



Tuesday, November 26th, 2019, 4:00 pm
City Service Center

Members Present: Jim Arthur, Cynthia Ball, Commissioner Dick Brady, John Parker

Staff Present: Todd Gibson, Trevor Hayberger, Angie Kotsopoulos, Nate Leimeister, Hannah Nebolast, Tom Speir, Melissa Vassallo

Residents Present: Charles Kraisner, Chris Fanning, Tim Schwanger, Attorney Bill Smith, Ron Van Zandt

The meeting was called to order at 4:04 pm.

The October 29th, 2019 meeting minutes were approved with no changes.

Old Business:

Trevor Hayberger, City Law Director, begins by swearing in all parties who will be making statements during the meeting regarding the violation appeal which pertains to Mr. and Mrs. Kraisner. He then told Angie Kotsopoulos from the City Code Enforcement department that she may begin presenting her information. She told everyone that she received a complaint on May 29th, 2019 concerning the complainant's neighbor's tree(s) damaging her property. The roots of the larger tree (nuisance tree #1) in question caused damaged to the complainant's foundation and patio. Angie continued on to say nuisance tree #1 has very large exposed roots. The fence is also damaged and the roots are causing other trees to die. She said she does agree with the arborist that nuisance tree #2 can just be trimmed back to the main branch to alleviate the issue with that one. Angie lets everyone know that the complainant has repaired the damages in the past without any complaints. She also points out the pictures, which she handed out to everyone, shows the damage is slowly continuing to get worse. Angie states tree #1 does seem to be healthy. It is green with only a few large dead branches. But it has six (6) co-dominant stems which could make the tree hazardous. She explains if the tree were to fail, there are three (3) houses in the area that it would damage. Angie says after visiting the complainant's property, she sent out the violation letter on June 5th to Mr. Kraisner. She got back a green card signed two (2) days later on June 7th. In that violation letter it said she would be back to inspected on June 26th. In Angie's initial report she said the tree is infected and the other endangers life and safety of persons and is a nuisance. She said spoke to Mr. Kraisner and he told her he would not be taking the tree(s) down. She said he was not willing to compromise at all. She let him know she had deemed it a nuisance tree and if he did not abate it, the City would abate it. He stated he has fixed his own foundation in the past and she said that is fine because the tree is on your property. Angie said Mr. Kraisner said he told his neighbor to grind the roots so it would stop causing damage. Angie stated that grinding the roots would cause the tree to become more hazardous. She said told the members and guests that as City staff our

job is to make sure no other damage is done and make sure no one is harmed. Angie said she called Tom Speir to do an inspection on the tree and he agreed the tree is weak and has overgrown its space and should be removed. On July 16th, she gave Mr. Kraisner another violation letter, including Tom's report, advising him that tree #1 has to come down and tree #2 can be cut back. Angie continues to say she was contacted by Attorney Bill Smith to discuss the issue and she advised him of the proper appeal process that would need to take place. Angie says it was suggested that tree #1 be cabled but there is no guaranteed way to fix the problem with cabling. As a City, we are now aware of this nuisance. She is asking the board to deny the appeal and order tree #1 be removed.

Tom Speir, City Greenhouse Chief Foreman, was called to speak. Tom introduced himself to the group stating he has been in the horticulture business for about 40 years and a Certified Arborist for about 10 years. He said he was called by Angie to inspect the tree at 717 Garfield Avenue because of complaint. Tom let everyone know this is not something he had done in the past due to it is a tree on private property. Tom said his initial task was to witness the roots and everyone can see by the pictures they are pretty massive. He said after looking at the tree, he noticed structural issues with it as well. It is a silver maple tree which is a type of tree that is notorious for surface roots. Tom let the group know that cabling would be option to help mitigate the risk but the complaint was regarding the surface roots. Grinding the roots would be an option but could damage the tree's stability. Tom said again the cabling could help but you would still be dealing with the surface roots. He also said that even if the tree is removed the surface roots will still remain and the complainant would still not have use of her property.

Attorney Bill Smith began to speak. He let the group know they had their own tree expert, Chad Leimeister check the tree out and he said it is a healthy tree. Mr. Smith asks Angie a question regarding her report stating the tree was slightly diseased. She responded to him that that is why she called in the expert. Tom stated he did not see any specific disease. There is maybe a sign of wet wood disease which is typical when trees have co-dominant stems where the stems come together. Bill asks Tom if he would agree with their expert that the tree is healthy. He said the canopy of the tree appears to be healthy. Bill then asks what's the nuisance that the tree is causing is. Angie says as a Code Compliance officer, she has the responsibility to follow-up on a complaint to see if one person's property is affecting another person's property. She states this tree is a nuisance due to the fear of it possibly falling and injuring or killing someone. She reiterates that as a Code Compliance Officer her #1 priority is the people and #2 priority is the property. The property damage can be seen in all of the pictures. Bill asks Angie if she is saying the size of the tree makes it a nuisance. She answers that it's the size and the tree is not strong due to it having six (6) co-dominant stems. Tom says the nuisance that he was initial called about was the roots affected the complainant's property. Mr. Smith replies that the nuisance can be abated by adding topsoil to raise the level of the backyard. Tom said he does not think that is a good remedy.

Attorney Smith says the definition of the violation charged against his client is summarized as endangering life, health and safety persons and if the nuisance is the roots, how are the roots the nuisance. Tom responded in that respect they don't. Mr. Smith says so other than if it were to fall on the three (3) neighboring houses, it is not a nuisance and it is won't fall unless by an act of God. Mr. Smith says that goes for all trees in Sandusky. Tom responds with no, not all trees in Sandusky have co-dominant stems like this. Bill says but it would only fail if a storm came along. Tom says if the tree were in a field, it wouldn't be a problem but because it is in a neighborhood that is when it becomes an issue.

Bill tells another gentleman to introduce himself to everyone. Ron Van Zandt tells everyone he has been an arborist for a little over 60 years and worked for the City for 34 years. Mr. Van Zandt says that trees like this are in all the neighborhoods. He said the tree looks okay to him. He agrees grinding the roots will damage the tree. But says the complainant's trees are causing some of the damage as well. Bill asks Ron if he thinks this situation is target enforcement due to there are other trees like this all over the City. Ron answers yes.

Mr. Kraisner asks to talk to the board. He says the stories are changing from what was in the letter and what he was told and what is being said now. He says the branches are not endangering the neighbor's house. And her pine tree in her yard could fall on his house. He continues to say he does not

know if his tree is diseased, he is not a tree expert. But he knows the neighbor has multiple trees that will fall on his house and his car. He is willing to cut the roots but only on his side of the property. He is not a lawyer or a tree expert but he likes trees. He said he does not believe if the tree were to fall on a house, that it would injury anyone. The houses in Sandusky are old.

Mr. Hayberger asks if both parties are in agreement regarding tree #2 only needing to be trimmed. Both parties respond yes. Mr. Hayberger asks Mr. Van Zandt if he has seen tree roots cause foundation damage before. Mr. Van Zandt says yes. Trevor asks are you surprised to see this and Ron says no.

City Commissioner, Mr. Brady spoke to the members and guests. He said he was attending this meeting in place of Commissioner Waddington who had to be at a different City meeting tonight. He asked Trevor if he was able to speak regarding the situation. Trevor said yes. Mr. Brady said that it seems Mr. Kraisner has provided us with a solution by saying he will grind the roots. Attorney Smith said that Mr. Kraisner may have jumped the gun offering that solution. Mr. Smith says he doesn't think this particular tree should be declared as a nuisance tree. Roots pushing into the basement aren't technically a nuisance. He thinks this is pushing enforcement too far. Is there a reasonable compromise?

Mr. Hayberger responds to Attorney Smith by saying this is the definition of a public nuisance. The tree is endangering the life, health or safety of persons or property. Bill says he doesn't think any damage would be done without an act of God. Mr. Smith states he moves that the report from Mr. Van Zandt be accepted and the memorandum from the Tree Experts be accepted.

John Parker asks if Angie took any pictures on the inside of the complainant's home. Angie answers with no, only on the outside but the pictures do show the cracks becoming more eminent. Mr. Kraisner says he does not believe the foundation are very sound on Garfield Avenue. Mr. Van Zandt asks Angie if she has seen the basement. Angie says no, she was there to look at the tree.

Mr. Hayberger states again what the order currently is: For nuisance tree #1 to be abated and for nuisance tree #2 to be trimmed. Trevor asks the board, do you affirm, reverse or modify this order?

Jim Arthur asks if tree #2 is the corkscrew willow and Angie replies yes. Mr. Brady addresses Cynthia, the chairperson, and says if this was my neighbor, he would be here doing the same thing. Jim says the roots are the issue, the complainant cannot use her backyard due to the roots and the damage they are doing. Mr. Brady asks if they were to cut the roots, how long would it be before the tree dies. Tom responds that it would not be a quick death but grinding the roots makes the tree unstable.

Jim asks if anyone has spoken to the complainant. He asks would she be ok with the top soil option. John states that doing that option would take a whole re-haul of her backyard. Mr. Kraisner again says he will cut the roots on his side. Mr. Brady asked if you want her to abate your tree roots on her side. Chris Fanning offers to call the complainant. She gets her on the phone and passes the phone to Angie. Angie tell the complainant what they are offering to do. What complainant explains to Angie is she would still not be able to use her backyard because she would be afraid of the tree falling. Angie asks the board if they are willing to take responsibility if the tree were to fall. Jim says the record of this meeting would show their liability. Angie says no one can guarantee the tree wont' fail. Angie lets Mr. Kraisner and Ms. Fanning know that the complainant thanks them for their offer but no agreement.

Mr. Smith orders again to grind the roots and says the City would have to take liability. Mr. Brady says we won't take the liability so the tree needs to go. Then Mr. Brady calls for a vote. Jim says he motions to vote yes to remove the tree. John says yes to affirm, Cynthia says yes to affirm.

Todd Gibson lets everyone know there has been about 100 of the GLRI grant trees planted so far. He says Barnes will continue to plant until the ground freezes. Jim states that Barnes has been planting the trees pretty quickly. Todd tells the group there is a complication with the plantings on Parish and Caldwell. Frank from Barnes is hesitant to plant there due to the OUPS markings and the space that is needed for the auger. They could hand dig the spots but it would be an extra charge. Todd said Josh Snyder, the project engineer, is going to look into the rules and regulations of the grant to see if the sites can be adjusted or if they are set in stone.

Todd and Nate Leimeister updated the members on the tree planting request that was made by Mr. Holmer on Fremont Avenue. Nate spoke to Mr. and Mrs. Holmer and they are willing to wait for a tree to be planted by the City sometime in the next year.

New Business:

The members look over the tree stats. No comments were made.

There will be no meeting in December. The next Tree Commission meeting will be held on Tuesday, January 28th, 2019 at 4:00 pm at the City Greenhouse.

The meeting was adjourned at 5:16 pm.

Cynthia Ball
Chairperson

Melissa Vassallo
Clerk