

Approved December 19, 2019

TREE COMMISSION MINUTES

DECEMBER 19, 2017 - 4:30 P.M.

CoM MEETING ROOM, 1ST FLOOR, GOVERNMENT PLAZA

MEMBERS:

	Dr. Maurice Holt, Chair
X	Terry Plauche, Vice-Chair
X	William Rooks, Sec/Treasurer
X	Dr. Rip Pfeiffer-arrived 4:57
X	Cleve Formwalt
X	Jesse McDaniel
X	Evan Cox

STAFF:

X	Urban Forestry	Peter Toler
X	Alabama Power	Eric Garrett
X	Planning & Zoning	Richard Olsen

Mr. Plauche, as Acting Chair, called the meeting to order at 4:41 P.M. and noted that the number of members present constituted a quorum.

TREASURER'S REPORT:

Mr. Rooks presented the Treasurer's Report with an ending balance of \$10,274.57.

A motion was made by Mr. McDaniel, with second by Mr. Formwalt, to accept the Treasurer's Report as presented.

The motion carried unanimously.

PERMIT REQUESTS:

[MTC-012329-2017](#)

Linfield, Hunter & Junius

Casey M. Genovese, PE

254, 256, and 260 Dogwood Dr

Remove 14 Oak Trees of Varying Size to Accommodate Required Turn Lane and Sidewalk

Jonathan Catanzano, Linfield, Hunter & Junius Engineers, 3608 18th Street, Metairie, LA, spoke on behalf of the applicant and stated that the staff report summed up the basis for the request pretty well. He stated that during the rezoning process, Traffic Engineering required a right turn lane to be constructed along South University Boulevard, which required that they dedicate a little bit of right of way and remove the trees to allow for the new turn lane.

Mr. Catanzano apologized that they did not make very clear the situation with the drain line that

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required removal of the trees on the northwest side of the property as they would have to remove and replace the existing drain line. He passed out site plans illustrating the location of the drain line.

Mr. Hoffman added that the site has been commercially zoned, all of the existing houses will be demolished, and it will be developed as a national drug store.

Mr. Catanzano indicated that the site will have to be regraded and the plan may change somewhat, but the plan he gave them is their current proposal.

Mr. Toler stated that it is quite significant that the change in grade dips 16-18" where the surface roots could be seen going down 10-15' on the land.

Mr. Rooks asked what type of landscaping would be going back on the site.

Mr. Catanzano replied that the landscape plan had not been prepared yet.

Mr. Hoffman stated that the applicant would be required to submit a landscape plan for approval when they apply for a land disturbance permit.

Mr. Plauche addressed two citizens in attendance and asked if they had any concerns.

Chuck Sierke, 257 Dogwood Drive, Mobile, AL, spoke on his own behalf and on behalf of his wife, Linda Sierke. He stated that they live across the street from the development and had several concerns about the new turn lane and whether or not it would move closer to Dogwood.

Mr. Catanzano stated that there is an existing right turn lane, and unless Traffic Engineering required them to make a change, they are not proposing to shift it closer to Dogwood.

After discussion, a motion was made by Mr. McDaniel, with second by Mr. Rooks, to hold the request over until the January meeting to allow the applicant to provide the drainage and grading information as well as the landscape plan.

The motion failed due to a lack of affirmative votes with Mr. Plauche, Mr. Cox, and Mr. Formwalt in opposition.

After further discussion, Mr. Rooks, with second by Mr. Cox, made a motion to approve the request, subject to the provision of a donation to the Tree Bank for seven (7) trees that will be removed from the right-of-way: $7 \times \$ 200 / \text{tree} = \$ 1,400.00$. The Commission also requested that a copy of the site development plans be provided for their review and comment at the next meeting of the Tree Commission. (Please note that the Commission's authority is limited to the review of trees within the right-of-way.)

The motion carried.

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OTHER BUSINESS:

- [Certification Letter from Mayor Stimpson regarding tree removals for the Bit & Spur Sidewalk Project in the Village of Spring Hill.](#)

The Mayor's Certification for removal of trees along Bit & Spur Rd. in conjunction with a City of Mobile sidewalk project was announced under Other Business.

Mr. Plauche inquired about the plans provided and by whom they were prepared. He was advised by Mr. Hoffman that he did not believe the plans were prepared by the City.

Mr. Rooks stated that this was a case where the Commission had no choice, and that he was curious why the Village of Spring Hill did not file an application to the Tree Commission, and stated that the Commission has been very supportive of their efforts in the past. He expressed concern as to why in this case that they went to the Mayor and that this was stretching the concerns the Commission has about certifications. He indicated that he would bring this issue up to his Councilperson and encouraged other members to do so. He felt that this was becoming a trend where someone would go to just one person, and they would make the decision instead of it coming before the Commission.

Dr. Pfeiffer asked why they went to the Mayor directly to which Mr. Formwalt responded "to bypass us."

Mr. Rooks asked the Commission if they wanted to do something like a letter [stating the Commission's concerns regarding Mayoral Certifications] that they could provide to the Councilmembers to make it more formal. Mr. Plauche stated he would prefer to have it more formal to be on record. Mr. Rooks agreed and stated that this was where they were going down the slippery slope.

Mr. McDaniel stated that this was taking of trees out of the public right-of-way without any voice given to the Commission and no mitigation for the loss of the trees, and he compared it to the application for tree removal for a private development, stating that they are having to mitigate, but with the stroke of a pen the Mayor is escaping that for the Village of Spring Hill.

Dr. Pfeiffer stated that "there is no urgency, there is no public hazard. It is circumscribing. This is what our jurisdiction is – the right-of-way. We can advocate that to the Mayor – or why even meet? We are not going to plant any trees in the right-of-way, we have already established that... we are not going to

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plant any trees in the right-of-way ever again. All we are here about is just taking them down, and he can do that.”

Mr. Rooks stated that each of the members is there representing a Councilmember; Commission members are there on their behest. He asked how the Commission would go about preparing the formal letter - if it was something the Commission members would put together or if it was something staff would help them with? Mr. Hoffman stated that staff could help and make sure the letter was delivered.

Mr. Formwalt stated that the Council members that are not in that area probably have not seen the plan. Mr. Rooks then stated that when he meets with his Councilperson, he will advise her that when she looked at the track record of the Commission, and with sidewalks in particular, when the city comes before them she could tell that they know what the Commission’s expectations were and they had done their due diligence and may have even walked the project with the City’s Forestry Coordinator, Peter Toler. Mr. Toler stated that he had not walked this project, but he believed his predecessor had. Mr. Rooks responded that the Commission then had no idea how much effort really went into looking at the project.

Mr. Rooks stated that he did not know if they really needed a motion or not, to which Mr. Plauche stated that he thought a motion was needed. Mr. McDaniel stated that he felt both were correct – that in this type situation the Commission did not really have any say, which leads to the shared concern that they were seeing this type of action too often, and it gave him great pause – especially representing District 2 and knowing the number of trees there that pose a hazard to the sidewalks. So, he guessed any tree in the right-of-way could be cut down without anything being said to the Commission, and therefore he was happy to draft or circulate a letter .

Dr. Pfeiffer asked if according to law they were supposed to approve this, to which a couple of members said no – it was not an application. He then questioned whether the Commission had to do anything. Mr. Formwalt stated no, we do not do anything. Mr. Rooks stated that he thought the code said they had to approve it, and Mr. Hoffman quoted the code by saying the Commission “shall approve” it.

Dr. Pfeiffer said he was not going to approve it, and he thought the Commission should not approve it. He went on to say they should have a motion passed to not approve this and if they want to kick them off, then fine.

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There was discussion about a previous certification and that they had approved it but tweaked the language. Mr. Rooks asked if it should be heldover for a month. Dr. Pfeiffer said just do not approve it. Mr. Plauche asked if someone would make a motion about the letter and the certification.

Dr. Pfeiffer made a motion to not approve the removal of the trees. Mr Plauche seconded the motion. Dr. Pfeiffer again stated do not approve it and went on to say he did not care what the law said. Mr. Formwalt said this would go on record as not approving it.

Mr. McDaniel stated that as a point of order he was trying to find where the code said "Shall Approve." Mr. Hoffman directed him to the correct page. Mr. Rooks stated that sadly this was not the first one the Commission had done. Dr. Pfeiffer stated that Mr. Hoffman was right, that was what the code said.

Mr. Rooks asked if it could be addressed by saying while the body itself must approve it, everyone voting disapproved of it. Dr. Pfeiffer again stated that he was not going to approve it.

There was some vague discussion. Mr. Plauche stated there was a motion and a second. There was a question about appeals at which time Mr. McDaniel read the appeal statement from the code, and therefore he felt they could all sign a letter of appeal. Mr. Rooks stated that he did not think they had a choice but to approve it. He said that even if they don't approve it, it is going to be approved, and it will have the Tree Commission's name on it that it is approved anyway. There was discussion about not voting on it.

Mr. McDaniel stated that if you read the code like a judge, and it says "shall approve," that means the Commission must take action. Mr. Plauche stated that to him that means shall not approve also – they shall have the decision to approve or not.

Ms. Watkins, Secretary II in Planning & Zoning, mentioned the previous case where the letter was worded somehow that while the permit was approved, Commission members did not necessarily agree with it.

Mr. Plauche asked if the Commission actually had to go through the action of approving it, to which Mr. Hoffman responded yes.

Mr. Rooks asked what would happen if there was a motion to approve but every member dissented. A member stated that it would be denied because the motion failed.

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Dr Pfeiffer said it is not about the trees; it is the principle.

Mr. McDaniel agreed, and stated that the City or the Community should be submitting an application to the Commission.

Mr. Rooks stated that there was a motion on the table. Mr. Plauche reiterated that there was a motion on the table to not approve, unless there was more discussion they should vote on the motion and the question was called. They motion passed unanimously.

Mr. Plauche asked that Mr. Hoffman help draft the letter for the Commission to send to the Council.

Mr. Rooks reiterated that the Commission has been very supportive of the Village of Spring Hill and of sidewalk projects throughout the city.

Mr. Hoffman reminded the Commission of an email Mr. Olsen sent earlier in the afternoon that stated, in part, that Councilperson Daves had asked to Mayor to consider the project for certification. Mr. Rooks responded that that was the concern – Councilmembers having a direct path, anytime they have a sidewalk or anything that is not in agreement with the Commission, to go around them.

ADJOURNMENT:

With no further business before the Commission, the meeting was adjourned at 5:27 P.M.