



WORK SESSION OF THE GREENBELT CITY COUNCIL held Monday, September 15, 2003, for the purpose of reviewing the draft ordinance for preservation of the "greenlands."

Mayor Davis started the meeting at 8:04 p.m. It was held in the Council Room of the Municipal Building.

PRESENT WERE: Council members Rodney M. Roberts, Alan Turnbull, Thomas X. White, and Mayor Judith F. Davis. Councilmember Edward V. J. Putens arrived at 8:10 p.m.

STAFF PRESENT WERE: Michael P. McLaughlin, City Manager; Celia W. Craze, Director, Planning and Community Development; and Kathleen Gallagher, City Clerk.
ALSO PRESENT WERE: Sheldon Goldberg, Greenbelt East Advisory Committee; Kelly Ivy, Sr., and Clement Lau, Park & Recreation Advisory Board; Susan Barnett, Paul Downs, Craig Tooley, Gary Bumbalough, Yoni Siegel, Bill Rich, Valerie Elliott, John Cooper, Gina Mai Denn, and Teresa Aquino, Committee to Save the Green Belt; Matt Elliott, GAC; Dorian Winterfeld, Luisa Robles, Jim Inzeo, Richard Potter, and others.

Ms. Craze gave some background on the development of the draft ordinance, including a prior discussion in work session of the State Wildlands Program as a possible model for the City's preservation of its natural lands and an opinion from the City Solicitor on the best approach to take in terms of legislation. She said staff had also been guided by the National Park Service's Directors Orders for national wildlands. The draft ordinance had been referred to the Advisory Planning Board, the Park & Recreation Advisory Board, the Advisory Committee in Trees, and the Youth Advisory Committee for review. One recommendation shared by the advisory groups was that the first step should be to inventory the universe of properties and set criteria for what would or would not be included for preservation under the legislation.

She noted that, as proposed, this legislation would amend the Parks and Recreation chapter of the City Code and effectively establish a new recreational use. Staff's main concern in drafting the ordinance was to make it easy to add land to the preserved area while making it difficult to remove land or to weaken the criteria for use of the land without adequate public review. She reminded Council that requiring a super-majority vote of Council to make a change would necessitate a change to the City Charter.

Council reviewed the ordinance by section. Sec. 12-134: Ms. Craze said the boundaries remained to be defined. Sec. 12-137: the ordinance envisions a management and maintenance policy that would be adopted by Council but be separate from the ordinance.

Sec. 12-138: The Mayor noted there had been issues raised by the advisory groups regarding prohibited activities. Mr. White encouraged a greater use of semicolons in 12-

138 (a) to clarify. He asked staff to examine whether there might be inconsistencies between this section and the subsequent one on permitted activities. He also asked that the phrase "unobtrusive recreational use" be restated.

Mayor Davis asked whether the ordinance would allow the City to go in to remove non-native invasive plants. Ms. Craze said this was one of a number of policy questions. She said that staff had prepared the draft ordinance with the idea that a "management and maintenance policy guideline" would be developed and would function as a separate policy. She added that the advisory groups had said they wanted to see the maintenance provisions prior to making a final recommendation on the ordinance. Mr. Roberts said there is a policy the City has followed with the woods since the trails plan, but he did not recall if it addressed the elimination of invasives.

Mr. Turnbull pointed out that Sec. 12-137(b) specifies that a management plan will be developed for each parcel. He also suggested that a new item be added to Sec. 12-139 to refer back to allowable management activities by the City.

Mr. Goldberg questioned allowing fishing but not hunting, noting fishing was no less intrusive, and Council agreed to delete it from the list.

Mr. Putens asked what would happen with damage by, for example, hurricanes and tornados. Ms. Craze said the rule subsequent to "acts of God" was that public safety was the first concern and resource management was secondary.

Mr. Putens asked about restrictions on property purchased under Program Open Space. Ms. Craze said the ordinance acknowledges prior rights on properties placed under it.

Mr. Putens asked who would enforce the ordinance. Ms. Craze said that was a question that needed to be addressed, as did the nature of the enforcement: that is, does the City patrol these areas or merely respond to complaints?

There was some discussion of the difficulty of defining use for special events (Sec. 12-141). Ms. Craze said this again was an issue for the management plan, which needed to take a stand on issues such as when use by a few infringes on the rights of the many. Mr. Turnbull questioned the blanket exclusion of commercial events, saying whether an activity was commercial or not might not be the most meaningful distinction in this context.

Mr. White asked if the lands placed under this ordinance would have a closing time at night like other City parks. Ms. Craze said she had not included times because of the nature of some of the potential uses: e.g., astronomy and nature photography. She said there might be some overlay of times by the Code chapter that should be evaluated.

Mr. White then raised the issue of liability, asking whether by virtue of permitting certain activities on these properties, the City might not be creating a different level of liability. For example, if hiking is permitted, does the City need to provide a path? Ms. Craze agreed there might be a need to include language to designate property as

"primitive" or "unimproved" to preclude that expectation. Mr. Turnbull agreed, saying he thought most liability issues were attached to construction defects of structures.

Mr. Turnbull said he thought the list of permitted activities should be deleted. He said it is easier to be exhaustive in the forbidden list than to attempt to define the universe of permitted uses, particularly since permitted uses may vary parcel by parcel. He suggested having a statement of intent, subject to the management policies, which would then be parcel-specific.

Mr. Putens asked if there should be a citizen oversight group. Initially, Mayor Davis suggested discussing that as part of the management policy, but Mr. McLaughlin said he believed it should be part of the ordinance, as are other Council advisory boards.

Mr. Roberts said he thought these properties should be called "Greenbelt wildlands," not "greenlands" because the latter is too open to interpretation. Ms. Craze said she thought a problem with that would be that not all of the land that might be preserved as "greenlands" could be called "wildlands." Mayor Davis said the term "wildlands" is clearly attractive to many people but that she thought the inventory would be needed before labels could ultimately be attached. Mr. Turnbull commented that it would "put Greenbelt on the map as a municipality" to have a wilderness protection area, since that term is assumed to be at the federal level. At the federal level, it means "no backing out." He said it might be "a bit grandiose" for a city to do, but it would definitely send a message. He said the highest level term usually used by a municipality is that of a "forest preserve system." He said he did not care for the idea of using a new term that carried no recognizable assumptions with it.

Under Sec. 12-143, there was discussion of the \$500 fine for violations. Mayor Davis suggested doubling it. Mr. Turnbull suggested allowing a category for more offenses that reached the level of criminal. Ms. Craze said different types of violations could be categorized by "level of egregiousness," with a distinction between civil and criminal offenses based on the nature of the act.

At this point, Mr. White suggested that Council might be getting rather far afield from Mr. Roberts' original desire to protect and conserve the woods. He said he thought the original idea was simply to deter future development of the woods, not to police them. He asked, "Can we go back to that?" The Mayor responded that if the City is going to set the land aside, it needs to determine a way to protect it. Mr. White said what Mr. Roberts wanted to protect it from was future political actions. He said, "We only need to protect it from us." Mayor Davis said she thought the ordinance would fulfill that goal.

Mr. Turnbull said he understood Mr. White's point to be that the ordinance was aimed too much at regulating citizens rather than at tying the hands of Council, but he said he disagreed, since the ordinance effectively told the City as well as citizens what it could or could not do. He said the focus was on "city management" and appropriately so. He went on to say that some cities do have public land trusts and that although he disagreed with Greenbelt's decision not to go that route, he thought the City had chosen a vehicle that maintained "the big picture" to be conveyed to future Councils.

Mr. Roberts said Mr. White had accurately described his original intent but that he recognized that there were other issues involved as well. He said he would still like to see a super-majority requirement for Council actions.

Mr. Downs said he did not view the ordinance as a way to keep people from enjoying the woods. Rather, he said, he saw it as "having teeth," which was what the Committee to Save the Green Belt was looking for. He said the committee is not interested in conserving open space as such; it wants to preserve the ecosystems that the woods are part of.

Mr. Ivy said he thought land trusts were foolish and that no Council subject to election by the citizens of Greenbelt would cut down the woods. He said he did not think it was City government that would build a bridge in the woods; more likely it would be a citizen like him. He described some of the activities and projects that he and others have in mind for the fields at Northway.

Mr. Goldberg asked if the Sunrise property would be included in the ordinance. Mayor Davis said boundaries had not yet been defined.

Sec. 12-144 addresses mechanisms for making changes to the ordinance. Mayor Davis suggested all three advisory groups mentioned (Advisory Committee on Trees [ACT], Advisory Planning Board [APB], and Park & Recreation Advisory Board [PRAB]) should receive the mandatory referral. She also suggested that the Recreation & Environment Advisory Committee (REAC) should possibly be included. Mr. Turnbull said he agreed in theory and thought an advisory group should have ownership of this area but was not sure it was within ACT's mission. Mr. White thought PRAB should have ownership. Mr. Roberts had some concern with PRAB ownership because of that board's interest in active recreational uses, which might be a conflict. Mr. Putens suggested formation of a new committee specific to this purpose. Mr. Goldberg suggested that, rather than form a whole new committee, Council create a super-committee of APB, PRAB, and ACT to convene for this purpose. Mr. Lau said that, speaking as a PRAB member, he thought PRAB was quite capable of seeing multiple views at once. Mr. White added that his stated preference for PRAB was based on its development of the plan for managing Buddy Attick Park. He said he agreed with Mr. Turnbull that one group should take ownership, and he thought PRAB was best-fitted of the advisory groups to take on this role. Mr. Turnbull replied that he agreed PRAB was best-fitted of the existing groups but that he would prefer a new group.

Discussion then moved to the inventory of properties. Ms. Craze distributed a map showing the areas of City-owned open space that might be included. She said many of these properties are quite small. Some of the boards are concerned that an appropriate recreational use might eventually be found for some of these properties, so that they should not be included. In some instances, only part of the property might be included.

Ms. Craze said Parcels 1 and 2 and the school board property are the only large contiguous area. She suggested the possibility of doing an ordinance to include these areas as "greenlands" (or whatever term is used), then taking greater time to inventory and analyze the rest and do the management plans. Mr. Turnbull said that would address the main concern that had been driving this effort all along. Ms. Craze said one concern about putting properties under the ordinance without management and

maintenance plans was that, de facto, the staff would end up implementing policy that Council had not reviewed yet. Mr. Turnbull said he did not think this should be an obstacle. The National Park Service often establishes parks years before having a specific management plan. He said he thought the important thing was to put the properties under law now and initiate the process. Mr. Downs encouraged going ahead with this process.

Mr. White suggested also including Parcel 7 (at Ridge and Crescent) and the Sunrise property in the initial ordinance. He said he was afraid that once the North Woods were protected, the fervor on this topic would wane. He said he would like to include any clearly wooded areas. He dropped Sunrise from consideration when it was pointed out that the City did not have title to it yet. Ms. Craze said Greenbriar Park is wooded but that she would be reluctant to speculate on going further until the inventory is done and that she was not sure that even Greenbriar Park should be "put in a lock box" without further study.

Mr. White said he would like to add both Greenbriar Park and Parcel 15 (on the south side of Greenbelt Lake) to his initial list. Mayor Davis remarked that other Council members might not agree. She said there was consensus only on Parcels 1 and 2 and the school board property. Mr. White asked why they could not agree on all woodlands. Mayor Davis said the inventory was needed to define that. Mr. Turnbull said if Council could get past the need to have the management plans first, properties could easily be added to the ordinance once the inventory was done. Mr. Putens said he would prefer to stop with Parcels 1 and 2 and the school board property on the first pass.

Ms. Craze said staff could bring back a revised ordinance for first reading at the October 13 meeting, with Parcel 7 added. Mr. White asked about Parcel 15 and Greenbriar Park. Ms. Craze said staff could look at the purely wooded parts and designate an exemption for the parts in use.

Mr. Ivy objected to Council's putting the ordinance forward without further review by the advisory boards. He said PRAB and the other boards had raised specific concerns that were not being addressed. Ms. Craze said she would get the revised draft to the advisory groups prior to the second reading of the ordinance on October 27.

Mr. Putens reiterated that he wanted to limit the initial ordinance to Parcels 1 and 2 and the school board property. He also still wanted to see a new board created for oversight.

Mr. Roberts asked staff to initiate the charter change process as well.

Other Business

Mr. Turnbull asked that the question of health insurance benefits for domestic partners be placed on the agenda of the September 29, 2003, meeting.

Mr. McLaughlin sought Council's direction on a request from Green Ridge House tenants to designate extra funds for a trip to be made. He noted that in the past it had been said that some cost-share from those attending should be required. Council said if these

requests were to become a regular item, it would be better to budget for them, but at their current rate of every couple of years or so, they were not a problem.

Mr. McLaughlin said Audrey Scott would be sending a letter regarding the Program Open Space funding.

The meeting ended at 10:45 p.m.

Respectfully submitted,

Kathleen Gallagher
City Clerk