



Eugene City Council

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AMENDED AGENDA EUGENE CITY COUNCIL

February 8, 2021

5:30 p.m. CITY COUNCIL WORK SESSION

Due to Governor Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, this meeting will be held remotely using virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

**Meeting of February 8, 2021;
Her Honor Mayor Lucy Vinis Presiding**

Councilors

Jennifer Yeh, President
Mike Clark
Randy Groves
Emily Semple

Claire Syrett, Vice President
Greg Evans
Matt Keating
Alan Zelenka

Note: This agenda was amended to reflect the change in order of items.

5:30 p.m. CITY COUNCIL WORK SESSION

- 1. WORK SESSION: Urban Forestry Program**
- 2. WORK SESSION: Northwest Natural Gas Franchise Agreement**

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El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010
or visit us online at www.eugene-or.gov.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Urban Forestry Program

Meeting Date: February 8, 2021
Department: Public Works
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Carrie Peterson
Contact Telephone Number: 541-682-4889

ISSUE STATEMENT

This work session provides Council with an overview of the urban forestry program.

BACKGROUND

In the 1980's municipal forestry nationally was a fairly new field. By the early 1990's the City of Eugene was just beginning to focus on maintaining its urban forest. The Tree Crew, as they were known then, were generalists who provided limited tree trimming services on both public and private trees and struggled to balance public safety, tree care and aesthetics. Clear direction for managing Eugene's urban forest would come with the development of the Urban Forestry Management Plan, adopted by Council in 1992. This plan laid out proactive management strategies: social, ecological and economic benefits of trees; environmental justice and social equity; urban food security; wildlife habitat; native ecology, and the threat of wildfire. The only current challenge not mentioned was climate adaptability. Urban forestry as a profession has made significant progress in recent years, relying heavily on science, data and international best management practices (BMP). With these advancements, it is now time for a fresh lens on the management of Eugene's urban forest. Staff are in the early stages of developing a process to update a vision and action plan.

Today, Eugene's Urban Forestry program manages approximately 85,000 street trees spread across 538 miles of public street right-of-way. The core services of Eugene's Urban Forestry Program include administration and coordination, planning, protection, maintenance, storm and hazard response, tree planting, and establishment and monitoring. The work of this program is informed by City Code Chapters 6, 7 and 9. The *nuisances* code covers premises that are in a derelict or dangerous condition, and guides logging on urban properties and the nuisance vegetation program. The *public improvements* code helps create and protect safety and improves quality of life, specifically related to the developer street tree program and planting, trimming, pruning and removal. Tree regulations in the *land use* code help develop and preserve a sustainable system of trees in Eugene through tree preservation and removal standards.

With its mission to “*Maximize the social, economic and environmental benefits of Eugene's urban forest and to minimize its costs and liabilities by means of adaptive management and community engagement*”, the Urban Forestry program has made important improvements that build trust and

February 8, 2021, Work Session – Item 1

confidence within the community. This mission supports a variety of Council goals including sustainable development, accessible and thriving recreation, and effective municipal government. The program has increased its focus on proactive maintenance and has reduced the citywide street tree pruning cycle from 25+ years to a cycle hovering in the 10-year range, the industry BMP. The approved street tree list was updated in 2020 offering a comprehensive and diverse list of climate adapted and resilient tree species. This list also provides clear direction in selecting the right tree in the right location. Recognizing that tree establishment is a critically important stage, the program invested in a watering program. Young trees are watered and carefully monitored through the three-year establishment period with a nearly 100% success rate.

In 2019, the program became one of only 16 across the United States to earn accreditation through the Society of Municipal Arborists (SMA). The program also achieved full compliance in 2020 with American Public Works Association (APWA) accreditation standards, upon completion of a street tree inventory. This was a massive effort that had been a long-term goal since the Public Works Department's original accreditation in 2004. Some of the most experienced and professional arborists in the Pacific Northwest are on staff, with 26 total individual International Society of Arboriculture (ISA) certifications, including three board certified master arborists.

Six urban forestry-focused actions are described in the Climate Action Plan 2.0. Actions R11-R16 include: increasing canopy coverage, maximizing ecosystem services benefits, reducing the proactive maintenance pruning cycle, developing an updated urban forest vision and action plan, enhancing soil standards, and creating a regional approach to community engagement. These are the priorities that will guide the program's intentional planning and deliberate management for an equitable and sustainable urban forest into the future.

Related Code, Policies and Regulations:

City Code, Chapter 6

6.010 [Nuisance Vegetation](#)

City Code, Chapter 7

7.280 [Developer street tree program](#)

7.635-7.650 [Trees and Foliage in the Right-Of-Way](#)

City Code, Chapter 9

9.6505 [Improvements - Specifications](#)

9.6880-9.6885 [Tree Preservation and Removal Standards](#)

[City of Eugene, Urban Forest Management Plan, 1992](#)

[Climate Action Plan 2.0, actions R11-R16](#)

[Approved Street Tree List and Planting Guide, 2020](#)

PREVIOUS COUNCIL DIRECTION

November 19, 2020, Work Session Poll

Councilor Syrett requested a work session regarding the status of the Urban Forestry Program. Identify areas of need in terms of resources and activities including how the program is accounting for the impacts of climate change. *(approved on December 4, 2020)*

February 8, 2021, Work Session – Item 1

ATTACHMENTS

- A. [Green Infrastructure FY20 Annual Report](https://en.calameo.com/read/005044088d57ddabc15a1)
(<https://en.calameo.com/read/005044088d57ddabc15a1>)

FOR MORE INFORMATION

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Staff E-Mail: cpeterson@eugene-or.us

Green Infrastructure Maintenance Section

Urban Forestry, Stormwater and Median Maintenance Teams

Clean air. Clean water. Healthy community.



Parks &
Open Space



Barger Drive Project Pilots New Median Design Standards

A cross-departmental team developed new median design standards in FY19 and were awarded \$50,000 for a pilot project. In FY20, we saw those designs come to life on Barger Drive as part of an Engineering led pavement preservation project. Formerly an urban heat island with large concrete medians, Barger Drive now boasts multiple vegetated oases that are both maintenance and pedestrian friendly. Reducing vehicle travel lanes allowed newly dedicated pedestrian crossings and bicycle lanes bordered by planter strips with street trees and vegetated rain gardens. These enhancements add significantly to the beauty and livability of the Bethel area, increase safety, reduce runoff and improve water quality.

February 8, 2021, Work Session - Item 1

Green Infrastructure Inventory

(arrow indicates change from FY19)



84,840↑
Street Trees



389↑
Public Rain
Gardens



1,218↑
Private Rain
Gardens



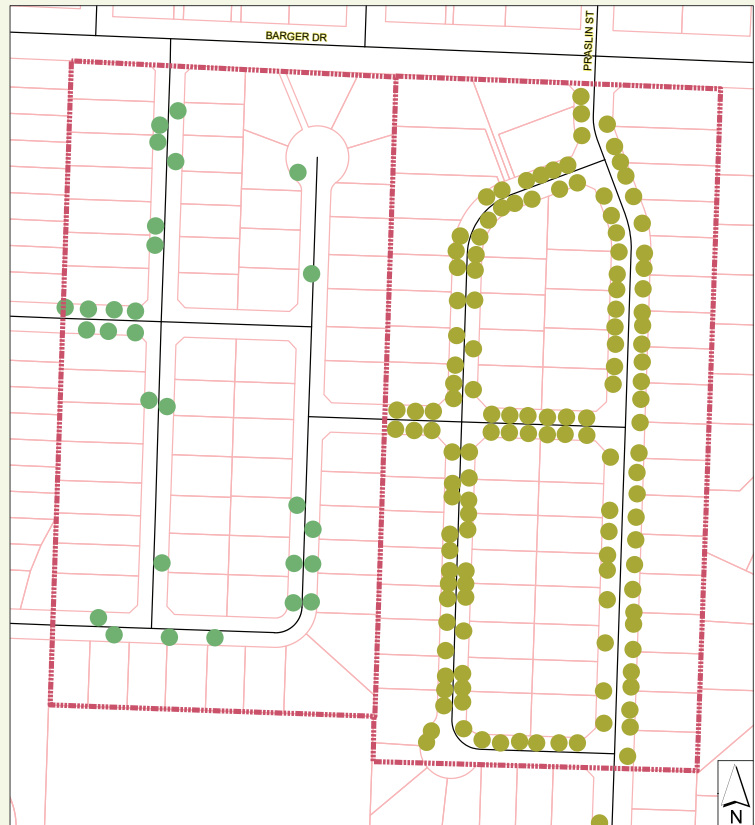
225↑
Vegetated
Medians



191↑
Vegetated
Right-of-Way Areas

New Development Restricts Growth of Urban Tree Canopy

A recent analysis conducted by the Green Infrastructure Team of 13 newly built subdivisions in Eugene has revealed an alarming trend: most of the new developments constructed within the last five years have far fewer street trees and planting sites than ever before. This analysis has also revealed that the street planting sites in these newer developments tend to be too small and inadequate to support a healthy urban forest. Over the long term, this situation will have devastating consequences on livability and sustainability here in Eugene. In alignment with the newly adopted Climate Action Plan 2.0 goals, we are aiming for average citywide tree canopy coverage of 30%. Currently, Eugene has about 23% coverage and that number has been steadily declining. Our analysis indicates that one of the biggest drivers relates to how developers are choosing to treat stormwater runoff. For example, many developments opt to utilize numerous dispersed street-side stormwater facilities in the public right-of-way rather than build centralized, park-like, facilities on private property. Not only are these dispersed facilities significantly more expensive to maintain, they leave little room for street trees. Our study reveals that if this alternative option were selected, nearly double the amount of street trees could be accommodated in most cases.



Side-by-side Bethel area subdivisions demonstrate the stark contrast between an established neighborhood with mature street trees (on the right) vs. a newer neighborhood with multiple small stormwater planters in the right-of-way, displacing street trees (on the left). Click image for Google street view.

By the Numbers

(arrow indicates change from FY19)

Trees Pruned

6,161↑

Trees Removed

996↑

Trees Planted

793↓

Hazard Tree Response

52↑

Trees Inventoried

9,020

Veg Program

Inspections Completed

2,139↓

(avg 16.5 daily x 6 mo)

Veg Program

Requests for Service

563

Illegal camps Posted
in right-of-way

114↑

Urban Forestry
Requests for Service

1,457↓

(avg 5.6 per day)

Illicit Activity

Work Orders

120↑

Private Rain
Gardens Inspected

184↓

Median acres
mowed

181

Median/ROW work
orders completed

671

Stormwater work
orders completed

295

Successful 2,021 for 2021 Project



Urban Forestry hosted several giant sequoia giveaways and planting events in FY20 with the goal of getting 2,021 of these magnificent trees in the ground prior to the World Athletics Championships, now scheduled for summer 2022. This initiative was conceived as a way to help offset carbon emissions associated with this major sporting event, to quickly increase canopy cover in Eugene and surrounding areas, and to build excitement around the many benefits of trees. We exceeded our goal and have already found permanent homes for more than 2,800 trees.

Stormwater and Median Maintenance Team In-House Renovation Projects

Full Renovations:

- Creekside Park rain gardens
- West University Park rain gardens
- Willakenzie triangle median

Maintenance Improvements:

- W 11th medians between Terry and Danebo
- Amazon Pkwy tree wells between 24th and 27th
- Bailey Hill medians
- Chad Dr medians
- Gilham Rd medians
- Island Lake medians

New Stormwater Maintenance Standards Adopted



Standardized maintenance regimens for all public vegetated stormwater facilities were developed this fiscal year, establishing a transparent framework for the program's annual workplan. The standards identify frequency, tasks and seasonal needs to maintain the system at a "good" standard, which means the facility has healthy plants and functions as designed. A site assessment at each visit determines the level of maintenance input required based on a prioritized list of ten criteria including visual clearance, illicit activity, plant health and sediment load. The regimens, maintenance inputs and inspection results are tracked in the stormwater GIS layer – putting this critical real-time information into the hands of field staff. Combined, the standards and data tracking are helping to adaptively manage the system, identify trends and challenges related to rapid growth, and are two important tools toward bridging the maintenance gap. [View the manual.](#)

Protecting Homes from Wildfire



Wildland Urban Interface Pilot Project

This regional collaboration focused on community education and engagement, wildfire fuels reduction, ecological restoration and green workforce development. The successful pilot project brought together Urban Forestry, Eugene-Springfield Fire, Oregon Department of Forestry and Northwest Youth Corps.

Chipper Days

Last July, as part of a broader Southeast Neighbors wildfire fuels reduction project, Urban Forestry collaborated with the Eugene-Springfield Fire Department on a two-day community chipper event. This event helped raise community awareness about increasing wildfire resilience in Eugene and encouraged homeowners to reduce fire dangers on their own properties.

204
acres treated

218
homes impacted

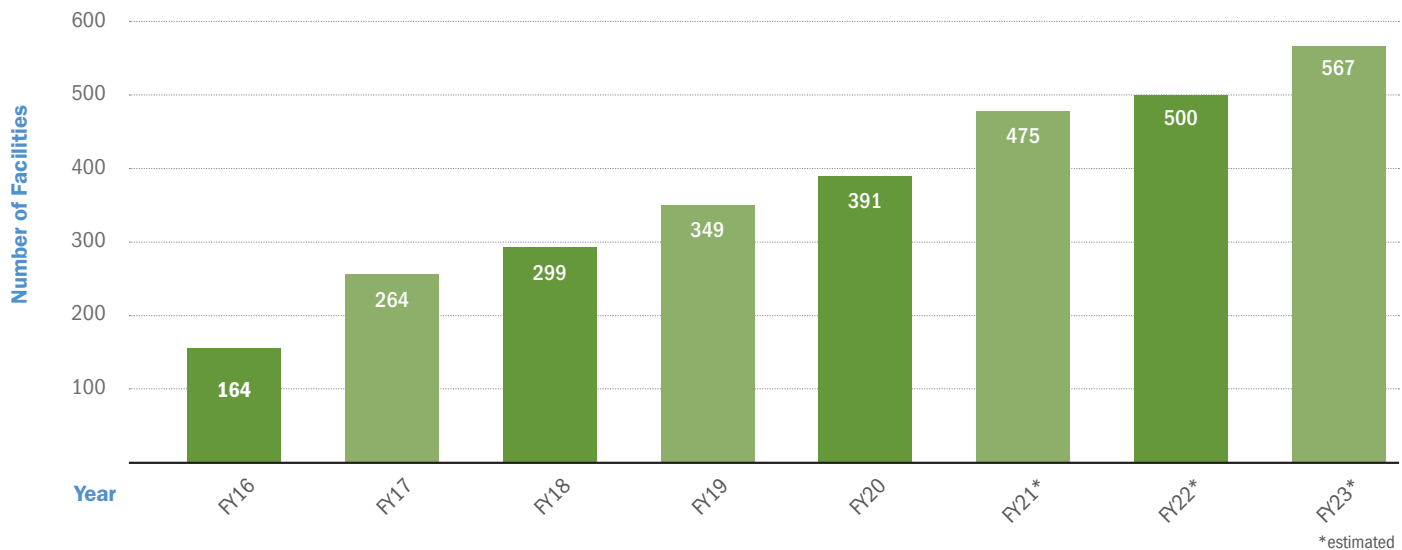
15
cubic yards of
material removed

200+
residences
contacted

6
acres treated

Stormwater Maintenance Gap Grows

Growth of the Public Vegetated Stormwater System



30%
current
maintenance gap

44%
growth by FY23

The newly developed maintenance standards have established a baseline for sustainably maintaining the public vegetated stormwater system to a good condition rating. Under normal conditions, the current operating budget allows 70% of the maintenance visits required to sustain that service level. Add a winter storm or a pandemic to the mix and the gap widens. Compounding the problem further, the system is anticipated to grow at least 44% by FY23. Solutions to right-size maintenance operations in the short-term include an additional Park Specialist position and funding an establishment period maintenance contract for privately engineered public infrastructure (PEPI) projects. In the longer-term, a funding mechanism that matches operating dollars to system growth would ensure the proper maintenance of these important investments and reduce capital renovation expenses.

Maintenance-Friendly Stormwater Redesign



The vegetated stormwater facility at Hilyard and Mill Street near the Federal Courthouse had declined to a point that maintenance was labor intensive and ineffective. Most of the original landscape had been compromised and the facility was not functioning as designed. An Engineering led Capital-funded project renovated the former grassy swales, incorporating a new maintenance-friendly design and reducing the stormwater treatment facility footprint by 85%. A hybrid model of stormwater planters and planter strips with street trees was used to improve the existing urban streetscape, more effectively treat stormwater, and significantly reduce ongoing maintenance inputs. Street trees will be planted in fall 2020.

Eugene Welcomes Annual ISA Conference

Last October, the Urban Forestry team hosted the PNW Chapter of the International Society of Arboriculture (ISA) Annual Conference. This multi-day conference drew almost 500 tree-care professionals from throughout Oregon, Washington, Idaho, BC and Alaska. The event began with a moving land acknowledgement ceremony honoring the original First Nation people of the Willamette Valley led by Native American elder, Dr. Kelvin Frank, and local arborist Alby Thoumsin. Former City Manager, Jon Ruiz, then welcomed attendees to Eugene and delivered a powerful keynote address. The conference line-up included a tree climbing competition, a family fun climb in a giant black walnut tree at Maurie Jacobs Park, several tree-related workshops, a field day at Alton Baker Park, and multiple days of expert presentations at the Graduate Eugene Hotel.

"A huge thank you for hosting the best ISA Conference I have ever attended. The City of Eugene really put its best foot forward and showcased for the entire Pacific Northwest a model to follow moving forward."

— Mike, Parks Superintendent, Ashland Parks and Recreation Commission



New and Improved Street Tree List

Capitalizing on the years of municipal forestry experience of our team and partners, we worked closely with citizens, industry professionals and other municipalities to provide one of the most comprehensive street tree lists in the Pacific Northwest. The updated list features a diverse selection of locally available, climate and disease resistant species to choose from. And, goes a step further by including a planting guide with details to help our community in the most important consideration – selecting the right tree in the right location. We know that the decisions we make today, not only determine the long-term health of our urban forest, they also shape the character of Eugene's tree-lined neighborhood streets for decades to come. This updated guide is one tool in ensuring our community's exceptional livability long into the future. View the guide.

ECOLOGICAL SERVICES:

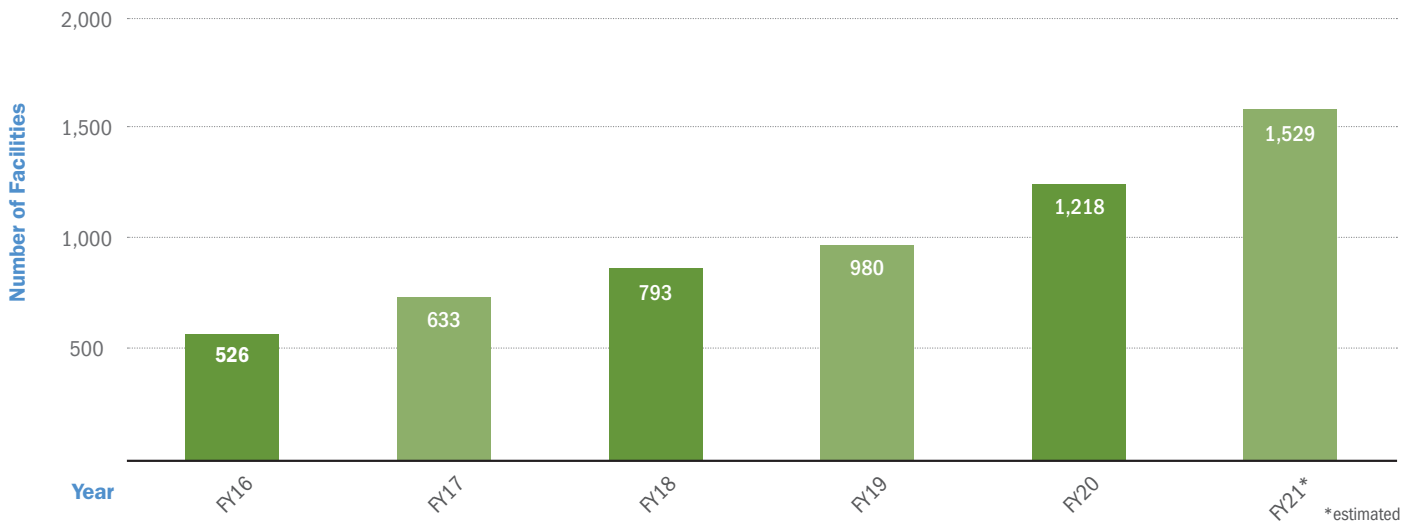
By the time a tree reaches **40 years** old it will have absorbed one ton of carbon dioxide. That same tree will provide enough clean oxygen for **four people each year**.

Maintenance Pruning Hits 10-Year Cycle

We have long invested in a proactive maintenance pruning program to ensure good tree health and maximize the ecological services of mature street trees. Urban Forestry has recently hit a milestone worthy of celebration! After decades of a sluggish 25-year+ pruning cycle, we were on a 10-year pace for the first half of FY20. The team achieved this established industry best management practice thanks to a mild storm season, a skilled crew and high-quality contractors. Despite redirecting staff for months during the COVID-19 response, the total trees pruned in FY20 still reflects a 14-year pruning cycle, far ahead of where we were even a few years ago.

Private Stormwater Program Efficiencies

Growth of the Private Vegetated Stormwater System



As development thrives in Eugene, the private stormwater system expands accordingly, though resources to inspect and support land owners has remained stagnant. One staff position is dedicated to annually inspect more than 1,200 current facilities – a growth of 132% since FY16. The overwhelming demand requires the team streamline the program and seek efficiencies where possible. For example, inspections are being front loaded to visit sites more frequently during the initial period of plant growth when more prone to weed invasions, if not cared for properly, and less time at more established facilities. Digital tools are being developed for reporting and providing information and resources to private sites. In addition, important conversations and questions asked during site visits are being studied and formulated into frequently asked questions and scripts for enhanced outreach. Creative approaches to sharing information will be a focus in the coming fiscal year.

LOOKING AHEAD:

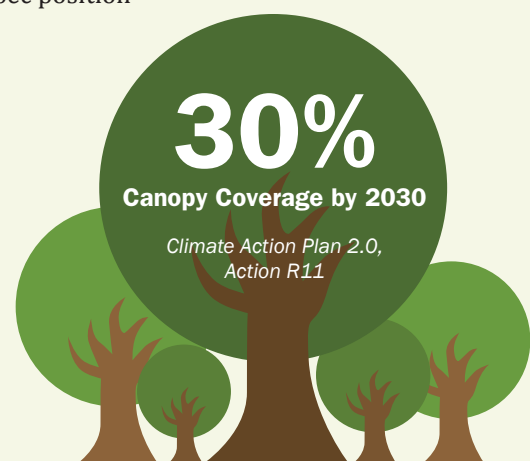
FY21 Section Goals

- Develop Urban Forestry Operations Manual
- Develop Urban Forestry Management Plan, incorporating Climate Action Plan 2.0 actions
- Develop Median Maintenance Standards Manual
- Enhance and expand private stormwater program outreach
- Develop and implement a public stormwater contract management program

Immediate Resource Needs

- Stormwater Maintenance - \$100k plant establishment and maintenance contract
- Stormwater Maintenance - \$100k Park Spec I/II position

- Urban Forestry Replanting Program – \$250k to restock 15,000 vacant planting sites
- Urban Forestry Inventory and Sidewalk Program Support - \$115k to continue limited duration Tech Spec position



COVID-19 Impacts on Green Infrastructure



The Nines on Delta Hwy during pre-COVID site inspection, March 2020



Post-COVID site assessment prior to maintenance, June 2020



After 94 hours of maintenance

COVID-19 created a new landscape and work environment for the second half of FY20. In Green Infrastructure, we initially focused on helping deliver essential services in developed parks under reduced and rotating staffing schedules. Staff leaned into new roles in new locations and quickly got up to speed. The team returned to the right-of-way (ROW) on May 4 after two-months of no service during the intense growing season. The backlog will take time to recover. A few challenges unique to this time include:

- Reduced service level and a gap in seasonal staffing
- Stormwater facility conditions declined
- Increased illegal camping in ROW
- Modified and reduced private stormwater facility site inspection process

- Reduced pruning cycle and tree planting
- Temporary suspension of street tree maintenance removal permits

However, reduced field time and a virtual work environment did give the team time to focus on strategic planning and program development, including:

- Defining obstacles and leverage points to meet Climate Action Plan 2.0 urban forest related actions
- Prioritization of maintenance pruning zones for FY21
- Tree planting project development
- Revisions of dated policies and procedures
- Vegetation Program refocus toward outreach over enforcement



Eugene
**Parks &
Open Space**

For More Information:

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EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Northwest Natural Gas Franchise Agreement

Meeting Date: February 8, 2021
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Ethan Nelson
Contact Telephone Number: 541-682-5245

ISSUE STATEMENT

The City Council adopted an ordinance extending the Northwest Natural Gas Right of Way Franchise Agreement until May 11, 2021, providing additional time for city staff to negotiate potential renewal terms with representatives of NW Natural Gas (NWN). This work session will provide an overview of the process to date, current deal points, and the opportunity for the City Council to discuss the issues.

BACKGROUND

Franchise agreements between local governments and utilities govern the use of the public right of way to ensure safety, coordinated access, and the stability of public infrastructure. Typical franchise agreements outline the terms and fees under which utility companies can utilize the public right of way for their business. Fees are typically calculated on a percentage of the revenues derived from the utility company's sales to customers within the service area.

In October 1999, the City Council approved Ordinance 20170, which:

- Increased the compensation rate from 4 percent to 5 percent of gross revenues;
- Granted a franchise term of 20 years with possible renegotiation every five years;
- Provided updated audit language and facility relocation and abandonment provisions; and
- Added "favored cities" language, which requires NWNG to notify the City should they agree to pay any other city in Oregon a franchise fee that exceeds 5 percent of gross revenues.

Currently, the City receives annually \$1.4 million in General Fund revenues from this franchise. Revenue from NWNG franchise fees have been trending at this level over the past few years based on flat/declining NWNG rates in the area.

Franchise Negotiation Update

At the July 29, 2020 Work Session, Council directed the City Manager to prepare an ordinance and schedule a public hearing in September 2020, to extend Northwest Natural Gas's Franchise Agreement for 6 months and to schedule a work session in early September 2020 for an update on the negotiations. The Agenda Item Summary from July 29th provides a chronological summary of negotiations to date.

As was shared during the September 9 Council Work Session, staff from the City and NWNG, including at times Executive Leadership, met throughout the late summer and early fall. By October the negotiating team started to increase meeting frequency, to the level that during November, December, and January the core negotiating team was meeting for 5 hours per week.

Attachment A to this AIS is the current 'term' sheet for the Franchise Agreement and Carbon Reduction Agreement. Staff will walk through this document with Council during the work session.

PREVIOUS COUNCIL DIRECTION

[November 14, 2018, Work Session](#)

This work session provided the City Council with information regarding the review process for the right of way Franchise Agreement with NWNG and discussed options for including CAP2.0 in the negotiations.

[January 30, 2019, Work Session](#)

Staff reviewed questions submitted by the Eugene Sustainability Commission to the City Council regarding the regulation of natural gas in Eugene.

[May 22, 2019, Work Session](#)

Council held a work session as a follow-up to the previous work session about NWNG's Franchise Agreement with the City and Climate Action Plan 2.0 discussions; NWNG presented its Deep Decarbonization presentation to Council.

[May 29, 2019, Work Session](#)

Council directed the City Manager to schedule a public hearing on a possible one-year extension of the Franchise Agreement with NWNG.

[July 22, 2019, Work Session](#)

Council adopted an Ordinance Extending the Term of Ordinance No. 20170 for six months until May 11, 2020.

[March 9, 2020 Public Hearing](#)

Public hearing followed by Council discussion on proposed Ordinance to extend the Franchise Agreement with NWNG another six months.

[April 8, 2020 Council Meeting](#)

City Council adopted the Ordinance extending the Franchise Agreement until November 11, 2020.

[July 29, 2020 Council Meeting](#)

City Council directed the City Manager to prepare an ordinance and schedule a public hearing in September 2020, to extend Northwest Natural Gas's Franchise Agreement for 6 months and to schedule a work session in early September 2020 for an update on the negotiations.

February 8, 2021, Work Session– Item 2

September 9, 2020 Council Work Session

Staff provided an update to City Council regarding the Franchise Agreement negotiations with NWNG.

September 21, 2020 Franchise Extension Public Hearing

A public hearing was held on the six-month extension.

September 28, 2020 Franchise Extension Council Action

City Council voted to extend the existing Franchise for an additional six-month period, until May 11, 2021.

ATTACHMENTS

- A. Natural Gas Franchise Deal Points

FOR MORE INFORMATION

Staff Contact: Ethan Nelson
Telephone: 541-682-5245
Staff E-Mail: Enelson@eugene-or.gov

City's Original Language = Black Text
NW Natural's Comments and Revisions = Redline
City's Response to NWN's Redline = Green Italics

**Proposed Deal Points ~~for~~
NWN Use of City Right-of-Way**

Franchise Agreement – Terms and Conditions:

- Length
 - 10-year term
- City grant of authority to NWN (as set out in Section 3-Grant of Authority in existing Franchise).
 - Right and privilege to lay, maintain, and operate facilities in and under the public ways of the City, subject to the terms of the franchise agreement.
- Franchise Fee
 - 5.75% of NWN's gross revenues upon ~~the franchise agreement's~~ Effective Date (defined below).
 - Increases ~~ing~~ at month 25 to 6.5% of NWN's gross revenues.
 - Gross ~~R~~ revenue definition as set out in Section 2 of the existing Franchise, with explicit recognition that statutory/tariffed PPC charges are not Gross Revenue to be discussed further.
- Carbon Reduction Agreement
 - Terms of conditions of the Carbon Reduction Agreement set forth below.
 - ○ NWN's position is that the CRA is a separate voluntary and collaborative agreement addressing actions to reduce carbon emissions for the benefit of Eugene gas customers, not a term of any franchise agreement relating to NWN's use of the ROW. We understand the City's position differs, and the parties continue to explore options for reaching agreement.
[The City's position has always been that the City's grant of a new franchise to NW Natural is conditioned on NW Natural also agreeing to carbon related terms.]
- Reopener
 - As set out in Section 10 of the current franchise with modification to reflect a 10-year term. If either party gives 30 days' written notice, the terms of the franchise are subject to renegotiation and redetermination at the end of years three and eight. The principles governing the renegotiation shall include, but not limited to, making the franchise consistent with federal, state and local law in effect at the time of the renegotiation.
 - The renegotiation period shall be 60 days unless the parties mutually agree to extend the negotiation period, with further details to be discussed.
- Franchise Agreement's Effective Date upon
 - NWN's filing with the City the Company's written acceptance of the Franchise Agreement's terms and conditions, **and**

- Carbon Reduction Agreement is fully executed and in effect (CRF Effective Date – defined below).

[For the first time through these edits, NW Natural appears to be proposing one effective date for the CRA, which would trigger the Franchise Agreement becoming effective, and a separate effective date for the CRF, which would not impact the effectiveness of the franchise. The City has sought clarification from NW Natural regarding their proposal because it had never been discussed during the negotiations and is contrary to the City's position that it will not grant a new franchise independent of the terms of the CRA being in effect, most notably, the CRF.]

- Termination of Franchise Agreement upon the following:
 - Non-cured defaults of franchise terms (~~e.g.,~~ as set out in Section 9 of the 1999 Franchise Agreement).
 - 60 days following termination of the Carbon Reduction Agreement. NWN does not agree to this term; it is pending further discussions between counsel to explore options for reaching agreement.

[The City's position has always been that the Franchise Agreement does not exist independent of the CRA and that if the CRA terminates, so does the Franchise Agreement. The City would not characterize this issue as part of legal counsel's discussion with NW Natural regarding the PUC process.]

- Other Standard Franchise Agreement Provisions substantially similar to those included in the 1999 Franchise Agreement including:
 - Compliance with Applicable Laws and Ordinances; Conditions of Occupancy of Public Ways; Removal and Restoration; City Free to Use Public Way; Defense and Indemnification; Reports; City Taxes and Fees; Eminent Domain; Abandonment

Carbon Reduction Agreement (CRA) – Terms and Conditions:

The City has proposed a Carbon Reduction Fee (CRF), and NWN has voluntarily agreed to collect this CRF on behalf of our customers in the City of Eugene subject to OPUC oversight and approval, to reduce carbon emissions in the City of Eugene.

[While the City recognizes that NW Natural intended to recover the costs of the CRF from its customers, the City's position has always been that, like the current franchise fee, the City is imposing the CRF on NW Natural, not on NW Natural's customers.]

- Length
 - 10-year term.¹
- Carbon Reduction Fee
 - 1.25% of NWN's of gross sales revenues upon CRF ~~e~~Effective ~~d~~date.
 - Increasing at month 25 to 2.5% of NWN's of gross sales revenues.
 - ~~Payment of Carbon Reduction Fee must be no less than \$740,000/year.~~ NWN does not agree to this statement, but would agree to the following:

¹ NWN agrees that the term length of both the CRA and the Franchise Agreement should be 10 years; however, the structure of the agreements to effectuate this is related to ongoing discussion and negotiations concerning OPUC oversight and approval.

- The 2.5% CRF is estimated to generate ~\$740,000/year for investments towards carbon reduction on behalf of NW Natural Eugene gas customers once fully implemented

[The City must rely on NW Natural's data that 2.5% of gross sales revenues would be roughly equivalent to \$740,000. The City agreed to \$740,000 based on NW Natural's data, but only on the condition that \$740,000 would be the base amount of revenue and proposed a reopener if the \$740,000 needed to be revisited.]

- Fee Management

- Mutually agreed upon third party account manager to develop and implement an energy efficiency program for benefit of gas customers within the City of Eugene taxing district.
 - Example of third- party account manager: Energy Trust of Oregon
- Mutually agreed upon third party manager for offsets.
 - Examples: Climate Trust, NWN's Smart Energy Program.
- NWN manages the 10% of CRF designated for RNG investments

[While NWN proposes that it manage the 10% RNG investments, the City has not agreed to that, believing management should be with a third party.]

- Fee Investment

- Mutually agreed upon investments as outlined below. The proceeds raised from the CRF will not be used for electrification, but may be used for mutually agreed upon administrative costs.
- Targeted investment split of 80/10/10:
 - 80% energy efficiency investments for gas customers within the City of Eugene, prioritized for low income households.
 - 10% local, cost effective and certified offsets above and beyond planned investments.
 - 10% renewable natural gas projects above and beyond planned RNG investments within in Lane County, Eugene local area, or Oregon, or the Northwest to be managed by NW Natural, that NWN can recoup through rate mechanisms.

[The City's position has been the CRF revenues must be primarily invested locally, agreeing to the 10% RNG investment within Oregon, not the broader Northwest.]

- Reopeners at the following times/upon the following events:

- One year after the implementation of the OR DEQ Rules on ghg-GHG reductions (Exec Order 20-04).
- If either party gives 30 days' written notice, the terms of the Carbon Reduction Agreement are subject to renegotiation and redetermination if fee revenues from the 2.5% fee are less than \$740,000/year for three consecutive years, once fully implemented, **and** at the end of years three and eight.
 - NWN agrees that upon 30 days' written notice by either party at the end of years three and eight, the terms of the CRA are subject to renegotiation. NWN also agrees in concept to providing for reopener of the CRA for both parties to address the 2.5% CRF and providing the opportunity for appropriate adjustments of the CRF rate, but we do not agree with the language above as it is one-directional. NWN wants to further discuss what may be a shared concern of some externality (akin to but distinct from a force majeure-like event) that may significantly change costs for Eugene gas customers.

- The renegotiation period shall be 60 days unless the parties mutually agree to extend the negotiation period, with further details to be discussed.

- CRF Effective Date upon
 - Signature of both parties; and,
 - Approval by NWN notification to City it has obtained its desired approval from the Oregon Public Utility Commission ~~to fully recover the costs of the CRF imposed on NW Natural~~ pursuant to the CRA terms.
 - If not effective within 6 months, agreement expires and becomes null and void.
 - The terms and process relating to effectuating the parties' agreements are under continued discussion with counsel concerning OPUC involvement.

[NW Natural's revision to make the effective date specific to the CRF (not the CRA), as well as its revision below to make the termination provision specific to the CRF (not the CRA) is consistent with their revision to the Franchise Agreement effective date appearing to propose separate effective dates for the CRA and CRF. Separating the CRF from the CRA is a new proposal from NW Natural (on which we are seeking their clarification) and is contrary to the City's position on the structure of the agreement.]

- Termination of CRF upon the following:
 - Non-cured defaults of agreement terms.
 - Concurrent with termination of the Franchise Agreement upon termination of the Franchise Agreement.
 - If City takes action, such as passing an ordinance or enacting administrative rules, to ban or restrict the provision or service of natural gas or natural gas infrastructure within the City, NWN may terminate the CRA upon ~~60~~30-days prior written notice to City. The resultant rights / impact from this scenario relating to any termination of the Franchise Agreement is pending further discussions between counsel.

[The City's position has always been that the Franchise Agreement does not exist independent of the CRA and that if the CRA terminates, so does the Franchise Agreement. The City would not characterize this issue as part of legal counsel's ongoing discussion with NW Natural regarding the PUC process.]

- If any other jurisdiction, including but not limited to any other municipality, the State of Oregon, or the federal government, take an action in the form of a rule, statute, ordinance or to impose any other legal or regulatory obligation that bans or restricts the provision or service of natural gas or natural gas infrastructure on NW Natural customers within the City of Eugene taxing district, NWN may terminate the CRA upon 30-days prior written notice to the City.
- [The City has stated it will not agree to terminate the CRA if any other jurisdiction takes action banning or restricting natural gas service or infrastructure.]*

- The tentative agreements on the deal points listed here for the CRA are subject to final mutual agreement of the parties on all terms and written forms of agreements. Other standard commercial terms still to be discussed, including preservation of parties' abilities to comply with applicable law and regulatory requirements, for inclusion in same.