

**TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
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CONVENE: 8:00 a.m.

PRESENT: Chair Eileen Swarthout and Councilmembers Michael Althausen and Charlie Schneider.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Water Resources & Sustainability Director Dan Smith, Water Resources Specialist Grant Gilmore, Water Resources Specialist David Kangiser, Community Engagement Specialist Marnie McGrath, Administrative Assistant Cathy Nielsen, and Department Assistant II Bonnie Hale.

Others: Meredith Greer, Greer Environmental Consulting.

**APPROVAL OF
MINUTES: PUBLIC
WORKS
COMMITTEE,
AUGUST 4, 2022:**

MOTION: Councilmember Schneider moved, seconded by Councilmember Althausen, to approve the minutes of August 4, 2022 as published. A voice vote approved the motion unanimously.

**ACTION:
PERCIVAL CREEK
FISH PASSAGE
BARRIER
REPLACEMENT
SCOPE
AMENDMENT #1:**

Meredith Greer provided information on the scope of the Percival Creek Fish Passage Barrier Replacement Project.

The culvert conveying Percival Creek under Sapp Road was identified as a fish passage barrier because of its slope. The project removes and replaces an existing culvert with a larger culvert. The project received funding to complete final design and initiate permitting from the Washington State Recreation and Conservation Office's Salmon Recovery Funding Board on July 1, 2021. The City completed a Request for Qualifications process and selected PBS Engineering and Environmental Inc. to complete the work.

The proposed amendment is for additional work not previously anticipated, including the requirement to provide stormwater treatment and additional design for retaining walls on both sides of the culvert. The amendment increases the cost by approximately \$80,000 for both design and extension of the contract.

The updated timeline anticipates receiving all environmental permits by the end of November 2022. PBS is scheduled to complete 90% design by the end of the year. The City's transportation and engineering team has assisted in the utility work, as well as roadway improvements. The bid is scheduled for release in fall 2023 with construction of the culvert replacement in summer 2024.

Ms. Greer described the benefits of woody debris. Part of the project scope is

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mimicking a natural stream system not impacted by development. Typically, trees growing along both banks eventually fall into the creek during the lifecycle of trees providing habitat, stream complexity, and hiding places for salmon. The project scope includes installing large woody material to create natural conditions.

City Administrator Doan explained that the additional cost would be paid from the Stormwater Utility from the fund's reserves. Ms. Greer added that staff has applied for two grants to cover construction costs. One grant would cover 85% and the second grant would cover the remaining 15%.

Ms. Greer asked the committee to recommend the City Council approve and authorize the Mayor to sign the Percival Creek Fish Passage Barrier Replacement Scope Amendment #1 with PBS Engineering and Environmental.

MOTION:

Councilmember Schneider moved, seconded by Councilmember Althaus, to recommend the City Council approve and authorize the Mayor to sign the Percival Creek Fish Passage Barrier Replacement Scope Amendment #1 with PBS Engineering and Environmental. A voice vote approved the motion unanimously.

BRIEFING:
SOMERSET
STORMWATER
PROJECT:

Director Smith introduced Grant Gilmore, Water Resources Specialist, to provide the briefing on the project. The project, not previously scheduled within the Capital Facilities Plan (CFP) is located in the area of a recent sewer overflow. During emergency repair work, staff discovered of slope and bank erosion caused by an undersized culvert. Staff will likely elevate the project with the intent to seek external agency funding support to replace the culvert to reduce impacts to the system.

Specialist Gilmore displayed an illustration of the project area and photographs of the site. Percival Creek flows from south to north. An undersized culvert of approximately 3' - 4' in diameter has caused erosion along the north slope during high flow events risking a sewer line if the root system of a large Grand fir is compromised causing the tree to fall. Staff assessed different phases of the project. Phase 1 includes completion of a baseline assessment to determine the scope of the project and current site conditions. Potential options include tree removal, reinforcement of the slope, conducting a geotechnical review of soil conditions, and an arborist assessment of the Grand fir and potential risks. Temporary slope protection could include sandbagging, eco-block, and other methodologies to be determined. Following some initial consultation with the Department of Fish and Wildlife (WDFW), staff believes slope protection is the most reasonable and minimal effort necessary at this time to protect the slope from further erosion. The permit requirement for the project would be an emergency HPA processed and expedited by WDFW. Ongoing consultations will continue with other stakeholders to include WDFW, U.S. Army Corps of Engineers, Department of Ecology, and the Squaxin Island Tribe.

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Staff would contract with a consultant to complete the geotechnical report and assess soil conditions along both sides of the road in addition completing a tree assessment report. Those efforts will result in baseline documentation required to determine the course of action, e.g., retention of tree, removal of tree, or another course of action. Should the decision involve removal of the tree, WDFW recommends letting the tree fall within the stream to provide stream benefits.

Following the initial assessment of the culvert, Phase 2 entails completion of an alternatives analysis by a consultant to determine whether to replace the culvert, install a bridge, or realign the stream to improve hydrological functions to reduce erosion along the stream bank. Staff plans to conduct ongoing monitoring of site conditions.

Phase 3 includes design and engineering, permitting, and construction scheduling.

Director Smith added that downstream of the project site a major stakeholder is the City of Olympia as the property owner of the creek as it traverses to South Puget Sound Community College. The City of Olympia has been contacted and is aware of the issue.

Specialist Gilmore addressed questions about the risk the Grand fir poses to the sewer line explaining that the root structure of the tree is significant because of its size and age. Should the tree fall, it would destabilize a large majority of the slope as the sewer line is buried approximately seven feet deep within the slope area containing the tree's root system. Because the current rating of Percival Creek is poor for stream-ecosystem processes and macro invertebrates, staff is exploring possible expansion of the sampling survey along different sections of the creek to identify why the creek has a poor rating and habitat is not conducive to a healthy macrobiotic community. Heavy sediment deposits can impact creeks negatively.

Councilmember Althausen inquired as to whether rocks resembling landscaping rocks would be included within the assessment because of potential impacts to fish. Specialist Gilmore replied that quarry rocks are not naturally occurring and not typically found in streams as the formation of those rocks are dissimilar from hydrological functioning erosion of rocks traveling through the stream system. It is typical to use quarry rocks as fill for roads and for cover. In this particular area, over the years the amount of rocks falling from the slope area has accumulated to the extent that it has diverted the stream. Often, the conditions are a byproduct of time rather than poor engineering or the types of materials used.

Councilmember Schneider asked about the possibility of the tree falling and diverting or blocking the creek. Specialist Gilmore said the issue is a concern,

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which is why an arborist is required to assess options for managing the risk. The tree is currently not at risk of falling as long as the embankment is not experiencing ongoing erosion. Should the temporary measure of sandbagging prove effective through the upcoming storm season without major erosion to the embankment, the next phase would explore other management options.

Councilmember Althaus asked whether the smaller culvert serves to dam and reduce the velocity of water flow rather than a culvert with a larger opening. Specialist Gilmore explained how higher water flow velocity entering a pipe or constricted opening increases flow velocity downstream. Larger culverts enable water to flow at a lower velocity (meandering) reducing the amount of erosion along the stream bank.

ORDINANCE NO. O2022-021, REMOVAL OF PROPERTIES FROM HOPKINS DRAINAGE DISTRICT:

Director Smith reported the proposed emergency ordinance is in response to the continuing actions by Hopkins Drainage District #2. He shared a map of the District's service area. Commissioners of the Hopkins Drainage District scheduled a meeting to adopt a roll of rates and charges by annexing 599 properties located within the City of Tumwater. Another six properties located outside the boundaries of Tumwater would also be annexed. The 599 parcels include both residential and non-residential properties. The City has filed objections with the District. The proposed ordinance constitutes the next step of the City's process.

Two additional properties located on the westside of Interstate 5 are current members of the Hopkins Drainage District and are not included within the ordinance. The ordinance would serve to remove 599 parcels from the roll of rates and charges of the Hopkins Drainage District. Pursuant to RCW 85.38.217, any portion of a drainage district or drainage improvement district located within the boundaries of a First Class City operating a storm drainage utility (pursuant to RCW 35.67.030) may be removed from the drainage district based on an ordinance adopted by the city. The proposed ordinance authorizes the City to withdraw the properties from the Hopkins Drainage District. As Tumwater is a code city, the City has the authority to exercise the powers of any class city.

Additionally, staff anticipates action on the ordinance will follow action Hopkins Drainage District is anticipated to complete on September 24, 2022 to certify the roll of rates and charges. Because of the limited window of time for the City to act, staff is recommending the committee schedule a public hearing on the proposed ordinance on October 4, 2022. The City Council will receive a briefing on the ordinance on September 27, 2022 during its worksession.

Director Smith added that the Hopkins Drainage District has failed to provide any evidence that the Tumwater properties are receiving any benefits or services from the District. The issue pertains to the District's lack of maintenance of the drainage ditch, which serves existing customers. The City provides stormwater

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services to the properties considered for annexation. The City has sufficient capacity to serve those properties based on local, state, and federal requirements.

Director Smith reported he plans to attend the District's public hearing and will advise City administration on the outcome of the hearing. He invited questions and requested approval of the request.

In response to questions, Director Smith explained that the Council can move to adopt the ordinance following the public hearing on October 4, 2022.

Councilmember Althausen inquired about the possibility of the Hopkins Drainage District subsequently annexing the properties the City removed through the adoption of the ordinance. City Attorney Kirkpatrick said the question is pending additional review because statutorily, the District could reinstate the annexation process. Without the annexed properties and accompanying assessments, the District lacks the funding to litigate future actions or contemplate the commencement of another annexation process. However, the City's action would likely not moot any issues the City anticipates could be litigated.

Councilmember Althausen asked whether any independent examination of the District by Thurston County could affect the City's actions. City Attorney Kirkpatrick advised that Thurston County's process is to consider suspension of the operations of the District, which would apply to the entire District and all properties within the District at the time of suspension. The county's process would not be affected by the City's action. The City believes its action is necessary because the county's timeline does not correspond with the District's action to annex and impose assessments. Staff anticipates the action by the District on Saturday, September 24, 2022 will result in the passage of a resolution to complete annexation of the properties. In October, District Commissioners would need to develop and impose the assessments. Timing of the City's action is important to remove the properties after they have been annexed but before assessments are imposed.

Councilmember Schneider asked about the approximately 20 businesses that are also impacted by the District's annexation. Director Smith said the ordinance affects both residential and non-residential properties totaling 599 properties located within the City limits.

City Attorney Kirkpatrick addressed options available to the City if the District pursues action against the City. The City has the option of appealing the District's action anticipated to occur on Saturday, September 24, 2022. The City is contemplating other government actions because the District has failed to comply with both the Public Records Act and the Open Public Meetings Act throughout the process. Other pieces include the possibility that the action to annex would be reviewed by the Thurston County Boundary Review Board.

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The City has contacted Thurston County with respect to whether the Boundary Review Board's process applies to the District's annexation, which entails another appeals process.

Councilmember Schneider disclosed that he is one of the owners of the 599 properties and has been advised that he can render a vote on the proposed ordinance.

City Attorney Kirkpatrick advised that staff is presenting the proposed ordinance on October 4, 2022 as an emergency ordinance requiring all Councilmembers to vote.

MOTION:

Councilmember Althaus moved, seconded by Councilmember Schneider, to set a public hearing for Tuesday, October 4, 2022 to receive testimony on Ordinance O2022-021 to remove all properties located within the boundaries of the City of Tumwater from Hopkins Drainage Ditch District #2. A voice vote approved the motion unanimously.

ADJOURNMENT:

With there being no further business, Chair Swarthout adjourned the meeting at 8:57 a.m.

Prepared by Valerie Gow, Recording Secretary/President
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