

Jacksonville Tree Commission
Wednesday December 15, 2021 – 9:30 AM
Approved February 16, 2022
Via Zoom Platform & In Person

**Commissioners
Present:**

Chris Flagg, Chair
Curtis Hart, Vice Chair
Mike Robinson
Rhodes Robinson
Susan Fraser
John Pappas
CM Ron Salem

Staff: Cindy Chism

Public: Joe Anderson, JEA
Kelly O’Leary, Liberty Landscape
Fred Pope, COJ
Todd Little, COJ
Mike Zaffaroni, Liberty Landscape
John November, Public Trust
Lisa Grubba, Greenscape
Dalton Smith, COJ
Colin Worth, City of Jacksonville Bch
Dave McDaniel, COJ
Tracey Arpen, Greenscape/Scenic Jax
CM Joyce Morgan, COJ
Ivey Henderson, COJ

Advisors:

Susan Grandin, OGC
Jose Regueiro, Finance
Richard Leon, Urban Forestry
Kathleen McGovern, City Arborist

1. **Call to Order** – Chair
2. **Roll Call and Verification of Quorum** – Cindy Chism
3. **Submittal of Speaker’s Cards** – Chair
 - a) A raised hand icon as well as waving at the screen will be acknowledged by Chair or Ms. Chism.
 - b) For those attending in person, paper speakers’ cards are available.
4. **Reports:**
 - a) Fund balance and encumbrance report for 15(F) (Ordinance Tree Fund), 15(N) (Charter Tree Fund) and BJP (Attachment A) – Joe Regueiro
 - i. The Tree Mitigation page has not yet updated. The tables are updated. Mr. Pappas pointed out the Financial system is still is flux.
 - b) Status of Pending Tree Projects (Attachment B) – Kathleen McGovern
 - c) Fund Status of 630-CITY, Remove & Replace and Level 2 Programs– Richard Leon
 - i. Funds available for 630-CITY \$996,594, Remove & Replace \$1,292,381, and Level 2 \$2,586,636.
5. **Action Items:**
 - a) CM Joyce Morgan
 - i. A constituent notified my office about Oak trees being cut down at Arlington Plaza. Public Works investigated and determined the oaks have been cut down. The owner wanted to replace them with Palm Trees. Mr. Flagg added there are penalties and mitigation efforts for something like this. Live Oak mitigation fees are among the highest. Mr. Pappas added the Planning Department is

involved with this. Mr. McDaniel continued, the owner has been issued a citation and will be advised of the mitigation costs. There was no pre-approved plan.

- ii. Mr. Flagg continued, unfortunately the damage has been done. Not sure there is a way to pre-empt that from happening. Mr. Pappas added the more eyes out there the better. Perhaps we could catch it earlier and get Planning out there to stop it.
- iii. CM Morgan added it is true so many people don't know the process for removing trees. Mr. Flagg suggested perhaps a local editorialist could point out what this owner has done for his community. If nothing else, expose the problem as much as possible.
- iv. CM Salem suggested some type of education for the public on what to do if you see trees being removed that you don't think should be. Mr. Pappas added with all the legislation which comes through allocating funds to plant, perhaps there should be a discussion on watching what's going on and steps to take of if they see something. A discussion on this will be continued later.
- v. Ms. Fraser pointed out it isn't about what you see; these people have big equipment, lots of people and couldn't care less what you say. If the tree removal companies are licensed in the City, the continuing education for that license has to be what the laws are. Most owners don't know what the laws are and rely on the contractor to tell them. If the contractor cuts down the tree with no permit or there is no mitigation plan that authorizes it, the fine should go to the contractor. This should stop the issue. If we wait for the citizen driving down the road to call, it's already too late. The contractor should be held accountable. The education should be directed to the contractors.

b) Approval of Minutes from November 17, 2021 meeting – Chair

- i. Mr. M. Robinson pointed out the minutes show him as being present at the meeting, he was not. Motion made by Mr. Hart to approved with correction, seconded by Mr. Pappas, none opposed.

c) Proposed Level 2 Project(s)

- i. Northbank Riverwalk Tree Planting Project (Attachment C) – Kathleen McGovern
 1. Presentation – A lot of the trees being utilized for this planting are palms due to their ability to with stand salt spray and were more resilient to storm damage.
 2. Public Comment – Mr. Pappas pointed out a dock is being proposed for the end of Jackson St. by the YMCA, make sure to coordinate. Ms. Fraser asked why the change was so drastic from the original Haskell submission and the current plan. Ms. McGovern responded after walking the site and seeing what survived and was continuing to thrive, that was why the change was made.
 3. Vote – Mr. Flagg has recused himself as his firm was involved in some of the planning for the Landscape Architecture (recusal form is on file). Mr. Hart made a motion to approve the project, seconded by Mr. M. Robinson, none opposed. Mr. Flagg abstained.
- ii. Jarboe Park Tree Planting Project (Attachment D) – Richard Leon
 1. Presentation – Mr. Colin Worth, City of Neptune Beach, where the trees are being planted is part of a multi-use path which will be part of the East Coast Greenway which will tie into the Florida Coast to Coast Trail which will bring the East Coast Greenway into downtown Jacksonville and out to the beach. Northbank Riverwalk will be the western edge of the trail and Jarboe Park

will be the eastern trailhead. A third of a mile of the East Coast Greenway goes through Jarboe Park. Though it looks as though we are planting trees in the road, we are not, the satellite image was taken before the current renovation was begun, what's on the ground is not reflected in the map provided in your packet,

2. Public Comment – Mr. November wanted to congratulate everyone on the collaborative effort.
 3. Vote – Mr. Hart made a motion to approve the project, seconded by Mr. Pappas, none opposed.
- iii. Columbia Parkway Retention Pond Tree Planting Project (Attachment E) – Todd Little
1. Presentation – This is a small project, only 29 trees requested by the residents through CM Becton's office to screen the industrial area and help filter some of the stormwater runoff. This will be a good project to show what a well planted retention pond can look like.
 2. Public Comment – Mr. Pappas asked if the project was coordinated with Right-of-Way Grounds Division. Mr. Little said they have spoken with the retention pond project inspector but would run it by that division. Mr. Tracey Arpen asked why we are spending \$1700 for Wax Myrtles which blow over easily, are very brittle and don't have a long-life expectancy instead of something like a Red Cedar, which costs the same and has a longer life expectancy. Mr. Little responded we are using a multi-layer approach utilizing smaller trees and shrubs. The project does have a 2-year warranty. Mr. Leon continued, we only have 2 options for warranties at this time: 3 months and 2 years. We felt the 3-month option was not enough time so some of that cost is the 2-year warranty. Our 1-year warranty contract is out for bid at this time. As for the choice of Wax Myrtles, we are limited for small understory native trees; we can only get what the nurseries produce. We are trying to use native as much as possible. Wax Myrtle is a very hardy tree and short of using Crepe Myrtles which account for 30% of our City's entire tree canopy, we are trying to find native alternatives. Mr. November pointed out that the wildlife love Wax Myrtles.
 3. Vote – Mr. Hart made a motion to approve the project, seconded by Mr. Pappas, none opposed.

6. Old Business

- a) Status of Level 3 Program Document Revisions - Deferred until January meeting

7. New Business

a) Elections

- i. Mr. Hart made a motion to keep things as they are, seconded by Mr. R. Robinson. Mr. Flagg asked for further discussion. Mr. Pappas agreed that Mr. Flagg as chair had done a great job, brought the Commission forward and brought up a lot of good subject matter to focus on and should continue. Mr. Flagg responded it is not single source, everyone contributes and is very conscientious.
- ii. Mr. Hart pointed out some of the Commissioner's terms will be up next year perhaps Mr. Flagg would like to consider some type of succession plan. Mr. Joe Anderson suggested setting up a Chair elect and Vice Chair elect who can work closely with the Chair and Vice Chair so there is a smooth transition. Mr. Hart does not want to move into the Chair position ever.

- iii. Ms. Grandin said if any Commissioner is interested in being re-appointed, please email or write a letter to the entity which appointed you, some were appointed by City Council and some by the Mayor's office (Rachel Zimmer), requesting reappointment. All Commissioner's need to send this if they would like reappointment and copy Ms. Grandin and Ms. Chism.
 - iv. The motion on the floor is for things to remain as they are. Mr. M. Robinson made a motion to amend the motion to submit his name as Vice Chair, seconded by CM Salem, none opposed.
- b) Discuss Increase percentage for Maintenance from Tree Fund – Susan Grandin**
- i. The Tree Fund monies can only be spent on planting trees and removing trees. For instance, using Tree Funds to pay for Plan-it Geo does not qualify because Plan-it Geo seems like a whole City type of item and doesn't have to do with trees, directly. Maintenance is not planting trees, what kind of maintenance is it really. Is it to extend the life of the tree or is it to trim the tree so buses don't hit it? To really discuss this, we need more data and analysis about what kind of maintenance is done on the trees.
 - ii. Mr. Arpen added the Judge in the original case said the Tree Mitigation Ordinance is a valid Ordinance, it is not a tax. It is sustainable because it said on its face you are collecting funds when someone cuts down a tree, a tree is planted using these funds which mitigates for the effect of the tree being removed. Anything you can't say is planting a tree weakens the Ordinance and makes it susceptible to challenge. Originally OGC was asked about using the funds for maintenance and the rationale at that time was you couldn't fund all of the maintenance with that but it's not extending the life of a tree. If there is a part of the maintenance that will extend the life of the tree to 30 years instead of 15 years, that's the same as planting a new 15 year tree. To protect the Ordinance from challenge there needs to be some evidence in the record to show what the existing money has been used for, how that extends the life of the tree and is it functionally equivalent to planting new trees. Without that, the Ordinance can be challenged.
 - iii. Mr. R. Robinson pointed out that short-term is what we are concerned with to get the tree established, long-term should be the City's responsibility. Determining the short-term data should be relatively easy.
 - iv. CM Salem asked Mr. McDaniel if the budgeted amount for this year was increased. Mr. McDaniel replied, it stayed the same as last year. Mr. Pappas continued, the Tree Fund then supplies 25% of the total budget to be used only for tree maintenance, not removal. Mr. November suggested increasing the overall budget that would then increase the dollar amount allocated from the Tree Fund without changing the actual percentage.
 - v. Mr. Leon said trees in an urban environment are affected by infrastructure issues, heat, pollution every bit of maintenance put into the tree will preserve the life of the tree including trimming, so the branches don't get hit by buses. It appears the courts are looking at an externality is created by deforesting and now we will mitigate it by planting trees. That's not an apples-to-apples comparison. We cannot make up for that just by planting trees. Trees are not set it and forget it. They are in an urban area; they get hit by cars, by buses, require watering and trimming. Just planting trees to offset the deforestation of the urban area is not enough, you have to maintain it as a whole.

- vi. Mr. Joe Anderson pointed out that the prices for the contracts to maintain the canopy are going up, the budget must be increased to meet that need. Minimize the risk win the public trust and get public support.
- vii. Mr. McDaniel added Ms. McGovern is compensated out of the Tree Fund and Todd was hired to assist her in checking the thousands of trees being planted. Part of maintaining those trees is checking to make sure there are live trees at the end of the warranty period. City Council is telling us spend the money, make the volume put the trees in the ground. For us to properly protect the City we need to be able to monitor and maintain those trees at the end of a project. Mr. Pappas suggested that a definition of what maintenance is exactly.
- viii. Mr. M. Robinson agreed with all comments adding that trees aren't set it and forget it especially when young and in an urban environment. So far thousands of trees have planted with these programs and the maintenance funds have not increased for the younger trees.
- ix. Ms. Fraser asked if there was data on what kind of tree maintenance has been done so the Commission can divide it up into this is clearly not compensable and this is. It would be helpful to see what exactly is done. Mr. McDaniel said the 25% from the Tree Fund goes into it's own purchase order and is not intermingled with the general funds. What it is used for is trimming, there is no fertilization. Ms. Fraser continued, the tree mitigation fee a developer pays is based on the cost to purchase a tree. It is not based on the cost to purchase a tree and provide urban maintenance. If we are saying it is supposed to be a one for one exchange is the payment reflective of that.
- x. Mr. Arpen said it is not enough to say all the 25% set aside is used for tree trimming. You must show the tree trimming is the equivalent of planting a new tree. It's not to make it pretty or remove low branches. You must be able to show you are extending the lift of the tree with the trimming. The Ordinance has been stretched pretty far, i.e., the 25% for maintenance and the salary of the City Arborist, anymore and there is a risk of challenge and all funds except tree planting turned off. Mr. Hart asked if Mr. Regueiro could find out how much has been contributed to the Tree Mitigation fund from the beginning.
- xi. Mr. November suggested Mr. McDaniel and his team define exactly what type of tree trimming the Tree Funds would be used for to further the life of the tree. That alleviate any accusation of conflict.
- xii. Ms. Grandin suggested further data and analysis be done and discussed further at the next meeting. Mr. Pappas asked if the Urban Forestry team could define what maintenance is on a tree. Mr. McDaniel suggested Mr. Leon research other studies about what constitutes tree maintenance in other parts of the country. Mr. Pappas continued and then generate a "laundry list" and that can then be discussed at the Commission. Mr. Hart reminded the Commission about stretching the Ordinance until it breaks, just must be willing to pay the price. Mr. Pappas continued; we can use those parameters to define our discussion.
- xiii. Mr. Flagg asked if there was a category in the financial reports for the maintenance funds? Mr. McDaniel added we could certainly supply it. Mr. Flagg continued, then the question is how effective those dollars are extending the life of a tree. Mr. McDaniel suggested there is probably a study which correlates the life of the tree to roadway trimming. There is selective trimming i.e., a

specific limb will be designated for removal because it keeps getting hit by the garbage truck and is allowing pests to invade the tree. Mr. Leon said because we have all of these externalities such as buildings and pedestrians so every bit of maintenance we do to the tree prolongs the life of the tree because it's trying to existing around the constraints we have put it in. Essentially what does mitigation mean; it's not remove a tree, plant a tree. The mitigation is not for the tree per se, it's for the services the tree provides.

c) Urban Forestry Funding – Richard Leon

- i. Unless a citizen calls 630-CITY or a group sends a request, Public Works has no funding to just plant trees where we see the need. The Urban Forestry program is relatively constrained there is no funding to do projects at our discretion where we see a need. Ms. Fraser and Mr. Flagg both remarked on the previous discussion if the Tree Commission has discretion to generate projects as a body; be more aggressive in creating a master tree planting plan, using the maps which show the deficiencies.
- ii. Ms. Grandin reminded the Tree Commission about the priority list which was in the by-laws. It hasn't been necessary so far however that could be utilized for Commission generated projects. Mr. Flagg continued, perhaps working with Council District representatives to determine where the deficiencies are and then set up the priority list and then appropriate the funds. Mr. Pappas said it still would have to go through MBRC but could be allocated just like the current programs only driven by the Commission and fed by the Urban Forestry group.
- iii. Ms. Fraser added, the Commission could select a priority for that year, i.e., we are going to spend \$5 million on retention ponds that year. The list can be project based, geographic based, or socio-economic based, we can set it any way we want for that year, include Council representative input and direct the staff.
- iv. Mr. Leon continued if I'm driving down a street and see a median in which 5 trees could be added, there is no way for me to get those trees planted. Ms. Grandin suggested developing a priority list first. Ms. Fraser continued if Staff generated a priority list, bring it to the Commission and they will discuss and adjust it. Then it can be prioritized and defended. Mr. Pope asked why can't Level 2 include Staff generated projects? Ms. Grandin said it would take legislation to change the appropriation. Mr. Leon said in the past there was a Countywide Tree Planting funds generated by legislation.
- v. Mr. Pappas was hoping for something simple for the Urban Forestry team to recommend planting trees. Ms. Grandin said yes another program can be designed but there would have to be legislation to get the funding. There is no means for small projects without having to come before the Commission, then MBRC and then wait 2 months. Ms. Grandin suggested a workshop to discuss the concept further.

d) Tree Commission Scope of Work – Richard Leon

- i. Deferred until next meeting.

e) 2022 Meeting Schedule – Cindy Chism

- i. The January meeting, due to the MLK Holiday, falls on Committee week and many people will be unable to attend. The meeting will be rescheduled for the 12th at the same time in the morning but will be a hybrid workshop.

8. Public Comment –

- a) Mr. Flagg presented Mr. Pope a portrait he had done for Mr. Pope's retirement. Mr. Pappas added Mr. Pope was instrumental in setting up the Tree Mitigation Ordinance. His many years of service have been greatly appreciated.
- b) Mr. John November, Public Trust - would like to discuss the Level 3 document revisions at the workshop or schedule another one.
- c) Mr. Tracey Arpen, Scenic Jax – since 1999 FDOT has been required to set aside up to 1.5% of the cost of each project to be used in Landscaping that project on State Roads. There is a bill pending in the Florida House which strikes the language completely. They have already gotten the legislation requiring them to comply with local tree ordinances stricken. If they get this one passed there would be no requirement for FDOT to do any landscape on any roads in the State of Florida. I bring before you a proposal to be signed by the Tree Commission a resolution opposing the passage of the bill. Mr. Hart made a motion to approve the resolution, seconded by Mr. M. Robinson; none opposed.
- d) Mr. Joe Anderson, JEA – The publication provided, The Council Quarterly from the Urban Forestry Council discusses S.O.A.P. (professional Staff, enforceable tree Ordinances, active citizen Advocacy and an urban forestry Plan). On the back is an illustration of how succession is handled by the Council.

- 9. Adjournment –** the next meeting is scheduled for Wednesday, January 19*, 2022 at 9:30am and will be a Hybrid/Zoom meeting in Ed Ball Building, 10th Floor, Public Works Office, conference room 5.