

Minutes of the City of Takoma Park Tree Commission

April 9, 2019

By Carol Hotton

Location: Hydrangea Room, Takoma Park Community Center

Present: Tina Murray, Chair; Carol Hotton, Secretary; Bruce Levine, John Barnwell, Commissioners; Ken Sigman, Executive Director of Tree Commission and legal liaison with City; Sat Jiwan Ikle-Khalsa, Committee on the Environment member

Meeting convened at 6:50 pm.

1. **Meeting with Neighborhood Development Corporation (NDC) confirmed:** Apr 15, Azalea Room, 7 pm. Tree protection plan to be delivered by Friday, Apr 12.
2. **Tree Ordinance Revision – Review of Sections 12.04 and 12.08.** Focus on more controversial aspects of ordinance rather than attempt to dissect entire ordinance.
 - A. Discussion of 12.04.080: “City Manager shall give due consideration to the urban forest preservation principles embodied in this chapter when making decisions regarding trees on City property.” Desire expressed to strengthen wording of this section and require City to follow same rules as imposed on residents regarding trees, including posting and right to appeal decisions.
 - B. Similarly, can Ordinance be strengthened to require more from utilities and other public entities, such as Montgomery College? City of Takoma Park is rated poor at communicating actions of utilities. Town of Hyattsville cited as counter example.
 - C. Legal opinion from Ken: City can’t require other government entities and utilities to follow City codes. However, utilities & other jurisdictions make efforts to comply. WSSC and Montgomery County submit tree protection plans, and PEPCO discusses tree removals with City arborist and applies for tree removal permits, even though they are not required to do so. City should hold itself to the same standard.
 - D. Tree Commission can still recommend to City Council that ‘giving due consideration’ could be strengthened and defined more precisely, and can recommend better communication of utility activities in City.
 - E. Definition of hazardous (Section 12.04.010) – “posing an unreasonable risk of failure or fracture with the potential to cause injury to people or damage to property.” What is “unreasonable risk” – can it be defined more precisely? Ken: Assessment of “unreasonable risk” is somewhat subjective, but is a legal term, and is sufficient.
 - F. Discussion of erecting categories of “desirable”, “less desirable” and “undesirable” and not charging fees for the removal of the last category. “Desirable” = trees native to mid-Atlantic region; “less desirable” = non-native but non-invasive; undesirable = noxious or invasive

trees”. Simplest to designate “undesirable” trees, no fees for removal, and include species in Regulations. Species lists can be obtained from state and federal noxious plant lists.

- G. Definition of Urban Forest Tree (Section 12.04.010). Size set at 7 5/8 inches diameter at breast height. Runs counter to desired encouragement of species diversity and planting of understory trees. Urban Forest Manager should have more discretion in determining replacement trees. Section 12.12.100.B states “replacement trees are equal to or superior to the removed trees in terms of species quality, shade potential, and other characteristics.”, which tends to limit replacement trees to canopy species.
- H. Encouraging replacement, especially before tree(s) must be removed, is considered desirable, but pre-planting requirements (Section 12.12.105) seen as unwieldy and unlikely to accomplish its aim. How to improve? ...
- I. Fees: should they be included explicitly in Ordinance? Should they be abolished? Ken: City law requires that fees must be charged to cover cost of administration. Citizen objections seen primarily to tree replacement fees. Possibly raise fee per tree but reduce number of trees required as replacement? Fee should include cost of maintenance over lifetime of tree. Fees should perhaps not be included explicitly in ordinance but described in ‘units’ and set in regulations.
- J. Should Section 12.08.010 be deleted or modified (Infected or infested woody vegetation on private property.)? This section seen as unfair to residents who may not have expertise in identifying pests. Ken: not necessary to change, as provisions in Chapter 2 regulate how provisions in Municipal Code are enacted. Generally this and other similar sections of the Code used for nuisance properties.
- K. Discussion of Section 12.08.040 (noxious growths). Noxious growths should be defined better (as introduced, invasive and/or toxic plants) and list of plants (drawn from state or federal lists) included in regulations rather than in Ordinance. Invasive plant list will change over time with new introduced plants and global warming.
- L. Trees considered to be beneficial to entire community, so how to share cost of maintenance, especial for those with limited income. One possibility to share burden by introducing fee similar to storm water, or applying part of storm water fee to trees maintenance. General discussion about relieving burden of tree maintenance and removal on lower income residents.
- M. Current formula for calculating replacement fee unnecessarily complicated and should be modified to give UFM more discretion. Residents should preferentially replace trees in place where possible; only secondarily allowed to use ‘fee in lieu’ of planting.

- N. Residents should be allowed to remove trees considered to have 5 years or less of life. How to make up for lost fees from this discussed,
- O. City funds for planting trees not currently used for maintenance (especially watering when trees becoming established). This appears wasteful as many trees die due to lack of watering. Can City use those funds for maintenance? Ken will ask.
- P. Discussion of 12.12.030 (Tree impact assessment). Some of this seems unreasonable, such as the requirement of a tree impact assessment before pruning more than 5% of live canopy. Should discuss specifics of this section with UFM, and consider modifying.
- Q. Should Tree Protection Plan be appealable, even by neighbors in proximity? Presumably, tree protection plan has been created with City UFM to maximize tree protection.
- R. Posting requirements (12.12.080) have generated many residents and are perceived as burdensome. Reduce or eliminate? How to speed process up, since residents have to wait 15 days to see if anyone objects, and then if there is an objection to removal they may have to wait 6 or 8 weeks. Important to streamline process; no consensus on how to do this.
- S. Request from UFM: require any City contractors whose work is likely to impinge on the Tree Ordinance, such as landscapers and builders, be Licensed Tree Experts (not just tree companies).

Action Items: John to examine ways to replace numerical standards in Section 12.12.100 (tree replacement required) with a less complicated formula.

Carol will circulate a Word version of the Tree Ordinance for editing.

Meeting adjourned 8:45 pm