
URBAN FORESTRY COMMISSION
Meeting Minutes
January 15, 2014
Lovejoy Room, City Hall

- Commission Members present:** Mark Bello, Kris Day, Brian French, Barbara Hollenbeck, Stephen Peacock, Joe Poracsky, and Chair Meryl Redisch
- Commission Members absent:** David Diaz, Ex-officio Lola Gailey, Ricardo Moreno, and Secretary Catherine Mushel
- City Staff present:** Chief Deputy City Attorney Harry Auerbach and Deputy City Attorney Tony Garcia; City Forester Jenn Cairo, and Commission Clerk Anne Kroma, Parks & Recreation (PP&R)
- Guests present:** Jennifer Karps and Emily Percival, Bureau of Environmental Services (BES); Gregg Everhart; Ruth Williams of Davey Resources
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Call to Order and Public Comments: Chair Meryl Redisch called the January 15, 2015 Urban Forestry Commission (UFC) meeting to order at 8:07 am. She welcomed everyone to the first commission meeting of 2015; noting no one signed up to make general comments.

Review of December UFC minutes: Chair Meryl Redisch requested a quick review of the December draft minutes, containing some provided corrections. Two additional changes were requested. Barbara Hollenbeck moved to approve the minutes as amended. Mark Bello seconded the motion and the December 2014 minutes were approved unanimously.

The Urban Forestry Report - City Forester Jenn Cairo

City Forester Jenn Cairo reported first on the upcoming budget, characterizing it as not much of a change from the current one with no reductions expected. The three one-time requests made by Urban Forestry (for an Arborist I and an Arborist III to do proactive work on Parks trees, an Education & Outreach Supervisor, and additional temporary staff to work on the Urban Forestry Management Plan Update) were not included going forward in the budget process. There will be a scheduled, budgeted position able to help with projects.

The third Parks BAC (Budget Advisory Committee) meeting will be held this evening.

Jenn Cairo continued by noting that the new tree code went into effect on January 2nd. There will need to be some tweaking, as expected. Jenn offered an example in which the details of construction root protection could be interpreted two different ways. CIP (Capital Improvement Projects) and other programmatic permits are not yet in the system.

Kris Day asked about the \$1200 mitigation cap and it was explained that both Commissioners Fritz and Novick were concerned about a situation in which ‘Helen Homeowner’ would find herself having to remove a tree and the resulting mitigation fees would be truly burdensome. The cap is currently a policy, but has not been written as an administrative rule. This item will be in the Monitoring Plan and under the review of the Oversight Committee. Chair Meryl Redisch asked about current feedback on this and the new tree code in general. Jenn Cairo replied that permit activity allows for the capture of some of this kind of data from the public, with phone surveys and community forums to follow.

City Forester Jenn Cairo reported that one new tree inspector had been hired, Charlie Carroll, leaving two more vacancies to fill. In the meantime, Urban Forestry may again be using part-time temporary inspectors, some of whom may be familiar from their volunteer tree work. The Education & Outreach Supervisor position does not exist at present. Originally three Tree Tech positions had been designated, but only two were budgeted. Natasha Lipai (in a part-time position) has been backing up the two hired Tree Techs, Joe Welliver and Mike Pina. They have settled into the Permit Center at the 1900 Building and have been extremely busy issuing Type A tree permits, answering incoming phone calls and dealing with emails.

City Forester Jenn Cairo pointed out that the monthly Urban Forestry Report now includes permit information on interagency work. Mark Bello requested a comparison to show the statistics in relationship to the same time period last year.

Jenn Cairo updated the UFC on the Oversight Committee: it has not met since the last UFC meeting. Commissioner Fritz is looking at adding more committee members (especially from under-represented groups) before the next Oversight Committee meeting.

Jenn Cairo announced that Anne Pressingtin had been selected as the code outreach consultant and she attended the first Oversight Committee meeting. Anne will be gathering brain-storming ideas from the general public in order to develop her work plan.

City Forester Jenn Cairo confirmed that Bryan Burch has resigned from the UF Commission, moving out of state to accept a wonderful job. A parting gift of a Phyllis Reynolds tree book was passed around to give UFC members a chance to express how much he will be missed. Bryan promises that he will return to celebrate Arbor Day in Portland.

The UFC Chair Report – Meryl Redisch

Chair Meryl Redisch echoed the sentiment that Bryan’s departure will be felt in many ways. She reminded everyone that Education & Outreach Committee Chair Catherine Mushel (out of town this month) will miss Bryan’s enthusiastic leadership for the Arbor celebration in April and may ask others to step up and help out.

UFC Calendar

Chair Meryl Redisch returned to last month's subject of a commission calendar with an example used previously by the UFC. Because the example was for April several years ago, one month filled an entire page and showed many Arbor events sponsored by partners. There was discussion about a different calendar format and how to make it as useful as possible. It was suggested that reoccurring events be placed in a box at the bottom and not be repeated each month. It was felt that the calendar should show either six months or a full year; that quarterly would not be as helpful.

Joe Poracsky was recognized to ask who would be expected to do the work of keeping the calendar updated. As a former UFC Chair, he has experience with how difficult it can be scheduling the next month's meeting, let alone receiving and compiling items to populate a twelve month planning document. Chair Meryl Redisch suggested that each month when the agenda is sent out and again when the draft minutes are distributed, commission members take the time to reply back to the commission clerk with calendar entries. Kris Day will send a calendar template to Anne Kroma for possible use.

UFC Administrative work

Nominations Protocol was next on the agenda under administrative work and UFC Chair Meryl Redisch explained that this document was needed to complete the by-laws, as well as to be used during the recruitment process. Commission members should always be looking for new volunteers – either to be commission members or committee members. With standardized terms, a descriptive document of the procedure could be helpful.

The Chair proposed that the By-Laws read that the Nominating and Recruitment Committee prepare a slate of officers for consideration by the full Commission and nominations for officers also be allowed to be made from the floor. This is the process used by the Parks Board. Discussion of this approach was lively, and included a recommendation from Mark Bello that nominations only be taken from the floor.

Chair Meryl Redisch stated that keeping in touch with qualified candidates until there is a vacancy needs to be a priority. Joe Poracsky agreed that ongoing communication with applicants is needed. He then summarized the process as the Nominations Committee making the first cut through interviews and coming up with a recommendation to the Commission Chair. The applicant recommendations are forwarded to respective City personnel including the Commissioner in Charge.

It was pointed out that there really are two processes: one for a planned replacement due to term completion, and another for an out-of-cycle vacancy, due to a resignation.

Suggestions for improving the process included more website information. Because UFC members who have completed their terms continue to serve until they are replaced, it can appear that there are no vacancies.

City Attorney Harry Auerbach reiterated how the processes for recruiting new commission members and electing commission officers has happened in the past. He offered other

options, reminding the Commission that it did have the authority to decide how to handle its internal business. A complete and documented process could help provide a consistent method, with less confusion each time a new member is needed.

UFC Chair Meryl Redisch reminded members that the commission has decided that it will elect officers each March. The position of Vice Chair has not been filled for several years. It is the agreed upon method of preparing for succession of a new Chair. Meryl Redisch agreed to serve as Chair for another year, if needed.

Old/New Business

Kris Day encouraged UFC members to pick up a copy of the Friends of Trees planting calendar she provided and plan to attend as many events as possible. By informing Kris, she will make sure the UFC member is recognized to give a couple minute recruitment speech.

The subject of rescheduling appeals came up again this month and City Forester Jenn Cairo requested a ruling by the full UFC or the Appeals Board on the matter. City Attorney Harry Auerbach suggested the Appeals Board make a recommendation to be voted on by the UFC. Once passed by the UFC, it (the approved appeal postponement decision) could then be added as an update to the Appeals Board Rules and Procedures document. Code prefers that an appeal be scheduled as soon as possible, but rescheduling more than once to accommodate an appellant can be a resource drain for Urban Forestry. Jenn Cairo reviewed the appeal scheduling process and cautioned that providing multiple postponements could also lead to them 'stacking up' on the calendar.

After a brief discussion, Appeals Board Chair Stephen Peacock moved to allow one postponement by the appellants of a scheduled appeal; any other postponement must be due to an emergency situation. Kris Day seconded the motion and it passed unanimously.

Mark Bello, Brian French and Joe Poracsky agreed to serve on the Appeals Board starting immediately.

Meryl Redisch moved to have Barbara Hollenbeck become Appeals Board Chair beginning March 1, 2015 when Stephen Peacock will have completed his term on the UFC and as Appeals Board Chair. Mark Bello seconded the motion and it was approved unanimously.

Chair Meryl Redisch adjourned the business meeting at 9:49 am.

The Appeals Board was called to order by Chair Stephen Peacock at 10:03 am.

Urban Forestry Appeals Board and City Staff in attendance: Chair Stephen Peacock, members Barbara Hollenbeck, Mark Bello, Brian French, and Joe Poracsky; Deputy City Attorney Tony Garcia, City Forester Jenn Cairo, Tree Inspectors Rick Faber and Jim Field, and Commission Hearings Clerk Anne Kroma.

20.40 Appeal at 2863 SE Ash St

Appellants Paul Spencer and his wife, Kimberly LaFever, were introduced to the Appeals Board members and given an overview of the appeal hearing process.

Tree Inspector Rick Faber provided a PowerPoint presentation showing photos of the two Western red cedars denied a removal permit. The photos showed some minor damage in the form of sidewalk lifting, but there are no current permits for sidewalk repair and records show the last root inspection was done in 2009. Rick felt the trees, although topped sometime in the past, would be able to be maintained in a safe condition until the next major sidewalk repair.

Rick Faber continued by describing these trees as two of the most prominent on the block. They do have poor structure from topping, but do not show significant decay and have good attachments. The current sidewalk is 6 feet wide and could be cut down to 4.5 feet to allow the crowded trees more room. The sewer repair was completed without viewing the condition of the roots, so there is no way to know if root pruning would be possible or advisable. It is suggested that the sidewalk be maintained until the next repair and a root inspection be called for at that time.

Paul Spencer expressed his thanks for the opportunity to appeal the denied removal permit. He stated that he and his wife like trees, but these are not the right trees. He feels that there is a huge liability risk and that a complete failure would mean the tall trees would fall onto the houses across the street. He feels that the trees are clearly diseased and doesn't want to wait for additional sidewalk damage to remove the trees and replace them with Friends of Trees recommended species. He believes that the tree roots have done significant damage to the sewer in the past.

Brian French asked about the tree inspection and possible removal process in connection with a sidewalk repair. Rick Faber explained that when a sidewalk is broken up and removed for repair, a root inspection can be done. The inspection would show that the lifting was not from root issues (resulting in a denied tree removal permit), that root pruning should solve the sidewalk issues without adversely affecting the tree (resulting in a root pruning permit being issued), or that root pruning would probably affect the tree's viability (and offer a valid reason for a removal permit to be issued).

Paul Spencer stated that he and his wife bought the property in 2010. Records show that in 2006 the sidewalk was cited but no permit was obtained to fix it. In 2009 the sewer was repaired but the roots were not inspected. They have felt concern since the last big storm, but haven't yet had maintenance done on the trees. Brian French did not make a site visit, but as a certified tree risk assessor, his opinion is that they show a very common structure and a lot of adaptive tissue, a good response to the topping. The crown defects have been identified and standard maintenance should be adequate for safety.

Joe Poracsky asked if the water main was currently leaking, possibly indicated from the water bill. He explained that tree roots grow to leaking pipes and don't cause the pipes to leak. The tree has responded to damage appropriately, but may not be very attractive.

Mark Bello asked why the copy of the Arborist's Report provided by Paul Spencer stated that the foreseeable danger may not be 'fully alleviated' by remedial treatment or pruning. Rick Faber disagreed and felt the crossing or rubbing limbs could be selectively pruned and the suggested moderate crown reduction would not harm the tree.

Barbara Hollenbeck moved to deny the appeal at this time. Mark Bello seconded it and the appeal was denied unanimously.

Deputy City Attorney Harry Auerbach clarified that the Appeals Board has chosen to use the appeal criterion of the code in effect when the appeal application was received. The new code does not allow the option of appealing to City Council, only to Circuit Court.

As to Paul Spencer's question of who is liable if a limb falls on a car, Harry declined to give legal advice, but reminded everyone that the adjacent property owner is required to maintain the trees in the Right of Way. Mr. Spencer was advised that his next step would be to seek private legal advice in deciding whether to file with the Circuit Court. He could then make a public records request to Parks and file for a writ of review. It was suggested that obtaining a second arborist's opinion regarding pruning might be helpful.

20.40 Appeal at 4945 NE 35th Ave

Chair Stephen Peacock started the second appeal of this session at 10:36 am. The appellants, Kathleen Concannon and Larry Hopkins, had heard the introductions and appeals process overview.

Inspector Jim Field gave a PowerPoint presentation showing that the two sweet gum trees did not meet the code criteria of dead, diseased or dying at the time of the inspection. A Google Map photo shows the trees in summer in relation to the solar panel on the roof.

Jim continued by explaining that records show root pruning during a 2011 sidewalk repair, that retained the radius at six feet without ramping. The driveway and sidewalk were also repaired together some time in the past, but there are no permits to show when. The sewer repair was needed due to the age of the pipes and not root damage. When the sewer line is sleeved, the northern of the two trees might need to be removed at that time.

Jim Field provided the Appeals Board with a solar evaluation report, Insolation Analysis by Jackson Voelkel 10/6/14, which showed the difference in energy produced with the requested trees removed would be the equivalent of a 60 watt lightbulb burning for 77 to 106 minutes (average to sunny weather) per day. The appellants were not aware the study had been commissioned and provided no documentation of contrary findings.

Kathleen Concannon stated that they were not against trees. They planted and cared for these and other trees with pruning every few years by Arborist Joe Harrity of Harrity Tree Specialists. They would like to remove the sweet gums and replant with what they feel would be a more appropriate type of street tree.

Kathleen Concannon and Larry Hopkins continued by reporting they had replaced the sidewalk three times – just after purchase in the 80’s, in 2001, and again in 2011. They feel that the continued repair of the sidewalk and an impending rock wall repair is a financial burden. They pointed out that you may run into 100 year old sidewalks in parts of town where there are not street trees. They also point out that these sweet gum trees are not fully mature and they believe the trees could double in height. The appellants added that solar panels are part of the sustainable energy goals of the City. It was stated that the Concordia Neighborhood Association supports their request for removal, but there was nothing provided in writing to that effect.

Mark Bello asked if there was a policy regarding the number of times healthy trees can lift the sidewalk, to the point of repairs, before the City deems it excessive. City Forester Jenn Cairo stated that point is when there have been two documented repairs within ten years with alternate methods. So if the second sidewalk repair in ten years has been attempted with cutouts, narrowing the width, using pavers, rubber sidewalk or other methods and they have not succeeded, a removal permit would be issued after review of those documented repairs and related costs.

Brian French asked whether the Appeals Board is under the requirement to only consider the criteria used by the inspector – dead, diseased or dying. Chief Deputy Harry Auerbach explained that the regulations under 20.40 restrict the inspectors but allow the City Forester complete discretion regarding street trees, with subsequent review by the Urban Forestry Commission or its designated Appeal Board committee.

Joe Poracsky pointed out that in this case there have been three sidewalk repairs in thirty years from a species of tree that was previously encouraged but are not currently considered satisfactory for a street tree. His opinion is to allow the removal of the trees.

Barbara Hollenbeck asked if low branch pruning had been tried to increase solar access. Kathleen Concannon responded that they have had the trees pruned as needed to maintain them. They feel that their personal investment and the state and federal government’s encouragement of solar energy should be taken into consideration.

Mark Bello felt this was more an issue of this species and sidewalk damage, since any tree could potentially cause some kind of damage.

Joe Poracsky moved to grant the appeal and allow removal of both trees with the appellants working with the inspector to replant two trees. Brian French seconded the motion and it passed with 3 yes votes and 1 abstention.

The appeals Board adjourned at 11:05 am.