

**PARKS AND SHADE TREE COMMISSION  
CITY OF REHOBOTH BEACH**

**May 17, 2011**

The Parks and Shade Tree Commission Meeting was called to order at 2:03 p.m. by Chair Priscilla Smith on Tuesday, May 17, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

Ms. Marcia Maldeis called the roll.

Present: Mr. Ned Kesmodel  
Ms. Marcia Maldeis  
Chair Priscilla Smith

Absent: Ms. Jane Wyatt  
Ms. Edwina Macadam

Also present: City Solicitor Glenn Mandalas

Also absent: Building Inspector Terri Sullivan

A quorum was present.

**APPROVAL OF MINUTES**

Minutes of the September 21, 2010 Parks and Shade Tree Commission meeting were distributed prior to the meeting.

Ms. Maldeis made a motion, seconded by Mr. Ned Kesmodel, to approve the minutes of the September 21, 2010 Parks and Shade Tree Commission as written. Motion carried unanimously.

Ms. Maldeis noted her husband, Commissioner Stan Mills, sits on the Board of Commissioners. Mr. Roland Forster had no problem with her participating in the appeal hearing today.

**ADMINISTRATIVE APPEAL HEARING**

The purpose of this meeting was to conduct an administrative appeal hearing pursuant to the Comprehensive Tree Ordinance (Chapter 253 of the Municipal Code of the City of Rehoboth Beach). This appeal hearing has been requested by Mr. Roland Forster, owner of the property located at 313 Laurel Street pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, and pertaining to the denial of a request to remove one (1) tree.

City Solicitor Glenn Mandalas identified the items which had been placed in the packets for the Parks & Shade Tree Commission: 1. Public Notice posted on April 19, 2011. 2. Letter received December 1, 2011 from Mr. Forster to Mr. Greg Ferrese, describing the request and reasons for the appeal. 3. Receipt dated October 29, 2010 from the Building & Licensing Department for a permit processing fee. 4. Proposal from Complete Tree Care dated October 28, 2010. 5. Memorandum dated March 31, 2011 from Building Inspector Terri Sullivan to Parks & Shade Tree Commission with regard to the appeal for 313 Laurel Street. All documents had been distributed prior to the meeting. City Solicitor Mandalas read the Memorandum from Building Inspector's Report. Mr. Walter Onizuk, City Arborist, had determined the Bradford Pear Tree to be healthy. A Priority 2 prune was recommended by an arborist from Davey Resource Group.

City Solicitor Glenn Mandalas read the statute which lays out what reasons tree permits are allowable, and he noted that the hearing deals with appeals of the decision of the Building Official. One Bradford Pear Tree was denied removal based on Section 253-30(A)(2)(a) of the Code. City Solicitor Mandalas stated the procedures for the hearing.

Mr. Roland Forster, owner of the property, provided testimony that this process had started approximately three years earlier in 2008 regarding his sidewalk in disrepair. Since repairing the sidewalk, Complete Tree Care looked at and gave an opinion of the Bradford Pear Tree in 2010 because it was the cause of the upheaval again of the sidewalk. Safety issues are that the tree has a 30 degree lean towards the street. Height interference is impeding vehicular traffic. One or two of the main branches do not allow eight feet of space between the curb and sidewalk. Mr. Forster's reasons for concern are that the Bradford Pear Tree is a problem-prone tree which is short-lived. The tree roots are shallow, and it has a weak overall structure. The bark grows inside the tree, and the tree consists of weak wood because branches grow weak. Tight upward, angled

branches are known for breaking when the tree reaches its maturity which is usually less than 25 years. The tree cannot withstand ice, snow or heavy winds. Air cannot circulate through the tree, and it will split easily. The tree loses strength and eventually breaks. These are not personal issues and should be a concern to the City as well. He is not opposed to having trees as long as they are safe. Mr. Forster noted that the only trees on his property are the tree in questions and the Japanese Red Maple Tree he plant in his front lawn.

City Solicitor Mandalas noted that in regard to the minimum tree density in the Code, the requirement is three trees with a minimum caliper of three inches. He read Section 253-14 which provides a directive that property owners shall remove dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public.

Mr. Kesmodel made a motion, seconded by Ms. Maldeis to allow Mr. Forster to remove the Bradford Pear Tree based on the Parks and Shade Tree Commission's conclusion that this satisfies Section 253-32(A)(4) which reads [T]he tree is located where it creates or will create a material safety or health hazard or nuisance with respect to existing or proposed structures or vehicles or pedestrian routes, and such hazard in this instance is not innate to or commonly associated with these instance of trees in general. (Kesmodel – aye. Bradford Pear Trees should not be located near sidewalks. Maldeis – aye. Bradford Pear Trees are hazardous. They are always breaking in the wind or in storms. Smith – aye. A Bradford Pear Tree is a bad street tree because it is dangerous.) Motion carried unanimously.

Mr. Forster noted that there is a water main on right side of his sidewalk going out towards the street, and a fire plug is located between the sidewalk and curb. He planted the Japanese Red Maple Tree where he could. Mr. Forster could plant trees in his backyard, but he did not want to plant another tree on his property.

City Solicitor Mandalas said that because the Bradford Pear Tree is located on City property, the density on the owner's property would not be altered in any way. The Tree Ordinance does not speak directly to the issue of how to deal with City trees and whether mitigation is required. There is a duty of the private property owner to maintain trees on City property.

Mr. Tom McGlone, 318 Laurel Street, said that the mitigation would be taken care because the property owner is paying to take down the tree.

City Solicitor Mandalas noted that mitigation deals with providing additional canopy due to the lost canopy. In Section 253-15 – Removal of dead or diseased trees costs, the Parks & Shade Tree Commission can direct an owner to remove a tree that is located City property, and there is no requirement for mitigation. The cost of removal would be paid by the owner.

Ms. Maldeis made a motion, seconded by Mr. Kesmodel that no mitigation is required for removing the Bradford Pear Tree from City property. Motion carried unanimously.

The Building Inspector will issue a tree removal permit.

There being no further business, Ms. Maldeis made a motion, seconded by Mr. Kesmodel, to adjourn the meeting at 2:50 p.m.

**Respectfully submitted,**

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**(Ann M. Womack, CMC, City Secretary)**

**MINUTES APPROVED ON  
MAY 15, 2012**

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**(Priscilla Smith, Chair)**