



Legislation Text

File #: DCA14-0005, **Version:** 1

Agenda Information Sheet

DEPARTMENT: Planning and Development

CM/ ACM: John Cabrales, Jr.

Date: September 16, 2014

SUBJECT

Receive a report, hold a discussion and give staff direction regarding the history and current status of the Tree Code, Tree Fund, and Tree Trusts; and Urban Forestry Ecosystem Assessment and Canopy Analysis.

BACKGROUND

The purpose of this discussion is to provide a brief history and the status of amendments to the Tree Trusts option within the Tree Code and to request Council direction on proceeding with the amendments and the use of a citizen committee in the establishment of criteria for the use of Tree Funds, as directed by the previous Council. Staff will also present possible uses of Tree Funds. Moreover, staff will request Council direction on the timing of the rewrite of the Tree Code.

Tree Preservation and Landscape Requirements

Within Subchapter 13 of the Denton Development Code is the Tree Preservation and Landscape Requirements or more commonly known as the Tree Code. Adopted in 2004, the purpose of these regulations is to promote the preservation of trees, tree stands, including but not limited to remnants of the Cross Timbers Forest and existing tree canopy, to protect trees during construction, to facilitate site design and construction that contribute to the long term viability of existing trees.

Since its adoption, the Tree Code has been reviewed and evaluated to not only ensure tree preservation but also to ensure that it is not an impediment to quality development. Although the purpose of the Tree Code is preservation, if preservation cannot be reasonably achieved during development, redevelopment, or construction, the regulations allow for the removal of trees to varying degrees based on lot size and tree type. To lessen the impact of tree removal on the existing tree canopy and prevent the untimely and indiscriminate removal or destruction of trees, mitigation may be provided in several forms as follows:

- Tree Planting - the replacement of trees on site due to tree removal, at a ratio determined by the Tree Code based on the type of tree to be mitigated (i.e., historic tree, protected tree, quality tree, or secondary tree)
- Tree Fund - payment into the Tree Fund at the rate \$125/per caliper inch which may be used to purchase, plant and maintain trees on public property, to preserve wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate

citizens and developers on the benefits and value of trees. As of September 1, 2014, there is approximately \$2,082,078 in the Tree Fund.

- Tree Trusts - Although the guidelines for implementation of this option do not exist, tree trusts are designed to preserve Cross Timbers Forests of no less than one acre. A permanent easement is placed over the property to limit land disturbing activity and floodplains, wetlands, and riparian areas are ineligible for Tree Trusts. Limited to

Brief History

In November 2007, the City initiated a review of the Subchapter 13 regarding tree preservation and mitigation and for approximately two years staff met the Committee on the Environment (COE) and the Planning and Zoning Commission (PZ) to draft appropriate standards for the preservation of trees. However, after failing to reach a consensus on most of the proposed revisions, staff ceased the review due to changes in membership on the COE and PZ to focus on issues within the development review process.

In an attempt to revisit the issues regarding the Tree Code, on October 16, 2012 and February 5, 2013, staff proposed a plan to Council to amend the Tree Code following the development and implementation of Tree Trusts and the development of criteria for use of Tree Funds in the acquisition of property that contain characteristics of Cross Timbers Forest. Although Tree Trusts are an option currently within the Denton Development Code (DDC), there are no guidelines or standards for implementation. Staff continuously receives questions from the development community on this option and desires to implement standards to facilitate Tree Trust in the preservation of remnants of Cross Timbers Forest.

As part of the development of criteria for use of Tree Funds in the acquisition of property that contain characteristics of Cross Timbers Forest, Council directed staff to establish a tree committee made up of Council appointments to provide feedback and direction relating to the potential acquisition of private property. During these discussions, staff voiced some concerns with the use of the committee for this purpose due to the acquisition of private property and the potential to artificially inflate the price or steer the City to acquire certain properties over others. Following these discussions, staff was directed to proceed with these amendments as proposed and return to Council to provide updates. Since then, staff has contracted with Davey Consultants to work with staff in developing this option and the respective criteria. Davey Consultants is currently on phase 3 of a 5 phase process for Tree Trusts. Upon completion of this contract staff will prepare a scope and schedule for Council consideration and the use of a citizens committee to develop criteria and/or specific projects for use of Tree Funds in the potential acquisition of property and further public education on urban forestry.

As staff progresses with the development of Tree Trusts and transitions into developing criteria for the use of Tree Funds, and before the initiation of substantive amendments to the Tree Code, staff requests the use of Tree Fund dollars to complete an Urban Forestry Ecosystem Assessment and Canopy Analysis to establish baseline data (ex. our tree species composition) for moving forward with updating the Tree Code.

As previously noted the purpose of the Tree Fund is to purchase, plant and maintain trees on public property, to preserve wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The assessment will provide the City baseline data relating to a city wide tree inventory that is currently unknown, but invaluable in the establishment of city wide goals and objectives for the Tree Code. Attached as Exhibit 3 and 4 are some key

findings and a summary of information from examples of an Urban Forestry Ecosystem Assessment for the Cities of Arlington and Mesquite, Texas prepared by Preservation Tree Consultants from Dallas, Texas.

The purpose of the assessment is to provide baseline data on the existing urban forestry infrastructure (i.e., number of trees, percent of tree cover, and tree type). This information is key in understanding where the City exists and aids in developing strategies to achieve realistic detailed tree preservation and tree canopy goals by areas within the city and citywide, before initiating the Tree Code updates.

The proposed approach completes the work of the Davey Contract, while concurrently studying and assessing the value of trees in Denton, working with stakeholders to collaborate and partner on goal-setting, and then concluding with associated ordinance updates. This process would ensure that the ordinance updates would come from an informed perspective utilizing the results of the study, validated and created based on focused and specific community and stakeholder feedback, and further refined by staff's technical expertise. There are other areas where Tree Funds can be utilized that staff will present for consideration during the work session that includes partnerships with Denton Independent School District and Keep Denton Beautiful.

On November 4, 2013, Staff presented a prioritization of projects for Council to consider by the Planning and Development Department. During that discussion, staff presented the update to the Tree Code as a 2014 project, should Council direct staff to amend this prioritization of the Tree Code, staff is prepared to discuss during the work session. Staff has prepared a schedule (Exhibit 1) for completion of these Denton Development Code amendments including the redraft of the Tree Code utilizing the data derived from the proposed Urban Forestry Ecosystem Assessment and Canopy Analysis. The schedule proposes completion of the existing Davey Contract, preparation of a Urban Forestry Assessment and Canopy Analysis (which may be completed concurrently), Pre-Planning/Stakeholder Engagement and Tree Code amendments.

RECOMMENDATION

Staff recommends proceeding with the scheduled as proposed in Exhibit 1.

PRIOR ACTION/REVIEW:

January 7, 2008	Committee on the Environment Meeting and first public meeting
February 4, 2008	Committee on the Environment Meeting and second meeting
April 3, 2008	Third public meeting
July 14, 2008	Committee on the Environment Meeting
July 23, 2008	Planning and Zoning Work Session
August 13, 2008	Planning and Zoning Work Session
November 5, 2008	Planning and Zoning Work Session
November 19, 2008	Planning and Zoning Work Session
December 10, 2008	Planning and Zoning Work Session
January 7, 2009	Planning and Zoning Work Session
January 21, 2009	Planning and Zoning Work Session
February 4, 2009	Planning and Zoning Work Session
February 18, 2009	Planning and Zoning Work Session
March 11, 2009	Planning and Zoning Work Session
March 25, 2009	Planning and Zoning Work Session
September 23, 2009	Planning and Zoning Work Session
October 7, 2009	Planning and Zoning Work Session
November 4, 2009	Planning and Zoning Work Session and Public Hearing
October 16, 2012	City Council Work Session
February 5, 2013	City Council Work Session

EXHIBITS

1. Phasing Schedule
2. Recommendation Graphic
3. Sample Assessment Executive Summary (City of Arlington Urban Forest Resource Analysis)
4. Sample Assessment Summary (Mesquite Urban Forest Ecosystem Analysis)
5. Council Directed Prioritization of Projects

Respectfully submitted:
Brian Lockley, AICP, CPM
Director of Planning and Development

Prepared by:
Haywood Morgan
Urban Forester