

Agenda Report

Date: December 11, 2000

TO: CITY COUNCIL
FROM: CITY MANAGER
SUBJECT: RECOMMENDED AMENDMENTS TO TREE PROTECTION
ORDINANCE

RECOMMENDATION

It is recommended that City Council:

- 1) Direct staff to complete California Environmental Quality Act (CEQA) analysis and documentation prior to the revised ordinance coming back to City Council.
- 2) Direct the City Attorney to prepare a Tree Protection Ordinance amending Pasadena Municipal Code section 8.52 to protect native, landmark, and specimen trees upon completion of CEQA analysis and documentation.

COMMISSION RECOMMENDATIONS

The Recreation and Parks Commission, Design Commission, and Urban Forestry Advisory Committee reviewed the report at a joint meeting on December 5, 2000. The Commissions were supportive of the staff recommendations but requested additional research and analysis regarding private property rights issues. The commissions also recommended additional actions as listed in attachment 'A'.

BACKGROUND

On April 16, 2000, City Council requested staff to present recommendations that would amend the existing tree ordinance to provide adequate protection for trees on private and public property. Trees on private property comprise more than 50% of the trees in Pasadena. This request came as a result of many significant specimen trees having been removed or irreparably damaged on private and public property over the past few years.

The current tree ordinance was adopted in 1987 and provides some limited protections for trees in the public domain. Within the past 10 years, draft tree protection ordinances addressing trees on public and private property have been developed and researched by staff and discussed at the commission level but lacked support and were never

adopted. Regulating trees on private property is a complex and controversial issue. Staff and commissions have struggled with how to balance private property rights with the need to preserve the urban forest. The recommendations contained in this report differ from the previous draft ordinances in that this approach defines clear penalties for violations and outlines protections for trees before, during and after construction.

The proposed revisions to the current tree ordinance recognize the value that trees on both public and private property provide to all Pasadena residents in the form of increasing property values, filtering polluted air, decreasing energy used for cooling, reducing storm water runoff, and buffering traffic noise.

Pasadena is surrounded by cities with tree protection ordinances affecting private property. The County of Los Angeles, the cities of San Marino, Glendale, Burbank, La Canada, Sierra Madre, Arcadia, La Verne, South Pasadena and Claremont are all examples of other local government entities that have such ordinances. The City of Santa Monica performed a survey in June 2000 to determine how many cities had private tree ordinances. Of the 25 cities that were surveyed, 17 have ordinances regulating trees on private property. Staff has reviewed ordinances from other cities and interviewed arborists working for cities that currently have adopted tree ordinances protecting private and public trees. That research was utilized to develop the current recommendations.

Staff recommends that the following key points be included in the amendments to the city's tree ordinance.

Tree Protection Policy Recommendations

- 1. Protect landmark, specimen, and native trees on private property and all trees on public property and discourage their removal where other feasible alternatives exist.**
 - Landmark or specimen trees are defined as any tree of unusual or exceptional species, size, or form over 25 inches in diameter.
 - Native trees over 8 inches in diameter recommended for protection are: Engelmann Oak, Canyon Oak, Coast Live Oak, Scrub Oak, California Sycamore and California Walnut.
- 2. Amend the current fee schedule to implement a monetary or in-kind reimbursement to the City when there is no other option than the removal of a protected tree.**

Staff recommends requiring up to 1.3 times the assessed value of the trees as determined using the most recent version of the International Society of Arboriculture (ISA) handbook. When it is determined that there is no other option than to remove a protected tree, CEQA, ISA industry standards, and City arboricultural staff will determine conditions under which trees may be removed.

Replacement trees may also be considered, but the number and size of replacement trees would be in direct proportion to the assessed value of the tree. Any monies collected will be placed in the Tree Deposit Fund to plant and maintain new street/park trees. Every effort will be made to plant new trees in the neighborhoods where trees were removed.

3. **Require the use of qualified professional arborists to identify protected species on project sites and provide recommendations for their protection before, during, and after construction.**
4. **Provide an enforceable penalty for developers or property owners who damage or remove trees without a permit.**

Any person or entity responsible for removing a tree, whose removal has not been approved, or irreparably damaging a tree during construction should be charged a minimum of 2.5 times the assessed value of the tree. The final ratio used in the ordinance needs to be determined by a nexus study that correlates the benefit lost to the city with the monetary fines assessed.

SUMMARY

Staff recommends protection for native, landmark and specimen trees that meet certain size, species, and character criteria on private and public property. The protection would include provisions to protect trees before, during, and after construction; a monetary or in-kind reimbursement to the community for the loss of a neighborhood asset; and enforceable penalties for the unlawful removal of or irreparable damage to trees without permits. Based upon City Council's action, staff will involve and solicit input from neighborhood groups and individual stakeholders to create community ownership in the development of the final ordinance.

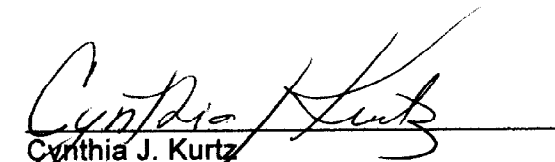
ENVIRONMENTAL IMPACT

The ordinance may have environmental impacts that will be analyzed and documented in accordance with CEQA prior to the ordinance being reviewed by any advisory commission or the City Council. The CEQA analysis and documentation will be available for public review and must be adopted by the City Council prior to the Council taking any action, other than denial, on the proposed ordinance.

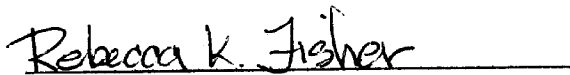
FISCAL IMPACT

The cost of administering the ordinance will be formalized in a revision to the General Fee Schedule and presented for approval to Council in conjunction with adoption of the tree protection ordinance. Money from the penalties and approved removals would be deposited into the street tree deposit fund 3150-301-23005-3639. Any monies generated as a result of the amended ordinance would be used to pay for new trees and maintenance for up to three years.

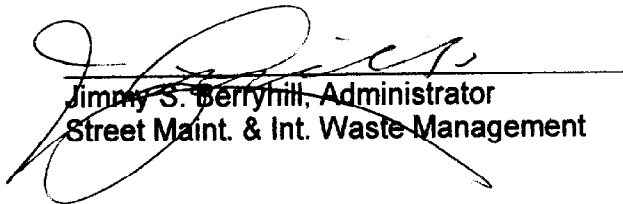
Respectfully submitted,


Cynthia J. Kurtz
City Manager

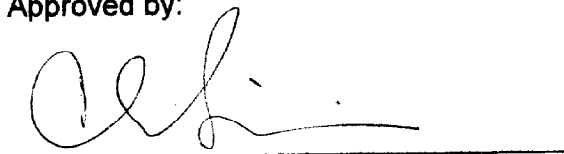
Prepared by:


Rebecca Fisher
Public Works Supervisor, Urban Forester
Parks and Natural Resources Division

Reviewed by:


Jimmy S. Berryhill, Administrator
Street Maint. & Int. Waste Management

Approved by:


C. Bernard Gilpin, Director
Public Works & Transportation Dept.

Concurred by:


Ed Helfeld, Interim Director
Planning and Permitting Department