CITY COUNCIL
ATLANTA, GEORGIA

AN ORDINANCE BY **03-O-1707**
COUNCILMEMBER ANNE FAUVER **(FINAL)**
AS SUBSTITUTED BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES

AN ORDINANCE AMENDING CHAPTER 158, ARTICLE II, SECTION 158-64 TO PROVIDE A COURT REPORTER FOR TREE CONSERVATION COMMISSION MEETINGS; AMENDING SECTION 158-66(a) OF THE ATLANTA CODE OF ORDINANCES, TO CLARIFY THE PERMITTED USES OF THE MONIES DEPOSITED INTO THE TREE TRUST FUND, AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") Tree Conservation Commission was established by the City's Tree Protection Ordinance to oversee the management and maintenance of trees on both public and private property, and to establish educational programs that encourage proper management and maintenance of trees on private property so that the City and its residents enjoy the benefits provided by the City's urban forest; and

WHEREAS, the Tree Protection Ordinance provides in section 158-64 of the Atlanta Code of Ordinances ("Code") that the Tree Conservation Commission shall establish a regular meeting schedule, shall have a clerk and shall establish its own rules of procedure but does not provide for a court reporter to record the meetings; and

WHEREAS, the decisions of the Tree Conservation Commission have been appealed on numerous occasions and the participants in the appeals have experienced difficulty in explaining evidence provided during the Commission meeting which would have been alleviated by provision of a transcript of the statements, testimony and discussions taken by a competent court reporter; and

WHEREAS, the Code, in section 158-66(a), establishes a "tree trust fund for the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta."; and

WHEREAS, the Code, in subsections 158-66 (b) and (c), requires that developers, builders, contractors, and homeowners either replace trees that they have removed, or contribute to the tree trust fund the replacement value of the trees removed or destroyed; and

WHEREAS, the purpose of the tree trust fund is to make certain that trees inside the City that are removed or destroyed be replaced. The person or company removing or destroying a tree can either replace it, or pay the City to replace it by paying money into the tree trust fund; and

WHEREAS, the City recognized that one way to protect and maintain trees within the City is to educate the general public about tree protection and maintenance, and therefore the Code, section 158-66(a), allows for a maximum of five percent of the tree trust fund to be used for educational materials and programs; and

WHEREAS, there are certain costs that arise directly from the enforcement of the Tree Protection Ordinance by the City and by the Tree Conservation Commission that would not arise in the absence of the Tree Protection Ordinance, such as advertisement costs, printing costs, and court reporter fees; and

WHEREAS, the Code, section 158-66(a), currently contemplates that the cost of administering the proceeds of the tree trust fund shall be paid from the tree trust fund, but the Code does not place a cap on administration costs nor does it define administration costs; and

WHEREAS, other than the money utilized for administrative costs and education costs, the remainder of the tree trust fund should be utilized to replace trees that have been removed or destroyed.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That Chapter 158, Article II, Section 158-64, entitled "Meetings; clerk; rules of procedure," that currently reads:

"Sec. 158-64. Meetings; clerk; rules of procedure.
The tree conservation commission shall establish a regular meeting schedule, and all meetings of the commission shall be open to the public. The commission shall have a clerk, designated by the commissioner of the department of planning, development and neighborhood conservation, who shall be a full-time employee of the department. The clerk shall serve as secretary to the commission and shall be responsible for the clerical administration of the appeals process, including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The clerk shall also direct and supervise the giving of notices required by the commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the commission in such matters. The clerk shall also be responsible for the maintenance and preservation of all records of the commission. The commission shall adopt rules of procedure for the conduct of meetings, hearings and attendance requirements for members."

shall be deleted in its entirety and replaced with the following:

"Sec. 158-64. Meetings; clerk; **court reporter;** rules of procedure.

The tree conservation commission shall establish a regular meeting schedule, and all meetings of the commission shall be open to the public. The commission shall have a clerk, designated by the commissioner of the department of planning, development and neighborhood conservation, who shall be a full-time employee of the department. The clerk shall serve as secretary to the commission and shall be responsible for the clerical administration of the appeals process, including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The clerk shall also direct and supervise the giving of notices required by the commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the commission in such matters. The clerk shall also be responsible for the maintenance and preservation of all records of the commission. **The meetings of the Tree Conservation Commission shall be recorded by a court reporter contracted for by the city and paid for by the city from the proceeds of the Tree Trust Fund.** The commission shall adopt rules of procedure for the conduct of meetings, hearings and attendance requirements for members."

Section 2: That Chapter 158, Article II, Section 158-66, entitled "Tree trust fund", subsection (a), that currently reads :

"(a) *Establishment and administration.* The tree conservation commission shall establish a tree trust fund for the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta. A maximum of five percent of the fund may be used for educational materials and programs. The fund shall derive and administer its proceeds independent of the city budget."

shall be deleted in its entirety and replaced with the following:

"(a) *Establishment and administration.* The tree conservation commission shall establish a tree trust fund for the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta. A maximum of five percent of the fund may be used for educational materials and programs. A maximum of **$50,000** per year of the fund may be used for costs arising directly from administering and enforcing the tree protection ordinance that would not have arisen in the absence of the tree protection ordinance, including but not limited to the cost of posting trees to be removed, the cost of advertising tree commission hearings, and the cost of court reporter services at tree commission hearings."

A maximum of $110,000 per year of the fund may be used to fund the annual salary and benefits of the two arborist positions. In the event that the costs of the salary and benefits positions exceeds $110,000, the remainder of the cost shall be assumed by the general fund budget in the Department of Planning and Community Development.

Section 3: That all ordinances and parts of ordinances in conflict herewith be and are hereby repealed.

A true copy,

Deputy Clerk

ADOPTED by the Council — December 1, 2003
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403 — December 10, 2003

RCS# 5239
12/02/03
1:15 AM

Atlanta City Council

Regular Session

03-O-1707 AMEND 158-64 COURT REPORTER FOR
TREE CONSERV COMM MTG 158-66A TRUST FUND
ADOPT ON SUB

YEAS:	8
NAYS:	3
ABSTENTIONS:	0
NOT VOTING:	5
EXCUSED:	0
ABSENT	0

Y Smith	N Archibong	Y Moore	NV Mitchell
Y Starnes	N Fauver	Y Martin	NV Norwood
Y Young	Y Shook	Y Maddox	NV Willis
Y Winslow	NV Muller	N Boazman	NV Woolard

03-O -1707

(Do Not Write Above This Line)

AN ORDINANCE BY:
COUNCILMEMBER ANNE FAUVER

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ADOPTED BY

DEC 01 2003

COUNCIL

substitute

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☑ PERSONAL PAPER REFER

Date Referred 10/06/03

Referred To: CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee
Date
Chair
Referred to

Committee	Committee
CD/HR	
Date 10/14/03	Date
Chair	Chair
Action: Fav, Adv, Hold (see rev. side) Other:	Action: Fav, Adv, Hold (see rev. side) Other:
Members	Members
Refer To	Refer To

Committee	Committee
CD/HR	
Date 11/20/03	Date
Chair Debbie Starnes	Chair
Action: Fav, Adv, Hold (see rev. side) Other: Sub. on Condit	Action: Fav, Adv, Hold (see rev. side) Other:
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION

☑ 2nd ☐ 1st & 2nd Readings ☐ 3rd

☐ Consent ☐ V Vote ☑ RC Vote

CERTIFIED

CERTIFIED
DEC 01 2003
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
DEC 01 2003
Rhonda Dauphin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 10 2003

WITHOUT SIGNATURE
BY OPERATION OF LAW