



Agenda Item # \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Neil Miller, Director of Public Works  
Juan Price, Street Maintenance Superintendent

**DATE:** May 2, 2006

**SUBJECT:** Review and Discussion of Public Tree and Sidewalk Policies

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### **RECOMMENDATION:**

Staff recommends that the City Council:

1. Review, discuss, and provide direction on current administrative procedures regarding nuisance trees.
2. Discuss and provide direction for a process to protect healthy, established trees during development activities.
3. Review current policy and Code requirements for the maintenance of trees and sidewalks located on City right of way adjacent to private property.

### **FISCAL IMPLICATION:**

There are no immediate financial implications as a result of this staff report. However, as part of the Alternatives section of this report staff is suggesting that the City Council consider funding \$500,000 for a one-year catch-up sidewalk repair and tree maintenance contract through the CIP process. This request would compete with all other unfunded projects for available CIP funds.

### **BACKGROUND:**

Manhattan Beach Municipal Code (Chapters 7.12 Sidewalk Repair and 7.32 Tree, Shrub and Plant Regulations) provides that:

- It is the duty of every person owning property within the City to keep in repair the sidewalk abutting that property.
- The Public Works Director shall have jurisdiction and control over maintenance and removal of all trees and shrubs on City property and in public places, which includes land adjacent to private property.
- Nuisance trees are those that are apt to cause injury to life or property including, but not limited

to: trees that are dead, diseased, infested; leaning; or apt to destroy any street improvement, sidewalk, curb or gutter. Nuisance trees also include those that interfere with the use of, or access to, vehicular or pedestrian travel.

- Nuisance trees on public property shall be removed, replaced, or trimmed at the expense of the adjoining property owner as ordered by the Director of Public Works.
- During the erection, repair, alteration or removal of any building, house, structure or street in the City, any person, firm, association, corporation or franchise in charge of such work shall protect any tree, shrub or plant in any public place, including land adjacent to private property.

## **DISCUSSION:**

### **1) Nuisance Trees**

Given the authority and direction provided by the municipal code, City staff has addressed nuisance trees by taking the following administrative steps:

- Identify nuisance trees and areas of damaged sidewalks, streets, driveways and gutters.
- Provide written notification to property owner of the need for tree removal and/or for concrete repairs.
- Provide the property owner the option of allowing the City to administer the tree removal and concrete repair with reimbursement to the City by billing the property owner through the Finance Department.
- Property owners are provided the option of undertaking removal and repairs on their own.

Although Public Works staff believe that the City's municipal code provides authority for the current administrative procedure as described, staff decisions are often disputed by the impacted property owners and other residents. The general public is not always aware of the technical issues regarding property lines, liability, and repair methods. The public may also have a strong desire to preserve mature trees. However, in maintaining the City's trees and sidewalks, Public Works staff must consider public safety and the potential for property damage. For example, if sidewalk repairs are completed without removal of some mature trees, the often extensive damage to the root system can make the tree unstable leaving the City exposed to liability issues.

The main reason for maintaining the current policy for handling nuisance trees is that City staff is in the position to evaluate the condition of the tree, its impact on City infrastructure, and other issues that may have a bearing on the decision of whether a tree should be removed or not. An alternative to the current policy is to establish a process whereby disputes regarding nuisance trees would be automatically go through a process that would involve the Parking and Public Improvement Commission (PPIC) including a public notification requirement. Such a process would result in the City Council affirming or not affirming the decision of the PPIC in all such cases. A drawback of this procedure is that more staff, commission and City Council time would be involved in each disputed decision. Also, more elapsed time would occur which would add delay to the issue at hand whether it be a safety issue or a construction issue.

Staff recommends that the City Council review and provide direction on the current administrative procedures for handling the removal of nuisance trees.

## **2) Protecting Established Trees from Development Activities**

Although staff believes that the current municipal code provides for the preservation of healthy, established public trees during development activities, there have been several recent examples of developers removing such trees or requesting such trees to be removed. These actions seem to be in conflict with recent decision by the City Council to preserve mature trees where possible. Therefore, staff recommends that the policy for protecting mature, non-nuisance trees be clarified.

Currently, if a right of way tree is in the path of construction the City policy has been that if a tree is removed another one must be planted in its place. There has not been a strict policy for preserving mature right of way trees that are in the path of development.

Staff recommends that if a public tree, not deemed a nuisance tree, is being requested to be removed for the purpose of construction or development of property that such removal not be approved. The requestor may appeal this decision by paying the appropriate appeal fee and appeal the decision to the Parking and Public Improvement Commission (PPIC). This will trigger a notification of nearby properties. The decision of the PPIC will then be ratified by the City Council.

## **3) Consideration for a Future Tree and Sidewalk Maintenance Assessment District**

As detailed in the background section of this report, Manhattan Beach Municipal Code provides that property owners are responsible for the care of public trees adjacent to their property and responsible to keep in repair the sidewalk abutting their property. Many property owners are unaware of this provision until there is a problem or issue with public right-of-way trees. Even if they are aware of the responsibility, they usually do not know what is required to properly maintain the tree.

The fact that property owners are responsible for the routine care of the trees is problematic. The issue of the resident being responsible and paying for maintenance and repairs often puts the resident at odds with the City. Staff often spends many hours with residents who are upset about the fact that they must pay for maintenance of trees that are located on public right-of-way. Furthermore, although some property owners are very diligent in providing routine care for the trees adjacent to their property, most are not. Therefore the vast majority of the City's trees receive no regular maintenance care (trimming, pruning, watering, or pesticide treatment) which results in unsightly and many times unhealthy trees.

This situation is not conducive to the healthy development of our urban forest. Rather it is resulting in a deteriorating City tree inventory. Neglected trees eventually create hazards such as broken limbs, obstruction of traffic signals, and lifting portions of streets or sidewalks. Effort by City staff that is saved by not maintaining street trees is spent fixing sidewalks and attempting to enforce the current tree ordinance. Hence, maintenance for trees and sidewalks go hand in hand.

Staff has previously proposed to the City Council the concept of creating a Landscape Assessment District that if passed would place an assessment on land parcels (approximately \$30 to \$40 per residential parcel) in exchange for the City assuming the responsibility for maintaining trees and sidewalks and the liability for maintaining these assets. To move to this type of maintenance

method would require a vote of the community as requirement by Proposition 218.

A comprehensive tree and sidewalk program where professionals (City employees and contractors) are responsible for the on-going maintenance for both would be more efficient and animosity between residents and City staff would be reduced.

Staff would like the City Council to discuss and provide direction as to whether there is interest in moving forward with the steps necessary to bring the landscape maintenance assessment district concept to a community election. One significant step before this could happen would be the need to retain an Assessment Engineer to propose an equitable method of spreading the cost of such a district to the various types and sizes of parcels in the district.

## ALTERNATIVES

### **Catch-up Sidewalk Repair and Tree Maintenance**

In March 2003, City Staff presented Council with the idea of a comprehensive tree and sidewalk maintenance program, and that such a program could be funded with a City-wide Landscape Assessment District that would need to be approved by the voters per Proposition 218. At that time it was discussed that a modest annual assessment, \$30, per residence, would provide sufficient funds to maintain the City's street trees and sidewalks and would shift the liability and responsibility of this maintenance activity from the homeowner to the City. At that time, the City determined that it was not an appropriate time to approach the community with this decision. Public works staff implemented an interim measure to allow Council more time to consider the comprehensive program. This interim measure consists of sidewalk grinding to eliminate trip hazards and ramping and patching on more severely damaged locations. These repairs have been completed at no cost to the residents. Although the interim measures have been effective for preventing safety hazards, the repairs lack the finished look and longevity of full removal and replacement of the concrete sidewalks.

Additionally, over the last several years, Public Works staff support of major Civic Center improvement projects has taken away from our regular sidewalk repair and enforcement duties. Subsequently, we are now several years behind in our sidewalk repair program. Approval of funding for a one-year contract for sidewalk repair and tree trimming would allow the City to catch-up with its sidewalk and tree maintenance needs and demonstrate to the community what how a City-managed comprehensive tree and sidewalk would improve the condition and appearance of our City's street trees and sidewalks.

The tree and sidewalk repair catch-up program would include:

- Trimming of all trees in the City right-of-way (approximately 8,000 trees).
- Repair of the worst broken and displaced sidewalks throughout the City.
- Grinding of minor sidewalk displacements (1" or less).

Staff recommends that Council consider funding \$500,000 for a one-year catch-up sidewalk repair and tree maintenance contract through the CIP process.