

WAYNE HAYWARD

March 06, 2023

To: Fairhaven Select Board

I would like to comment on the Draft-Removal of Non-Hazardous Public Shade Trees Policy. While I agree that the General paragraph properly identifies that Public Shade Trees are valuable assets of the community and the mature trees protect residents from the negative aspects of climate change.

However, the Draft Policy is devoid of actual language to protect those valuable assets. It sets forth a pricing scheme that essentially places a bounty on all Public Shade Trees, counter to the purpose of the General section. By setting the price tag for the removal of Public Shade Trees, the improper response will surely be from residents who can merely afford to pay to remove trees, a legal path to remove perfectly healthy trees. There is no language to prevent someone paying to: remove a tree because they do not like raking leaves, remove a tree because it blocks their view, remove a healthy tree for a second driveway for a motorhome or removing a tree solely to cause distress to a foe. Public Shade Trees in the front of someone's residence does not give them any additional rights to cause for the removal of such tree, unless it is hazardous.

This limited draft policy will ensure that many trees, with no apparent defects, can be removed for the right price. This is counter to the Tree Protection bylaw the Planning Board offered. This policy will perpetuate large scale Public Shade Tree removal across town and the draft policy should not be adopted unless/until it includes actual verbiage to enhance tree protection in the Town of Fairhaven.

Public Shade tree hearings are seldomly held solely by a Tree warden in most communities and are usually held in combination with Planning Boards, Boards of Selectmen or Tree Committees. Allowing one singular person to make these decisions is potentially corruptive and should be avoided. It is unwise to draft any policy or bylaw tailored around the current tree employees, as employees will eventually change.

The following are excerpts from existing community bylaws and State recommended documents, which encourage many eyes when making life or death sentences for trees.

Town of Brookline, MA

The Brookline Parks and Open Space Division does not remove town trees without good reason. The town will not remove trees because they drop leaves or acorns, because it has grown too large or shades a private lawn, or because it is not conveniently located. The removal of public shade trees requires a public hearing in front of the [Tree Planting Committee](#) and the Tree Warden as prescribed by state law.

Boston Ordinance Adopted 2021

Tree Warden works with the SENIOR URBAN FORESTRY AND LANDSCAPE PLANNER and the URBAN FORESTRY COMMITTEE

7-15.7 CRITERIA FOR REMOVAL OF PUBLIC SHADE TREES: A public hearing may not be initiated under M.G.L. c. 87 section 3 to remove a Public Shade Tree unless the Tree Warden finds in writing that there is a public health, safety, or welfare basis for removing the Public Shade Tree, including but not limited to hardship to a property owner, economic development, facilitating the development of affordable housing, pedestrian access enhancement, transportation improvement, or public project development. Nothing in this section shall be construed to prevent the cutting, trimming, or removal of trees in accordance with M.G.L. c. 87 section 5.

Town Of Lynnfield, MA

The Town of Lynnfield does not remove public shade trees without cause. It does not remove public shade trees because they drop leaves or acorns, because they have grown too large, or shade too much lawn, or because they are not conveniently located. The Town removes public shade trees that are determined to be hazardous.

DCR Guide to Local Tree Bylaws for Communities in Massachusetts

B. The Tree Warden may consider the removal and subsequent replacement of a healthy tree subject to the following: (1) Petitions for the removal and replacement of trees shall be filed with the Tree Warden and acted upon by the [Tree Warden and the Planning Board](#) in a public hearing as provided by MGL c. 87. (2) Petitions for the removal and tree replacement must demonstrate that the removal and replacement of a tree will be of greater benefit to the inhabitants of the City than the existing tree. (3) Trees that are removed in accordance with this § 257-7 must be replaced in accordance with the following schedule: Size of Tree Removed Replacement Required Less than 12" diameter: 1 tree; Greater than 12" diameter: 2 trees [...] (City of Chicopee)

Urban Forestry Best Management Practices for Public Works Managers: Ordinances, Regulations, & Public Policies

Recommendations:

1. [Create and adopt a basic Public Tree Ordinance](#). Typical provisions included in a basic tree ordinance are: purpose; authority and power; limits of applicability; tree planting and maintenance and removal standards; enforcement; and penalties, claims, and appeals.

2. **Create an advisory Tree Board/Commission** to recommend policies and practices, and to be a liaison with the public and elected officials.

3. Include a section specifically for compensatory payment for damages to public trees. If an automobile accident occurs or a public tree is illegally and improperly pruned, the Town should collect damages from the responsible party to compensate for the corrective action needed and/or loss of the public tree. The Urban Forester should be designated as the authority to determine the appropriate amount using local standards or national standards, such as the formulas developed by the Council of Tree and Landscape Appraisers

DCR

Examples of **Tree and Forest Committees** in Massachusetts

Town of Brookline: Established in 1886, the **Brookline Tree Planting Committee** is the oldest continuous tree planting committee in the nation. The Board of Selectmen appoints the three-member committee that advises the Tree Warden on tree selection and placement. The Tree Planting Committee also holds public hearings for street tree removal requests.

City of Fall River: **This Committee** began in 1996 with about a dozen individuals interested in seeing more trees in their town. They concentrate on coordinating volunteer tree plantings in neighborhoods throughout the community.

Town of Monson: **This Committee** formed following the tornado of June 1, 2011 and provides leadership, education, and resources for residents replanting trees following the tornado. The Committee meets once a month, and, in addition to replanting, works to advocate for trees in the community through development of a tree ordinance and management plan and through educational programming for residents.

Town of Amherst: **Amherst's Shade Tree Committee** is an ad hoc group with no "official" status that works to improve the urban forest of the community. They have successfully applied for state and national grants, started a tree nursery, and created parks in town. They work with the Tree Warden, Conservation Commission, and Open Space Committee.

Town of Greenfield: The **Greenfield Tree Committee** operates under the umbrella of Greening Greenfield, a local nonprofit organization. The Committee meets monthly to support the work of the Department of Public Works and the Tree Warden through workshops, educational programs, and fundraising for trees in the community.

I would strongly recommend that:

A Fairhaven Tree Committee be established, as part of this draft policy, to develop criteria with the Tree Warden for the removal of trees in the Public Right of Way, to assist in drafting a suitable Tree Protection Bylaw in the Town of Fairhaven, to coordinate a Fairhaven Tree Planting Plan that will work harmoniously in selecting proper species and to coordinate with other planning agencies' documents already in existence, such as the Planning Board, Sustainability Committee and the Conservation Commission.

Proposed Fairhaven Tree Committee.

(1) member of the Tree Department

(1) member of the Planning Board.

(1) member of the Sustainability Committee

(1) member of the Conservation Commission

(1) member of the Historical Commission.

(1) member of the Board of Public Works

Sincerely,

Wayne Hayward