



Denver City Council

Public Amenities Committee Meeting Summary

Date: April 3, 2007

Time: 11:00 a.m.

Location: Room 391

Members Present: Lehmann, Johnson, Robb

Members Absent: Montero

Other Council Present: Hancock

Agenda:

1. **Contract with Dennis Oppenheim for Justice Center Public Art**
 2. **Million Tree Initiative**
 3. **Tree preservation ordinance**
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1. Contract with Dennis Oppenheim for Justice Center Public Art

Committee Action

The Committee approved filing a bill approving a \$1.2 million contract with Dennis Oppenheim for the production of both integrated art and major works as part of the Justice Center.

Summary of Discussion

Kendall Peterson, Administrator of the Public Art Program, requested approval to file the contract with Dennis Oppenheim. She reminded the Committee she had presented an overview of the Justice Center public art program on March 20.

Dennis Oppenheim had been tentatively selected by the evaluation panel with the caveat that he present a new proposal for the largest work. The new concept, a flower-like structure constructed of near-transparent materials, was accepted by the panel. The contract is ready to present for Council approval.

Councilwoman Johnson asked if the contract contained language to deal with situations such as the death of the artist producing the bronco for installation at DIA, which led to litigation to get the work completed. She wanted to be certain that public art funds are not used for litigation. Assistant City Attorney Laurie Heydman said that new language is being added to all public art contracts specifically because of the DIA artwork. She said any litigation would be funded through the City Attorney's litigation budget, not the public art funds. Councilwoman Johnson said she would be comfortable if that were clearly stated in the ordinance.

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2. Million Tree Initiative & Suncor Energy Sponsorship

Committee Action

The Committee approved a sponsorship agreement with Suncor Energy, which will provide funding for the Tree by Tree program.

Summary of Discussion

Sara Jungblut, Program Coordinator for Parks & Recreation, presented an overview of the Mayor's Tree By Tree--The Metro Million Initiative and 7,000 Trees in 7 Days kick-off. The program consists of:

- Overall goal: Plant 1 million new trees in the Denver metro region over 20 years.
- Kick-off: 7,000 trees planted between Earth Day and Arbor Day.
- 3,000 volunteers at 41 events in 17 metro-area cities.
- Major initial sponsor: Suncor Energy, with \$150,000 for 2007 with option for a total of \$1 million over 5 years.
- Partners include The Park People, Xcel Foundation, Home Depot and others.

The Committee lauded the effort but had concerns about sustaining the new trees since there does not appear to be any plan in place. Councilwoman Robb suggested that maintaining the trees should be considered as part of the infrastructure bond program. Councilwoman Johnson suggested some type of "score card" by jurisdiction by year to record the number of trees lost and the number planted. It should be web-based so that residents can tally in trees planted in their own yards.

3. Amendments to Chapter 57, Vegetation, regarding tree preservation

Committee Action

The Committee approved filing a bill amending Chapter 57, Vegetation, adopting increased protection for healthy, established trees, both in the public right-of-way and in the front yards of lots in most residential districts.

Summary of Discussion

Jude O'Connor, City Forester and Director of the Natural Resources Division, and, Pete Zoschg, Arborist, and Kerry Buckey, Assistant City Attorney, presented the revised proposal, following-up on the presentation to the Committee on February 6, 2007.

Ms. O'Connor stated that the City's policies regarding tree preservation is spelled out in the Comprehensive Plan 2000, Blueprint Denver, Greenprint Denver, and the Million Tree initiative. Additionally, the package of zoning language amendments commonly referred to as "Quick Wins" contained a provision designed to protect trees by requiring that established trees in front yards in R-0, R-1, R-2 and R-2-B districts be protected from damage during demolition or construction activities. In response to concerns that this provision has led to trees being removed prior to application for demolition or construction permits and that the current requirements are generally ineffective, the City Forester has drafted amendments to Chapter 57, Vegetation, which is under her purview. The proposed amendments are designed to help create and sustain a healthy, viable urban forest. If these are adopted, Section 59-126 in the zoning code would become unnecessary and would be repealed.

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In summary, the proposed ordinance language:

- Defines as “protected tree” one that is:
 - Located in a public place (parks, parkways, grounds of public buildings, the tree-lawns in the public rights-of-way); or
 - Located in the front yard of a lot in most residential districts;
- AND**
 - Is a broadleaf tree at least 6 inches in diameter; or
 - Is a coniferous trees at least 15 feet tall; or
 - Is a designated “heritage tree” or “landmark tree”.
- Defines “heritage tree” and “landmark tree”:
 - Heritage tree – designated due to being an outstanding specimen of its species.
 - Landmark tree –designated due to being an outstanding specimen of its species and has historical or social significance to the city or neighborhood.
 - Designation is approved by the city forester with the consent of the owner.
- Requires permit for removal, destruction or damage of any protected tree and establishes conditions under which the forester shall issue a permit, including when the tree:
 - is dead, dying, irreparably damaged or a safety hazard;
 - is infested or infected with disease or insect pests;
 - is preventing reasonable access to the property or would reduce the buildable area as permitted by zoning by more than 15%.
- Defines damage to a tree to include such actions as:
 - Pruning excessively or improperly, or topping the tree;
 - Breaking or cracking branches or the trunk, or wounding the tree;
 - Severing, crushing or exposing the roots or compacting the soil;
 - Failing to water adequately.
- Extends the current penalties for unlawful damage or removal of trees in the public right-of-way to “protected trees” and extends “compensation” to include replacement trees as well as monetary payment.
- Requires a Tree Protection Plan for:
 - demolition or construction valued at over 50% of the assessed value of the existing structure or relocation of a structure on a lot in most residential zone districts; **OR**
 - demolition or construction valued at over 50% of the assessed value of the existing structure a lot in any zone district with protected trees within the project area or on the adjacent public right-of-way (tree lawn).

Asked about enforcement, Ms. O’Connor responded that Forestry’s budget request would include a figure between \$80,000 and \$100,000 for additional part time staff to agument the 5 current arborists. The arborists now spend a good deal of time on follow-up work that could be done by others, freeing up the arborists’ time for implementing this ordinance.

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Committee members had numerous questions and concerns, including:

- Opposition to the concept of extending the City's purview beyond the rights-of-way into private front yards.
- A number of reasons were cited that a property owner might need to remove a mature tree, and the City should not be able to tell them they cannot.
- People don't even know they are supposed to have a permit to remove tree in the right-of-way.
- Board of Realtors and Homebuilder's Association concerns about property rights and impact on appraised values.
- Trees are too expensive to maintain to force people to do so.
- Lack of public review and input in development of the proposal.
- Parks & Recreation Advisory Board should take a vote on the proposal.

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