Regular Meeting Date: June 7, 2017

SUBJECT:

a. Public Hearing and Second Reading of an Ordinance amending Chapter 38 of the Code of Ordinances relating to Tree Protection.

b. A Resolution relating to Tree Protection; amending Chapter 38, Tree Protection, of Appendix “A”, Fees and Charges Schedule of the Code of Ordinances; Section 38-31, Section 38-105, and Section 38-108.

SUMMARY:

City Council is asked to:

a. Hold a Public Hearing and Second Reading of an Ordinance relating to Tree Protection; amending Chapter 38, Vegetation, of the Code of Ordinances, by deleting Article I. In General, and Deleting Article II. Tree Protection and replacing with a new Article I. In General and a new Article II. Tree Protection; in order to update and strengthen regulations for protection of trees, to remove outdated regulations, and to provide methods of enforcement and penalties; providing for conflict and severance;

b. Consider a Resolution relating to Tree Protection; amending Chapter 38, Tree Protection, of Appendix “A”, Fees and Charges Schedule of the Code of Ordinances; Section 38-31, Section 38-105, and Section 38-108.

BACKGROUND:

A Public Hearing was conducted and First Reading of the Ordinance was approved at the May 17, 2017 Regular City Council meeting. In 2015, City Council asked the Community Services Advisory Board (CSAB), in its capacity as the Tree Board, to review and recommend changes to Chapter 38 of the Code of Ordinances – Vegetation. City Council’s objective was to strengthen the ordinance to prevent unauthorized pruning/removal of City owned trees. The CSAB and City staff has worked to revise the current ordinance since August 2015. The CSAB completed proposed revisions in December 2016 and forwarded the draft to the City Attorney for review.

At the February 13, 2017 City Council Workshop meeting, staff and the CSAB Chair, Linda Black, presented the proposed Ordinance changes to City Council. Proposed changes to Appendix A – Fees and Charges were also presented.

Following discussion, City Council asked staff and the CSAB to:

A. Develop a specific process and application form for City Council to consider designating City streets or sections of City streets as a Canopy Street or a Canopy Street Zone (Section 38-104).

B. Coordinate review of the proposed ordinance changes concerning enforcement with the Building Official to ensure there are no conflicts with Chapter 16 of the Code of Ordinances (Section 38-110).
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BACKGROUND (cont.):
Staff accomplished the task listed above and the CSAB approved the revisions at their March 14, 2017 meeting. The following provides a summary of the proposed changes to Chapter 38 and Appendix A.

Chapter 38 – Proposes to retitle the chapter from Vegetation to Tree Protection. The proposed title clearly that the chapter provides for the protection of trees where vegetation is ambiguous.

Article I – In General:

- Organizes definitions applicable to the chapter at the front of the chapter instead of by division. The CSAB and staff believe organizing the definitions at the start of the chapter provides better organization and allows for easy access to the definitions instead of searching for them by division.
- Tree Board – identifies the boards responsibility to hear appeals to administrative decisions relative to Division 1 and Division 3. Currently, this responsibility is only identified in the current Appeals section (38-109).
- Pruning Standards – Identifies tree pruning standards developed by the American National Standards Institute (ANSI) as the City’s pruning standards. ANSI standards are recognized as the industry standard for pruning trees.
- Adds Appeals and Enforcement sections to Article 1 to avoid redundancy in Article II.
- Changes the use of DBH inches to caliper inches in the Enforcement, penalties and additional remedies section (38-110) as DBH inches cannot be measured once a tree has been removed. If a stump is available, caliper inches at grade can be measured and used for enforcement or penalty.

Article II – Tree Protection

Division 1 –

- Proposes to change the Division title to ‘Threatened and Endangered Tree Protection’
- Defines a clear and expeditious permit application process to remove or alter a protected tree.

Division 2 –

- Proposes to change the Division title to ‘Lethal Species Disease’.
- Changes the applicability of the Division to any lethal tree disease that may affect City trees in the future instead of limiting the provisions of the ordinance to Lethal Yellowing Disease.
BACKGROUND (cont.):

Division 3 –
- Proposes to change the Division title to ‘City Tree Protection’
- Division applies to all City trees.
- Defines a clear process for City Council to designate Canopy Streets that recognizes a special stand of trees that provide a unique visual character along or over a public roadway.
- Provides more comprehensive standards for protecting City trees from construction activities occurring near the critical root zone.
  - Requires a wooden barrier to be erected to protect City trees from construction activity.

Division 4 –
- Proposes a new Division to specifically organize Appeals and Enforcement provisions that are applicable to the entire Chapter.
  - Proposed by the City Attorney
- Defines a clear and expeditious permit application process to remove or alter a protected tree. Appeals to administrative permit decisions shall be processed in accordance this division.
- Defines a clear process for City Council to designate Canopy Streets that recognizes a special stand of trees that provide a unique visual character along or over a public roadway.

Appendix A – Fees and Charges Schedule

The CSAB and staff recommend amending the current fees for Chapter 38 to:

Chapter 38-31– Permit to alter protected trees.

§ 38-31. Permit to alter protected trees.

(1) Tree Alteration Permit Application ..... 75.00

§ 38-105. Permit to alter city trees.

(1) Tree Alteration Permit Application ..... 75.00

§ 38-108 Appeals.

(1) Appeal Application – Tree Alteration Permit ..... 25.00

The above information is intended to provide City Council with an overview of material changes to the ordinance and fee schedule. Staff will be prepared to answer specific questions.
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FUNDING SOURCE:
N/A

RECOMMENDED ACTION:

a. Hold a Public Hearing and approve an Ordinance on Second Reading relating to Tree Protection; amending Chapter 38, Vegetation, of the Code of Ordinances, by deleting Article I. In General, and Deleting Article II. Tree Protection and replacing with a new Article I. In General and a new Article II. Tree Protection; in order to update and strengthen regulations for protection of trees, to remove outdated regulations, and to provide methods of enforcement and penalties; providing for conflict and severance;

b. Approve a Resolution relating to Tree Protection; amending Chapter 38, Tree Protection, of Appendix “A”, Fees and Charges Schedule of the Code of Ordinances.