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WHAT WILL HAPPEN TO THE TREES?

By **Michael Fitzgerald**

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Record news columnist

City trees: They're your problem now.

Or they will be, if the City Council agrees with budget-whackers who proposed last week to turn Stockton's urban forest almost entirely over to property owners.

The city - largely, though not entirely - would get out of caring for its 120,000 trees and turn that job over to the public. Lock, stock and mistletoe.

The council may have to adopt this proposal. The budget hole is \$23.5 million. But what would private control mean to Stockton's urban forest?

Well, the city has been a lousy steward. Stockton's neglected trees are dying at a rate of up to 3,000 a year. It's tempting to say there's nowhere to go but up.

Tempting, but who's going to stop the "Saw" crowd? Or enforce necessary tree care? Is any law even enforceable? Or is the city just abandoning its trees to their fate?

Details are not worked out. The proposed municipal ordinance has not been written. But some general principles and a model law give some idea.

A general principle: "It's not as simple as saying, 'OK, now it's all on your dime,' " said City Attorney Ren Nosky. "It's something we're going to have to work out."

For instance, liability. If a street tree's limb crashes down and injures someone or damages property, who would be liable?

"It would depend," Nosky said. "If there are any kind of maintenance issues that are in existence at the time it is turned over to the homeowner, any accident that resulted from that is not fairly pushed on to the homeowner."

Right. In other words, the city is handing over a sick ward of diseased or dying trees, and the new law must be fair about that. Good luck with that one, Mr. Nosky.

On the other hand, healthy street trees may well become the property owners' responsibility.

That's how it is in San Jose. The city of Stockton is looking to model its new law on San Jose, where citizens have been responsible for street trees since 1951.

San Jose's law shifted a significant financial and legal burden onto property owners. Its muni code reads: "The owner ... shall maintain and replace, if necessary, any trees ... along (the) street ... in nondangerous conditions. ... If ... any person suffers damage or injury, ... the property owner shall be liable."

Required pruning costs \$150 to \$850. Felling runs \$160 to \$3,000. When a storm topples trees, San Jose dispatches a contract tree crew to quickly remove them. But it bills the property owner.

The \$64 question - if you treasure an urban forest - is whether San Jose's law keeps the urban forest healthy. In some ways it does. In others it does not.

It requires a permit before trees may be felled. A bright pink notice is posted on the tree. If any neighbor objects within 17 days, they get a hearing.

Neighbors seeing any tree felled without first seeing that pink notice tend to report the offender. So that part

works.

On the other hand, possibly because of the cost, many citizens simply do not prune and treat trees as required.

"The great majority of the people are not maintaining their trees in the proper manner," San Jose's arborist, Ralph Mize, said.

San Jose's tree law is unpopular.

"I don't think anybody is happy with that," said Rhoda Barry, an administrator with Our City Forest, a nonprofit tree group.

Even the city is looking for a better model, like a citywide assessment district, Mize said. But such taxation requires voter approval.

Though I hate to say it, it looks like Stockton's trees are heading for even more trouble.

A nonprofit tree group is badly needed.

The question of how much cost and responsibility Stockton's new law will shift is not entirely financial. It is also political. After all, some people will welcome, or at least accept, responsibility for their street tree, if only because the city has been so bad at it.

Others will have an ax to grind.

"I guess it's almost like water," Public Works Director Jim Giottonini said. "It's something you fight over."

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