



City of Elkins

Municipal Properties Committee Meeting

August 26, 2024
11:00 AM
401 Davis Avenue
Council Chamber, 2nd Floor

Charter Authority of the Municipal Properties Committee: Monitor and report to Council on the condition of and proposed plans for city buildings, real estate, and rights-of-way. Review and propose to Council capital investment in buildings, real estate, and associated infrastructure.

AGENDA

1. **Call to order and roll call**
2. **Public comment**
3. **Minutes**
 - a. Proposed minutes for the meeting of June 10, 2024
4. **New business**
 - a. Davis Avenue Bridge update
 - b. Enforcement of Elkins City Code 91.025 (concerning duty to remove dead trees)
 - c. Sidewalk repair policy
 - d. Parking space rentals
 - e. LED bulbs for streetlights
5. **Announcements**
6. **Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	August 26, 2024
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of June 10, 2024
Recommended By:	City Clerk
Summary:	Minutes proposed for the meeting of June 10
Fiscal Impact:	n/a
Recommendation:	Consider for approval
Attachments:	1. municipal properties - 2024_06_10 - minutes_proposed

MUNICIPAL PROPERTIES COMMITTEE

REGULAR MEETING

MINUTES

401 Davis Avenue
City Hall, Council Chambers
June 10, 2024
11 a.m.

Present were members: Nanci Bross-Fregonara, Dave Parker, and Cody Kerns.

Also present were: Jerry Marco (mayor), Mike Kesecker (operations manager), Gerry Roberts (city attorney), Tracy Judy (treasurer), Steve Himes (fire chief), Travis Bennett (police chief), J. Deighan (communications), and L. Roberts (recording secretary).

MINUTES

Parker **MOVED APPROVAL OF THE MINUTES OF THE MEETING OF MAY 13, 2024.** The motion carried.

NEW BUSINESS

a. Bicycle Bollards

Notes: Waiting on the businesses to sign the papers agreeing for them to go in front of their shops.

b. Sidewalks

Notes: Have to do some research first. We may have to bid the sidewalks out to be completed. It may cost 25,000 or more to fix the problems.

c. City Hall parking lot rules

Notes: Operations Department and Police Department will get together to come up with signs for the parking lot and bring back to the next meeting.

Nanci Bross-Fregonara **MOVED ADJOURNMENT.** The motion carried.

The meeting adjourned at 11:40 a.m.

Name & Title

Signature



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	August 26, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Davis Avenue Bridge update
Recommended By:	Councilor Parker
Summary:	Staff will take questions about the planned Davis Avenue Bridge replacement.
Fiscal Impact:	n/a
Recommendation:	Review presented information; no action needed
Attachments:	None



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	August 26, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Enforcement of Elkins City Code 91.025 (concerning duty to remove dead trees)
Recommended By:	City Clerk
Summary:	City Code requires adjacent property owners to remove dead/dangerous trees in the area between the sidewalk and street. However, discussion is needed to work out how best to enforce this. See attached memo. Topics for discussion: • What administrative process should be followed in the enforcement of this code section? • Does the code section language need change as shown by highlighting? • Shall the city attorney prepare a new template letter to be used for the above notice? • What funds are available/should be available for tree removal?
Fiscal Impact:	Cost of tree removals when property owners don't comply with the law.
Recommendation:	Consider for recommendations to council
Attachments:	1. Memo - tree removal by city - 2024_08_23

Memo

To: Municipal Properties Committee

From: City Clerk

Date: August 23, 2024

Re: Tree removal by city

Questions have arisen concerning the city's duty and authority to intervene when dead or diseased trees pose a hazard on or near the public right-of-way, in particular trees in the "verge" or "road yard," i.e., between sidewalks and streets. The city has recently been notified (in one case, for at least the second time) by residents concerned about hazards posed by such trees.

Sometimes these "verges" are private property, but more commonly they are not. Instead, it is simultaneously (1) part of the city's public right-of-way and (2) the responsibility of the adjacent property owner (similar to how sidewalks are not often inside property lines, but responsibility for upkeep and snow removal is assigned by law to adjacent property owners). That means that, despite the assignment of responsibility to adjacent property owners, the city still in some sense "owns" these trees.

Elkins City Code § 91.025 requires adjacent property owners to keep "the premises located between the sidewalk and roadway [i.e., the "verge"]... free from and remove... trees... which may endanger or injure neighboring property or health, safety or welfare of residents of the city."

If the adjacent property owner fails to do so, under Elkins City Code § 91.026:

- City officials can order them to do so, with a deadline of 72 hours
- Upon further failure to act, the city can contract for removal and bill the property owner

Each day of failure to comply is punishable with a fine of "at least \$100 but not more than \$500."

The relevant sections of city code are included in this memo, below, with possible needed changes highlighted.

Topics for discussion:

- What administrative process should be followed in the enforcement of this code section?
- Does the code section language need change as shown by highlighting?
- Shall the city attorney prepare a new template letter to be used for the above notice?
- What funds are available/should be available for tree removal?

##

§ 91.025 DUTY OF PROPERTY OWNER TO REMOVE RUBBISH AND CUT GRASS AND WEEDS.

Every person owning or occupying any lot, tract or parcel of land or property including the premises located between the sidewalk and roadway, whether vacant or occupied, within the city, shall keep the property free from and remove therefrom any dirt, rubbish, debris, weeds, brush, trees, plant growth, filth, grass or any other deleterious material which may cause blockage in the city storm sewers of which may endanger or injure neighboring property or health, safety or welfare of the residents of the city, and every person owning or occupying any lot, tract or parcel of land or property within the city shall cause the grass, weeds, brush, trees, plant growth, filth or any other deleterious material thereon to be cut at such other times as the Mayor, or the Chief of Police, Code Enforcement Officer or his or her authorized representative may direct to prevent such lot, tract or parcel of land from becoming unsightly, unwholesome, offensive or a menace to health or safety.

(Ord. O-017, passed 6-17-2004) Penalty, see § [91.999](#)

§ 91.026 NOTICE TO REMOVE OR CUT GRASS AND WEEDS; REMOVAL BY CITY.

(A) In the event that any person owning or occupying any lot, tract or parcel of property within the city including the premises located between the sidewalk and roadway fails to perform his or her duty to cut or remove dirt, rubbish, debris, weeds, brush, trees, plan growth, filth, grass or any other deleterious material therefrom, as required in § [91.025](#), the Mayor, Chief of Police, Code Enforcement Officer or his or her authorized representative shall give or cause to be given in writing to any person owning or occupying such lot, land or property, notice to remove such dirt, rubbish, debris, weeds, brush, trees, plant growth, filth, grass or any other deleterious material from such lot or parcel of land, within 72 hours from the date of the serving, mailing, posting or publication of the notice provided for herein.

(B) Unless within 72 hours provided for in division (A) above, the dirt, rubbish, debris, weeds, brush, trees, plant growth, filth grass or other deleterious material is removed from such lot, land or property as directed by such notice, the Mayor or the Chief of Police, or his or her duly-appointed representative, shall have the option to either:

(1) Cause a citation and/or warrant to be issued against any person owning or occupying such lot, tract or parcel of land; and/or

(2) Cause the same to be removed by the agents or employees of the city, or otherwise as he or she may decide, in which event the Code Enforcement Officer shall report the cost of cutting and removal to the ~~City Clerk~~ **City Treasurer**, who shall immediately cause to be mailed a bill, voucher, or statement of such cost to the person owning or occupying such lot, land or property and the bill, voucher or statement shall be due within ten days of the date of date of mailing the bill, voucher or statement. If payment for such bill, voucher or statement is not made to the city within 30 days of the mailing of the same, the city may place a lien on the violator's property in the amount of the unpaid bill, voucher or statement. If agents or employees of the city are required to cut and remove the dirt, rubbish, debris, weeds, brush, trees, plant growth, filth, grass or other deleterious material from such lot, land or property, the city shall charge a fee of \$100 per hour **or the actual cost, whichever is higher**, for every hour or portion of an hour

that agents or employees of the city were utilized to complete the cutting and removal of said materials.

(C) The notice referred to in division (A) above shall be sufficient and shall be deemed to have been given when a written notice is delivered in person to the owner or occupant, or deposited in the United States mail addressed to the owner or occupant at his or her last known address or by posting notice in a conspicuous place on the property which is reasonably calculated to give notice to the property owner, or by any of the methods prescribed for the service of process issued by the Clerk of a Circuit Court of the state.

(D) No error in the name of the property owner, the description of the property nor in the materials designated to be cut and removed shall affect the validity of any such notice, provided that from the description of such lot, land or property, the identity thereof may be established within reasonable certainty.

(E) The payment of the amount so chargeable to the owner shall not relieve him or her of any fine imposed under the provisions of this subchapter or constitute a defense against any violation of the provisions of this section. Each day of failure to comply with the provisions of this section after 72 hours' notice to do so, shall constitute a separate and distinct offense.



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	August 26, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Sidewalk repair policy
Recommended By:	Councilor Bross-Fregonara
Summary:	The attached document shows sections of sidewalks near city-installed tree grates. The attached memo analyzes a possible course of action.
Fiscal Impact:	Cost of sidewalk repairs
Recommendation:	Consider for recommendation to council or other committees as appropriate
Attachments:	1. Sidewalk issues 5-2024 2. Memo - sidewalk repairs - 2024_06_07

SIDEWALK ISSUES: THIRD STREET TREE GRATES*/Bench Moved 5/2024



Left:

1. In front of Dollar General

Right:

2. Near Joey's Bike Shop



Left:

3. Also near Joey's, further up. from Joey's. Near Davis Ave.

Right:

4. Someone moved the bench on top of the grate by Family Dollar. Not sure why the cone is there. Should have checked!



Left:
5. Grate by Sewing Center

Right:
6. In front of tattoo place



*7. Saw this when doing bollard pix on Davis Ave. not sure what its story is.

AFTER: This grate repair on right, close to Davis Ave. from Joey's on Third Street, shows earlier improvement! Looks good!

Memo

To: Municipal Properties Committee

From: Sutton Stokes, City Clerk

Date: June 7, 2024

Re: Sidewalk repairs

Under state law, the city has [clear authority](#) to “pave or repave, surface or resurface, curb or recurb, streets (which term is used in this article to include avenues and roads), alleys, public ways or easements, or portions thereof, and **to build or renew sidewalks...**” However, this same provision goes to say “AND to assess the costs of any or all of such improvements on abutting property.”

Accordingly, city law [says the following](#):

- The adjacent property owner is [required](#) to install and “keep in good repair a suitable sidewalk” along their entire frontage
- When council feels a sidewalk “needs repair.. it [SHALL](#) be the duty of the Mayor to cause the owner of the land or lot adjacent thereto to be notified in writing of such need of laying or repair of the walk and of the character of repaving needed to be done and, if such repairs are not made by the land or lot owner within ten days after the service of such notice or if such new walk is not laid or repaving done within 30 days after the service of such notice, the Council shall then have the power and authority to repair or repave any such sidewalk or footwalk.” (This section goes to elaborate on Council’s authority to then bill the adjacent property owner for the work.)

In the event that sidewalk repairs are necessitated as a result of city-performed work (e.g., installation of tree grates), it would be unfair to order the adjacent property owner to perform the work.

In such situations, council might enact a policy authorizing city resources to be used to perform repairs in the specific places where the city’s installation of tree grates has resulted in hazardous conditions. The fact that the work is tied to conditions created by the city would answer concerns that requests might come for repairs in other places around the city (where the need for repairs does not arise from city actions).

An additional justification for limiting this work to downtown is that it seems warranted in such a high-traffic area—but again, the strongest justification for deviating from the usual requirements of city law would be that the city is correcting conditions caused by its own work.

As this would probably need to be contracted out, and because it was previously unbudgeted, there might also need to be a budget revision. Please note the following meeting dates for a possible sequence of events. Note also that, if a budget revision is needed, it would need to be added as an adjustment to the agendas of both the Finance and Council meetings of June 24. The adjustment would need to be added no later than June 19.

- 6/10 Municipal Properties meeting (recommendation of policy)
- 6/24 Finance Committee meeting (budget revision for FY 2025)
- 6/24 or 7/11 Council meeting (for council approval of policy and budget revision)

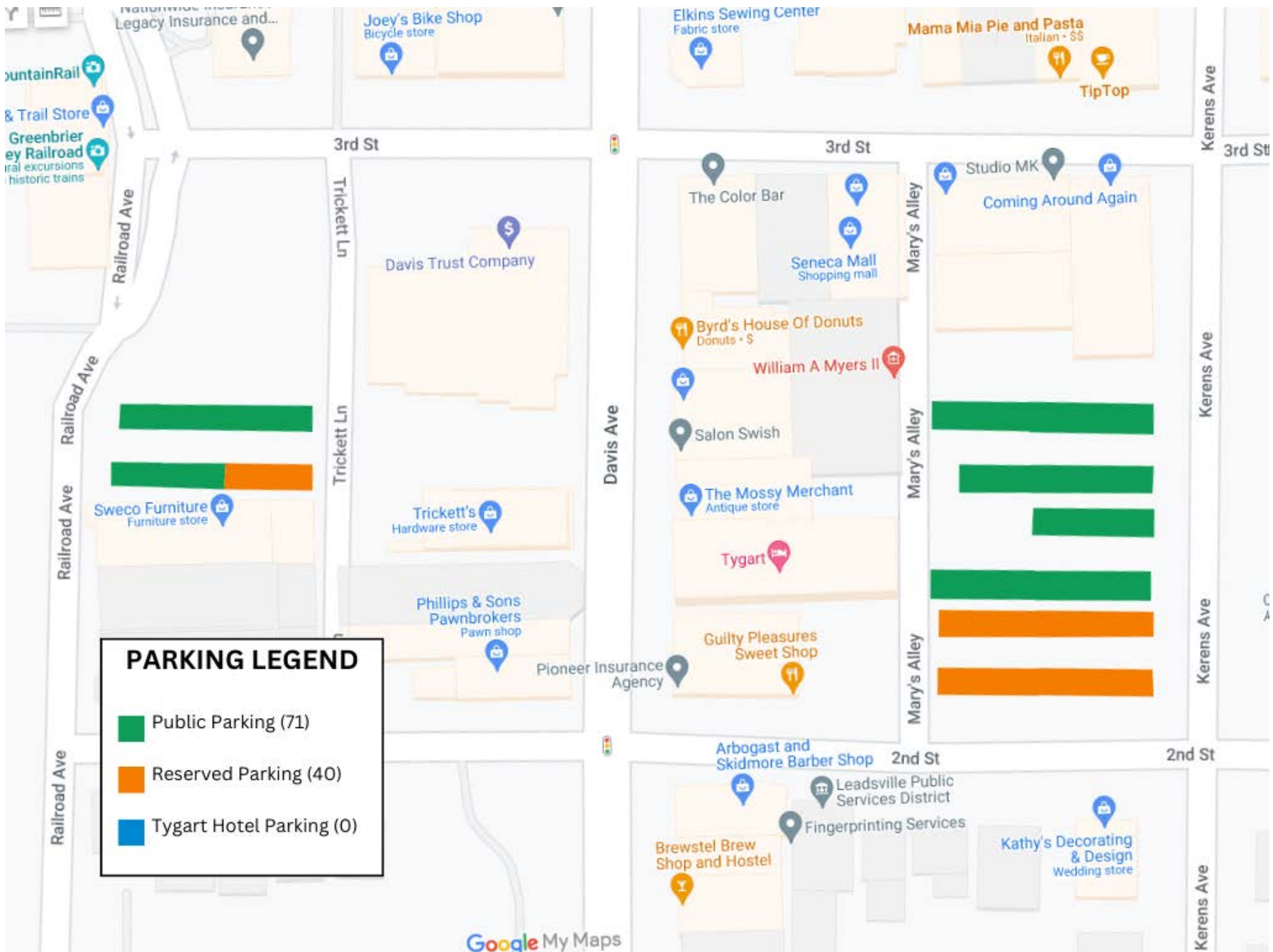
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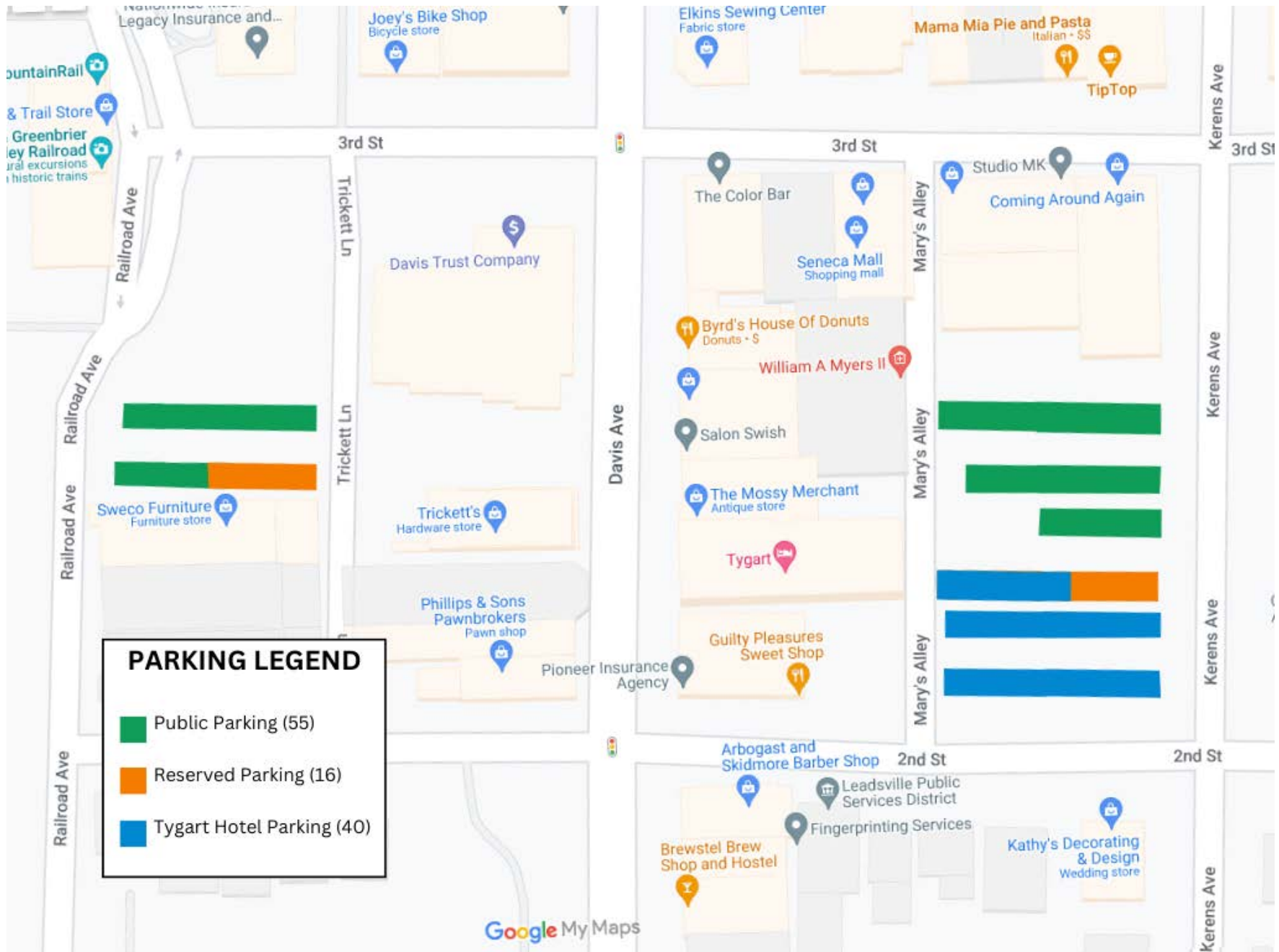
CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	August 26, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Parking space rentals
Recommended By:	City Treasurer
Summary:	The city offers a limited number of parking spaces for rent (in the Seneca Mall parking lot and in the city-owned lot near Sweco Furniture). Some of the spaces in Seneca Mall were transferred to the Tygart Hotel, and all existing "tenants" renting city spaces were moved either within Seneca Mall or to the lot near Sweco Furniture. Because of the disruption, the city waived rental payments due on these spaces through 2024. The City Treasurer proposes reinstating these payments starting January 1 at the old rate (\$15/month).
Fiscal Impact:	Reinstated \$15/month payments due to city for about 16 parking spaces.
Recommendation:	Review and consider next steps. The suspension of payments for 2024 was made administratively, so no council action is needed for reinstatement.
Attachments:	1. Parking Changes in Town Square and Seneca Mall - 2024_01_19 - after changes 2. city parking space rental agreement

Previous Distribution of Parking Spaces in the Town Square and Seneca Mall Parking Lots



Current Distribution of Parking Spaces in the Town Square and Seneca Mall Parking Lots





City of Elkins

Ph. 304-636-1414 Fax: 304-635-7135

401 Davis Avenue, Elkins, WV 26241

City Treasurer – Tracy R. Judy

Reserved Parking Application Agreement

Application Information **(Failure to update Applicant Information may result in Parking Citation)**

Renter Name _____ Phone # _____

Address (Home/Work) _____

Email Address: _____

If Rented for Employee:

Employee Name _____ Employee Contact # _____

Vehicle Information:

Year _____ Make _____ Model _____ Color _____ License Plate # _____

Year _____ Make _____ Model _____ Color _____ License Plate # _____

TERMS & CONDITIONS

The applicant for leased parking understands that he/she will be responsible for the monthly fee established by the City of Elkins for the leased parking space, which is to be paid at a rate of **\$15.00 per month to be paid in advance on the 1st day of each month**, and that such monthly payment constitutes an application for renewal of the leased parking authorization. Spaces for which permits are not renewed before the 1st day of the each month will be *immediately* available for rental to others. The applicant will be issued a dated permit to be hung from your vehicle's rearview mirror at all times. The parking space may not be subleased. There will be a \$5.00 replacement fee for lost permits.

The applicant further understands that the acceptance of leased parking constitutes an agreement between the City of Elkins and the applicant and that the City of Elkins assumes no duty other than to furnish space within the lot for the accommodation of vehicle parking. No responsibility is assumed by the City of Elkins for loss or damage to any vehicle, articles left therein, or accessories by reason of theft, accident, fire, or any other cause whatsoever.

It is the responsibility of the applicant to have illegally parked vehicles removed. The applicant only has the right to have vehicles removed from the assigned space if rent is current.

The City of Elkins agrees to furnish numbered permit parking spaces and provide legible signage for said parking spaces.

(Circle One) Seneca Mall Parking Lot / Town Square Parking Lot Space # _____

Agreed to By (Applicant) _____ Date: _____

Accepted By (City Official) _____ Receipt # _____



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	August 26, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	LED bulbs for streetlights
Recommended By:	Operations Manager
Summary:	The Operations Manager will present information about the proposed replacement of street light bulbs with LED bulbs.
Fiscal Impact:	TBD
Recommendation:	Review presented information and consider next steps
Attachments:	None