

TREE COMMISSION MINUTES

NOVEMBER 17, 2015 - 5:30 P.M.

PARKS AND RECREATION HEADQUARTERS

MEMBERS

X	Dr. Maurice Holt, Chair
X	Terry Plauche, Vice-Chair
X	Ben Cummings, Secretary
X	William Rooks, Treasurer
X	Dr. Rip Pfeiffer
X	Cleve Formwalt
	Jesse McDaniel

STAFF

X	Urban Forestry	Gerard McCants
X	Alabama Power	Blake Jarrett
X	Planning	Bert Hoffman
X	Legal	Melissa Mutert

The Chair called the meeting to order at 5:34 PM and confirmed that there was a quorum.

TREASURER'S REPORT: A motion was made by Mr. Cummings and seconded by Mr. Plauche to approve the Treasurer's Report with a balance of \$10,454.57, with no income or expenditures.

The motion carried.

PERMIT REQUESTS:

1	<p>P-2015-19 Joel Daves 21 Drury Lane West side of Drury Lane, 500'± North of Wimbledon Drive. Remove a 19" Magnolia</p> <p>Joel Daves, 21 Drury Lane, stated that he was asking for approval to take down a magnolia tree that is not in good health. He stated that he had spent money trying to preserve the tree, and it was not responding. He stated that he was in agreement with staff recommendations.</p> <p>A motion was made by Mr. Cummings, with second by Mr. Rooks, to approve the request subject to the following conditions:</p> <ol style="list-style-type: none">1. The provision on one replacement tree, species to be coordinated with Urban Forestry;2. Removal is to be performed by a licensed and bonded arborist, to be
----------	--

Tree Commission Minutes

November 17, 2015

PAGE 2

	<p>coordinated with Urban Forestry;</p> <ol style="list-style-type: none">3. All work in the right-of-way requires a right-of-way permit; and4. All expenses to be borne by the applicant. <p>The motion carried.</p>
<p>2</p>	<p>P-2015-20 McGowin Park, LLC George Alexandris Bolling Brothers Drive, 375± West of McVay Drive Remove two Crape Myrtles</p> <p>George Alexandris, representative for McGowin Park, Chattanooga, TN, stated that their request to remove the trees was to allow them to create another full access point to help with traffic circulation within the development and at the traffic lights at Satchel Paige and McVay Drive. When a driver passes the second round-about on the southern end, there is not a lot of opportunity to go back into the development because there is no U-turn allowed at Bolling Brothers Drive. If someone turns at Bolling Brother's Drive, he has to go all the way around the shopping center to get back into the development.</p> <p>Mr. Plauche asked if they were proposing to relocate the trees or remove them.</p> <p>Mr. Alexandris stated that they can't move them because they are mature trees. They are not opposed to replacing them with new trees on-site or at another location preferred by the Commission.</p> <p>A motion was made by Mr. Rooks, with second by Mr. Plauche, to approve a modified request to allow removal of the number of trees specified by Traffic Engineering (for safety reasons), subject to the following conditions:</p> <ol style="list-style-type: none">1. There be a one for one replacement for each tree removed, species and location to be coordinated with Forestry;2. Removal to be done by a licensed and bonded arborist, and to be coordinated with Forestry;3. All work in the right-of-way requires a right-of-way permit;4. All associated costs to be borne by the applicant. <p>The motion carried.</p>

<p>3</p>	<p>P-2015-21 Mayor Stimpson 5709 Shain Street Remove three Live Oaks</p> <p>Mayor Sandy Stimpson stated that he received a call from this elderly lady shortly after he was elected, and she asked him to come and look at these trees. She stated that she had been trying for over 30 years to get these trees removed that have torn up her sidewalk and irrigation system. At first, he was unaware of the process, then he told her there was nothing he could do. But, the calls are persisting unlike anybody else he's run into since he's been in office. As he thought about making this recommendation, he thought that this lady seems to be obsessed with these trees and worries about nothing else in her life, and if having the authority to help her have peace of mind at this stage in her life by petitioning to have the trees removed and have the opportunity to plant some replacement trees, he found it hard to live with himself knowing that this could possibly be done and not make the petition to do it.</p> <p>The Mayor further stated that it is an unusual request in that the trees are healthy, but in the surrounding neighborhood, there are only two or three of these trees planted in the neutral area. It is not a prevalent problem.</p> <p>The Mayor said that the City went out there in years past and ground down the sidewalk to try to make it where it wasn't a tripping hazard. Since the trees continue to grow, there is still a differential in elevation of the sidewalk.</p> <p>Mr. Formwalt asked if he was proposing that this work is to be done at City expense.</p> <p>The Mayor replied yes and asked weren't they in the City right-of-way.</p> <p>Mr. Formwalt stated that normally if a citizen wants a tree removed, they have to hire someone and pay to have it removed, and they replace it at their cost.</p> <p>Dr. Pfeiffer asked why Urban Forestry recommended that the tree be removed.</p> <p>The Mayor replied that based on a new state act that was passed in 2015, the Mayor has the ability to request certain trees be cut down and that's why Forestry recommended it. Legally, he has the ability to do that.</p>
-----------------	---

Dr. Pfeiffer stated that this doesn't meet any guidelines that they have used in the 25 years he's been on the tree commission, and there is no justification to do it. They denied a lady's request where a tree was all over her yard, but it did not meet the criteria that the Commission uses to approve removal.

Mr. Cummings stated that in the three years he's been on the Commission, there have been a lot of applications where people had requested to take down trees because the trees were pushing up their sidewalks. If they grant permission because a tree is pushing up the sidewalk, then how do they say no to every other applicant that is basically saying the same thing. He asked if there was anything unique about this situation so that it doesn't set a precedent.

Mayor Stimpson agreed that they don't want to cut down every tree that breaks up a sidewalk. He was here to sort through their concerns, listen and absorb and see if they could find a pathway.

Mr. Cummings wondered who planted these trees in the right-of-way because the City doesn't just go around planting trees in the right-of-way. He suspected that either the previous homeowner planted the trees or this lady planted the trees. Now, she hates them and wants the City to remove them at City expense. He felt that the situation was frustrating and not fair.

Dr. Pfeiffer stated that the damage here is minimal compared to what they frequently see.

Dr. Holt stated that this would open a Pandora's box. There would be more applications like this, and it would put their backs up against the wall for someone to ask why they approved this. He remembered the application that Dr. Pfeiffer mentioned and he felt really strongly about denying it, but they have guidelines that they follow.

Mr. Rooks asked how the appeals process was handled.

Mr. Formwalt stated that appeals go to the City Council.

Mr. Rooks asked if the City Council could override their decision.

Mr. Formwalt said yes.

Mr. Rooks wondered if there was a way to preserve the integrity of the Mobile Tree Commission by denying the application and know what step it was going to go to. He felt like that may be the best way.

Mr. Formwalt asked if the homeowner would consider talking to a few

members of the Tree Commission if they held this over until January.

The Mayor said that he would ask her if she would talk to them. He also thought that Mr. Rooks' suggestion to deny the application, knowing that it would be appealed and the decision may be overridden, may be the thing to help preserve the integrity of the Tree Commission.

Mr. Cummings asked when was the last time that this request came before the Tree Commission.

Mr. Hoffman responded that he didn't remember, but he spoke to David Daughenbaugh earlier that day, and Mr. Daughenbaugh said that it had been before the Commission several times.

Mr. Cummings stated that the staff report recommended a 1:1 replacement, and he looked back in the Standing Rules which state that removal of a healthy tree 6" dbh or larger called for 2:1. He wanted to make sure that they followed their own rules.

Mr. Hoffman stated that staff recommended a 1:1 replacement based on the letter that was submitted.

Dr. Pfeiffer stated that he didn't see how they could approve it in good conscience as it goes against everything that they've gone through and there is no justifiable reason to do it from the tree's standpoint. He suggested that the Mayor then appeal their denial.

Mr. Cummings asked Mayor Stimpson if he would be the one to appeal if or if the property owner would.

Mayor Stimpson stated that he wasn't sure. He continued by saying that the authority that was given in the law in the most recent session was that he could make the decision to cut the tree down. He wants to make sure he's on solid ground and doesn't want to kick sand in their face without a conversation about what the law says. This why he came before the Commission instead of just sending the request and certification in and letting it run its course. If the application is heldover, it gives them all an opportunity to meet with the property owner and continue their dialog on how to approach this request.

Ms. Mutert stated that holding it over would give them the opportunity to look it over as she wasn't familiar with what effect the certification had.

Dr. Holt stated that they had a similar case before them recently where approving the request would not have been in keeping with the bylaws. If

	<p>this request came to the Mayor, and he provided a certification letter, would they have to approve it?</p> <p>Mayor Stimpson stated that if the Tree Commission denies an application, there is no appeal to him as part of the appeals process. But, as he understands the regulation, if the Mayor chooses to cut down a tree, he could cut one down.</p> <p>After discussion, Mr. Formwalt made a motion, seconded by Dr. Pfeiffer to hold the request over until the January 16, 2016 meeting to allow member of the Tree Commission to meet with the property owner regarding the application.</p> <p>The motion carried.</p>
--	---

OTHER BUSINESS

The Mayor requested that the members of the Commission accompany him on a riding tour to view and discuss various issues. It has been a long time since any ordinances has been changed, and the City will incur a lot of expense in the future due to things that are being mandated now. Examples of these issues include \$250 million infrastructure repairs that the City is behind on due to damage to drainage, paving and sidewalks. The City will be spending \$6 million in the next three years on sidewalk repairs. A lot of those sidewalks are broken due to ordinances that required that trees be planted in certain places, knowing that it was just a matter of time before the sidewalks or curb and gutter would be torn up. That \$6 million could be spent on salaries, pensions, or other things. He is not advocating that a bunch of heritage trees are cut down, but he is advocating that they ride around and look and see if how things are done can be modified so that the damage isn't perpetuated.

Mr. Hoffman presented a schedule of the Mayor's availability for the Commissioners to consider.

The Commissioners agreed to the meet the Mayor at 2:00 on December 7th in the Civic Center Theatre parking lot for the ride-along.

ADJOURNMENT

With no further business, Mr. Cummings made a motion to adjourn the meeting which was seconded by Mr. Plauche.

The motion carried.