

Fairfax County Tree Commission
Meeting Minutes: Thursday, August 1, 2023
Electronic Meeting via Zoom

<https://us02web.zoom.us/j/87903258131?pwd=cUV3TEk4UHMrZENYVIFIR0p2T284Zz09>

Toll Free Call in 1 888-270-9936 Participant Access Code 224765

Call to Order

Chair Speas called the August 1, 2023 special meeting of the Fairfax County Tree Commission to order at 3:00pm via Electronic Meeting. She welcomed all and read the Electronic Meeting disclosure.

From the Chairman:

First, to conduct this meeting wholly electronically and in compliance with Virginia FOIA, the Fairfax County Tree Commission must make certain findings and determinations for the record.

Audibility of Members' Voices:

Because each member of the Fairfax County Tree Commission is participating in this meeting from a separate location, we must verify that a quorum of members is participating, and that each member's voice is clear, audible, and at an appropriate volume for all the other members. To do that, I am going to do a roll call, and ask each commission member participating today to state your name and the location from which you are participating. I ask that each of you pay close attention to ensure that you can hear each of your colleagues. Following this roll call, we will vote to establish that every member can hear every other member.

I will now call the roll: (we currently need 8 attendees for a quorum)

Present:	Cindy Speas, Chair	At-Large
	Elaine Kolish, Vice-Chair	Mt. Vernon District
	Jeanne Kadet	Braddock District
	Barbara Ryan	Dranesville District
	Bret Leslie	Hunter Mill District
	Kevin Holland	Mason District
	Cory Suter	Springfield District
	Perry Rhodes	Sully District
	John Burke	FCPA
	Jerry Peters	NVSWCD
	Brenda Frank	VA Cooperative Extension
Absent:	Jessica Bowser	Franconia District
	Rose Hendricks	Providence District
	Rick Healy	EQAC

At this point, I will pass the virtual gavel to Vice-Chair Kolish so that I may be heard to make two motions.

Audibility of Members' Voices

I move that each member's voice may be adequately heard by each other member of this the Fairfax County

ELAINE: Is there a second? All in favor say aye. Any opposed? Any abstentions? The motion passes.

FOIA Requirements

Secondly, I move that per FOIA requirements the Fairfax County Tree Commission may conduct this meeting electronically through a dedicated video and audio-conferencing line, and that the public may access this meeting by calling 888-270-9936 and entering access code 224765, or using the Zoom link posted to the Fairfax County Tree Commission website. And per FOIA requirements, official minutes will be taken and posted publicly.

ELAINE: Is there a second? All in favor say aye. Any opposed? Any abstentions? The motion passes.

Chair Speas called a quorum and welcomed staff to the meeting. Present were Joan Allen, Forest Pest Branch, Patricia Greenberg, Forest Pest Branch, Chris Herrington, Director DPWES. Attending later in the meeting, John Friedman Department of Planning & Development.

Old Business:

Chair Speas then asked the attendees if they had any objection to reversing the order of the agenda to accommodate staff schedules. Hearing no objections, Chair Speas opened new discussion on the Tree Commission Charter.

Tree Commission Charter

Chair Speas asked Director Herrington to bring members up to speed on the Tree Commission's revisions to its Charter.

Dir. Herrington indicated that there were two sections of the Charter that others have indicated to him might need some further explanation by the Commission as the Charter goes through its review process. He made two small language suggestions for the group to discuss.

Commissioner Ryan moved to adopt new changes to the Tree Commission's Charter revisions that changed 122-9-1-a.2 to "Review and comment, at its discretion, on selected actions..."
Commissioner Frank seconded the motion. The motion carried with all in favor, no abstentions.

Draft legislative package submission to the Board of Supervisors

These are the four topics the Tree Commission reviewed for possible submission to the Board of Supervisors Legislative Committee by the August 3 deadline.

1. Understanding and Addressing Tree Canopy Loss in Virginia

- **PROPOSAL**: Support legislation that provides resources and funding to assess where and why tree canopy losses are occurring in Virginia, incentives to stop and reverse tree canopy loss, and funding for statewide educational efforts regarding the harms caused by tree canopy loss, the benefits of native trees, and how they help mitigate diverse effects of climate change.
- **BACKGROUND**: Tree canopy losses continue to occur across Virginia, contributing to degraded waterways and our ability to address and mitigate the effects of climate change. Understanding the reasons for tree canopy losses in Virginia will be essential for the state and localities to take action to slow and reverse the losses. High resolution land cover data showing land changes between 2018 and 2022 is due to become available in 2024. Determining where recent tree losses have occurred and why it will be necessary to address these developments with education, incentives, and state programs. As soon as the new data are available, a comprehensive technical assessment should take place statewide so that legislators, localities, and citizens across the state can take actions to address losses.

One way to achieve this would be to appropriate funds for the Department of Forestry to fund a statewide tree canopy and forest health assessment using the new tree canopy dataset to determine the drivers of forest and urban tree canopy loss, including disease, infrastructure, infill and greenfield development, saltwater intrusion, and homeowner removal. The assessment results could be available to citizens across the state to help determine tree canopy health in their areas. Such a program could also include development of incentives to stop and reverse tree canopy loss, and statewide educational efforts regarding the harms caused by tree canopy loss, the benefits of native trees, and how they help to mitigate the adverse effects of climate change.

Commissioner Leslie moved to adopt legislative proposal 1. Commissioner Kadet seconded the motion. The motion carried with all in favor, no abstentions.

2. Increasing Ability of the Virginia Conservation Assistance Program (VCAP) and of Homeowners Living in Property Associations to Install Low-Impact Landscaping to Address Stormwater Concerns

- **PROPOSAL**: Support legislation to continue to adequately fund VCAP's ability to provide financial incentives and educational assistance to property owners installing eligible native trees and using low-impact planting practices to address stormwater and erosion issues. Also support legislation that would help ensure that all residents of Virginia's 8,810 community associations have the ability to leverage this program without being prohibited by property community association covenants from installing conservation landscaping.
- **BACKGROUND**: The benefits of low-impact landscaping, including conservation landscapes, rain gardens, and other methods of addressing stormwater runoff and controlling erosion, have been extensively documented. VCAP has been tremendously successful in assisting homeowners and community associations in their efforts to address stormwater runoff concerns. With the increased frequency of severe storms as a result of climate change, the need for such assistance and public education about the benefits of planting native trees and plants is growing rapidly. Adequate funding for the VCAP program will be essential to

ensuring that this momentum and success continues.

Even though the VCAP program is demonstrably successful, current Virginia code allows Property Associations to require the use of turf-grass and restrict the use of low-impact landscaping that VCAP recommends, including rain gardens, pollinator gardens, bio-habitat gardens and landscaping designed to mitigate stormwater and provide other ecological benefits. As we face the current climate crisis and increase in the intensity and duration of rainstorms, residents must have the flexibility to more sustainably manage their private land.

Proposed Virginia legislation would prohibit Virginia Property Associations from including or enforcing a restrictive covenant that imposes unreasonable limitations on homeowners using low-impact landscaping when they maintain and regularly tend to the low-impact landscaping.

Other states have adopted similar legislation: Maryland (House Bill 322, signed in 2021): Laws - Statute Text (maryland.gov), Texas: Texas Property Code Section 202.007 - Certain Restrictive Covenants Prohibited (public.law), Florida: Chapter 373 Section 185 - 2022 Florida Statutes (flsenate.gov), California: California Civil Code Section 4735 (public.law). A similar Virginia amendment regarding solar energy (§ 55.1-1820.1. Installation of solar energy collection devices (virginia.gov) exists.

Commissioner Kolish moved to adopt legislative proposal 2. Commissioner Holland seconded the motion. The motion carried with all in favor, Commissioner Ryan abstained.

3. Addressing the Critical Threat of Non-native Invasive Plants to the Health and Preservation of Virginia's Forests

- **PROPOSAL:** Support legislation that would allow counties to adopt ordinances banning or imposing a surcharge on the sale of the most damaging of invasive plant species which are threatening the viability of countless trees in parklands and forested areas across Virginia.
- **BACKGROUND:** Invasive vines, shrubs, trees and other plants are an emerging threat to Virginia's forests, specifically the high to medium threat species as listed by the Department of Conservation and Recreation. The threat is more evident in urban areas because invasives thrive in disturbed land, but they are also visible along roadways, state parks and forests and agricultural field edges in our rural areas. Invasive vines topple trees with their weight or smother them so that sunlight cannot reach the canopies, and some invasive plants also make the ground toxic to beneficial native trees. Increasingly, statewide tree planting efforts are doomed to the rapid dominance of invasives. Because invasive plants cannot provide food to insects or birds, ultimately the nearby food web collapses, and the health of the entire ecosystem is threatened.

Many invasive plants continue to be available commercially to be planted primarily on private properties. Education efforts notwithstanding, the continued presence of invasive plant species in the marketplace has increased the economic burden on the state and localities for removal and subsequent forest restoration efforts. Seed disbursement and root spread do

not follow political boundaries, so while counties would benefit greatly from having the choice to ban the sale of invasive plant species in their jurisdictions, it would be sensible to simultaneously study the benefits of a statewide ordinance.

Commissioner Ryan moved to adopt legislative proposal 3. Commissioners Burke and Kolish seconded the motion. The motion carried with all in favor, no abstentions.

4. Studying the Benefits and Impacts of a Permitting System for the Preservation of Mature, Native Trees in Virginia

- **PROPOSAL**: Support legislation establishing a study to assess the benefits and impacts of permitting systems to preserve healthy, mature native trees in urban forests, including, but not limited to, resource protection areas, riparian buffers and flood plains. The study topics could include application process, use of a professional consulting arborist assessments in the process, and homeowner requirements to demonstrate the need to remove an identified tree, fees for failure to get a permit or failure to abide by permit requirements might be effective.
- **BACKGROUND**: In the last several years there has been a new focus on the benefits of trees to our state. Currently our rural forests provide minimal timber harvesting in order to fund the Department of Forestry; they provide greenhouse gas removal and sequestration and stormwater runoff mitigation; state recreational spaces are centered on trees; and trees are the capstone plant in a thriving ecological system that ultimately benefits humans. In the urban forest, a vibrant tree canopy offers all those benefits and more—they provide the economic benefits of lower energy costs and increased property values; they provide health benefits by reducing air born particulate matter (PM2s) and improve mental health by muffling urban sound and reducing heat island effects in concrete corridors. There are jurisdictions across the United States that not only have a permitting system that requires review, but also includes incentives (and penalties) as part of the structure. Studying these to determine the acreage/canopy that has been protected versus removed in those systems could help inform Virginia about opportunities for ordinance changes that could improve and enhance the health of our state forests.

Commissioner Speas moved to adopt legislative proposal 4. The motion carried with all in favor, no abstentions.

4:19 p.m.

Adjournment