



Cover Memorandum/Staff Report

File #: 24-74

Agenda Date: 2/6/2024

Item #: 9.B.

TO: Mayor and Commissioners
FROM: Kent Edwards, Sustainability Officer
THROUGH: Terrence R. Moore, ICMA-CM
DATE: February 6, 2024

ORDINANCE NO. 06-24: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, APPENDIX A, "DEFINITIONS," BY UPDATING THE DEFINITION OF "TREE TRUST FUND" TO INCLUDE A PROVISION FOR USE OF IN-LIEU FUNDS TO OFFSET MAINTENANCE COSTS FOR TREES AND PALMS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

Recommended Action:

Review and consider Ordinance No. 06-24, a City-initiated amendment to Appendix A, "*Definitions*," of the Land Development Regulations (LDRs) to update the definition of "*Tree Trust Fund*."

Background:

In 2006, the City Commission adopted Ordinance No. 37-06, which amended the Land Development Regulations (LDR) to repeal sections pertaining to tree protection and tree removal, and to enact new provisions consolidated in rewritten LDR Section 4.6.19, "Tree Ordinance." Ordinance No. 37-06 also provided important LDR streamlining, clarification and increased protection for tree resources. The amendment was initiated in response to the removal of significant trees associated with development projects. Changes associated with this amendment included 19 new definitions, protection of Exceptional Specimen Trees, removal of hazardous trees, fees and penalties, hurricane preparedness, appropriate tree planting locations, and prohibited tree species. One of the new definitions added was "Tree Trust Fund," (TTF) which allowed for the deposit of funds in-lieu of meeting tree or palm planting/replacement requirements. The backup material for the ordinance restated the language in the TTF definition, "...funds shall be used to off-set the City's costs for future trees and palms and tree trimming for parks and streetscapes," but did not give further details regarding how the TTF was to be used.

In 2008, the City Commission adopted Ordinance No. 35-08, which revised LDR Section 4.6.19(D) and (E), and Appendix A, "Definitions," to clarify regulations governing the TTF. Specifically, the revision addressed the calculation of the in-lieu fee based on caliper inch of tree diameter, and added a provision for developers that were "unwilling" to comply with planting/replacement requirements. The backup material for the ordinance did not discuss the use of money deposited into the TTF, and the definition continued to state, "These funds shall be used to off-set the City's costs for future trees and palms and tree trimming for parks and streetscapes."

In subsequent years, Ordinance No. 22-15, Ordinance No. 19-17, and Ordinance No. 10-23 revised

parts of LDR Section 4.6.19, including language concerning guidelines for tree mitigation and in-lieu fee, but did not change the definition of TTF or provide additional guidance on how the fund was to be used.

At the City Commission Workshop meeting of December 12, 2023, the agenda included discussion of the TTF for tree maintenance activities. During Commission discussion, there was support for having tree maintenance performed in a manner that contributes to the expansion of tree canopy, with a major consideration being maintenance of new trees planted through the City's Tree Planting Program. The Commission discussion resulted in direction to bring forward a change to the LDR, such that the definition for the TTF specifically lists tree maintenance as an allowable use of the fund.

The Planning and Zoning Board (PZB) heard the item at their January 22, 2024 meeting and voted 4-0 to recommend approval of the request. The Board was generally supportive of using the Tree Trust Fund for maintenance, however members expressed concern that the use of funds be sufficiently balanced between maintenance and further planting of trees, in order to meet the goals of the 5-year planting plan.

City Attorney Review:

City Attorney approves as to form and legal sufficiency.

Funding Source/Financial Impact:

The TTF has been the only source of funding for the Tree Planting Program. If this continues, the only effect of the ordinance amendment would be additional funds from the TTF being used.

Timing of Request:

Passage of the ordinance is necessary, to allow amendment of the Tree Planting Program agreement with Community Greening, providing for tree maintenance beyond the one year post-planting warranty period.