

C20-74-009 OrdinancesConsideration of the proposed Tree Ordinance

Mr. Howard Ferguson, author of the proposed tree ordinance, gave a brief history of the writing of the ordinance. He stated that after considerable study, a workable draft was presented to the City Council in February 1974 along with a petition carrying over a thousand signatures urging the adoption of measures to protect trees from unnecessary destruction. The Council then referred the proposed ordinance to the Citizen's Board of Natural Resources and Environmental Quality for their study and review. After considerable review by citizens and City departments, the Board held a public hearing and unanimously approved the proposed ordinance.

Mr. Ferguson briefly outlined the provisions of the ordinance. It categorizes trees into three classes with different degrees of protection; it categorizes locations into three protection zones; and it categorizes circumstances surrounding a potential removal of a tree. It applies different rules to those situations. He outlined the provisions provided for in each of these categories. He pointed out that variances and exceptions are provided for in the ordinance. Mr. Ferguson urged the Commission to take an affirmative action on the proposed ordinance.

Mr. Sinclair Black, representing the Citizen's Board of Natural Resources and Environmental Quality, presented background of the proposed ordinance. He stated that he had been informed that the original idea of a tree protection ordinance came from a member of the Planning Commission, whereupon the department wrote cities around the country for copies of their tree ordinances. He indicated that from twelve to fifteen subcommittee meetings of the Environmental Board were held over a period of six months with representatives from the Sierra Club, the Audubon Society, the Austin Association of Home Builders as well as other interested individual citizens in attendance. After considerable study by the subcommittee the ordinance was then recommended to the Board. A public hearing was then held, wherein a great many suggestions from citizens as well as from several City departments were received. The entire proposed ordinance was adopted unanimously and presented to the Council. Mr. Black pointed out that the intentions of the ordinance are to 1.) provide the mechanics to protect trees in the Austin area, particularly the large and significant trees, particularly in public areas 2.) apply the mechanics of the tree protection plan in the fairest, most responsive and responsible way and 3.) to provide this protection with a minimum of disruption of existing established practices in both public and private sectors.

CITIZEN COMMUNICATION

PERSONS APPEARING

Howard Ferguson:	3102 Beverly Road	FOR
Phil Ferguson:	3102 Beverly Road	FOR
Mrs. Howard Ferguson:	3102 Beverly Road	FOR
Bill Ley (South River City Citizens Assn.)		FOR
Mary Ley:	801 Avondale Road	FOR

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Janis Linder (Hyde Park Neighborhood Assn.)	FOR
Mary Ellen Oliver (WE CARE AUSTIN)	FOR
Sinclair Black (Citizen's Board of Natural Resources and Environmental Quality)	FOR
Alan G. Abbe: 6000 Wier Hills Drive	AGAINST
Jay Evans: 6404 Shadow Valley	AGAINST
Joseph Zern: 8604 Steelwood	AGAINST
Ken Zimmerman (Austin Assn. of Home Builders Assn.)	AGAINST
Jim Eichelberger	AGAINST
George Sanders: 718 Post Oak	AGAINST
Allan Rundell	AGAINST
James Holmes: 2003 Ford Street	AGAINST
Royce Techalschull: 2010 Lazy Brook Circle	AGAINST
Ralph Harris	AGAINST
Sherman Eckols: 3400 East 1st Street	AGAINST
Mrs. Dorothy Cook: 3405 Oakmont Boulevard	AGAINST
David Barrow, Jr.: 3637 Far West Boulevard	AGAINST
Gary Cook: 4709 Strass Drive	AGAINST
Mrs. T. A. Bryant: 1815 West 35th Street	AGAINST
C. C. Cook: 3405 Oakmont	AGAINST
Vic Mathias	AGAINST
Mrs. N. A. Giblen: 2303 Windsor Road	AGAINST
N. A. Giblin: 2303 Windsor Road	AGAINST
Oscar Holmes	AGAINST
Mrs. Don Reed: 7209 Montana Norte	AGAINST
Sid Jagger	AGAINST
Don Reed: 7209 Montana Norte	AGAINST
Mrs. George Sanders	AGAINST
R. C. Lane	AGAINST
Sue Sanders: 2610 Metcalfe Road	AGAINST
William Brooks: 400 Manchaca Road	AGAINST
K. J. Cunningham: 2606 Briarcliff	AGAINST
John Noell: 1101 Clayton	AGAINST

CITIZEN TESTIMONY:

A number of citizens appeared to speak in favor of the proposed ordinance. Those favoring the proposal were of the opinion that such an ordinance would provide a means of preventing the unnecessary destruction of trees, particularly the very old and very large ones and those located on public property. They also felt that such an ordinance would prevent the destruction such as that which occurred in the Harper's Creek incident. It was pointed out that removal of trees to accomodate apartment and commercial-type development has a tendency to destroy the residential atmosphere of neighborhoods.

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Those appearing in opposition were primarily opposed to the creation of delays in construction, thus causing an increase in costs and the creation of a burden on the tax payers because of the funding necessary to staff and enforce the ordinance. A number of citizens were of the opinion that such an ordinance violates the rights of individual property owners as well as those of the developers. Most of those in opposition indicated a need of some measure to prevent the unnecessary destruction of trees. However, all agreed that they were opposed to the ordinance in its present form. It was pointed out that most developers are concerned with preserving trees and many plant trees in their developments as a selling point.

STAFF RECOMMENDATION:

The following recommendation was given by Mr. Lillie, Director of Planning. The subject is trees and like other environmental issues how can one speak out against an ordinance protecting them. Yet, in the next few minutes I will try and tell you why this ordinance should not be recommended.

While this position may not be altogether popular, now is the time to reach decisions on the disposition of this proposal.

During the last several months various departments have assisted the City Parks Board and Environmental Board in the review of the ordinance drafted by Mr. Howard Ferguson, a retired management consultant and a citizen who became concerned about trees in Austin after returning from a period of time away from the City. I for one am grateful for his interest and his efforts and the efforts of those who have developed the draft. In December, the ordinance was submitted to the Planning Commission for review and recommendation to the City Council. This meeting is for the purpose of hearing any added testimony from citizens and organizations related to the need for this ordinance. My comments reflect the position of the Parks and Recreation Department, the Building Inspection Department, Planning and Public Works Departments who would be responsible for staffing and implementing the ordinance. Also, the Capital Improvements Administrator and the City Manager and Deputy City Manager. The Acting Director of the Environmental Resource Management Department will comment later reflecting the position of the City's Environmental Board.

The environmental movement, nationally, has centered our attention to the place where we live - Austin. The concern for Austin's environment has been here since its founding and is gathering momentum. It is beautiful here because our forefathers and the builders of this city over time made it so. While a few have abused our heritage there are thousands, just like people in this room tonight, who through their daily efforts preserve and protect this city. This attitude has been with us and only gets stronger as the Mr. Ferguson's and other citizens help us develop an awareness.

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There are three primary reasons why the ordinance cannot be supported.

First, we can all think of specific negative and positive results from actions taken to carry out public and private projects in the past several years. We could debate the merits of each for hours. I would like to show you several illustrations of where we were and where we are.

Delwood area:	1952-1970	(slides)
Cameron Road area:	1952-1970	(slides)
Allandale area:	1952-1970	(slides)

This time series has illustrated, I hope, that the need for such an ordinance does not exist.

Second, in a time of rising costs for municipal government and all its individual and corporate citizens, we doubt the wisdom of creating new costs and creating new procedures which can only add expense to the final product. The costs of added staffing would be difficult to justify when so many priority programs and positions had to be curtailed or dropped during the development of the current budget. The allocation of personnel workload required by the ordinance affects five operating departments in various degrees.

Finally, the ordinance is complex and implementation would be difficult and confusing to staff and citizens alike. Complexity in a time when flexibility should be our prime interest and the strengthening of the City's environmental policy our prime goal.

Ordinances are rather negative responses to getting something done. There's no need for force, nor for this ordinance. Why not do something positive? Why not recognize people who do an exceptional job to save trees? Why not continue to use and upgrade our current site plan approvals for projects? Why not review our existing codes, ordinances, policies and programs to assure environmental preservation?

Mr. Lillie presented memorandums from the Public Works Department, the Parks and Recreation Department and the Building Inspection Department opposing the ordinance. Mr. Bobbitt asked that these letters be read into the minutes. They are:

"A review of the proposed tree ordinance indicates to me that this is an ordinance which is extremely complicated, would lead to various interpretations thereby creating possible delays in necessary construction, and would obviously require considerable additional funding by the Parks and Recreation Department to attempt to enforce.

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It seems that this proposed ordinance might have resulted from an over-reaction by a relatively small concerned group of citizens to recent site clearing on private property associated proposed construction projects. From the opposite viewpoint, I believe that today, in nearly all instances the site developers are very much interested in saving trees; it is to their monetary benefit to do so. Quite often tree planting is a major part of the site improvement.

Finally, my observation has been that many more good trees are planted than removed each year in Austin. The fact that Austin has so many beautiful trees encourages the planting of additional trees both in open and existing tree covered areas." (s) R. E. Beckham, Assistant Director of Public Works.

"The Parks and Recreation Department is of the opinion that a tree ordinance for the City of Austin is not needed at this time. However, should the City Council feel a need for some form of tree ordinance we would recommend that only specimen trees and trees of 18" diameter or greater be protected by ordinance.

Until all the details of such a tree ordinance were finalized it would be impossible to determine an exact cost for its enforcement. We have estimated that the cost for minimal enforcement of an ordinance protecting specimen trees and trees of 18" diameter or greater would be approximately \$25,000 for the first year. This expense would cover the addition of one position, a City Arborist, and the related equipment and materials. The total expense would actually be considerably greater than \$25,000 as support and assistance from existing Parks and Recreation Department staff would be required.

If a tree ordinance protecting trees of 8" to 10" diameter or greater is approved, we estimate the cost of minimal enforcement to be approximately \$125,000 the first year. Maximum enforcement of all the provisions of the existing ordinance for trees of 8" to 10" diameter or greater could easily exceed \$200,000 per year.

Under either of the above listed options the Parks and Recreation Department anticipates that enforcement costs would escalate rapidly during subsequent years.

If you desire additional information, please advise." (s) Jack W. Robinson, Director, Parks and Recreation Department

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"A representative of the Building Inspection Department will be in attendance at the Planning Commission meeting Wednesday evening, February 19, 1975, in the event questions might be directed to this office. However, my personal feeling is the tree ordinance at this time could very well be postponed or not passed at all.

It has been our experience for the past 18 to 24 months that developers, architects, and those in the building industry have become most aware of the problems surrounding the cutting and removal of trees. Efforts have been made to save any and all trees to the extent of moving buildings, rerouting streets, and any other measures deemed plausible.

As the ordinance is drawn, it is cumbersome, difficult to interpret, and I envision it being difficult to enforce. All these things, plus the necessity of at least some added personnel to enforce it, would put me in a position of recommending this ordinance not be passed. I would also point out, due to the extremely good job being done at the present time, I would be reluctant for the City to negotiate itself into some other enforcement procedure when it requests this ordinance not be passed. (s) Lonnie E. Davis, Director, Building Department

COMMISSION ACTION:

Members reviewed the information presented. Ms. Himmelblau stated she valued trees but could not support the ordinance in its present form. She indicated she would like to see an inventory of specimen trees set up. Ms. Mather pointed out that the main thrust of the ordinance is to protect those trees 20" or larger, those on public owned property and those in public right-of-way. It also provides protection of that size on private property, in that a property owner must get a permit to remove any tree this size and must have a reason for doing so. She stated she did not see that the ordinance would be such a burden on the developers since most of them are already following the procedures. Mr. Washington stated that while the ordinance has some good points, he could not support it until it has been rewritten. Mr. Bobbitt stated he was for preserving trees but the ordinance as written would increase unnecessary police power, create an unnecessary tax burden on the citizens, and would be difficult for the staff to enforce. Mr. Everett was in agreement. Mr. Nash recommended that the proposed ordinance be denied. Mr. Hetherly was of the opinion that the burden would not be on the developer as much as it would be on the City. He stated he had no objection to an inventory of specimen trees, but he was of the opinion that some means of protection could be tied in with the present ordinance such as a review plan and specimen inventory. Ms. Mather offered a substitute motion to postpone the ordinance and to study what procedures would be appropriate. She

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withdrew her substitute motion after Mr. Hetherly pointed out the ordinance has been endorsed by the Citizen's Board and should be acted on and sent to Council. The vote was then taken on the original motion.

COMMISSION VOTE:

To recommend that the proposed tree ordinance as endorsed by the Citizen's Board of Natural Resources and Environmental Quality be DENIED.

AYE: Messrs. Hetherly, Bobbitt, Everett, Juarez, Nash, Ramsey
NAY: Ms. Mather

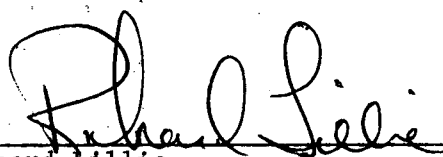
The special meeting of the Commission was called to order at 7:00 p.m. in the City Council Chambers.

PRESENT

C. W. Hetherly, Chairman
O. P. "Bob" Bobbitt
Rizer Everett
Betty Himmelblau
Philip Juarez
Jean Mather
Charles Nash
George Ramsey, III
Bennie Washington

ALSO PRESENT

Richard Lillie, Director of Planning
John Sandlin, Office of Environmental
Resource Management
Bill Snyder, C. I. P. Administrator
Robert E. Beckham, Assistant Director of
Public Works
Lonnie E. Davis, Director of Building
Department
Jack Robinson, Director of Parks and
Recreation Department
Don Bird, Assistant City Attorney
Pat Settle, Administrative Secretary



Richard Lillie
Executive Secretary