

# WHITEMARSH TOWNSHIP SHADE TREE COMMISSION MEETING AGENDA, OCTOBER 3, 2023 AT 7:00 PM (IN-PERSON)

CHRISTIAN FASSBENDER (CHAIR) \_\_\_ NATALIE BORKOWSKI (VICE-CHAIR) \_\_\_  
DAVID D'AMORE \_\_\_ FRAN KELLY \_\_\_ VERA KOSABUTSKI \_\_\_

BOS LIAISON, JACY TOLL \_\_\_ ARBORIST, JOHN HOSBACH \_\_\_  
STAFF LIAISONS, CRAIG MCANALLY \_\_\_ SAMANTHA ZRILLO \_\_\_

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**CALL TO ORDER:**

**PLAN REVIEWS:**

**OLD BUSINESS:**

**NEW BUSINESS:**

- Tree Giveaway- debrief
- Fee-in-Lieu discussion

**ANNOUNCEMENTS:**

**APPROVAL OF MINUTES:** September 5, 2023 Meeting

**PUBLIC COMMENT PERIOD:**

**BOARD MEMBER COMMENTS:**

**NEXT MEETING DATE:** TENTATIVE Tuesday, November 6, 2023

<del>January 3</del> <span style="color: red;">cancelled</span>	<del>February 7</del> <span style="color: red;">Rescheduled for Feb 21</span>	<del>March 7</del>	<del>April 4</del> <span style="color: red;">Rescheduled for April 18</span>
<del>May 2</del>	<del>June 6</del>	<span style="color: red;"><b>July 4*</b></span> <span style="color: red; font-size: small;">Holiday Conflict Rescheduled for July 18</span>	<del>August 1</del>
<del>September 5</del>	<del>October 3</del>	<b>November 7*</b> Election Day Conflict	<del>December 5</del>

**ADJOURNMENT:**

**September 11, 2023, 2023**

**To: Christian Fassbender, Craig McAnally, Jacy Toll, and John Hosbach**

**cc. Tam Paulits**

**From: Steve Kaufman**

**Re: Follow-up on Fee in Lieu Discussion**

I am following up on my request made at its September 5<sup>th</sup> meeting that STC consider exercising its power under the “new” Chapter 55 to have its “designee” set a standard fee in lieu that would reflect the cost of planting and maintaining three inch caliper canopy trees (“replacement trees”).

### **A. EXAMPLE OF FEE IN LIEU CALCULATION**

For reference, I am providing the sample fee in lieu calculation that John Hosbach shared with the “Rewrite Group in the Spring of 2021 and that I mentioned at the 9/5 meeting. This calculation is derived from standards from the arborist’s trade association (if my understanding is correct) and comes to \$937.50 per tree. Following is an excerpt from the May 2021 meeting minutes:

The cost of replacement should be \$125.00 per caliper inch times a 2.5 factor for installation, warranty, mulching etc. This formula would be... subject to change by STC due to inflation, etc.

### **B.CHAPTER 55 GRANT OF AUTHORITY TO STC**

This is a walk through the sections of Chapter 55 that STC the authority to grant a waiver permitting use of a fee in lieu and setting forth the methodology for calculating the fee. My comments are in italics, followed by the cut and pasted language from 55.

**55-2 Definitions** *This merely establishes that “replacement tree” is a defined term with a uniform meaning throughout Chapter 55.*

**REPLACEMENT TREE -**

A tree required to be planted per this chapter to compensate for the removal or damage of existing trees on a site

**55-4(F)** – *This section states that limited substitutions of “replacement trees” with understory trees and payment of a fee in lieu may be permitted by STC and that STC’s designee can calculate the fee in lieu based on cost of planting - and protecting and maintaining the tree for an eighteen month period. Note that (4) below requires the applicant to demonstrate its efforts to maximize use of understory trees before requesting substitution via fee in lieu.*

Substitution trees. Upon request for waiver (or "modification of mandatory provision") by the applicant, as specified within this chapter under "Exception to literal enforcement of standards," and subject to approval by the Shade Tree Commission, a portion of replacement trees may be substituted as follows. The combined total of substitutions shall not exceed 40% of the replacement tree requirement.

**(1)** Understory trees of which a single stem variety shall have a minimum of two-inch caliper, and a multi stem variety shall have no less than three stems with a minimum caliper of 0.75 inch per stem. Understory trees shall be replaced at a ratio of two understory trees per each required replacement tree, or

**(2)** By payment of a fee in-lieu of replacement trees calculated by the Shade Tree Commission's designee. The calculation shall consider the cost of the tree or trees, equipment needed to protect the tree/s for an eighteen-month period, as well as costs related to the care and maintenance of the tree/s throughout this period.

**(3)** Any combination of Subsection **F(1)** and **(2)** above.

**(4)** Any request for approval of in-lieu fees as substitution shall demonstrate any measures taken by the applicant to first maximize the use of understory trees to satisfy the replacement tree requirement.

**55-4(D)(6)** Replacement tree requirement. *This sets forth the "inch per inch" replacement rule and stipulates that replacement trees must be "canopy trees" (a defined term) and have a caliper of no less than three inches. This is an element in the calculation of the fee in lieu set forth in 55-4(F)(2) above.*

**(a)** Every living and healthy tree with a DBH of six inches or greater and which is designated to be removed or which is destroyed, shall be replaced with one or more new canopy trees, of a type and species approved by the Shade Tree Commission or its designee, with a trunk diameter of not less than three inches in caliper. The total caliper of replacement trees, measured at six inches above the ground line, shall equal or exceed the DBH of the removed trees.

**55-5 Exception to literal enforcement of standards** *This waiver language applies, of course, to any "mandatory provision" including the replacement tree requirement. It places the burden of proof on the applicant to show unreasonableness or hardship. This provides a sound basis for STC and the Arborist to turn down attempts to make undue use of the understory and fee in lieu substitution provisions.*

**A.** The Shade Tree Commission may waive or modify any mandatory provision of this chapter when literal compliance with a mandatory provision is shown to the satisfaction of the Shade Tree Commission to be unreasonable or to cause undue hardship because of peculiar conditions pertaining to the land in question, provided that a

modification will not be contrary to the public interest, or when an alternative standard can be demonstrated to provide equal or better results. Financial impact to the applicant does not constitute a sufficient justification for hardship.

**B.** All requests for waiver or modification from the provisions of this chapter shall be in writing and shall accompany and be a part of the landscape plan. The request shall:

**(1)** State in full the grounds and facts of unreasonableness or hardship on which the request is based.

**(2)** State the provision or provisions of the Chapter involved.

**(3)** State the minimum modification necessary to overcome the unreasonableness or hardship.

**WHITEMARSH TOWNSHIP SHADE TREE COMMISSION  
MEETING MINUTES, SEPTEMBER 5, 2023 AT 7:00 PM (IN-PERSON)**

**Members Present:** Chair Christian Fassbender, Vice-Chair Natalie Borkowski, David D’Amore, Fran Kelly, Vera Kosabutski

**Liaisons In-Attendance:** BOS Liaison, Jacy Toll; Assistant Township Manager, Craig McAnally; Staff Liaison, Samantha Zrillo

**Unable to Attend:**

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**CALL TO ORDER:**

The meeting was called to order at 7:05 PM.

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**PLAN REVIEWS:**

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**OLD BUSINESS:**

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**NEW BUSINESS:**

- Tree Giveaway

Mr. McAnally mentioned that the Giveaway would continue to be pushed on the Township’s electronic sign as well as the *Whitemarsh Weekly*. Mr. McAnally and Ms. Zrillo then explained the survey that was sent out to residents and gave an update on the current numbers of trees, mentioning there were only Hornbeams and Elm left.

Mr. D’Amore and Ms. Kelly stated that they were in touch with the High School and the High School Counselor was interested in promoting the event to students. Mr. D’Amore said he would follow up with Ms. Zrillo about contacting the school.

Ms. Kosabutski inquired about the process for the residents that pre-registered for the event. Mr. McAnally explained that he emailed them four times to take the survey before it was available to the rest of the Township. After the residents fill out the survey, they get a confirmation email and eventually will get a confirmation packet with detailed pick-up information, a map, and planting instructions.

Mr. McAnally asked if leaving the trees on the parking lot surface overnight would damage the trees. The Commission said the trees would be alright for one night late in September.

Mr. McAnally mentioned that the wire fencing will be available for cutting during the month

so it was not rushed the day before the event. Ms. Kelly said that one day per week should be sufficient to get the wire cut.

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### **ANNOUNCEMENTS:**

- Trees to be planted at Township Building and Koontz Park

Ms. Kabnick, a member of the Environmental Advisory Board, gave an overview of the planting events. Seven out of ten trees to be planted at Koontz Park are from Tree Tenders and they will be planted on November 18, 2023. Twenty-three trees are to be planted at the Township Building. Eight will be planted on September 24, 2023, and the rest will be planted on October 8, 2023.

Mr. Fassbender updated the Commission on the Highlands, mentioning that the tree planting was nixed, but the area is being cleaned up. Additionally, there are several small trees that were identified, tagged, and are being preserved in the area.

Ms. Kabnick mentioned that the planting events should be advertised in the *Whitemarsh Weekly*.

- Community Forestry Workshop on November 3, 2023

Mr. Fassbender announced the Community Forestry Workshop and said that those interested in attending should reach out to Mr. McAnally.

A member of the public mentioned there will be a similar event happening at the Morris Arboretum.

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### **APPROVAL OF MINUTES:**

**August 1, 2023 Meeting**

Mr. D'Amore made a motion to approve the August 1, 2023 meeting minutes. The motion was seconded by Ms. Kelly. Motion passed unanimously.

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### **PUBLIC COMMENT PERIOD:**

In attendance: Environmental Advisory Board members Debra Harris and Karen Kabnick

Ms. Harris announced that the Shade Tree Commission can substitute a Hickory tree for a 3" caliper tree when reviewing plans even though it is smaller because it has a large taproot. Ms. Kabnick questioned if there are any other species that are similar. Mr. Hosbach said not that anyone would plant.

In attendance: Steve Kaufman

Mr. Kaufman gave a comment regarding the fee in lieu in Chapter 55—to consider having the “designee” set a standard fee in lieu that reflects the cost of planting and maintaining canopy

trees. Mr. Kaufman requested this go on the agenda for the next meeting. Ms. Hosbach stated that there is a standard industry formula with labor costs that he uses for determining the fee in lieu. Mr. Fassbender said he will investigate this further and determine if it should go on the agenda.

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**BOARD MEMBER COMMENTS:**

Mr. D'Amore mentioned that he is proud of the Tree Giveaway—it is a tangible example of helping the environment and connecting with residents of the community.

Mr. Fassbender announced that the next meeting will be held on October 3, 2023 and the November meeting will have to be rescheduled due to the election day conflict.

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**NEXT MEETING DATE:**

**October 3, 2023 In Person at 7:00 PM**

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**ADJOURNMENT:**

A motion was made and passed unanimously to adjourn the meeting at 8:02 PM.