

Jacksonville Tree Commission
Meeting Minutes March 14, 2019
Approved April 11, 2019

Commissioners Present:	John Crescimbeni, Chair Curtis Hart, Vice Chair Rhodes Robinson John Pappas Aaron Glick Mike Robinson	Staff:	Cindy Chism
Advisors:	Susan Grandin, OGC Kathleen McGovern, City Arborist Joel Provenza, Accounting Richard Leon, Urban Forest Manager	Public:	Kevin Kuzel, ECA District 4 John November, Public Trust Joe Anderson, JEA Fred Pope, Public Works Leslie Pierpont, Late Bloomers Dave McDaniel, Public Works Jacob Caldwell Anastasia Caldwell

- A. Meeting was called to Order by Chair at 12:02 PM.
1. All present introduced themselves for the record.
 2. Submittal of Speaker's Cards.
 3. Motion made by Mr. Hart, seconded by Mr. R. Rhodes, for approval of minutes from February 14, 2019 meeting. None opposed.
 4. Fund balance and encumbrance report for 15(F), 15(N) and BJP (Attachment A) – Joel Provenza.
 5. Status of Pending Tree Projects including Levels 1 and 2 (Attachment B) – Kathleen McGovern.
 - a. The Level 2 list has not changed since the last meeting. The new Level 1 list is a printout of all CARE issues requesting a tree be planted in City right of way. CM Crescimbeni pointed out that some of the issues are from 2017. Mr. Leon said some of the older requests have been added to existing projects such as the Springfield planting project and/or the Riverside Avondale Preservation Releaf project. **Ms. McGovern said the requests will be inspected before the next meeting and the list will be updated.**
 - b. CM Crescimbeni asked about the issue from 2017 that requests replacement of trees in a median. Mr. Leon answered that some of these requests were entered before there was a process in place for routing them. CM Crescimbeni said that they need to be sure the legislation supports replacing trees in medians. Ms. Grandin said that she believes there was a discussion about allowing planting as far away as across the street. She will verify what is listed in the legislation. Mr. McDaniel pointed out that the Remove and Replace legislation would work in this instance. The Tree Commission has given the tools to the Mowing and Landscape Division to accomplish the tasks we have. CM Crescimbeni asked **Ms. Grandin to work with Public Works to ensure the boundaries are being observed of what's authorized by the ordinance. If other mechanisms are required, there will be a need to revise the legislation or create something else.**

6. Status of Countywide Tree Planting Contract – Dave McDaniel

- a. Mr. McDaniel said they received two bid tabs: one from Fernandina Mulch & Stone, LLC (doing business as Liberty Landscape Supply), and one from Davey Tree Expert Company. Each bid had three parts and Liberty Landscape Supply was low on all three. A discussion is scheduled with Mr. Pappas, Ms. McGovern and Mr. McDaniel to award all three parts to Liberty Landscape Supply. For 15 gallon and two inch trees, Liberty Landscape Supply's bid is lower than Davey Tree's across the board.
- b. CM Crescimbeni asked how Liberty's prices compared with the bids they submitted for the Mandarin and Springfield projects. Ms. McGovern said the prices were lower for the projects than for the Countywide Contract.

B. New Business

1. Committee on Unauthorized Tree Pruning/Removal (Attachment C)– M. Robinson

- a. 3.a. 656.1212(a) - Mr. Pappas asked, with regard to the suggested revision, how it could be tracked? How could they track the trees that are smaller than what requires mitigation? Is there anything that tracks trees saved as part of a previous permit? Mr. Hart said his company numbers every tree to be saved and notes it on the 10-Set. The information should be easy to track from that data, which carries over on the 17 Inspection. CM Crescimbeni pointed out that Mr. Hart develops residential; these requirements may or may not be applied to commercial property. Ms. Grandin said that if there is a mitigated tree on any property, one of the subcommittee's suggestions is to make that a protected tree, no matter what size. **Question for Mr. Goldsbury: Are commercial developers keeping records of mitigated trees and how are the records kept? Is there a way to check other than pulling the physical drawings and making site visits?**
- b. CM Crescimbeni asked Ms. Grandin if she believed the Ordinance Code was vague regarding this requirement and if the Charter Amendment specifically exempts single family homes. Ms. Grandin confirmed that the Charter Amendment does exempt single family homes; the Ordinance Code is the standard.
- c. Ms. Grandin pointed out that the 10 Sets are stored digitally, which should help with the research portion.
- d. 3.b.656.1203 - Mr. Hart asked the subcommittee if this also applies to any trees protected under a Planned Unit Development (PUD). Mr. M. Robinson said it was not considered. Mr. Glick pointed out that the ordinance said the PUD uses the language "consistent with Part 12." Ms. Grandin said "protected by PUD" should be added to the definition of protected trees.
- e. 4. through 7. - Fall under redefining "protected trees" as well as adding "conservation easements" under the definition.
- f. 8. is an addition – If a "protected tree" is removed by a homeowner, a \$25 fee is supposed to be charged but this rarely happens. Ms. Grandin suggested using the process to document the removal of the tree. There is no fee as long as the tree is diseased, dying, or an invasive species.

What are the criteria that arborists use to decide to eliminate trees? Mr. Leon asked if the City Arborist makes that determination. Mr. Hart said it is made by an arborist approved by the City. Mr. R. Robinson suggested that the designation of an affected tree must be made by a certified arborist. The City then does a follow-up. The determination is turned in to the Public Building Inspection Division when filing for their removal permit.

- g. 9. 656.1206(e) - Mr. M. Robinson said perhaps what Mr. R. Robinson is suggesting is part of this section's 14-point analysis which is more detailed and includes things like safety hazard to buildings, pedestrians, etc. Mr. Leon asked if trees planted as part of the initial development now have residents complaining about them being a hazard because of lifted sidewalks. These are private protected trees. Since they were planted at the development stage, does the hazard have to be the tree or as a result of the tree? Ms. Grandin said under exceptions, it is "any tree which poses imminent danger to public health, welfare or safety and requires immediate removal without delay." This probably pertains to a tree that is about to fall down. Not sure about heaving up sidewalks. **Question for Mr. Goldsbury: Is the 14 point analysis listed in 656.1206(e) being done?**
- h. 10. – The penalty for removing a tree should be based on an appraisal of the removed tree by a Certified Arborist. That is then approved or disapproved by a Hearing Officer so the penalty is commensurate with the offense.
- i. 11. – Over-pruning penalties should not be as great as removal penalties. However, in addition to penalties, there should be a plan in place for rehabilitation of the tree and future inspections.

Ms. Grandin pointed out items 10 and 11 (h. and i.) require a Hearing Officer as well as an Arborist that can perform tree evaluations. The standards for assigning a dollar value to a tree are not just based on the amount of inches and the cost of a tree that size. CM Crescimbeni said for tree evaluations a Special Magistrate would hear the case and the City Arborist would provide the cost estimate. The defendant would likely have his own arborist, possibly with a different opinion from the City's Arborist. The Magistrate must then determine which report is the most reliable. Mr. Pope offered another scenario: Once a violation has been established, a certified arborist with that skill-set would be pulled randomly from an existing list and sent to do the evaluation. The landowner is required to pay for the evaluation from the arborist. CM Crescimbeni agreed and asked Ms. Grandin to ensure no due process rights would be violated. Mr. Leon suggested a standard practice should be adopted. For instance, the Council of Tree and Landscape Appraisers have a method with a standard formula. Some numbers are somewhat subjective regarding health, but it would be a good idea to adopt official standards. CM Crescimbeni asked if all protected trees would be treated equally under these scenarios and if there is a difference between a protected tree versus one that was required to be planted as mitigation. Ms. Grandin said it is a policy decision if they change the definition of protected tree to include any tree planted as part of a requirement as mitigation, landscape code, a PUD, or with Tree Fund monies. Ms. Grandin added that in the case of over-pruning, a standard would have to be given to the Hearing Officer on whether the over-pruning was done intentionally or out of ignorance.

- j. 12. – Change drip line to root zone. Root zone is determined by 1.5 feet radius for every inch of diameter of tree.
- k. 13. – Barricades should be placed at the root zone. Mr. Pappas asked how we would know the bad health of a tree is due to root damage from years ago. Mr. M. Robinson replied it would require a site review after the fact and in most cases you can tell. Mr. Leon added that it happens frequently but you can't tell until the tree begins to fail. Ms. Grandin said that if the barricades are placed as suggested (at the root zone), this should help alleviate some of the damage.
- l. 14. – **Ms. Grandin will correct the formula (diameter or radius) and research what other cities are doing.**
- m. 15. & 16. – Liability will include the property owner and contractor.
- o. 17. – Is \$50,000 enough for clearing an acre with no permit? Mr. November added that Mr. Goldsbury requested this be the amount during mediation. Mr. Hart pointed out that if there were only four trees, ten inches each, \$50,000 is too much. Mr. R. Robinson added that if there is no way to prove what was there before, it's difficult to assess it; there needs to be a deterrent. **CM Crescimbeni asked the Commissioner's to review 656.1208(c)(4) (Attachment D).**
- p. 18. – Correct and make consistent throughout the ordinance(s) which standards are referenced, i.e, American National Standards for Tree Care Operations (ANSI).

C. Public Comment

Joe Anderson – I want the Tree Commission to see a copy of the permit JEA obtains for pruning within the City right-of-way (Attachment E). This document shows that JEA recognizes trees as part of infrastructure, and the authority of the City, for ownership and maintenance of those trees. This permit is obtained annually for routine cycle trimming and does not include capital improvement projects. It covers the contractor that works for JEA. Also provided is a JEA brochure which discusses utility pruning along the City right-of-way. 'Council Quarterly' (the Urban Forestry Council newsletter) contains an article about street soil volume that discusses suspended pavements.

Jacob Caldwell – Here on behalf of John Gory Building. We border Barr Street on College Street and Stockton Street. We are transitioning from a 100 year old school to a Condominium and there are some 90 year old trees on the City right-of-way and they would like to know how to maintain them. There are also questions about the maintenance of eight trees along College Street that were a gift from Mrs. Weaver. **Ms. McGovern will respond to Mr. Caldwell.**

John November – Pleased at the amount of effort the Tree Commission has put into this process. If a project is under \$100,000, does the Tree Commission have the option to waive the bond requirement? Ms. Grandin said they do have the option, per Florida Statute.

D. Action Items

Ms. McGovern said the requests will be inspected before the next meeting and the list will be updated.

Ms. Grandin will work with Public Works to ensure the boundaries are being observed of what's authorized by the Remove & Replace ordinance. If other mechanisms are required to replace trees in medians, they will revise the legislation or create something else.

Questions for Tom Goldsbury: Attachment C, items 3. and 9. What other entities are authorized for an annual pruning permit? Are commercial developers keeping records of mitigated trees and how are the records kept? Is there a way to check other than pulling the physical drawings and making site visits? : Is the 14 point analysis listed in 656.1206(e) being done?

Ms. Grandin will begin drafting changes to the Ordinance Code on items that are ready and do not require further discussion (everything except those questions for Tom Goldsbury and the root zone questions 10 – 14).

Ms. Grandin will review the Ordinance for street-scaping and change 'impervious' to 'pervious', especially on public plantings.

Ms. Grandin will correct the formula (diameter or radius) and research what other cities are doing.

Commissioner's please review the Level 3 application, instructions and grant agreement that was circulated. Prepare comments for discussion at the next meeting.

Ms. McGovern will respond to Mr. Caldwell.

E. Adjourned 1:32pm.