

CITY OF FRANKLIN

ENVIRONMENTAL COMMISSION MEETING

Wednesday, February 24, 2021 – 7:00 P.M.

FRANKLIN CITY HALL

Conference Room Lower Level

9229 West Loomis Road, Franklin, Wisconsin

AGENDA

- I. CALL TO ORDER AND ROLL CALL**
- II. CITIZEN COMMENT**
- III. APPROVAL OF MINUTES**
 - A. Minutes of the regular meeting of January 27, 2021
- IV. UNFINISHED BUSINESS**
 - A. Ways to improve and expand Arbor Day 2021; involvement of Root-Pike WIN (Watershed Initiative Network), a 501(c)(3) non-profit organization founded in 2001, program in Arbor Day celebration; Arbor Day event(s) planning, update on trees order and educational flyer on Buckthorn (invasive species).
 - B. Review of articles for the City of Franklin Newsletter, from the Root-Pike WIN (Watershed Initiative Network), a 501(c)(3) non-profit organization founded in 2001, program [this item/event is in process due to COVID-19 related restrictions], including educational materials for Buckthorn (invasive species).
 - C. Wisconsin Department of Natural Resources programs for presentation at the City of Franklin Library-dates/schedule [this item/event is in process due to COVID-19 related restrictions].
 - D. Environmental Commission recommendation to the City of Franklin Common Council to add Buckthorn (invasive species) to the list of noxious weeds (evaluate additional information and work with Staff to develop a proposal for classification of Buckthorn as a noxious weed).
- V. NEW BUSINESS**
 - A. Natural Resource Features Special Exception application by WP Property Acquisitions LLC, (Wendt Family Trust, property owners) for the purpose of impacting one of the three wetlands on the property (2.167 acres), specifically, grading and filling 0.23 acres (9,784 square feet) of wetland, 0.60 acres (26,132 square feet) of wetland buffer and 0.79 acres (34,466 square feet) of wetland setback and the development will also remove 39% of young woodland on the site (the City of Franklin Unified Development Ordinance permits impacts up to 50% without requiring an exception), to construct a 200,000 square foot office/warehouse facility

and a 300,000 square foot office/warehouse facility in the second phase, with potential for the second phase to increase up to 400,000 square feet, property located at 3617 West Oakwood Road, zoned Planned Development District No. 39 (Mixed Use Business Park) (Tax Key No. 950-9997-002).

- B. City of Franklin street tree list update.
- C. Audubon Society new program on gardening for the birds, bees and butterflies.

VI. SCHEDULE NEXT MEETING

- A. March 24, 2021

VII. DISCUSSION OF FUTURE AGENDA ITEMS

- A. Environmental Commission involvement in the City of Franklin's National Night Out program 2021.
- B. Buckthorn-addition to noxious weed list update.
- C. Gardening with native and natural plants.

VIII. ADJOURNMENT

Notice is given that a majority of the Common Council may attend this meeting to gather information about an Agenda item over which they have decision making responsibility. This may constitute a meeting of the Council per *State ex rel. Badke v. Greendale Village Board*, even though the Common Council will not take formal action at this meeting.

Notice is given that upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, please contact the Franklin City Clerk's office at (414) 425-7500.

CITY OF FRANKLIN
ENVIRONMENTAL COMMISSION MEETING MINUTES
January 27, 2021

unapproved

CALL TO ORDER & ROLL CALL

- I. Chairman Arthur Skowron called the January 27, 2021 regular meeting of the Environmental Commission to order at 7:02 p.m. in the Lower Level Conference Room, Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

On roll call, the following were in attendance: Chair Arthur Skowron, Vice Chair Linda Horn and Commissioners Sudarshan Sharma and James Cieslak. Also present was Associate Planner Marion Ecks and City of Franklin Forester Tom Riha. Absent was Commissioner Jamie Groark. Alderman Dan Mayer and Commissioner Patricia Pomahac participated remotely.

CITIZEN COMMENT

- II. The citizen comment period opened at 7:04 p.m. and closed at 7:04 p.m.. No citizens were present.

APPROVAL OF MINUTES

Minutes of the special meeting of December 9, 2020.

III.

- A. Alderman Mayer moved and Vice Chair Horn seconded approval of the minutes of the special meeting held December 9, 2020 meeting as presented. On roll call vote, all voted 'aye'. Motion carried (6-0-1).

UNFINISHED BUSINESS

Ways to improve and expand Arbor Day 2021; involvement of Root-Pike WIN (Watershed Initiative Network), a 501(c)(3) non-profit organization founded in 2001, program in Arbor Day celebration; Arbor Day event(s) planning and update on trees order.

IV.

- A. Vice Chair Horn moved and Commissioner Pomahac seconded a motion to approve the following for Arbor Day giveaway to Franklin residents: White Cedar and Sugar Maple as well as two shrubs, Elderberry and Highbush Cranberry. Arbor Day is scheduled for Saturday, May 1, 2021 at the Franklin Public Library pending COVID-19 restrictions. On roll call vote, all voted 'aye'. Motion carried (6-0-1).

Review of articles for the City of Franklin Newsletter, from the Root-Pike WIN (Watershed Initiative Network), a 501(c)(3) non-profit organization founded in 2001, program [this item/event is in process due to COVID-19 related restrictions].

- B. Planner Ecks noted the listing of trees and shrubs selected for Arbor Day will appear in the City of Franklin newsletter delivered the week of February 15, 2021. Discussion only. No action taken.

Wisconsin Department of Natural Resources programs for presentation at the City of Franklin Library-

- C. To date there has been no update/feedback from the Department of Natural Resources (DNR). Commissioner Pomahac will contact Milwaukee Riverkeeper for any

dates/schedule [this item/event is in process due to COVID-19 related restrictions].

news regarding future plans for community outreach programs. Discussion only. No action taken.

Environmental Commission recommendation to the City of Franklin Common Council to add Buckthorn (invasive species) to the list of noxious weeds (evaluate additional information and work with Staff to develop a proposal for classification of Buckthorn as a noxious weed).

D. Alderman Mayer moved and Commissioner Cieslak seconded a motion to direct staff to prepare a Council action sheet for review at the February 24, 2021 Environmental Commission meeting, including necessary advice from the City Attorney regarding appeals and mitigation processes. On roll call vote, all voted 'aye'. Motion carried (6-0-1).

NEW BUSINESS

None.

V. No discussion.

A.

SCHEDULE NEXT MEETING

February 24, 2021

VI.

A.

DISCUSSION OF FUTURE AGENDA ITEMS

Environmental Commission involvement in the City of Franklin's National Night Out program 2021.

VII.

A.

Buckthorn-addition to noxious weed list update.

B.

Gardening with native and natural plants.

C.

ADJOURNMENT

Notice is given that upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, please contact the Franklin City Clerk's office at (414) 425-7500.

VIII. Vice Chair Horn moved and Commissioner Pomahac seconded to adjourn the Environmental Commission meeting on January 27, 2021 at 8:02 p.m.. On roll call vote, all voted 'aye'. Motion carried (6-0-1).

<p align="center">APPROVAL</p>	<p align="center">REQUEST FOR COUNCIL ACTION</p>	<p align="center">MEETING DATE XX/XX/2021</p>
<p align="center">REPORTS & RECOMMENDATIONS</p>	<p align="center">ENVIRONMENTAL COMMISSION RECOMMENDATION TO ADD BUCKTHORN TO THE LIST OF NOXIOUS WEED; AN ORDINANCE TO AMEND §178-3F.(2) OF THE MUNICIPAL CODE TO INCLUDE COMMON BUCKTHORN (RHAMNUS CATHARTICA [L.]) AND GLOSSY BUCKTHORN (RHAMNUS FRANGULA [L.]) IN THE DEFINITION OF NOXIOUS WEEDS</p>	<p align="center">ITEM NUMBER</p>

At the October 6th Common Council meeting, the Council adopted a motion to “refer [this item] to the Environmental Commission, to work with staff to develop a proposal for classification of Buckthorn as a noxious weed.”

Buckthorn had previously been discussed by both Common Council and the Environmental Commission. At the September 15, 2020 meeting, the Common Council recommended the reclassification of buckthorn as a noxious weed. The Environmental Commission requested that the matter be referred back to them so that they could work with Staff including the City Forester to develop a set of recommendations for implementing the policy.

The Commission has reviewed the matter in detail, and is forwarding key findings, and recommendations for Council action.

Key findings:

1. Buckthorn is listed by the Wisconsin Department of Natural Resources as a “restricted invasive species.” It is widely established in Franklin and throughout the state.
2. Buckthorn has an extended growth cycle. It leafs out very early and retains its leaves late into the growing season, giving them a longer growing season than native plants.

Removal:

3. Two methods may be employed: Physical removal and chemical (herbicide) treatment. It is recommended to target the plant by season, removing existing plants before they can fruit. Complete removal requires multiple treatments over several growing seasons. With the use of herbicides, it can be accomplished in two years. Without herbicide it may take as long as seven.
4. Classification as a noxious weed will put buckthorn in the scope of the Weed Commissioner to assist with complaints and required removal. The Weed Commissioner is not currently certified to use the type of sprayed herbicides used for treatment of buckthorn.

Recommendations:

1. **Public education:** the Commission recommends inclusion of articles in the City newsletter detailing the change to the Municipal Code requiring removal, and information about how to treat and remove buckthorn. They also plan to make information available at events such as Arbor Day over the next year.

2. **Appeals process** (municipal code update): because the current ordinance requires the removal of any noxious weed “within 5 days (§ 178-3F(4)(c)),” which is not feasible for a plant that may require multiple treatments, the Environmental Commission recommends an additional change to the Municipal code to allow for a separate appeals process. Currently, under §178-3F(5) appeals of weed citations are directed first to the Alderperson of the District, and then to the Common Council. The Environmental Commission proposes that applicants may provide a buckthorn removal plan for their review and approval, in coordination with the City Forrester.
3. **Reclassification of both varieties of buckthorn** – Common “Rhamnus cathartica,” and Gloss “Rhamnus frangula” as a noxious weed.

A copy of the current regulation regarding noxious weeds, and the draft ordinance to change the regulation, and are attached.

COUNCIL ACTION REQUESTED

A motion to.....

Department of City Development: MX
Public Works Department: TR

§178-3 **Public nuisances affecting health.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § **178-2**: ***

F. Noxious weeds.

[Amended 6-22-1999 by Ord. No. 99-1560; 4-18-2000 by Ord. No. 2000-1598; 7-9-2002 by Ord. No. 2002-1720]

(1) Purpose. The purpose of this subsection is to promote the preservation, restoration and management of native plant communities and wildlife habitats within the City limits, while recognizing that landowners may have an interest in maintaining managed turf grass landscapes. The use of wildflowers and native plants in managed landscape design is encouraged; is economical; reduces maintenance; conserves water and soil; reduces use of pesticides, herbicides, and fertilizers; sustains butterflies, birds, and other wildlife; and preserves rapidly disappearing species.

(2) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

DESTROY

The complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage.

NOXIOUS WEEDS

Canada thistle, leafy spurge and field bindweed (creeping Jenny) and such other vegetative material as is set forth under this definition. The growth of noninvasive native plants, including but not limited to ferns, grasses, forbs, aquatic plants, trees and shrubs in a managed and maintained landscape is permitted under this Subsection **F**, provided such plants were not obtained, planted or maintained in violation of any federal, state or other local law and further provided that such landscape or vegetated area is not unmanaged in appearance or overgrown, when such growth indicates a condition of neglect that may adversely affect human health, safety or welfare or property values, the latter conditions of illegal or unmanaged growth constituting noxious weeds. All noxious weeds shall be kept cut to a height not to exceed 18 inches, and in platted subdivisions which have buildings on more than 50% of the lots, noxious weeds shall be kept cut to a height of not to exceed six inches. Noxious weeds also include: Bull thistle (*Cirsium vulgare*), Crown Vetch (*Coronilla Varia*), Queen Anne's Lace (*Daucus carota*), Purple loosestrife (*Lythrum salicaria*) Garlic mustard (*Alliaria petiolata*), White sweetclover (*Melilotus*

alba), Yellow sweetclover (*Melilotus officinalis*), Periwinkle (myrtle) (*Vinca Minor*), Teasel (*Dipsacus sylvestris*), Common burdock (*Actium miunus*) and Giant burdock (*Actium lappa*).

[Amended 9-24-2002 by Ord. No. 2002-1726]

PERSON

Every individual, association, firm, corporation or entity of any kind whatsoever.

SUBNOXIOUS WEEDS

Plants which have the potential to invade wild areas, out-compete native species and degrade habitats. Subnoxious weeds are prohibited within any landscape plan as may be required by the City of Franklin Unified Development Ordinance; however, the removal or destruction of existing subnoxious weeds by a landowner is encouraged, but not required. Subnoxious weeds include: Autumn olive (*Elaeagnus umbellata*), Barberry (*Berberis* spp.), Multiflora Rose (*Rosa multiflora*), Buckthorn Common buckthorn (*Rhamnus cathartica*), Glossy "Tall hedge" buckthorn (*Rhamnus frangula*), European alder (*Alnus glutinosa*), Privet (*Ligustrum vulgare*), Siberian elm (*Ulmus pumila*), Norway maple (*Acer platanoides*) and European honeysuckle (*Lonicera tartarica*, *L. japonica*, *L. maakii*, *L. morrowi*, *L. x-morrowi*, *L. x-bella* and their cultivars).

(3) Destruction required. Every person shall destroy all noxious weeds on land which such person owns, occupies or controls.

(4) Enforcement.

(a) Weed Commissioner appointment. Annually on or before May 15, the Mayor shall appoint a Weed Commissioner for each aldermanic district. If an Alderperson wishes to be the Weed Commissioner for that district, the Mayor shall appoint the Alderperson.

(b) Weed Commissioner's duties. The Mayor delegates to the City Clerk the responsibility to annually publish on or before May 15 a Class 2 notice under Ch. 985, Wis. Stats., that every person is required to destroy noxious weeds on land within his or her control, ownership or occupancy. The Weed Commissioner shall carefully investigate the existence of noxious weeds and cause such noxious weeds to be destroyed by cutting. The Weed Commissioner may also be the weed cutter. The Weed Commissioner and/or cutter is authorized to enter upon any lands not exempt under § 66.0407(5), Wis. Stats., pursuant to § 66.0517(3), Wis. Stats.

(c) Procedure. Upon discovering the existence of noxious weeds, the Weed Commissioner may notify the office of the Clerk to give five days' written notice by mail to the owner or occupant of the land containing noxious weeds to destroy such weeds. If such weeds are not destroyed after five days, the Weed Commissioner shall cause all noxious weeds on the identified land to be destroyed by cutting. The cutter shall keep a written record of the time devoted to weed destruction for each parcel of land.

(d) Payment. The cutter shall make and present to the City Clerk an account verified by oath and approved by the Weed Commissioner. The account shall specify by separate items the hours and amount chargeable to each parcel of land. For private land, the City shall enter the amount chargeable and an investigative notice charge of \$35 to each parcel of land in the tax roll as a tax on the land, which shall be collected as a tax. For public land, the City may collect the amount due by other available means.

[Amended 4-2-2013 by Ord. No. 2013-2104]

(e) Certain complaints prohibited. No person shall make or aid and abet in the making of a written or oral complaint to the City or the Weed Commissioner under this Subsection **F** with the intent to obtain weed cutting work for monetary compensation for the person or for a person other than the Weed Commissioner. Any person violating this Subsection **F(4)(e)** shall be subject to the penalty provision set forth under § **1-19** of the Municipal Code.

(5) Appeals. A person owning, occupying or controlling land which is the subject of a determination of the existence of noxious weeds by the Weed Commissioner may object to and appeal such determination. Such person shall have a right of appeal, provided that the person files a written objection and request for an appeal with the City Clerk within three days of the date of the notice to the person to destroy weeds set forth under Subsection **F(4)(c)**, above. Upon receipt of the written objection and request for appeal, the City Clerk shall deliver copies of the objection and request to the Weed Commissioner and the Alderperson of the district in which the property is located. The Alderperson may attempt to mediate the dispute, and upon notice from the Alderperson to the City Clerk that the Alderperson will not mediate the dispute or that mediation has failed or upon the expiration of five days from the date of delivery without notice that the dispute has been resolved, the City Clerk shall place the objection and request upon an agenda for Common Council determination. The person appealing shall provide written and photographic or video evidence to the Common Council that the subject vegetation is not noxious weeds and the burden of proof of such issue shall be on the appellant.

ORDINANCE NO. 2020-____

AN ORDINANCE TO AMEND §178-3F.(2) OF THE MUNICIPAL CODE TO INCLUDE COMMON BUCKTHORN (RHAMNUS CATHARTICA [L.]) AND GLOSSY BUCKTHORN (RHAMNUS FRANGULA [L.]) IN THE DEFINITION OF NOXIOUS WEEDS

WHEREAS, the Environmental Commission having reviewed the Municipal Code as it pertains to the removal of noxious weeds from property, and having recommended to the Common Council to amend the Municipal Code to include Common Buckthorn (*Rhamnus cathartica* [L.]) and Glossy Buckthorn (*Rhamnus frangula* [L.]) in the definition of noxious weeds in subsection §178-3F.(2) of the Municipal Code.

WHEREAS, the Common Council having considered the recommendation and having determined same to be reasonable and in the public interest.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §178-3F.(2), NOXIOUS WEEDS definition, of the Municipal Code of the City of Franklin, Wisconsin, is hereby amended as follows: immediately following “Noxious weeds also include:”, insert: “Common Buckthorn (*Rhamnus cathartica* [L.]), Glossy Buckthorn (*Rhamnus frangula* [L.])”.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2020, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2020.

ORDINANCE NO. 2020-_____
Page 2

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____