

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

September 21, 2010

The Parks and Shade Tree Commission Meeting was called to order at 2:03 p.m. by Chair Priscilla Smith on Tuesday, August 18, 2009 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Ms. Smith called the roll.

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

Absent: Ms. Edwina Macadam

Also present: City Solicitor Glenn Mandalas
Building Inspector Terri Sullivan

A quorum was present.

APPROVAL OF MINUTES

Minutes of the May 19, 2010 Parks and Shade Tree Commission meeting were distributed prior to the meeting.

Ms. Marcia Maldeis made a motion, seconded by Ms. Jane Wyatt, to approve the minutes of the May 19, 2010 Parks and Shade Tree Commission as written. Motion carried unanimously.

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. James L. Pryor, Jr., owner of the property located at 121 St. Lawrence 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 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. In regard to the tree permit, four of the five pine trees were permitted to be removed. One pine tree was denied removal based on Section 253-30(A)(2)(a) of the Code. City Solicitor Mandalas stated the procedures for the hearing. He presented the following exhibits:

- Exhibit A – Tree Permit Application dated July 27, 2010.
- Exhibit B – Hand-drawn Tree Location Survey received July 27, 2010.
- Exhibit C – Estimate No. 2010072703 dated July 27, 2010 from M.A. Clark of Clark Tree Expert Co.
- Exhibit D – Tree Removal Permit No. 10401 dated August 2, 2010.
- Exhibit E – Reverse side of Tree Removal Permit No. 10401 dated August 2, 2010 with signature and hours of construction.
- Exhibit F – Photographs (3)

Chief Building Inspector Terri Sullivan had distributed three photographs prior to the meeting. (Copies attached.) She stated that Mr. Walter Onizuk, City Arborist, had determined that the tree met none of the criteria required to allow removal. A branch from the pine tree is rubbing the tree next to it. The contractor was informed that this branch could be trimmed or pruned back so there is no interference with the adjacent tree. This was the only issue as far as the growth of the oak tree.

Mr. James Pryor, Jr., owner of the property, said that there are quite a few loblolly pines currently located on the property. His concern was that the pine tree is growing up into the oak tree. Mr. Mike Clark of Clark Tree Expert Co. who is a certified arborist had observed the damage to the oak tree along with possible problems with the pine tree itself. The pine tree is also leaning. He requested permission to be granted to remove the tree that is impeding or hindering the oak tree and could possibly cause damage in the future. One tree which had been located close by was removed because it was diseased. Mr. Pryor had no plans of replacing

the pine tree, if removed.

Mr. Mike Clark of Clark Tree Expert Co. said the owner's concern is that the tree is leaning.

Ms. Jane Wyatt agreed with Mr. Pryor regarding the oak tree being preserved. The pine tree is leaning toward the oak tree. The oak tree should be saved if at all possible.

Mr. Ned Kesmodel said that in regard to Section 253-32(A), the tree is located where it creates a material safety or health hazard or nuisance with respect to existing or proposed structures or vehicles or pedestrian routes. The oak tree is impeded by the pine tree and becoming weak. He would rather see the oak tree remain and the pine tree removed. Chair Smith agreed.

Ms. Wyatt made a motion, seconded by Ms. Maldeis to allow Mr. Pryor to remove the pine 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. Maldeis – aye. Smith – aye. Wyatt – aye.) Motion carried unanimously.

Ms. Sullivan noted that according to the Tree Survey, there will be 16 trees remaining after the five are removed. She was satisfied that enough trees would remain on the property.

Mr. Kesmodel made a motion, seconded by Ms. Wyatt that due to the remaining preserved trees on the site, there is enough replacement caliper so no additional mitigation is required. Motion carried unanimously.

Mr. Pryor will now be issued a Tree Removal Permit; no additional tree will need to be planted; and there will be no mitigation fees.

There being no further business, Mr. Kesmodel made a motion, seconded by Ms. Wyatt, to adjourn the meeting at 2:21 p.m.

Respectfully submitted,

(Ann M. Womack, City Secretary)

MINUTES APPROVED ON
May 17, 2011

(Priscilla Smith, Chair)