

CITY OF SALEM
PARKS AND RECREATION ADVISORY BOARD (SPRAB)
ON-LINE MEETING AGENDA

Si necesita ayuda para comprender esta información, por favor llame 503-588-6003.

Individuals needing special accommodations such as sign language, foreign language interpreters or equipment for the hearing impaired must request such services at least 48 hours prior to the meeting. To request accommodations or services, please call 503-588-6211 or 503-588-6003 (TTD/TTY 503-588-6439), or by e-mail at: twhitler@cityofsalem.net at least two business days in advance.

This regular meeting of the Salem Parks and Recreation Advisory Board will take place online. This page will tell you how to participate in this digital format. The agenda for the meeting is on page two.

DIGITAL MEETING INFORMATION

The City will be using ZOOM software to host this meeting. If you are new to ZOOM, you will be able to access the meeting without downloading the application. If you wish to download the software, that option will be provided when you click on the link to the meeting.

To access the **October 8, 2020, 5:30 p.m.** Zoom meeting from computer, tablet, or smartphone click on the following link:

<https://zoom.us/j/98325067836?pwd=YnBQL1VYVjJiU0t3L20vN2UrazhRdz09>

You can also view the meeting on YouTube at the following link:

https://www.youtube.com/channel/UCQLj9RKZNHu4wfYcs_TC0TA

PUBLIC COMMENT

Contact Toni Whitler, Parks Planner, at twhitler@cityofsalem.net if you wish to provide public comment on any agenda or non-agenda item.

Email comments: Please provide email comments no later than 4:00 p.m. the day before the meeting.

Live, public comment: Please contact Toni Whitler no later than 3:00 p.m. the day of the meeting.

Public comments will only be addressed during the public comment period as noted on the agenda (see Agenda on page 2) and will include comment on agenda and non-agenda items. Email comments submitted will be addressed during the comment period.

CONTACT INFORMATION

The City of Salem and the Salem Parks and Recreation Advisory Board thank you for your support by using the digital format. For any questions or concerns about the above information, please contact Toni Whitler, Parks Planner, at twhitler@cityofsalem.net or 503-588-6211.

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, and source of income, as provided by Salem Revised Code 97. The City of Salem also fully complies with the Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, and related statutes and regulations, in all programs and activities.

Es la política de la Ciudad de Salem asegurar que ninguna persona será discriminada por motivos de raza, religión, color, sexo, estado civil, situación familiar, origen nacional, edad, discapacidad mental o física, orientación sexual, identidad de género, ni fuente de ingresos, de acuerdo con el Salem Revised Code Chapter 97. La Ciudad de Salem también cumple plenamente con el Title VI of the Civil Rights Act of 1964, y los estatutos y reglamentos relacionados, en todos los programas y actividades.

**CITY OF SALEM
PARKS AND RECREATION ADVISORY BOARD
DIGITAL AGENDA
OCTOBER 8, 2020 – 5:30 to 7:00 p.m.**

**BOARD MEMBERS, CITY STAFF &
UPCOMING MEETINGS**

BOARD MEMBERS

Dylan McDowell, Chair
Micki Varney, Vice Chair
Alan Alexander
Tony Caito
Diana Dickey
Woody Dukes
Dave Fridenmaker
Keith Norris
Paul Rice

CITY STAFF

Robert Chandler, Assistant Public Works Director
Mark Becktel, Operations Division Manager
Patricia Farrell, Parks and Natural Resources Planning Manager
Jennifer Kellar, Parks and Recreation Services Manager
Becky George, Recreation Supervisor
Milan Davis, City Urban Forester
Toni Whitler, Parks Planner & Board Liaison

UPCOMING MEETINGS

- November 12, 2020, 5:30 p.m. - Next regular SPRAB Meeting (online)

LINKS

BOARD WEB PAGE:

<https://www.cityofsalem.net/Pages/parks-and-recreation-advisory-board.aspx>

AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. MINUTES –**
 - a. September 10, 2020
- 4. PUBLIC COMMENT (*Agenda/Non Agenda Items*)**
- 5. BOARD ITEMS/PRESENTATIONS**
 - a. Approval of Findings from September 10, 2020 Tree Removal Permit Hearings (**ACTION ITEM**)
 - b. Follow-up on Tree Removal Permit – 500 Blk Salem Heights Road S. (**ACTION ITEM**)
- 6. INFORMATION REPORTS – (Written Reports)**
 - a. Mission Street Parks Conservancy MOU, Quarterly Report, & Newsletter – *Christine Chute*
 - b. Urban Forestry Update
 - c. Parks Planning Update
 - d. Parks Operations Update
 - e. Recreation Services Update
- 7. INFORMATION REPORTS – VERBAL REPORT**
 - a. Verbal Update on Summer Recreation Programs – *Melinda Mokalla and Billy Powers, Recreation Services*
- 8. NEW BUSINESS**
- 9. NEXT MEETING**
 - a. **NOVEMBER 12, 2020**
- 10. ADJOURN**

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, and source of income, as provided by Salem Revised Code 97. The City of Salem also fully complies with the Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, and related statutes and regulations, in all programs and activities. Es la política de la Ciudad de Salem asegurar que ninguna persona será discriminada por motivos de raza, religión, color, sexo, estado civil, situación familiar, origen nacional, edad, discapacidad mental o física, orientación sexual, identidad de género, ni fuente de ingresos, de acuerdo con el Salem Revised Code Chapter 97. La Ciudad de Salem también cumple plenamente con el Title VI of the Civil Rights Act of 1964, y los estatutos y reglamentos relacionados, en todos los programas y actividades.



SALEM PARKS AND RECREATION ADVISORY BOARD
AND PUBLIC HEARING
September 10, 2020
DRAFT MINUTES

MEMBERS PRESENT

Dylan McDowell, Chair
Micki Varney, Vice Chair
Alan Alexander
Tony Caito
Woody Dukes
Dave Fridenmaker
Keith Norris
Paul Rice

MEMBERS ABSENT

Diana Dickey

STAFF PRESENT

Glenn Davis
Patricia Farrell
Jennifer Kellar
Milan Davis
Becky George
Toni Whitler
Rose Henlin
Lisa Anderson Ogilvie

1. ROLL CALL

Diana Dickey marked absent.

2. APPROVAL OF MINUTES

Vice Chair Varney asked that her name be spelled correctly in the minutes under item 2. Member Varney moved to accept minutes as corrected; seconded by Member Alexander.

Roll call vote – all in favor.

3. PUBLIC COMMENT

Chair McDowell asked if there were any public comments not related to the public hearings. With the new online forum, people were asked to sign up in advance. Ms. Whitler said no one had signed up.

4. ACTION ITEMS

a. Climate Action Task Force

Chair McDowell asked if anyone would like to volunteer to be the Alternate on this committee. Member Norris volunteered after clarifying he would only attend if Chair McDowell was unavailable. Member Rice asked if Parks staff would be part of the task force. Patricia Farrell answered that yes, she is the project manager and other Parks staff would be involved as needed.

5. INFORMATION REPORTS

Chair McDowell asked if there were any questions for Staff on the updates that were provided to the committee in advance of the meeting: Urban Forestry, Parks Planning, Parks Operations and Recreation Services.

a. Parks and Natural Resources Planning Update

Chair McDowell asked Patricia Farrell about the virtual open houses that occurred as part of the Master Plan. Ms. Farrell said that there has been a disappointing response from the public. Pre-COVID-19 participation of the Battlecreek Park Master Plan was larger, but that was a new park with lots of neighborhood interest. The post-COVID-19 open house and survey for Bush's Pasture and Deepwood Cultural Landscape Management Plan received 351 responses. Advertising and social media posts were not helping to increase attendance, but staff acknowledged that there are currently many local and regional distractions going on.

b. Urban Forestry Update

Chair McDowell suggested that any questions about the plans for planting be submitted in writing to

Patricia Farrell and added as future agenda items.

Members Norris and Rice were curious about the after-hours calls listed in the report. Jennifer Kellar answered that hot weather makes tree limbs brittle and they break.

Milan Davis added that the majority of the calls that were received from Dispatch were through Police or Fire and usually because the large limbs or trees that dropped were in the public right-of-way and causing a hazard. Some calls were from residents, but Mr. Davis goes out to assess the situation before dispatching a crew.

c. Parks Operations Update

Member Norris asked about the park security provided by DPI Security, if the company was providing a report of things that were encountered on the overnight shifts. Jennifer Kellar reported that after asking for more information from DPI, Parks had been receiving reports on a weekly basis.

6. PUBLIC HEARINGS

Modified procedures sent out earlier today clarified the order of proceedings. The Neighborhood Association for both hearings is the Appellant instead of what would normally be the Applicant. The modified order of the proceedings took this into account as well as made allowance for the Applicant to speak as well. Chair McDowell asked for a motion to adjust the proceedings of the agenda. Member Dukes made the motion; Member Rice seconded the motion. Roll call vote – motion passed (Member Alexander lost connection but there was a majority without). Chair McDowell explained the procedures of the hearings.

a. Appeal of Tree Removal Permit Approval: 725 Market Street NE, Grant Community School

City Staff Presentation: Glenn Davis, Chief Development Engineer for the City gave his report on the plans to put in a bus pull-out lane on Cottage Street to the west side of the school. This plan included removing five trees in the public right-of-way on the east side of Cottage Street and the issue as to whether these trees meet the criteria for removal. Salem Keizer School District is the applicant for the project.

Applicant: Joel Smallwood, Salem Keizer School District's Director of Maintenance and Construction Services and Mark Shipman, law offices of Saalfeld Griggs (250 Church St SE, Ste 200, Salem).

Mr. Shipman urged the Board to move to approve the tree removal application as noted in the staff report. This is tied to the 2019 approved bond for improvements to the Grant Community School. The submitted and approved plan (by Public Works staff, Planning and City Council) is the minimum to allow the District to make the changes they need to accommodate the needs of the students and the school. The trees will be replanted in the one-for-one tree replacement plan.

Appellant: Sam Skillern, co-chair of the Grant Neighborhood Association and has lived on Cottage Street for 22 years. Mr. Skillern said the Neighborhood Association has been trying to work with the District on alternative plans for the project that would not have as great an impact on traffic on Cottage Street and also save the established trees in the greenway.

Joel Smallwood affirmed that the District has committed to looking at alternatives with the Grant Neighborhood.

Mr. Smallwood reiterated that this hearing is to approve the tree removal permit as it stands for the plan in place. The current plan simply cannot be constructed without removing those trees. There was discussion with Mr. Cupani about the Applicant's agreement. The Applicant may withdraw the permit, they may even choose not to act on the current permit as stated. But there

are hoops and hurdles to change the plan that has already been approved by Council.

Public comments: No comments registered for this issue.

Questions to staff from the Board:

Member Norris asked how the Planning process plays into the tree removal process? They cannot build the approved plan without the tree removal permit. Isn't the City's planning process already affirming the tree removal permit?

Glenn Davis responded. This is a new regulation: allowing SPRAB to review tree removal permits. Other permits don't have a secondary approval process that is required on a plan that was already Council-approved. This is a unique situation.

There is an amendment process that can be gone through to make changes needed. The City is committed to preserving trees and the site plan review has an expiration date.

Member Rice asked about a parallel process on Division Street from last year whether the criteria for that project met the criteria of saving trees. Within the permit process was there a requirement to replace one-for-one trees?

Glenn Davis answered. Chapter 86 requires that trees be planted to the maximum extent feasible which is a normal criterion for building permits. "One-for-one" is just going to greater detail.

Member Dukes was glad to hear the conversation between the Neighborhood and the District. Chair McDowell asked Mark Shipman about the timeline for the new discussions taking place. The District has begun construction but until the appeal is hashed out, the construction is probably postponed until Spring of 2021.

Member Norris asked if this is a new process: that the tree removal permit while it was applied on approval of the land use plan, it was approved before the land use plan was approved. Timelines were overlapping.

Glenn Davis: the approval was conditioned upon the site plan being approved. The approval was granted, and removal was posted (30 days required). The site plan was approved by the Planning Administrator and by Council so there was a bit of an overlap in timelines.

Final rebuttal by the Appellant:

Sam Skillern stated the Neighborhood Association is optimistic about the idea they are working through with the District. We want to make sure that SPRAB is complementary to the process.

Final rebuttal by the Applicant:

Mark Shipman stated his appreciation for the comments of the Appellant and the City's legal representative, but it diverts us from the process of tonight's hearing. There is an approved plan in place and a recommendation to staff for SPRAB to approve the District's request. The District and the Neighborhood Association can continue their discussion on alternatives.

Questions to staff:

Member Rice made a statement about the disputed trees being newer than the trees on the other

side of the street so the tree canopy over the street mentioned in Mr. Skillern's report currently is not an issue. His opinion is to deny the appeal and let the permit stand as stated.

Member Norris added that reasonable alternatives have been explored as part of the land use planning process so he agrees with Member Rice to deny the appeal and affirm the Director's decision.

Member Alexander mentioned the factual errors in the tree removal application. Denial of the permit would go against the betterment of the school, but he is concerned about the errors that occurred. After some clarification from Glenn Davis that they were not necessarily errors, just better language that could have been used, Member Alexander restated that deficiencies were actually pointed out in the staff report and corrected.

Chair McDowell commended the parties involved for their positivity in coming to a solution in this matter. *On the record, we encourage the continued collaboration between the District and Neighborhood Association as they continue to pursue other opportunities.*

Member Rice motioned to affirm the permit but encouraged the parties involved to continue their dialogue to come up with a mutually agreeable decision.

Member Alexander seconded the motion.

Roll Call – Motion carries with one recusal (David Fridenmaker) and one nay vote (Micki Varney).

b. Appeal of Tree Removal Permit Approval – 500 block of Salem Heights Road S.

Chair McDowell suggested for expedience that questions and clarifications would be allowed after each presentation and not have to wait until the end.

City Staff Presentation: Glenn Davis, Chief Development Engineer gave his presentation. The issue at hand is that three trees, already removed from the right-of-way, met the criteria of tree removal per Salem Revised Code (SRC) Chapter 86: Trees on City Owned Property, and Salem Administrative Rule 109-500-002 which establishes practices and rules applicable to trees on City-owned property. Wren Heights subdivision is 34 lots proposed on eight acres. This area is substandard for bike lanes and sidewalks and there are quite a few trees in conflict with future street improvements. The subdivision is not up for debate since the plan was approved by the Planning Administrator. There were originally five City trees to be removed but that was amended to three since two of the trees are outside the City right-of-way.

In February a permit was issued to the Developer to remove private property trees; the street trees in question were also removed at that time. The Developer applied for a tree removal permit in June at the City's direction. The Director granted the permit even though the trees had already been removed. SWAN appealed the decision and tonight is the appeal hearing. Once SPRAB enters its decision, the Director will assess civil penalties. SPRAB does not have a regulatory role in assessing civil penalties.

The Director's original decision granted the permit based on the criteria that there were no

reasonable alternatives to tree removal. Staff recommends that SPRAB affirm the permit for the tree removal.

Questions to staff:

Member Dukes asked what happens if the permit is denied? Land use condition would not have been met and there would be an amendment process to go through. The violation will still go forward whether the permit is affirmed or not.

Member Norris asked if the code violation is separate from the approval process?

Glenn Davis – the amount of the penalty is waiting for the decision from this meeting. If the trees were permitted to be removed, the violation would be a different matter than if the trees were not permitted to be taken out at all.

Member Dukes was concerned that they knew they needed a permit and they removed the trees anyway.

Member Alexander and Glenn Davis discussed whether the penalty was already decided, and the Developer should have known better.

Mr. Davis asserted that there had been some discussion, but the final decision was waiting for SPRAB's decision. "You don't skip the process by violating it".

Member Norris wanted some background information about this issue. 'After the fact street tree removal permit' is not a formal designation, more of a description. One of the conditions talks about tree preservation on private property and the city trees that would need to be removed. Removal of the City trees was given "tentative" approval to remove the trees as part of the planning process. He wanted to know a little more.

Glenn Davis answered that staff recognized that the three trees had to come out for the street to be built but staff didn't have the authority to authorize this process before the approval was granted by the Director. The street construction permit is not approved because the street tree removal permit is not approved.

Applicant testimony:

Mark Ferris is the Applicant's representative; Keith Whisenhunt testified for Mr. Ferris who was not available for the meeting. He is the surveyor for the project. Tom Kay is the applicant and Developer. Mr. Whisenhunt wanted to make sure that some things were clarified. First, a previous survey was used so there were some discrepancies in where and how many trees were involved.

Secondly, the Developer worked with City staff to try and save as many trees as possible. They were able to preserve 19 of the 22 trees that were slated to come out in the City right-of-way.

During the tree removal, a City inspector was present at the time of their removal and said that everything "looked fine". Everyone, including the City inspector, thought that it was reasonable that the trees needed to be removed. Mr. Davis noted later that it is not the role of the City inspector to determine tree removals.

Comments:

Member Varney commented that there was no posted removal notice on the trees. It seems like they disregarded proper procedures.

Member Caito commented that even though there was a City employee there at the time of the removal, the burden of proof is on the Applicant to prove that they acted appropriately. Mr. Whisenhunt says that the Applicant understands there was no permit. The proximity of the trees to right-of-way made it hard to determine what needed to be removed. Their intent was to take out the correct trees.

Member Alexander stated that it seems like there should have been a project manager or construction manager that was supervising this action.

Member Norris asked about the reasonable alternative to removing the trees. How was that demonstrated?

Mr. Whisenhunt said there was discussion between the City and the Applicant about street widths and sidewalks in the application process to try and save as many trees as possible. The application process involved discussion of the trees as part of the construction standards.

Appellant testimony:

Ted Burney, Land use chair of South West Association of Neighbors (SWAN). He sent in his testimony with photos. SWAN unanimously voted to appeal the decision of the permit approval. He disagreed that there was 'no reasonable alternative' and he claims that there were alternatives.

The standards being applied to this project are just starting points, not mandates. Salem Heights does function as a collector street, but it has never been developed and it is a local street. There is room for adjustments on the design. Center line adjustment could have been utilized to make it a 'meandering' street and avoid the trees in question. A 'road diet' could have been applied to make the street narrower to avoid the trees. Curb radius could have been lessened or sidewalk and bike lanes could have been redirected or reduced.

Questions to Appellant:

Member Fridenmaker asked if these street alternatives were discussed during the subdivision process?

Appellant stated that the paperwork they were given only said "no reasonable alternatives were given". He would have liked to have seen those alternatives.

Member Dukes asked if a certified arborist or consultant was asked to approve these proposed alternatives.

Appellant said "no".

Member Dukes asserted that we shouldn't save trees just to save them and then remove them later. He used one of the photographic examples in the Mr. Burney's testimony with the sidewalk around the base of the tree, noting that the tree is now almost dead.

Member Alexander congratulated the Neighborhood Association on their well-researched and well-presented presentation. It is obvious they are passionate about the subject.

Public Comments:

Ron Eachus – He has lived on Salem Heights Road since 1989. He sent in comments and exhibits. We are in a closed loop: staff maintains that there are no alternatives because the design has been approved. There are reasonable alternatives that could protect the trees and allow traffic flow. The improvements on one side of Doughton St S don't have to mirror the improvements on the other side. Staff has applied collector street standards to a half-street improvement. The City will not be acquiring any additional right-of-way even though the street does not currently meet collector street standards. He is questioning the whole process.

Bill Dixon – 608 Salem Heights Avenue S. He would like to talk about how the Salem Heights community can help the City remedy this difficult situation. There is currently a Salem Heights Advisory group which is led by a senior planner from City staff and consists of 10 people from the neighborhood. They are interested in enhancing safety, improving usability, reflecting the character of the neighborhood and following the City's design standards. Tree canopy was a major factor in the livability of the neighborhood so the Advisory group is working with staff on the unique situation of the street to protect the remaining 17 trees in the construction of the subdivision as well as replacing the removed trees as close to their original location as possible.

Jeanine Stice – Chair of SWAN, lived on Sunridge Drive for 19 years. SWAN had a conversation with the Developer about tree preservation and felt confident that future conversations would include alternatives that would preserve trees. She believes that this was a missed opportunity to do the right thing for the size of street considered.

Board questions for staff:

Chair McDowell asked Mr. Davis about precedent. Recognizing that this is a unique situation and wanting to make sure that Developers aren't disregarding the regulations. Mr. Davis said that to his knowledge that this is the first time this has happened with a tree removal permit. It happens sometimes with grading permits or other construction permits but not with tree removal permits.

He also wanted to clarify what was said about a City inspector on site. City inspectors visit between 12 to 20 sites per day to make sure that erosion control and prevention measures are in place. It is not their role to think of the nuances of the permits required for the construction they are inspecting. Mr. Whisenhunt knew that there was no permit in place, and he did not follow procedure.

Member Fridenmaker asked about grading permits and whether they were issued at the same time as the tree removal permit.

Glenn said that the applicant was fully aware when they picked up the grading permit that they are required to get a tree removal permit for anything other than private property.

Vice-chair Varney made the comment to ask how to approve a permit for something that doesn't exist. Final subdivision approval was granted and told that they were required to obtain a tree removal permit.

Member Norris asked Glenn to display his slide that describes the issue at hand. How can the three trees meet the criteria for removal when they no longer exist?

Mr. Davis was asked for "reasonable alternatives". Council approved the design as part of the subdivision approval process. To build the subdivision they would need to excavate 24 to 30 inches right next to the tree which would cause irreparable damage to the tree.

Mr. Cupani wanted to clarify the question before SPRAB: was this a tree that would have had a permit properly issued when it was taken down? Alternatives to the street design and ways to avoid cutting down trees are all part of the land use process and is outside of SPRAB's purview. There is a chain of command that SPRAB cannot step into, the design was approved, and it is that design that SPRAB must consider.

The sequence of events is something we want to avoid in future considerations.

Member Dukes commented about a concern of setting a precedent. If this happens again, what is the deterrent for another Contractor to do the same thing?

Mr. Cupani talked about the disincentive, both monetary and procedural, that would deter this from happening again. As part of the modifications to the current regulations, there would need to be an amendment to the tree conservation plan on new applications.

Vice-chair Varney, upon reading the appeal procedures in the SPRAB bylaws asked: are we making the decision on the appeal or the permit?

Mr. Cupani maintained that they are one and the same. What the committee is being asked to do is either affirm the appeal and deny the permit or deny the appeal and affirm the permit. There has been a lot of due process in this case and ample opportunities for the parties involved to weigh-in on the case from the Planning Commission to the City Council and the appeal that was settled by LUBA.

Member Norris stated that the City's due process of the tree removal permit was blatantly ignored. Mr. Cupani said that what was going to happen to the trees and the alignment of the street had been established by the due process of the approval and would they have received a permit based on that land use plan.

Member Norris disagreed. We are requiring the appropriate application of permit approval, which has also been put in place by the duly elected members of the City.

Mr. Cupani stated that if there were no reasonable alternatives based on the land use decision, would they have gotten a permit to remove those trees? If that is not the case, they will be sanctioned appropriately in that circumstance.

Member Caito asked if the permit had been issued at the right time, do you believe that the decision

from the Director would have been different?

Glenn stated that they believe as staff that the street could not have been constructed without removal of the trees.

Member Rice talked about being made uncomfortable by the process of being asked to approve a permit where the decisions have already been made. Because we are being asked to review something that has already happened, we have no real say-so in the decision.

Member Alexander asked about the legality of the after-the-fact permit.

Mr. Cupani stated that if you were entitled to do something and needed a permit to do it, starting the process and then going back and getting the permit after the fact is certainly not the best practice. This hearing points out that we need to fix the system and to let the Developers know that this is not the way to do things.

Mr. Davis agreed that if we had not gone through this process, civil penalties would have been assessed and SPRAB would never have seen anything about this issue.

Final rebuttal

Appellant:

SWAN's issue is that due process was ignored. Trees were cut down before any notice was posted. There was no way to appeal before the trees were removed. The Developer ignored due process because the plans were tentative even after staff reminded them. They maintain that reasonable alternatives were never considered or examined.

Applicant:

This was not a surveying error; there is a different resolution of the boundaries that was submitted by the City Surveyor and approved by the County Surveyor. Mr. Whisenhunt was sorry about his earlier comments regarding the City inspector. The proposed alternatives were rejected by the City Traffic Engineer because he maintained that there must be a bike lane. Everyone loses sight of the work that went into the approved design and all the entities involved in the process and there was significant analysis to try and save trees.

Questions for staff:

Public comments are closed.

Deliberations:

Member Alexander said that an issue like this erodes the public trust in the City and doesn't cast the Developer in a great light.

Member Norris asked for Board members perspective on "what is the question?" If the permit had been applied for before the trees were cut down, the permit would have been approved. Is it the validity of the permit or the validity of the Director's issuing of the permit after the trees are gone?

Chair McDowell wanted to remind the Board that there will be civil penalties regardless of the decision today because there have been some processes that were not followed. It's not just

someone that went out and cut down a City tree.
Discussion about the wording of the motion ensued.

Chair McDowell stated that we could make two separate motions: one to affirm the permit and one to express SPRAB's dissatisfaction.

Motion:

After much discussion, Member Alexander made a motion to affirm the decision of the Director to issue the permit. The motion was seconded by Member Dukes.

More discussion ensued.

Vice-chair Varney asked if the motion could be amended to deny the appeal and affirm the Director's decision on the tree removal permit in the 500 block of Salem Heights Avenue S. Mr. Cupani clarified the parliamentary rules for amending a motion that has been seconded: the first vote would be to amend the original motion.
Roll call vote – amendment passed unanimously.

New Motion

Motion to deny the appeal and affirm the Director's decision on the tree removal permit in the 500 block of Salem Heights Avenue S.

Roll call vote - The motion carried 5 in favor to 3 opposed.

In Favor

Chair McDowell
Alan Alexander
Woody Dukes
David Fridenmaker
Paul Rice

Opposed

Tony Caito
Member Norris
Vice Chair Varney

Member Alexander suggested that the advisory opinion be carried to next month due to the lateness of the hour.

Mr. Cupani said that since the appeal has been decided, the advisory opinion be carried to the next month to express SPRAB's displeasure about the process.

Chair McDowell asked for a volunteer to draft up a document to present at next month's meeting. Member Alexander will do the first draft.

7. **New Business**
8. **Next meeting – October 8, 2020**
9. **Adjournment at 9:27 p.m.**



SALEM PARKS AND RECREATION ADVISORY BOARD PUBLIC HEARING

September 10, 2020

Written Findings Regarding the Removal of Street Trees on 725 Market Street NE

Board Attendees: Chair Dylan McDowell, Vice Chair Micki Varney, Alan Alexander, Tony Caito, Woody Dukes, David Fridenmaker, Keith Norris, Paul Rice

Absent: Diana Dickey

Vote to Affirm Director's Approval: 7-1; Micky Varney opposed

Abstained: David Fridenmaker

Regarding Permit 20-108586-TR, based on the evidence presented in writing and at the hearing on September 10, 2020, the Board finds that the criteria for removal as described in Salem Revised Code 86.090 has been met and on that basis, issuance of the permit by the Director is sustained. The appeal is denied.

SPRAB encourages both parties to continue their dialog to find alternative design solutions that meet both parties' needs and interests.



SALEM PARKS AND RECREATION ADVISORY BOARD PUBLIC HEARING

September 10, 2020

Written Findings Regarding the Removal of Street Trees in
500 Blk Salem Heights Avenue S

Board Attendees: Chair Dylan McDowell, Vice Chair Micki Varney, Alan Alexander, Tony Caito, Woody Dukes, David Fridenmaker, Keith Norris, Paul Rice

Absent: Diana Dickey

Vote to Affirm Director's Approval: 5-3; Tony Caito, Keith Norris, Micky Varney opposed

Regarding Permit 20-108648-TR, based on the evidence presented in writing and at the hearing on September 10, 2020, the Board finds that the criteria for removal as described in Salem Revised Code 86.090 has been met and on that basis, issuance of the permit by the Director is sustained. The appeal is denied.

DRAFT

October 1, 2020

To: City Council

From: Salem Parks and Recreation Advisory Board

The Salem Parks and Recreation Advisory Board [SPRAB] recently found itself in a somewhat uncomfortable position during recent deliberations over an appeal of a tree removal permit. The applicant, a neighborhood association, was appealing to set aside a tree removal permit issued by the Public Works [PW] Director to remove five [5] City trees [street trees] to allow a half street improvement as a part of a sub-division development. The permit was issued to the developer two months after the unauthorized removal of the trees. After the filing of the appeal, it was determined, from a follow up survey, that two of the subject trees were actually on private property. Unfortunately, two of the remaining 3 trees were significant Oregon White Oaks.

Prior to the appeal the Board was informed that the question of fines or penalties for violation of SRC 86.090 was not within the purview of the appeal consideration, yet City staff reported that a decision on penalties was being deferred pending the appeal. If a violation had occurred the Board questioned why there was a 5 month wait for a penalty determination. The Board also wondered if the issuance of an ex-post-facto tree removal permit somehow lessen the severity of the violation.

The Board also was informed that the focus of the appeal should be on whether there were reasonable alternatives to the required street improvement design that would allow saving the affected trees. However, the staff report and the "after the fact" tree permit state that "no reasonable alternatives" are available. Part of this determination was based on Council affirmation of the Planning Administrator's approval of the sub-division design; therefore requiring the tree removal to satisfy street improvements. This placed the Board in the awkward situation of reviewing a decision by the Council who in turn appoint the Board members.

SPRAB strongly supports the City's tree programs and individual members have specific training and experience with tree health and preservation. The appeal sought to overturn the PW's Directors approval of a tree removal permit No.20-109684. That permit issued well after the trees were cut down, cites SRC 86.090[a][8] allowing removal of City trees if there is no reasonable alternative. The Neighborhood Association contended, through their detailed and well-organized appeal material, that there were alternatives. Board members, to be effective and fair during the appeal hearing, had to be cognizant of City development codes and street design requirements to better determine if there were realistic alternatives. Such a determination requiring road design and engineering knowledge was a challenge for Board members. In the end, and seeking a practical solution, the Board by a very close vote took on faith the PW Director's finding that there were no reasonable alternatives and denied the neighborhood's appeal.

The Board notes the following observations:

1] The issuance of after-the-fact permits casts a pale of suspicion on City policies and procedures. Once a City violation is determined appropriate action should be taken. In this case City staff provided several notices that a tree removal permit was required. If a later permit application is required as part of that

Corrective action it should be well documented.

2] When a permit requirement violation occurs, the remedy should be sufficient to discourage other developers from such activities.

3] Even though this situation only involved 3 trees, City staff would do well to more fully document their analysis if a “no reasonable alternative” is determined when dealing with neighborhood issues as they can be contentious.

4] Public trust of City officials and staff is built up over time and shared experiences. Transparency and constructive communication are key components of the trust process. Such trust provides for smoother governance and community well being and pays dividends when the City is seeking public support of bond measures.

In conclusion, the Board feels it is imperative to address this issue now to avoid setting a precedent for future after-the-fact tree removals and conflicts with pre-approved land use decisions. While the Board ultimately affirmed the permit approval, we recommend that the City assess fines and penalties to the maximum amount for this violation in accordance with code. The Board takes our responsibilities seriously and look forward to continue collaborating with the Council and other Commissions to ensure a fair process that also supports the City codes and policies for tree preservation.

Sincerely,

Information Reports Packet

For SPRAB Meeting October 8, 2020

1. Mission Street Parks Conservancy Quarterly Report, Newsletter, and Updated Memorandum of Understanding – Christine Chute, Board President
2. Urban Forestry Report – Milan Davis, Urban Forester
3. Parks and Natural Resources Planning Report - Patricia Farrell, Parks and Natural Resources Planning Manager
4. Parks Operations Report – Jennifer Kellar, Parks Operations and Recreation Services Manager
5. Recreation Service Report– Becky George, Recreation Services Supervisor
6. Parks Damage Report for August



MISSION STREET PARKS
CONSERVANCY

TO: SPRAB

FROM: Mission Street Parks Conservancy

DATE: October 1, 2020

RE: MSPC Report on Activities for the Period May 30, 2020 to October 1, 2020

The Mission Street Parks Conservancy is a 501(c)(3) organization dedicated to preserving, maintaining, enhancing, and interpreting Bush’s Pasture Park and other iconic landscapes on and near Mission Street.

It will come as no surprise to the Board members that the Conservancy’s plans for 2020 have been altered by the length and severity of the COVID-19 pandemic. All of our fundraising events and many other activities have been curtailed. The hazardous air quality created by this summer’s wildfires also kept volunteers out of the Park for several days. Nevertheless, the Conservancy has made progress in the face of difficult circumstances.

Preserve

In May, we reported that the Conservancy and the City are working together to rehabilitate the Mae Tarter Old Rose Collection. The request for proposals to redo brick work and move benches has been provided to a local landscape contractor and we anticipate actually starting on the work next year. The Conservancy received a grant from the Dragonfly Fund of the Oregon Community Foundation in support of this project.

Throughout the summer, Conservancy volunteers worked with City staff to improve the health of the Oregon white oak stands in the west of Bush’s Pasture Park. Volunteers helped expand and improve tree circles for many of the oak trees. That work is on-going and is consistent with recommendations in the Conservancy’s report on the health of the oaks. Please refer to our newsletter for details (copy attached).

Maintain

MSPC’s Tuesday Gardeners persevered through the COVID-19 pandemic, took some time off during the worst of the smoke-filled weeks, and pursued their work caring for the gardens and beds in our agreed-upon area in compliance with social distancing rules. Maintenance work has included: weeding, edging, removing bulb foliage, removing annuals, pruning, and the never-ending summer task of deadheading roses. Volunteers also care for the plants in the greenhouse.



MISSION STREET PARKS CONSERVANCY

We added a few perennials and shrubs to the existing beds. Finally, Tuesday Gardeners have maintained the whitewash on the conservatory as needed to help control the temperature in conservatory on sunny days.

Enhance

The Conservancy's only active enhancement project is the installation of a late summer pollinator garden, which we also reported on in May. The hot bed consists of flowers in the "hot" range of colors (reds, oranges, etc.), with a focus on providing flower resources for pollinators in the late summer and early fall. The Conservancy was very happy to receive a grant from the Oregon Hardy Plant Society in support of this pollinator garden. Please refer to our newsletter for details.

Other proposed enhancement projects are waiting the completion of the Cultural Landscape Plan and City review.

Interpret

The Conservancy received a grant from the Marion Cultural Development Corporation for the purchase and installation of landscape bed labels. Labels are now being installed. The label includes the bed's name, its number, and a bar code that will launch a web page describing the bed's plant material.

Additionally, MSPC received an award from the Oregon Parks Foundation Fund of the Oregon Community Foundation. The award funded a survey of the location and shape of the park's landscape beds. This information has been loaded in a GIS map of the park, which will ultimately allow us to produce more informative maps for park-goers and park managers. Early results of this project are available at: <https://www.missionstreetparks.org/cataloguing-and-mapping-project/>

Plant sale

Because of the COVID-19 pandemic, we cancelled our both our spring and summer plant sales, which are normally significant fundraising events for MSPC. We have been engaged in other fundraising and our financial position is stable.

MOU

The Conservancy and City staff spend several hours negotiating a new Memorandum of Understanding under which the Conservancy functions in the Park. City staff have signed off on the revised MOU and it is working its way through the rest of the approval process.



MISSION STREET PARKS CONSERVANCY

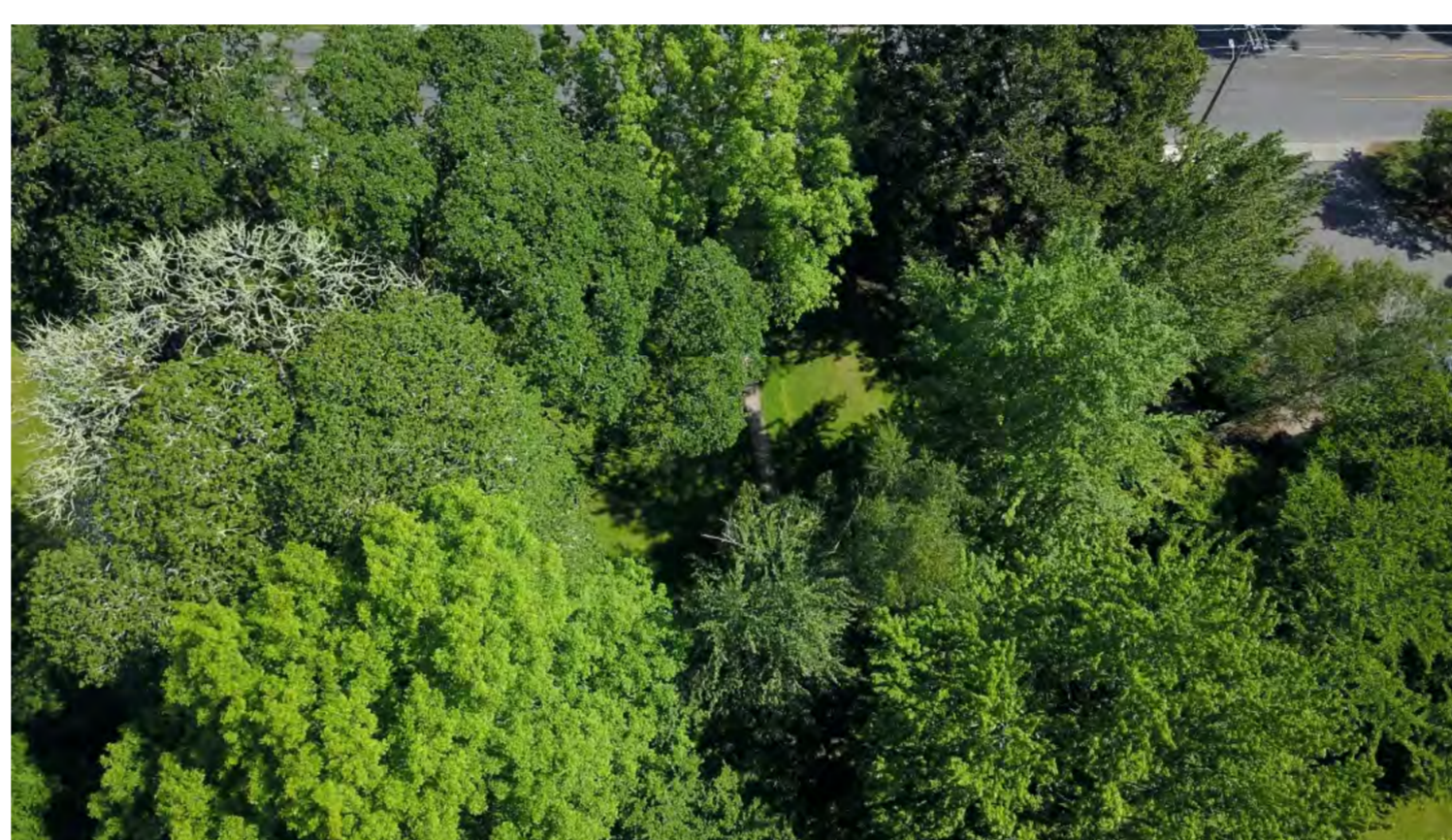


What a Crazy Year!

Now I know 2020 is not over yet, but for me, I began my first year as Volunteer Coordinator for Mission Streets Parks Conservancy (MSPC) in September 2019. And here it is September 2020.

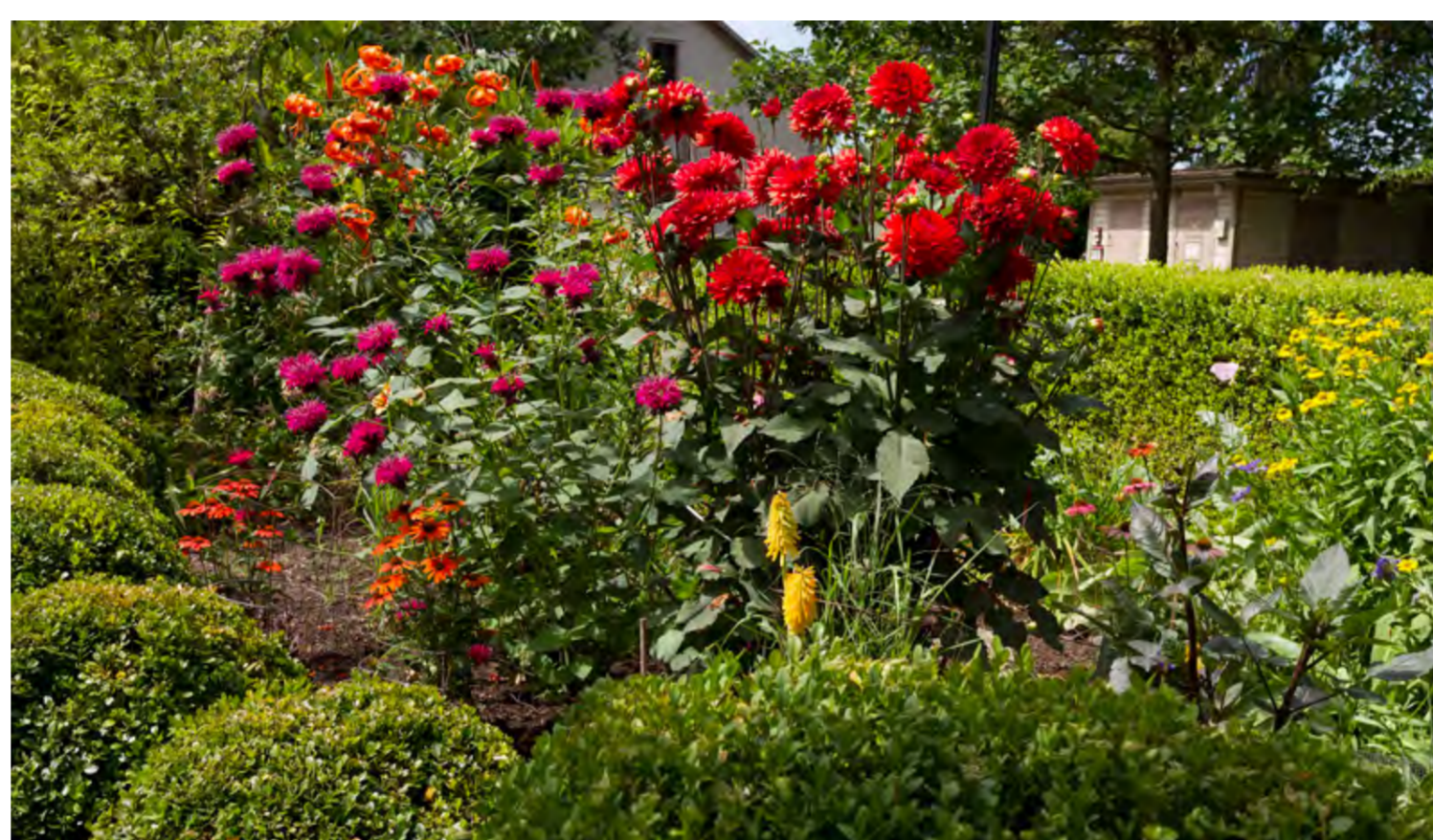
When I joined the Tuesday Gardeners in June of 2019, I didn't realize that by September, Michael Slater, Debbie Alexander and I would be trying to fill Gretchen Carnaby's shoes as she and Denis left for a long awaited 3-month trip to Britain. I am sure no one is surprised to hear that it took three of us to fill Gretchen's shoes.

While MSPC managed to survive the fall and winter without Gretchen's steady presence, the Covid-19 pandemic struck in mid-March just as the work of tending the 50+ landscape beds around Bush House and Bush Barn starts getting into high gear. [Read more here...](#)



Do Trees Talk?

Trees do not seem to "talk" as we know it, by sending specific sound waves into the air. But scientists are convinced that trees communicate through a system of underground connections that rely upon fungi. Scientists say that these connections can influence how trees grow and whether they defend themselves from disease. [Read more here...](#)



New Flower Bed Installed

MSPC recently received a grant from the [Hardy Plant Society of Oregon](#) (HPSO) covering the cost of installing new plants in the South Conservatory West Border Bed, better known to us as **'The Hot Border'**. This planting adds to existing, desirable plants and will feature bold-colored flowers attractive to pollinators, timed for a mid to late summer display. Examples include Heleniums, Kniphofia 'Orange Popsicle', and Echinacea 'Adobe Orange'. Many of these varieties, formerly called Bridge Plants, bridge the main perennial season with that of fall plants. Perhaps you've witnessed the start of this installation and investigated the very tall red dahlia exploding from behind the boxwood hedge. Watch for more color and, hopefully, more pollinators next year.

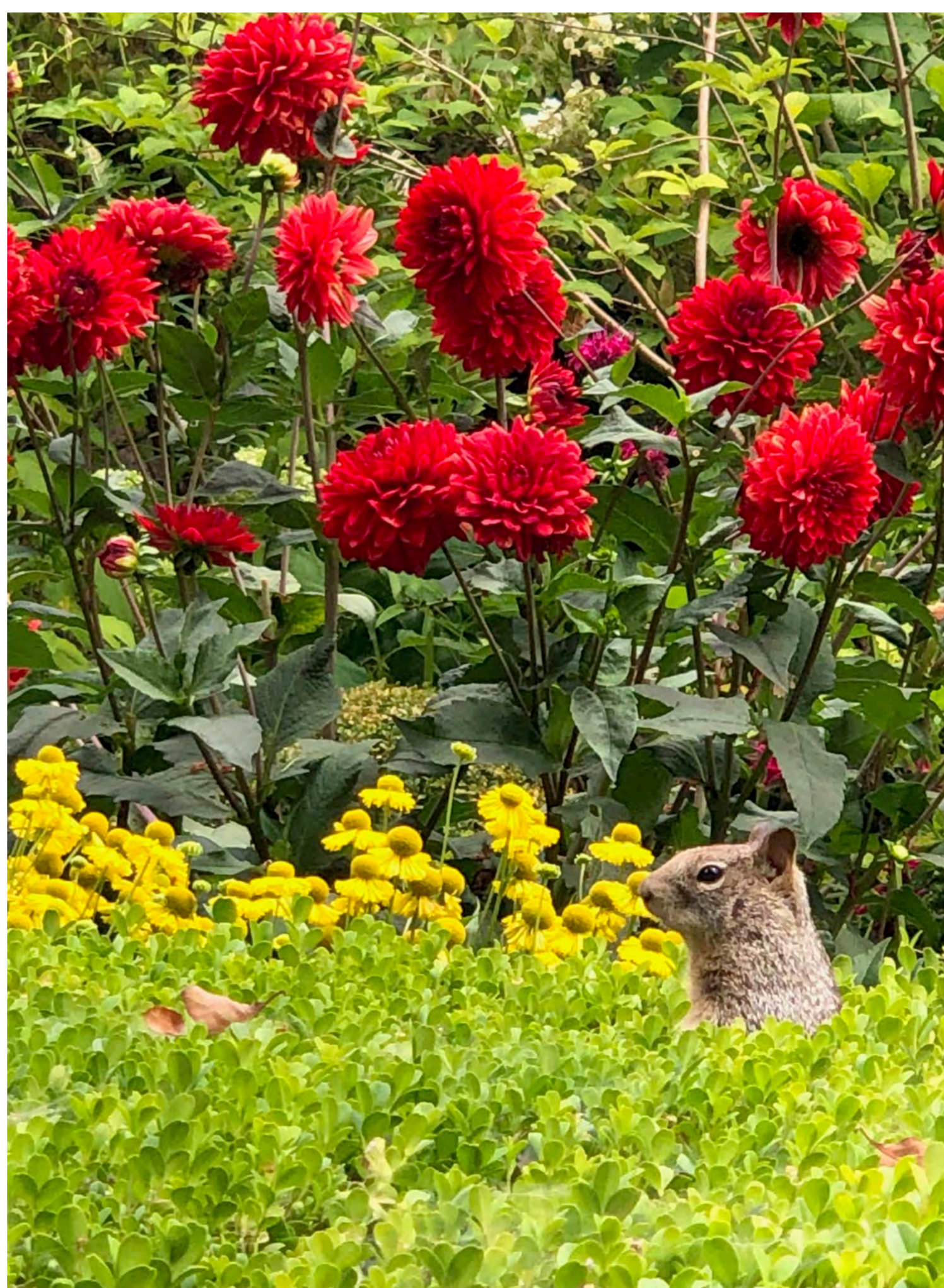
If you know any members of HPSO, please thank them. We appreciate their support!



Volunteers Help City Improve Oak Management

Park visitors have probably noticed some changes in the oak grove in the southwest corner of Bush's Pasture Park over the past year. More leaves have been allowed to remain on the ground in the fall and, now, many oaks are surrounded by larger and more deeply-mulched "tree circles." What's going on?

Under the leadership of Brian Smith, a City of Salem horticulturalist who works in the Park, the City has changed the way the oaks in the upper park are managed. [Read more here...](#)



One of These Things Does Not Belong

Boxwood hedge, red dahlia, California ground squirrel. One of these things does not belong in Bush's Pasture Park. If you selected the squirrel, you're right. California ground squirrels are not native to Salem. Not only have they caused considerable damage to hillsides and slopes, they are outcompeting our native Western gray squirrel. Please don't feed them. And they do bite, so please don't encourage your children to interact with them.



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF SALEM
AND
MISSION STREET PARKS CONSERVANCY**

This Memorandum of Understanding (hereinafter "MOU") is made and entered into by and between the City of Salem Public Works Department, an Oregon municipal corporation (hereinafter the "City") and Mission Street Parks Conservancy, a federally recognized non-profit 501(c)(3) corporation (hereinafter "Conservancy"), collectively referred to herein as the "Parties", for the benefit of Bush's Pasture Park (hereinafter "Park").

RECITALS:

1. Bush's Pasture Park, and all of its buildings and appurtenances, are owned by the City of Salem and managed by the City of Salem Public Works Department.
2. The Conservancy is an Oregon nonprofit corporation that exists to assist the City of Salem in preserving, maintaining, enhancing, and interpreting the landscape of the Park.
3. The Conservancy is the successor to the Friends of Bush Gardens (FOBG).
4. The City and the Conservancy share a set of goals, including:
 - a. Developing the public's appreciation of the Park's unique horticultural and historic assets;
 - b. Managing and maintaining the Park's plant material to a high standard of health and aesthetics;
 - c. Securing the health, longevity, and succession of the iconic White Oaks located at the Park;
 - d. Encouraging use of the Park by the City's residents and visitors;
 - e. Increasing the public's appreciation of the Park's unique horticultural and historic assets; and,
 - f. Ensuring the Park successfully meets the challenges of the future, including issues related to aging infrastructure, changing demographics, invasive species, and climate change.

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

CONSERVANCY OBLIGATIONS:

1. The Conservancy shall provide an annual work plan (Work Plan) to the City by the first Thursday of January of each year. The Work Plan will contain, at minimum, ~~three parts: a maintenance section, a projects section, and an events section.~~
 - a) The maintenance section of the Work Plan will include a general description of the maintenance within the Conservancy Area (Attachment A) the Conservancy proposes to conduct over the ensuing 12-month period, including any anticipated maintenance beyond routine, purchasing, propagating, installing, pruning, mulching and removal of plant material, excluding turf and trees.
 - b) The projects section of the Work Plan shall list and describe all proposed projects including studies and programs that the Conservancy intends to implement over the ensuing 12-month period, including proposed dates or timeframes to commence and complete, as appropriate. For purposes of the Work Plan, "projects" means any study or any construction or landscaping project beyond routine maintenance. "Projects" do not include any action that members of the general public could take in the Park without City permission, such as picnics, walks, and social gatherings.
 - c) The events section of the Work Plan will list and describe plant sales and events that require a City permit or Facility Use Agreement.
2. The Conservancy will collaborate with the City when developing the Work Plan and provide an opportunity for the Public works Parks and Recreation Services Manager and to the City's liaison to the Conservancy's board to provide input into and comments on the plan before it is submitted to Salem Parks and Recreational Advisory Board (SPRAB).
3. The Conservancy will not commence any maintenance, activities, or events described in the Work Plan until the Work Plan has been approved by the Public Works Director ("Director") except that the Conservancy may seek a permit or permission to use the Park or a city facility on the same footing as a member of the general public without approval of the Director.
4. Prior to submitting the Work Plan to the Director for approval, the Conservancy shall submit the Work Plan to the Salem Parks and Recreation Board (SPRAB) for review and endorsement. SPRAB may review, modify, accept, or reject all or portions of the Work Plan submitted by the Conservancy.
5. The Conservancy will submit any proposed activities not contained in the approved Work Plan to SPRAB for endorsement and to the Director for approval before commencing the activity.

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

6. The Conservancy will refer day-to-day questions regarding its activities in the Park to the Public Works Parks and Recreation Services Manager or their designee when they are not available.

7. The Conservancy will ensure that proper notice has been given to the public prior to conducting any activities in the Park.
8. The Conservancy will not remove any trees in the Park. All tree removals will be approved and conducted by the City.
9. The Conservancy shall utilize a City-designated section of a kiosk for plant-related kiosk postings (e.g. "Plant of the Month" or "What's in Bloom").
10. The Conservancy will maintain and provide to the City in the summer and winter records related to the accession and deaccession of trees and woody shrubs.
11. The Conservancy may conduct fundraising or solicit volunteer assistance for any project whether or not it has been approved by the Director. For projects not approved by the Director, any written communication, including on the Conservancy's website, soliciting funds or volunteer time must state: "This project has not yet been approved by the City of Salem. The project may not be approved by the City or may be substantially modified from the proposal described in this communication before approval is granted."
12. The Conservancy may assist the City by collaborating on actions that are agreed-upon in advance by the City and the Conservancy, including, but not exclusive to:
 - a. Promoting the Park to the City's residents;
 - b. Raising funds for City-approved capital projects;
 - c. Developing and leading tours of the Park's grounds, providing workshops and lectures, and organizing public events to promote and celebrate the Park;
 - d. Assisting the City, as requested, with the development of policies, management plans, and best practices documents for the Park;
 - e. Assisting in the preservation of the Park's historical integrity and features; and compatible with an adopted Cultural Landscape Management Plan; and,
 - f. Providing additional activities agreed upon in advance by the Director and the Conservancy.

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

13. The Conservancy will endeavor to be a good partner to the City by:

- a. Obtaining a 501(c)(3) determination letter and providing a copy to the City;
- b. Maintaining its books of account according to Generally Accepted Accounting Principles (GAAP);
- c. Providing the City at least annually and more frequently upon request with reports on its finances, volunteer hours, activities, projects, and other information as requested;
- d. Following all federal, state, and local requirements governing its activities;
- e. Permitting the City to use its name, logo, and any of its images and material to educate the public, apply for grants or gifts, and report to stakeholders on a case-by-case basis and subject to approval by the Conservancy board.
- f. Providing written updates of its activities to SPRAB on request and no less frequently than once a quarter;
- g. Providing monthly Conservancy minutes and agendas to SPRAB for inclusion in SPRAB monthly meeting packets;
- h. Providing the opportunity for the City to review and comment upon all proposed activities that affect City-owned property prior to any fundraising or project initiation; and
- i. Providing the opportunity for the City to review and comment upon all draft written studies, plans, proposals, and policies that are related to assets located in the Park or that may influence the management of the Park.

14. The Conservancy will notify the City if the Conservancy plans to:

- a. Promote the Park to the City's residents;
- b. Raise funds for capital projects for the Park; or
- c. Develop and lead tours of the Park's grounds or provide workshops and lectures on the Park's grounds.

CITY OBLIGATIONS:

1. The City shall assign a liaison to the Conservancy who shall serve as a nonvoting member of the Conservancy's board. The City's liaison with the Conservancy's board is to provide updates on City activities in the Park and to offer advice on proposed activities of the Conservancy. The presence or actions of the City's liaison does not

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

substitute for the obligations contained in this MOU related to notifications or reporting. The presence or actions of the City's liaison do not substitute for the obligations contained in this MOU related to notifications or reporting.

- ~~2. The City shall allow the Conservancy to conduct up to four (4) events at no charge by the City, provided the events occur in a defined area of the Park or Pringle Park and provided all events are scheduled and permitted by the City through a Facility Use Agreement.~~
3. The City shall permit the Conservancy to use the City of Salem name and logo on its promotional and fundraising material on a case-by-case basis and subject to approval by the Director.
4. The Conservancy Board President or their designee is the point of contact for communications with the Conservancy.
5. The City will endeavor to be a good partner to the Conservancy by:
 - a. Providing the Conservancy with information necessary to accession plant material, for City-purchased trees and shrubs;
 - b. Notifying the Conservancy of pertinent City activities in the Park, including capital improvement projects and sub-surface activities. The City will endeavor to provide this notice with sufficient time for the Conservancy to comment unless the activity is required due to hazardous or unsafe conditions;
 - c. Providing an opportunity to comment upon or suggest changes to draft written management plan(s) and policies regarding the Park. Specific areas for collaboration may include, but are not limited to:
 - i. Rhododendron Garden Hillside;
 - ii. Oregon White Oak Trees;
 - iii. Pringle Creek riparian area
6. The City will collaborate with the Conservancy to review the health of trees within the Conservancy Area annually. The Conservancy may recommend care, removal, and replacement of trees within the Conservancy Area.

GENERAL CONDITIONS:

1. The activities of groups and individuals in the City's park system are regulated by the *Salem Revised Code*. This MOU represents a limited grant of authority to the Conservancy to act in coordination with City government to further the City-wide

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

goals for its parks. As such, the grants of authority are limited and must be strictly adhered to by the Conservancy.

2. The Conservancy is an independent organization and is not an employee or officer of the City for any purpose whatsoever.

3. The Conservancy is not entitled to, and expressly waives any and all claims to City benefits, including but not limited to: health insurance, disability insurance, paid leave, and retirement.
4. In the event that any provision of this MOU is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permitted the intentions of the Conservancy and the City as set forth in this MOU.
5. The following laws of the State of Oregon related to public procurements are hereby incorporated by reference into this Agreement: *Oregon Revised Statute* (ORS) 279B.220, ORS 279B.225, ORS 279B.230, and ORS 279B.235.
6. The Conservancy agrees that no person shall, on the grounds of race, religion, color, sex, marital status, domestic partnership, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, or source of income, suffer discrimination in the performance of this MOU when employed by the Conservancy.
7. The Conservancy agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Further, the Conservancy agrees not to discriminate against minority-owned, women-owned, or emerging small businesses or business enterprises owned or controlled by or that employ a disabled veteran, when awarding subcontracts as required by ORS 279A.110.
8. The Conservancy shall abide by all applicable regulations, laws, and ordinances of the City, the State of Oregon, Marion County, and any federal agency in fulfillment of its obligations under this MOU.
9. All subject employers working under this MOU are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
10. This MOU sets forth the entire understanding between the Parties with respect to the subject matter hereof. All previous and written and oral MOUs, promises, representations, negotiations, and course dealings are hereby superseded and terminated. No evidence of any oral waiver or modification of this MOU shall be offered or considered in a proceeding to determine or enforce the provisions of this MOU.

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

11. Subject to the limitations and conditions set forth in the Oregon Constitution and the Oregon Tort Claims Act, the City shall indemnify, defend, save, and hold harmless the Conservancy, its officers, agents, volunteers, and employees from and against any and all damages, expenses, and costs of any kind or nature whatsoever, ~~sustained or incurred as a result of any act or omission arising out of, relating to, or~~ connected with the performance of this MOU by the City, its officers, employees, volunteers, or agents or the activities of any person for whose actions the City is legally responsible.
12. This MOU shall be governed by the laws of the State of Oregon without regard to conflict of laws principles. Exclusive venue for litigation of any action arising under this Agreement shall be in the State of Oregon Circuit Court for Marion County unless exclusive jurisdiction is in federal court, in which case exclusive venue shall be in the federal court for the District of Oregon. Each party expressly waives any and all rights to maintain an action under this MOU in any other venue and expressly consents that, upon motion of the other party, any case may be dismissed or its venue transferred, as appropriate, so as to effectuate this choice of venue.
13. Neither party to this MOU shall hold the other responsible for any damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other's officers, employees, or agents.
14. The failure of either party hereto to insist upon strict performance of any of the terms and conditions of this MOU, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of such, or any such other terms, conditions, covenants, or MOUs but the same shall be and remain in full force and effect.
15. The Conservancy acknowledges that information submitted to the City is open to public inspection under the Oregon Public Records Law, ORS 192.410-192.505. The Conservancy is responsible for becoming familiar with and understanding the provisions of the Oregon Public Records Law.

MISCELLANEOUS:

1. The Conservancy is responsible for becoming familiar with, and abiding by, the City's Park Operating Policy provisions as set forth in *Salem Revised Code 94.200*.
2. Prior to Salem City Council action for approval of the MOU, the MOU will be endorsed by the Salem Parks and Recreation Advisory Board.

INSURANCE:

1. The Conservancy shall obtain and maintain during the term of this Agreement a policy or policies of liability insurance, including commercial general liability or comprehensive general liability insurance, with the equivalent of \$1,000,000 (one

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020

TERMS AND TERMINATION:

1. Unless sooner terminated as provided herein, this MOU shall be effective on the latest date of signature (the "Effective Date") and will remain in effect through and including ~~January 31, 2022. This MOU may be extended for one 18-month period,~~ through and including July 31, 2023.
2. This MOU shall remain in effect until replaced, renewed, or terminated.
3. This MOU may be terminated by mutual written correspondence by the Parties at any time.
4. Either party may terminate this MOU for cause by providing either party with not less than fourteen (14) days prior written notice of the alleged breach and providing the breaching party with the opportunity to cure. If the alleged breach is not cured within fourteen (14) days after receiving written notice, the non-breaching party may terminate this MOU. Such termination is in addition to and not in lieu of any other remedy at law or equity.
5. After July 31, 2023 the City may terminate the MOU for any reason and at its sole discretion with thirty (30) days prior written notice to the Conservancy.
6. The Conservancy shall notify the City prior to the Conservancy disbanding or otherwise ceasing operation. The MOU will be terminated upon the date the City receives this notice from the Conservancy.

MODIFICATIONS:

1. This MOU may be amended or modified only by written instrument executed with the same formalities as this MOU.


SIGNATURES:

The Parties, by their signatures, acknowledge having read this MOU, understand it, and agree to be bound by its terms and conditions. The individual signing this MOU on behalf of his or her respective party hereby certifies that such signature has been authorized by his or her party and that the individual has the authority to act on behalf of and to bind his or her party.

Memorandum of Understanding:
City of Salem and Mission Street Parks Conservancy 2020


IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be executed in their respective names by their authorized representatives as of the dates set forth below.

Mission Street Parks Conservancy
(Conservancy)


Christine Chute
President, Mission Street Parks Conservancy

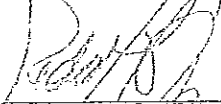
Date: 8/23/2020

CITY OF SALEM, OREGON
(City)


Steve Powers
City Manager

Date: 08/17/2020

APPROVED


Peter Hernandez, PE
Public Works Director

Date: 08/14/2020

SPRAB

Urban Forestry Division

Monthly Report

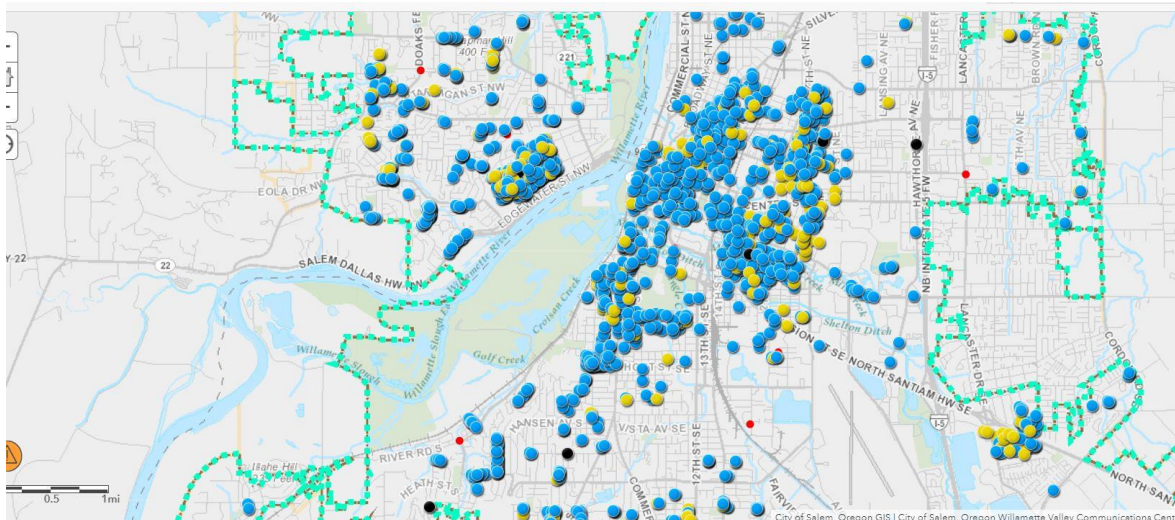
October 1st, 2020

The Urban Forestry Division is pleased to present the SPRAB with our monthly report for October of 2020. It was a very difficult period for the Division, working during a pandemic and then to be tasked with being an emergency response crew during the wildfires for trees down citywide. There have been multiple strong wind events during September that we responded to as well as being on call in case we were needed to provide assistance. We were informed on 9/9 that our assistance may be needed to protect Geren Island had the fires gotten close enough, we were briefed on the situation multiple times, and were ultimately never required to respond due to the proximity of the fire. We were asked by the Salem FD to assist with raising heights in multiple Salem Parks where there was concern that grass fires could engulf stands of trees adjacent to residential neighborhoods. Much of this work was done prior to and after the dangerous air quality periods. A lot of our normal operations ground to a halt during the bad air quality event and we focused on planning, safety and training during the days we had together indoors. For more than a week we only responded to tree emergencies that were blocking roadways or influenced Salem residents property and safety directly.

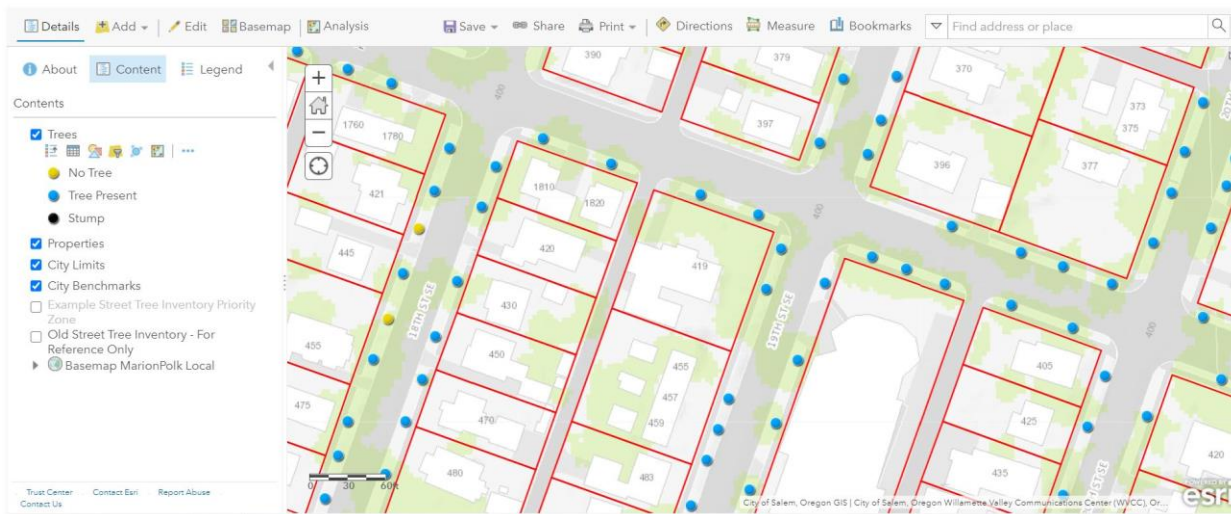
From 9/1/20 thru 9/30/20 the Urban Forestry Division received 115 service requests through the Public Works Dispatch Center. Due to the wildfire event, we were not able to conduct inspections in the field for over 10 days, for that reason there are currently over 60 requests that have not yet been inspected. The high wind event on 9/8 generated over 15 requests and multiple emergency calls resulting in over 20 work orders including multiple large trees falling. Since August the tree crew has been detailing two staff for standby time over the weekends to cover the high volume of tree calls for limbs/trees blocking the right of way. Currently the tree crew has three tree trimmers, one maintenance operator and one seasonal doing tree related pruning and removal work.

We are actively working on the street tree inventory and currently have one seasonal employee spending his time updating the database. I am working closely with the PW GIS Analyst to determine how and what we are tracking as well as working with the City GIS Analyst and IT Team to work out the kinks in the new IPS City Asset Management System. Currently we are working on connecting work orders and City service requests directly to data points on the maps that represent the trees we own. When we connect a work order or service request to a tree point, we are able to archive that information in the city IPS system and have a working history of all the work orders. That is why it is important for us to continue to strive towards a complete right-of-way tree inventory. I am going to share a few screen shots from our Inventory so you can have a better idea of what this may look like.

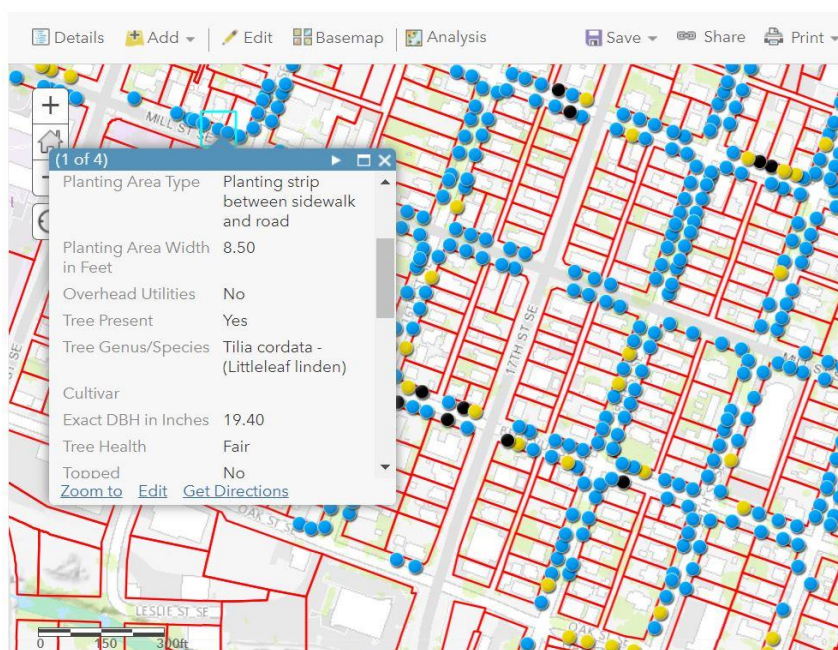
We have inventoried approximately 14,000 tree locations. By our estimation when we have a complete inventory of street trees, (trees between the curb and sidewalk in most cases) we will have anywhere from 40,000-80,000 trees. A big differential in the estimation, another reason it will be good to know how many trees we have so we know how much money and resources we will need to manage them.



This image is a screenshot overview of tree points on the ESRI Salem Maps Online of the 14,000 locations.



This is a screenshot zoomed in to see the actual points on the map. A blue dot is an existing tree, yellow represents an open location for a future tree and the black represents a stump.



This screenshot shows the drop-down menu for each data tree point when selected. This information is collected in the field using Arc-GIS Collector app on city iPhones or iPads. Arborists or parks employees will observe each tree to determine the genus and species, measure the dbh of tree, determine the size of the planting strip, inspect the health of the tree and multiple other aspects that we are collecting. If there is a space that is available for planting we will determine the space available and suggest a future species in the notes section of the data collection.

Other report related information for the month of September:

- The Gatti's settled out of court for the topping of trees, and will be paying a heavy fine for the damage done to city trees on Superior, Washington and Liberty St SE
- We will be planting more trees by almost double the amount in previous years in 2021, numbers coming in next report
- Jacob Downer, Tree Trimmer for the City is taking the ISA Certified Arborist Exam in October. Good Luck Jacob!
- We are working again with the Salem FD in October to do another Aerial rescue Training Workshop

Thank you, Milan

Parks and Natural Resources Planning Update – October 2020

Geer Park three design alternatives are posted on the website along with a survey about design preferences. Survey open until Saturday October 3rd. New amenities may include a skate park, ballfields, trails, off-leash dog area, playground and shelter.

Bush Pasture Park and Deepwood Cultural Landscape Management Plan. Results of first survey are on the website. A second stakeholder meeting will be October 21 and a second public open house will be in late November.

Woodmansee Park master plan update. Second open house October 5-19. It will be virtual open house format with a public survey and three park design concepts for public to review.

Fairview Park- The Lindburg roadway alignment was rough graded during the week of Sept. 21. Development of housing across the road from the park spurred the roadway project.

Bill Riegel Park – Grant is under review by OPRD LGG staff. Awards are being postponed as availability of lottery revenue is assessed, which has diminished due to COVID-19 pandemic. They are waiting on the next quarterly report on lottery revenue to indicate how to proceed on the grants.

Secor Park construction Bridge and playground are being installed. Construction should be completed by end of October. Due to COVID-19 there will not be a ribbon cutting ceremony, but a news feature will be on the City's website.

New Park Property: Survey has been recorded for 7.35 acres along Reed Road for new park property. Property includes a section of West Fork Pringle Creek. A large residential subdivision is being built adjacent to this property.

Climate Action Plan has begun, and consulting company is Verdis Group. The plan will provide a roadmap for how the city, local businesses, and residents can reduce greenhouse gas emissions and adaptations to climate change for a more resilient community. A task force will be formed with representatives from different sectors. SPRAB chair will be included on the task force. Website is open for people to register to participate and get notices. First task force meeting is November 18.

Willamette Slough Ludwigia - Second and third treatments have happened and done for the year.

Beaver Strategy- due to increase in the number of beaver dams throughout the City, Public Works staff is assessing impacts to conveyance and flooding and then devising a strategy for how best to handle potential problematic locations. The strategies will be developed in consultation with ODFW.

Tree Planting Projects. Friends of Trees planting projects being solidified and calendar available. Also additional street tree planting will be through Treecology contract.

City Council Work Session on City Trees. Scheduled for October 19,2020. Exact topics to be determined. Changes to Administrative Rule may stem from Council direction at work session.

Parks Operations Update – October 2020

COVID-19 Pandemic – Phase II Continuation of current sanitization practices and refuse pick-up. Increased refuse dumpster pick-up by from 3 – 4 days per week at Wallace Marine Park due to increasing amounts of usage and campers. Camping levels at Cascade Gateway Park and Wallace Marine Park, in both the undeveloped areas of the parks and park parking lots, continue to grow. Car camping numbers have grown to 40+ in each of these respective parks.

DPI is continuing to provide security monitoring services at Marion Square Park and Wallace Marine Park. Security staff is provided 7-days per week from 8:00 a.m. – midnight. Security monitoring services began the end of March 2020 and have been extended through August 31, 2020. Monthly extensions have been given and will be evaluated in the future on current activity levels, phasing of Pandemic, and financial impact to City budgets. Since the inception of the pandemic, Parks Operations budget has been responsible for all COVID-19 related expenses in Parks. Aside from security services, expenses would include: city staff increased frequency and enhanced level of cleaning services, social distancing/sanitation monitors for scheduled reservations, additional cleaning supplies and COVID-related signage. Security services constitute an expense of approximately \$26,000/month. As such, City Manager Steve Powers has recommended a transfer resolution to go to Council to approve \$312,000 (an annualized amount) for security services in Parks related to COVID. This transfer would be from General Fund Contingency to Non-Departmental. Non-security related expenses would continue to be borne by the Parks Operating budget.

UPDATE: Transfer resolution of \$312,000 from General Fund Contingency to Non-Departmental, was approved by Council for continuation of security services for up to 12 months at Cascade Gateway and Wallace Marine parks, if needed.

COS-SKSD Maintenance Agreement Draft agreement currently with SKSD for final review. Awaiting their final comments to finalize and implement maintenance agreement. Will follow-up with SKSD designee regarding status of their review. Agreement still in review with SKSD.

2021-22 Budget Process Budget development process has begun. Replacement vehicle, capital outlay, new position/position changes 5-year forecast plans are being developed and will be submitted through October.

Community Garden and Sun Garden Agreements Agreements are currently being updated and drafted to for all community and sun gardens on City property. Existing agreements are all outdated and expired. Those agreements are:

Community Gardens (Marion Polk Food Share Sponsored)

Brown Road

Ellen Lane
Hammond
Northgate
Orchard Heights (one of two gardens at this location)
Sunnyslope

Sun Gardens

Sunnyside
Orchard Heights (one of two gardens at this location)

Project Updates

- 1) Riverfront Park
 - a. North restroom project has begun. Underground utility work is taking place. Next steps will be concrete pad for structure and then installation of fabricated structure itself. Project completion scheduled for November 2020.
- 2) Orchard Heights
 - a. Tennis court rehabilitation project actively taking place. Blended tennis and pickleball lines are being painted on October 1st and 2nd. Basketball poles and concrete sidewalk are being installed week of October 5th.
- 3) Pringle Hall
 - a. New informational kiosk being installed.
- 4) Thorp Park
 - a. New informational kiosk being installed.
- 5) Northgate Park
 - a. Replacement of three parks entrance/exit signs. Replacement of existing basketball backboards and nets. Addition of two additional end court basketball hoops to allow for full-court play. This will make available 6 basketball hoops in total. Pursuing estimates for resurfacing of the multi-purpose court, as well. Work was delayed due to air quality index constraints. Work resumed week of September 28th.
- 6) Sunnyslope Park
 - a. Sealcoating being applied to multi-purpose court. Work was delayed due to air quality index constraints. Work resumed week of September 28th.
- 7) Riverfront Park
 - a. Pavillion re-staining. Work was delayed due to air quality index constraints. Work resumed week of September 28th.
- 8) Hillview Park
 - a. Shelter repainting and seal coating. Work was delayed due to air quality index constraints. Work resumed week of September 28th.
- 9) Application deadline reminder letters for potential Salem Parks Improvement Fund (SPIF) projects are being sent to all neighborhood association chairs/co-chairs the week of October 5th apprising them of the guidelines and timelines associated with the 2020-2022 grant award cycle.

Parks and Recreation Advisory Board Meeting

October 2020

Recreation Update

1. Events/Facility Use

- Public Works Office, Room #325 of City Hall, continues to be closed. Permit Specialist staff in the front office are working remotely but are answering phones (M-F, 8 am to 5 pm) and assisting customers via email and our online payment system.
- Budget preparation for the 2021-22 Fiscal Year has begun. No changes in staffing are expected and only minor program modifications are planned. The Recreation budget should remain consistent at \$1.3 million.
- At the beginning of July, City management and legal staff determined we must provide a contact tracer/social distancing monitor for every 50 people in attendance at an event. At that time, due to staffing levels, it was decided we would not be able to accept new facility rentals. Last week, the City Manager and Emergency Operations staff gave us the go ahead to start accepting 2021 facility rentals for April 1 and beyond.
- Construction of the Gerry Frank Salem Rotary Amphitheater continues. Salem Rotary has requested to hold a grand opening celebration and concert on Friday, July 23 and Saturday, July 24, 2021.
- Parks and Recreation personnel are discussing options for the Riverfront Park Holiday Tree Lighting Ceremony. The preliminary plan would be to either hold a virtual event or to stage lighting at the park, including the Holiday Tree, and invite families to attend at their leisure during the month of December.
- Staff are making preparations to hold the fireworks show at Riverfront Park on Sunday, July 4, 2021. Coordination is underway to get a contract executed with Western Display Fireworks in Canby.

2. Youth Recreation Programs – Melinda Mokalla will be presenting an overview at October 8, 2020 meeting.

- STRIDE – This run/walk series occurs once a month, May through October. The final 2020 event, includes a 5K or 10K option and is scheduled for Saturday, October 3 at Minto-Brown Island Park. Staff are currently coordinating dates and sites for the 2021 series.
- Fall/Winter Programs
 - A Tai Chi class for ages 18 and above is scheduled at Pringle Hall on Thursdays, October 1 through November 19, from 1:30-2:30 pm. Cost is \$56/person.
 - An Owl Prowl with the Park Ranger is scheduled on Friday, November 13, at Minto-Brown Island Park, from 4:30-6:00 pm, for ages 9-12. Cost is \$5/person or \$10/family.
 - A new program called Bush Craft Camp is being offered during Thanksgiving Break, November 23-25 from 9 am to 3 pm at the Minto-Brown Island Park Shelter for children ages 9 to 12. Cost is \$174. Participants will learn the skills it takes to survive in wet weather, including shelters, navigation, hunting and gathering.
 - The Fishing Derby originally scheduled in November at Cascade Gateway Park has been cancelled.

3. Softball and Kickball Leagues/Tournaments – Billy Powers will be presenting an overview at October 8, 2020 meeting.

- Leagues – Adult slow pitch softball and kick ball leagues are be coming to a close in the next two weeks. While we encountered new challenges this spring /summer/fall, we consider the season a success. The summer league ended up with 48 softball teams and 13 kickball teams and the fall league had 40 softball teams and 11 kickball teams.
- Tournaments – Despite the pandemic we were able to hold adult slow pitch softball and youth fast pitch softball tournaments, as well as a couple youth baseball tournaments this season. While the number of teams was down, the tournaments went well.
- Scheduling for 2021 leagues and tournaments has begun with registration starting after the first of the calendar year.