



Town of Concord, Massachusetts
22 Monument Square, Concord, MA 01742

Tree Preservation Subcommittee Minutes 05-02-16

Minutes of the Tree Preservation Subcommittee of May 2, 2016

Pursuant to a notice filed with the Town Clerk, the Tree Preservation Subcommittee met at 7:00 a.m. on May 2, 2016 in the Second Floor Meeting Room, 141 Keyes Road, Concord, MA. ~

Members Present:

Elissa Brown, Chair
 Christa Collins, Vice-Chair
 Tanya Gailus
 Thandi Muno
 Robert Meltzer
 Lydia Lodynsky (non-voting)
 Elmer Funkhouser

Staff Present: Elizabeth Hughes

Citizen Present: Mark Gailus

The meeting commenced at 7:00 a.m. and was audio-recorded.

The April 15th, 2016 meeting minutes were approved as amended on a motion by Ms. Gailus, seconded by Ms. Collins with all voting in favor.

Member Reports on Recent Town Celebration/Survey Activities

Ms. Lodynsky reported that she had attended Arbor Day celebration with Ms. Gailus where the Garden Club donated funds to Peter Flynn for tree. She learned from Peter Flynn, Concord's Tree Warden, of efforts to inventory public trees and increase tree diversity in town. Ms. Lodynsky brought Concolor Fir and River Birch seedling trees for distribution. Mr. Funkhouser was also present during Arbor Day. Ms. Gailus arrived late but was able to talk some with the Tree Warden.

Ms. Collins attended the Musketaquid celebration and handed out flyers. She distributed several surveys and handed two hardcopies of the survey to Ms. Hughes for entering into Survey Monkey. She also mentioned that she had discussed the survey format with a professional who commented that each "Yes/No" question should include a "Don't Know" as well. She has pinned flyers at several shops in West Concord.

Ms. Gailus mentioned that she would pass along comments that she received on the survey via email.

Ms. Hughes reported that as of Thursday over 200 surveys had been submitted electronically.

Webpage Content Discussion

Ms. Lodynsky and Ms. Gailus submitted suggested links about the benefits of trees and about diversity. Ms. Collins mentioned that she had discovered a comprehensive list of links relating to the benefit of trees. Ms. Lodynsky stated that she had included a link to that document. Ms. Gailus suggested that tree protection matters might become relevant to the Subcommittee's work in the future.

Ms. Hughes and Ms. Collins suggested that we focus links that are directly related to our charge such as information on the Subcommittee activities. The Subcommittee agreed to focus links on information specifically responsive to the Subcommittee's charge. Ms. Lodynsky offered to take a second look at the list she prepared with an effort to meet that directive, rather than as general background information. Ms. Collins offered to help edit the list.

Ms. Brown mentioned that Ms. Hire had suggested posting links to Massachusetts and Concord laws. The Subcommittee was in favor of posting links to relevant bylaws in other towns. Mr. Meltzer mentioned that the legal working group had reviewed other municipal bylaws and determined that there were approximately ten he felt that the Subcommittee should review. Ms. Muno will

supply a list of those towns so that links can be included on the Subcommittee website.

Discussion of Other Municipal Bylaws

Lexington: Mr. Meltzer summarized the Lexington Bylaw and the proposed revisions. This bylaw regulates tree removal triggered by demolition or major destruction. He mentioned that although Lexington had begun with an attempt at a fairly focused charge, the end result was quite comprehensive and difficult to implement. The bylaw created a Tree Committee with considerable authority whose decisions are enforced by the Tree Warden. It applies to public and private trees, and developers and homeowners. Mr. Meltzer was aware of at least one case that had not been upheld because the Superior Court declined to adjudicate. He also stated that the bylaw as a whole had generally been accepted by the community, although concerns had been expressed regarding the influence of neighbors through the Tree Committee, which has the authority to recommend rules and regulations, in conjunction with the Tree Warden. Ms. Hughes pointed out that the actual process for permitting is accomplished by the promulgation of rules and regulations. The Tree Committee also has extended their jurisdiction – going beyond trees to shrubs as well. Mr. Meltzer that the setback concept incorporated into the bylaw was generally well accepted by the community, although there were sometimes issues with how to calculate the buffer. Additionally, private homeowners have voiced concern that the town and neighbors have too much control over their property.

Ms. Lodynsky questioned whether in Concord the bylaw could be included in Zoning or as part of the Historic District regulations.

Ms. Hughes stated that Zoning Bylaws are primarily about process so this would not be a good fit and that Historic District decisions were regulated by Act and would need investigation as to whether trees could be included. The Planning Board and Zoning Board of Appeals both have only limited jurisdiction. Ms. Hughes further stated that it would be challenging due to the presence of so many non-conforming lots in Concord. In response to Ms. Collins question as to whether a Tree Removal Overlay district could be created.

Shrewsbury: Mr. Melzer distributed the Shrewsbury bylaw, noting that unlike Lexington's bylaw it was too narrowly focused, having resulted as a reaction to one large development with substantial tree removal. The bylaw prohibits the removal of trees in a woodland of over 20,000 square foot lot without prior town approval. The Attorney General has not yet approved this bylaw.

Lenox: Mr. Melzer summarized the Scenic Mountain Act of the Town of Lenox that was developed in an effort to preserve scenic vistas from both public and private projects. Approval of a permit by the Town under the bylaw was unsuccessfully challenged in the Superior courts, he felt largely because the court system was unwilling 1) to adjudicate matters which extended their jurisdiction without prior agreement, and 2) enforce bylaws created primarily to regulate scenic values and aesthetics. Mr. Meltzer stated the three other towns had adopted the Scenic Mountain Act.

Planning Board Update

Ms. Hughes mentioned that the Planning Board asked if the Subcommittee would be interested in meeting with them at the June 7 or June 21st meeting to report on the status of the Subcommittee's work and to obtain guidance for the future. Mr. Funkhouser questioned how the Subcommittee should evaluate and present the results of the survey. Subcommittee members supported this idea and determined that specifics would be discussed at the next meeting. Ms. Hughes stated that she would look into downloading the survey results and would distribute the file to Subcommittee members. This data can then be distributed to Subcommittee members and posted in the website.

The next meeting was scheduled for 7:00 AM, May 16th.

On a motion duly made by Mr. Meltzer and seconded by Ms. Collins, it was unanimously voted to adjourn the meeting at 8:15AM

Respectfully submitted,

Elissa Brown