation of four homes in the district. As of today, the City has collected \$385,000 in revenue and has spent \$500,000 for a balance of (\$115,000). Moving forward, any revenue collected will be applied to this negative balance to make it whole again before any new appropriations occur. CM Garza asked for clarity on the \$600,000 amount. Canally explained that this amount was the initial projection of what may be needed for the first 12-18 months of creation of the fund.

Public Comments

- Juan Oyervides spoke against.
- Anita Quintanilla donated her time to Juan Oyervides.
- Peggy Vasquez donated her time to Juan Oyervides.
- Cynthia Vasquez Revilla donated her time to Juan Oyervides.
- Skylar T. Bonilla donated her time to Juan Oyervides.
- Kitty McMann spoke in favor.
- Ben Siegel spoke in favor.
- Paul Saldaña spoke against.

- David King donated his time to Paul Saldaña.
- Valerie Menard spoke against.
- Carter Sackman spoke in favor.
- Michelle Lynch donated her time to Carter Sackman.
- Amanda Polcan donated her time to Carter Sackman.
- Jake Henderson donated his time to Carter Sackman.
- Daniel Llanes spoke against.
- Gloria Pennington's email spoke against and was read into the record.

Direction

Allow staff to address any remaining questions from the committee to clarify the details of the proposal and alternatives at a future time. Action may be considered at the August 6 regular City Council meeting.

Recommendation

No formal recommendation made.. The Committee was not prepared to make a decision due to the lack of additional information.



COUNCIL COMMITTEE REPORT

OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY COMMITTEE

Date: June 24, 2015

Agenda Item #: 8

Agenda Item: Discussion regarding the proposed construction of State Highway 45 Southwest.

Vote No vote was taken at the discretion of the Chair.

Sponsors/Department: Watershed Protection Department, Austin Water Utility, and the Law Department

Summary of Discussion

Chuck Lesniak, the City's Environmental Officer, provided a presentation discussing the history of the proposal of SH45 SW and the current contention surrounding the final environmental impact statement (EIS) and Record of Decision. The tolled, four-lane parkway would be built and operated by the Central Texas Mobility Authority (CTRMA) with funding from the CTRMA, Hays County, and Travis County.

- *Environmental Setting*

The road is almost entirely over the Edwards Aquifer Recharge Zone and is adjacent to twelve tracts of Austin Water Quality Protection Lands. Any contaminants that would hit the ground in this area would flow into the recharge zone very quickly. The area hosts rare karst species in several of the area caves, especially Flint Ridge Cave, and a Golden-cheeked Warbler habitat near the right-of-way. The Flint Ridge Cave is protected by the Balcones Canyonlands Conservation Program (BCCP) permit and is the largest recharge feature of the BCCP's protected caves. The BCCP permit prohibits disturbance within the surface and subsurface drainage basin, which is currently undergoing a dye study by the City to better define the subsurface basin.

- *EIS and Record of Decision*

The project has been reviewed by TxDOT under state regulations, along with a multi-agency technical working group consisting of the City of Austin, Travis County, TX Parks & Wildlife, U.S. Fish & Wildlife, and the Barton Springs/Edwards Aquifer Conservation District. TxDOT published the draft EIS in June of 2014 and the City provided comments in August of 2014. Similarly, TxDOT published the EIS supplement online in November of 2014 and the City provided comments in December of 2014. The final EIS was issued in January of 2015 and

included responses to most of the public comments but did not include responses to comments made on the EIS supplement. Additionally, the Record of Decision, which is the final environmental approval for the road, was issued by TxDOT March of 2015 with a finding of no significant impact. Upon review of the EIS, the concerns of City staff included a lack of the critical scientific analyses available in the draft EIS or for public comment; the need for water quality treatment to meet community standards; unsupported conclusions on potential environmental impacts; inconsistent warbler analysis with U.S. Fish & Wildlife protocols; failure to incorporate Flint Ridge Cave dye study information; and a lack of consideration if the potential impact to the BCCP permit, even though TxDOT and CTRMA are not subject to the requirements of the BCCP permit. In April of 2015, the U.S. Fish & Wildlife submitted a letter to Mayor Adler and Council Member Pool regarding the concerns about the warblers, blind salamanders, and cave invertebrates, while also expressing concerns about the potential impacts to the BCCP permit with suggestions to find a substitute cave or amend the permit.

- *BCCP Permit*

CM Zimmerman asked for clarification on the entities subject to the BCCP requirements. As Zimmerman understood it, per the U.S. government, everyone is subject to the requirements. Mitzi Cotton, the City's Senior Attorney, explained that CTRMA and TxDOT are subject to the Endangered Species Act, whereas for the BCCP, it is the permit holders that are subject to it along with anyone participating in the permit is subject to, but they're not subject to the requirements other than the Endangered Species Act that are not limited to that permit.

CM Pool commented that the unfortunate result of that is if CTRMA and TxDOT proceed with construction then any negative effects would fall to the permit holders, such as the City and the County, which would mean that the permit holders would be in violation of the federal permit. Furthermore, the permit holders would be the ones penalized for any action that the City is trying to prevent because of the fact that it will put the City in violation of the permit. Cotton replied and stated that it would not necessarily put the permit holders in violation but instead it would put them in jeopardy of violation, and there will be a factual determination made by the service.

- *Flint Ridge Cave*

Mary Gay Maxwell, Chair to the Environmental Board, asked for clarification on the jeopardy of violation of the BCCP permit as it relates to Flint Ridge Cave. Willy Conrad, the City's BCCP Coordinating Secretary, explained that the challenge faced with the construction of SH45 SW is specifically with Flint Ridge Cave. The cave is one of the sixty-two caves listed in the permit that the City is required to protect in order to comply; per the language in the permit the City is required to protect the environmental integrity of the cave including the surface and subsurface drainage basins. The permit does define how we presume the subsurface drainage basin's area should we not have a firm hydrological delineation but the dye tracing is meant to refine that presumed basin because it is not necessarily reasonable at this point. Therefore, what is understood from the EIS and Record of Decision is that the highway will impact a small portion of the surface basin, but the reports did not speak to the subsurface basin. The highway is planned to encroach the entire length of the presumed basin and it would be very likely that the City will not be able to protect Flint Ridge Cave to the level committed in the federal permit.

Public Comments

None

Direction

Recommendation

DRAFT



COUNCIL COMMITTEE REPORT

OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY COMMITTEE

Date: June 24, 2015

Agenda Item #: 9

Agenda Item: Consider and develop a recommendation regarding the grant of a temporary use area (8,832 sq. ft.) not to exceed 182 calendar days and a permanent use area (2,115 sq. ft.) on parkland located at 120 Red River.

Vote The recommendation was approved on CM Zimmerman's motion and on CM Garza's second. Vote 3-0-0-1. MPT Tovo was off the dais.

Sponsors/Department: Austin Transportation Department

Summary of Discussion

Prior to losing a quorum, CM Pool confirmed with staff the type of action they needed from the committee. Staff explained that their desire was to provide a briefing on the item and then request approval of the recommendation to send forth to City Council in August. CM Pool added that the item would be subject to an additional briefing opportunity in August for this committee if necessary. Ultimately, the briefing was withheld by staff due to time constraints and a formal vote was taken.

Public Comments

None

Direction

The committee unanimously voted to move this item to City Council.

Recommendation

The committee unanimously approved the recommendation regarding the grant of a temporary use area (8,832 sq. ft.) not to exceed 182 calendar days and a permanent use area (2,115 sq. ft.) on parkland located at 120 Red River. The item will be taken up at a public hearing during the August 20 City Council meeting.