



America's Small Town Capital

Mayor Anne Watson

William Fraser
City Manager

City Council Members:

Dona Bate
Conor Casey
Jay Ericson
Lauren Hierl
Jack McCullough
Daniel Richardson

Cameron Niedermayer
Assistant City Manager

MEMORANDUM

To: Mayor Watson & City Council Members
From: William Fraser, City Manager
Re: Street Painting/Road Closure Clarification
Date: August 25, 2020

The 8/26 agenda includes a request for a street closure for the purpose of street painting. The request for painting is identical to the request considered on July 7th.

Since this is a new policy and practice, I am offering some clarity on the process.

Street Closure – As per policy, any street painting is the sole action of the City government – with approval from the State government when appropriate. While the City may have volunteers or groups actually doing the work, the painting itself is speech of the city and fully under the city's jurisdiction. The City has authority to close streets for public purposes as necessary without a permit process. Therefore authorized street painting does not require a street closure permit.

For the 8/26 item, then, there is no need to consider the street closure request unless the applicant chooses to amend it to some sort of event. Such an event would need to be vetted through the normal processes.

Street Painting – The policy adopted on August 12th states clearly in both Section 3 and Section 7 that any street painting proposal must be sponsored by at least one City Council member. This is a threshold requirement. Prior to considering the merits of any proposal, the Council should ascertain whether a sponsor exists.

Sponsorship is, preferably, determined in advance of the agenda preparation. Section 309 of the City Charter, however, provides for the inclusion of an agenda item by

“written request of any other person”. Given the charter requirement, a written request for painting would need to be placed on an agenda. That, alone, does not require action. Council sponsorship is necessary for the item to be deliberated and acted upon. Therefore, a determination of a Council sponsor can be made at the meeting, not as a prerequisite to being placed on the agenda. That said, rules of order do not permit repeated agenda items for the same matter once a matter has been completed.

In the event that this particular request receives council sponsorship, the decision to proceed is fully at the discretion of the council as stated in the policy. Guiding that decision are the criteria listed in the policy.

Issues to consider with this application might include proximity to the intersection (sections 3 and 5), the inclusion of the flag image (section 6.B.5), and the consideration of whether this is commenting on or modifying the existing street painting (section 6.B.7). Other issues are solely within the council’s determination.

Application Date – The applicants submitted this application before adoption of the street painting policy. They have requested that they be considered under the prior rules (or lack thereof).

There are two issues to consider with this request:

- Street painting is not a vested right such as a zoning application. Street painting is solely within the city’s purview and, therefore, the city can establish whatever guidelines it sees fit to consider a request for painting. This is equally true with any request for alteration of public property. There is no “grandfathering” requirement.
- In the event that the request was considered under the former (non-existent) process, this identical application was already reviewed and denied on July 7th. There is no obligation to revisit the same request.

Recommendation – Considering the above information, I recommend that the Mayor take up the agenda item. Comment from the applicants and public could be received. The Mayor would then determine whether there was a Council sponsor for the request. If none, the matter would be concluded. If sponsored, the Council would consider the merits of the proposal against the policy criteria and its own discretion. In that case, I recommend that the request be denied due to direct conflicts with the policy and based on prior denial of the identical request.