



A-1

11-16-2021

Board of Park Commissioners  
Meeting Minutes

Wednesday, October 13, 2021  
4:00pm – 5:00pm

Zoom Meeting

**CALL TO ORDER - ROLL CALL**

The meeting was called to order by Kathleen Mills at 4:02

**A. OTHER BUSINESS**

**A-1. Hear an appeal of proposed tree removal at 301 East 15<sup>th</sup> Street, Bloomington, IN.**

Erin Hatch, Urban Forester Sarah Coletti appealed the posted tree removal located at 301 E 15<sup>th</sup> Street. Bloomington Public Works Department reached out to the Parks and Recreation Department for evaluation and advice on a Silver Maple tree located at the site that had caused significant sidewalk lifting. The sidewalk was a potential trip hazard to pedestrians and complaints regarding condition of the sidewalk had been received. Staff recommended denying the tree appeal and allow removal of the tree to move forward.

**Board Comments:** Kathleen Mills inquired: if the location was at 301 West 15<sup>th</sup> Street or 301 East 15<sup>th</sup> Street. Erin Hatch responded: the correct location was 301 East 15<sup>th</sup> Street. Kathleen Mills inquired: if repairs to the sidewalk could be made without causing damage to the root system of the tree. Erin Hatch responded: the sidewalk was under 6' and the tree was a 33" Silver Maple. The sidewalk was lifting due to the tree having outgrown the allotted space. The tree was in alright condition, but not thriving condition. Due to the restricted growth space, even without repairs, the tree would mostly likely become a problem tree in a few years. Public Works and Parks had discussed the possibility of grinding the sidewalk. Due to height threshold a full repair would be required. The repair would cause significant damage to the root system, which could lead to stability issues.

Sarah Coletti, Appellant an Indiana University graduate student in the O'Neill MPA program. Sarah lived at 1120 N. Lincoln Street one house north of the tree located at 301 E 15<sup>th</sup>. The reason for the scheduled tree removal was allegedly due to infrastructure conflict. Physically looking at the tree it was old, but it still had plenty of life left. Older trees especially those with such great size served as carbon sinks. Sarah had worked for the Bloomington Public Works Department as an intern, and wondered if a bump out could be made around the tree. Sarah asked the Board to reconsider the decision to remove the tree.

**Board Comments:** Kathleen Mills inquired: on what a bump out was. Joe VanDeventer, Director of Street Operations responded: there had to be 4' of unimpeded directional travel and with the size of the tree that would not obtainable. A bump out would not work at the location. Jim Whitlatch inquired: if the lifting of the sidewalk farther away from the tree was caused by the tree or a different issue. Erin Hatch responded: there was significant lifting adjacent to the tree as well as farther down the sidewalk. The way tree roots grow, most likely both areas were caused by the tree. Jim Whitlatch inquired: when was the sidewalk scheduled for repair. Joe VanDeventer responded: the sidewalk repair would be in 2022, barring any unforeseen issues. Jim Whitlatch inquired when the tree would be removed. Erin Hatch responded: the notice stated the tree would be removed in 30 days. If a tree of higher hazard or risk would be identified, they would be removed before this tree. Jim Whitlatch commented: we need to think about the welfare of the community as well as the welfare of the tree. Sidewalks in this condition can be dangerous and cause injury to people. We need to have safe sidewalks and with the retaining wall there doesn't appear to be another solution. Jim Whitlatch inquired: when would a replacement tree be planted, and was there a carbon effect when the leaves are off a tree. Erin Hatch

responded: a replacement tree would be planted the next planting season after the site is vacant. Trees do act as carbon storage even when the leaves are off. Israel Herrera inquired: if the notice posted on the tree was the only notice given to the public, and were there any other public comments received regarding the removal of the tree. Erin Hatch responded: the current method was posting of a notice on the tree. Notices were not mailed out, and visits were not made to the homes in the surrounding areas. Israel Herrera inquired: what time frame of the week were trees removed. Erin Hatch responded: tree removal were conducted during normal city employee work days. \_

Jim Whitlatch made a motion to deny the appeal and let the tree removal go forward based upon safety concerns, the age of the tree, the damage that had been done to the sidewalk and the damage that may continue to occur. Israel Herrera seconded the motion. Vote taken: motion unanimously carried 3-0

The Board thanked Sarah Coletti for bring the appeal before them.

#### **A-2. Review of encroachment on B-Line Trail at 2605 South Kendall Drive, Bloomington, IN.**

Tim Street, Operations and Development Division Director in May 2021, staff was informed a new set of wooden stairs had been built onto city property, connecting 2605 S Kendall Dr. with the B-Line “bypass” Trail. The property owners had not advised the department of their plans to replace a set of existing stairs. The property owners were notified an encroachment agreement would need to be approved by the Board of Park Commissioners for the stairs to remain. The property owners were unaware of the encroachment process and property lines issues. Staff did not wish to create a precedent that would allow individual encroachments along the B-Line Trail, but recommended approval on the encroachment based on the presence of the pre-existing staircase that were improved. If approved, the property owners would sign the encroachment agreement and it would be recorded with the property through the County Recorder’s office.

**Board Comments:** Kathleen Mills inquired: if the property line was occasionally marked. Tim Street responded: the property line being discussed was very detailed and further location of boundary was not necessary. Jim Whitlatch inquired: who was obligated to maintain the stairs. Tim Street responded: the property owner would be responsible for maintaining the stairs. Jim Whitlatch inquired: what would happen if the stairs were not maintained to city standards or they did not meet codes and requirements. Tim Street responded: since individual properties tended to change ownership, the encroachment would be recorded as part of the property and would be included with future sales. The Department reserves the right to remove or have a structure removed, if the structure is not maintained or is deemed unsafe. Jim Whitlatch inquired: if the Department would have any jurisdiction if the stairs remained completely on private property. Tim Street responded: not if the stairs themselves remained on private property. The encroachment comes into play only when improvements are made on public property, not just access to it. Jim Whitlatch inquired: if the gravel was put down by the property owner or the department. Tim Street responded: the gravel was put down as part of the encroachment, and would be reported as such. It would need to be maintained in a safe fashion. Jim Whitlatch inquired: if the Department reserved the right to have the stairs removed with or without cause. Tim Street responded: he would need to research the question. Jim Whitlatch inquired: if indemnification language was included in the agreement, as well as insurance requirements. Daniel Dixon, Assistant City Attorney responded: indemnification was included in the agreement, but not a specific insurance requirement for individual homeowner agreements. Israel Herrera inquired: how was the department notified of the new stairs, and how was the property owner notified of the issue. Tim Street responded: the department received notification from a U-report, and a letter was mailed to the property owners. Israel Herrera inquired: if the stairs were ADA compliant, and if any family members were disabled. Nikota Braun, Property Owner responded: to her knowledge, there was no one in her family or the neighboring house with disabilities. There neighbor’s children used the stairs, and the safety of the children was partially what motivated them to improve the stairs. Kathleen Mills inquired: if Nikota Braun knew the age of the original stairs. Nikota Braun responded: she did not, as they just purchased the house in July 2020. The previous owner had been unable to provide information regarding the stairs. Israel Herrera inquired: if any grass had been removed. Nikota Braun responded, it had been a dirt path. They had request the gravel be put only at the bottom of the step, but it had been extended all the way to the trail. Israel Herrera inquired: if any other complaints or concerns were received regarding the stairs. Tim Street responded: the U-report stating that stairs had been built along the B-Line was the only notification that had been received.

Jim Whitlatch inquired: if these stairs were built to code. Tim Street responded: he was unsure, but they appear to be. Jim Whitlatch inquired: if the risers were prebuilt. Nikota Braun responded: she was unsure, but did not think so. Jim

Whitlatch inquired: if the stairs had to meet ADA requirements. Tim Street responded: there were other options to access the trail that should meet ADA requirements.

Jim Whitlatch made a motion to approve the encroachment agreement, with the modification that the Department can request the stairs be removed at any time, with or without cause. Israel Herrera seconded the motion. Vote taken: motion unanimously carried 3-0

#### **ADJOURNMENT**

Meeting adjourned at 4:54 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Kim Clapp", written in dark ink.

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Kim Clapp,  
Secretary Board of Park Commissioners