

CHATHAM BOROUGH SHADE TREE COMMISSION
SPECIAL MEETING

Monday, November 1, 2016

7:30 p.m.

Chairman Patrick Carroll called this Special Meeting of the Chatham Shade Tree Commission to order at 7:30 p.m., Room 301, upper level, Chatham Municipal Building. The Open Public Meetings Act was read aloud.

Name	Present	Absent
Patrick Carroll (Chrmn.)	X	
John Barton	X	
Fran Drew	X	
Colleen Truppo	X – arrived at 7:33 p.m.	
Ken Fekete		X
Christopher Jadro	X – arrived at 7:35 p.m.	
Kristy Chmura	X	
Dean Wilson	X	
Tony Torello		X
Council Member James Collander		X
Liz Holler, Rec. Sec.	X	

Public Comment

There was none.

Vice Chairman's Responsibilities – Mr. Barton

Since he will be leaving the Commission at the end of this year, Mr. Barton reviewed what duties he has taken care of as Vice Chairman of the Shade Tree Commission.

Mr. Barton explained how the Shade Tree Annual Report is organized, as well as the Tree City USA application process.

Mr. Jadro agreed to take on these two annual filings for the Commission. Mr. Barton gave Mr. Jadro the log-in information he will need.

PENDING BUSINESS

Discussion about possible revisions to the Shade Tree Ordinance – F. Drew/K. Chmura

Ms. Chmura noted that Commissioners have received by e-mail a copy of the draft of the proposed tree ordinance. Hard copies have been distributed to Commissioners at tonight's meeting. Ms. Chmura said if the Commissioners were in agreement with this draft, the Commission can then present it to the Borough Council.

Mrs. Drew reported that she and Ms. Chmura had read five tree ordinances from other towns – Maplewood, Summit, Montclair, Millburn, Jackson. All of these ordinances are legal and have been in effect for over 35 years. Most of the material for this draft ordinance has been taken from the Maplewood tree ordinance, since Mrs. Drew and Ms. Chmura had wanted to separate public trees from private trees. Mrs. Drew recalled that matter was raised by Commissioners last year. Language from the Summit tree ordinance has been included.

On page 3 of the draft ordinance, Mrs. Drew explained the amendments she is proposing for violations and penalties. The Summit ordinance had specified that the penalty fee should not exceed \$1250. The current Chatham ordinance specifies \$1500. The revised language will include many of the suggestions made by Mrs. Truppo, Mr. Jadro, and Ms. Chmura.

Chrmn. Carroll stated he appreciated all the hard work Mrs. Drew and her subcommittee; however, he would like to break the draft ordinances down in pieces to review. He questioned whether the *entire* Commission wanted to try and manage private trees. Chrmn. Carroll had concerns about the appeal process described in the draft ordinance. The Commission would have to hold additional meetings to deal with appeals.

Mrs. Drew pointed out that John Linson, the arborist for Summit, inspects the trees who have permits taken out on them. Mr. Linson would make the decisions on tree removals. He would be the enforcer.

Chrmn. Carroll pointed out that if Mr. Linson were to deny an application to remove a tree, an appeals process by the denied resident may begin. Chrmn. Carroll noted that the draft ordinance specifies that the Commission must hear the appeal 45 days after the notice of the appeal. That would mean that the Commission would have to meet more often than their usual meeting every other month.

Mrs. Drew answered that this number of days could be changed.

Chrmn. Carroll felt that the homeowners would not be happy with a 45 or 60 day waiting period. He felt that the Shade Tree Commission is not prepared to meet on a more frequent basis.

Mrs. Drew noted that among all the surrounding towns that had been reviewed, all of these towns have ordinances with regard to public and private trees. Mrs. Drew pointed out that she has seen residents take down neighborhood trees on private property. She felt this draft ordinance was worth trying. This ordinance is legal in other towns.

Chrmn. Carroll said it was legal; however, that doesn't mean the town *wants* to do it.

Mrs. Drew pointed out that the town can vote on whether or not they want it.

Chrmn. Carroll stated that the way the voting would work is that any change to an ordinance has to be presented to the Borough Council and voted on during the same year. Even if a presentation was made to the Council this year, it could not be voted on in 2016 in a timely manner.

Mrs. Drew felt that the Commission should take a vote on whether or not this draft ordinance is reasonable.

Chrmn. Carroll brought up an example that a homeowner may want to take down a tree with limbs that he feels are dangerously close to his child's bedroom. And Mr. Linson informs this resident that this particular tree is healthy, and not a problem. Should the homeowner still be allowed to remove the tree?

Mrs. Drew said she would question how that child was being treated, and what the child is being taught.

Mr. Wilson suggested tabling the section on private trees, and vote on the public tree portion of the ordinance.

Mrs. Drew didn't agree with that suggestion. She just would like the Commissioners to vote on the draft ordinance one way or the other.

Ms. Chmura stressed that this ordinance is not to prevent residents from ever taking a tree down on their property. It is just to make the resident think twice before they remove a tree. Unfortunately, after Hurricane Sandy, residents have been afraid of their trees falling. Ms. Chmura said it was the Commission's job to re-educate people on how to properly care for their trees. Mrs. Drew added that the ordinance will help educate people to realize the value of trees in general.

Mrs. Truppo noted that the Commission could vote on this draft ordinance tonight. She asked even if a vote was not taken, could it still be given as a presentation to the Mayor and Borough Council?

Mrs. Drew felt that the Council Members were not aware that surrounding towns have this type of ordinance in place. She reiterated Ms. Chmura's point that the ordinance will encourage residents to stop and think of the value of their neighborhood trees. She has seen residents that have removed trees on their properties and then move away shortly afterwards.

Chrmn. Carroll noted that there are currently three ordinances in the Borough which pertain to trees.

Mrs. Drew pointed out that no penalties have ever been imposed for tree removals with those particular ordinances. That was why Mayor Harris had asked the Commission to come up with a suitable ordinance.

Chrmn. Carroll clarified that the Commission's job has to do with public trees.

Mr. Wilson felt that the Commission was pretty much in agreement on the language for public trees. He suggested separate votes be taken on the public trees and private trees. The vote on the public trees could be taken tonight. Private trees could be discussed further.

Mrs. Drew wanted the entire ordinance to be voted on. If it is defeated, someone else can attempt to write it.

Chrmn. Carroll clarified that Borough Attorney Lott will be writing the ordinance.

Mrs. Drew pointed out that the ordinance was a proposal. She recalled that Council Member Collander had offered to take the proposed ordinance to Attorney Lott.

Chrmn. Carroll reviewed how a presentation is done for the Mayor and Borough Council. If the Commission wants to present this ordinance, they would have to ask the Mayor. The Mayor sets the Borough Council Meeting agendas.

Mr. Jadro felt there were a number of conflicts going on right now with this ordinance. He pointed out that the Commission really wouldn't want to present it to the Mayor and Borough Council, at this point, and have it totally fail.

Chrmn. Carroll noted that Atty. Lott, Borough Engineer DeNave, and Attorney Lott have a list of definitions that need specific language.

Mr. Jadro suggested that the Commission consider giving a bullet-point term sheet to the Mayor and Council.

Mrs. Drew still wanted to present this draft ordinance to the Mayor and Borough Council, informing them that this is the data the Commission has found based on other towns.

Chrmn. Carroll reiterated that Attorney Lott and the other want solid definitions in the ordinance. He reminded Mrs. Drew that there are alternative views among the Commissioners on this proposed ordinance.

Mr. Jadro asked what is the difference between the language in the present ordinance about public trees and the language in the draft ordinance.

Mrs. Drew answered, that according to Attorney Lott, the reason no penalty fees were ever imposed in the Borough was because the Borough tree ordinance is in conflict with the land management ordinance. Even though Attorney Lott had been given that job to correct that situation in 2012 and 2013, he never did. That is why Mayor Harris asked Mrs. Drew to serve on the Shade Tree Commission and help create a new tree ordinance.

Mrs. Drew continued saying a subcommittee was then formed with her, Marc Boisclair, and then Council Member Alida Kass. An ordinance based on the Jackson Twp. tree ordinance was worked on; however, at the very end Mr. Boisclair and Council Member Kass stated that they didn't agree with anything.

Chrmn. Carroll noted that the Commission has never been challenged on the removal of a public tree. As far as he could ascertain, the public tree ordinance has worked for years. Chrmn. Carroll noted that if a tree needs to be taken down for

construction reasons, Vince DeNave, the Borough Engineer, would be the one to consider it. No issues over the years have arisen over the years concerning public trees. Private trees have been an issue.

Chrmn. Carroll reviewed what the Commission would have to accomplish to have an agreed-upon draft ordinance presented to the Mayor and Council, according to the Borough Clerk. It all must be done during the same calendar year.

Chrmn. Carroll gave a suggestion regarding the idea of having an appeals committee for denied tree permits. Perhaps the Chairman of the Shade Tree, the Borough Engineer, and the Borough Administrator could serve as an appeals committee of sorts to listen to residents who are questioning their denial. Chrmn. Carroll felt it would be difficult for the whole Commission to gather and respond to an appeal.

Mrs. Truppo said she was open to having reasonable people listening to an appeal.

Mrs. Drew noted that she had visited Ms. Bennett's public tree situation recently on Oliver Street. She pointed out that no one approaches the Shade Tree Commission regarding a private tree, because it is a free-for-all. Mrs. Drew urged that some guidance and encouragement should be established to save trees, or else why is there a Shade Tree Commission?

Chrmn. Carroll pointed out that the Shade Tree Commission is set up to manage public trees.

Mrs. Drew felt the neighborhood trees should also be protected.

Mrs. Truppo and Chrmn. Carroll suggested that at this point a motion be made and seconded about what action the Commission should take regarding this draft ordinance.

Mrs. Drew made a motion to vote on this draft tree ordinance as a possible presentation for discussion before the Mayor and Borough Council. Ms. Chmura seconded the motion.

Chrmn. Carroll asked if a slot on the Borough Council Agenda should be asked for to hold a discussion on this proposed ordinance.

Mrs. Drew answered yes.

Chrmn. Carroll confirmed with Mrs. Drew that she understood that Mayor Harris has the authority to set the agenda for Borough Council meetings.

After further discussion, Chrmn. Carroll and Mrs. Truppo discussed the possibility of first approaching Council Member Collander, the Shade Tree Commission Liaison, about the Commission presenting this draft ordinance to the Borough Council. If this discussion is denied a place on the Borough Council agenda, it could be brought up during Public Comment.

Mrs. Truppo suggested the motion be amended to say that the Commission agrees on this draft ordinance, and would like to further its discussion with its Council Liaison in preparation to its presentation to the Borough Council.

Mrs. Drew made a motion to bring the current proposed tree ordinance to Council Member Collander for his review and see if it can be brought before the Mayor and Borough Council. Ms. Chmura seconded the motion.

Commissioners discussed what meeting this proposed ordinance might be scheduled for as a Borough Council discussion item. Chrmn. Carroll felt the earliest time this draft ordinance could be presented to the Mayor and Borough Council would possibly be the second Borough Council meeting of the new year.

Mrs. Drew offered to touch base with Council Member Collander to see what dates would be convenient to meet with and discuss this draft ordinance. Mrs. Truppo will join Mrs. Drew in this discussion with Council Member Collander, if the rest of the Commission approved.

A hand vote was taken on having Mrs. Drew and Mrs. Truppo asking Council Member Collander for a convenient date to meet to discuss the proposed tree ordinance. All Commissioners present voted aye.

Miscellaneous

Mrs. Drew discussed the recent Shade Tree Federation convention. She distributed and some of the interesting material she had obtained.

Of particular note, Mrs. Drew showed photos of what BPU has done to trees that they have trimmed in their right-of-way. She reviewed the discussions held concerning trees and transmission lines. Mrs. Drew also reported that an excellent presentation was given by a gentleman from Rutgers University on the value of urban trees being good for mental health.

Ms. Chmura thanked Mrs. Drew for her presentation. She noted that many of her neighbors have been upset about the ugly trimming that BPU has done to trees.

Mrs. Drew pointed out to Chrmn. Carroll that a BPU representative has never gone before the Borough Council before BPU trims the trees in Chatham. Also, BPU has never answered any of the questions that she has submitted to them.

Chrmn. Carroll suggested Ms. Chmura and Mrs. Drew contact our State Assembly representatives, Jon Bramnick and Nancy Munoz, on this tree trimming concern. Both representatives have district offices in Summit.

Before adjourning, Chrmn. Carroll informed Ms. Chmura that he will e-mail the Kiwanis the list of trees that the Commission will be buying using their donation. He briefly went over the types of trees and where they will be planted in the Borough. At least 7 Red Oak trees will be planted, which is the State tree. Ms. Chmura will pass on this information on to the Jaycees.

At 8:38 p.m. the meeting adjourned.

The next Shade Tree Commission meeting will be held on Tuesday, November 15, 2016, 7:30 p.m., Room 301, Upper Level, Chatham Municipal Building.

Respectfully submitted:

Liz Holler
Recording Secretary