

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, CITY TREE BOARD MEETING**
2 **HELD NOVEMBER 3, 2014, 6:00 P.M., CITY HALL, 100 N. COUNTRY CLUB ROAD**
3

4 **TAPE 1, SIDE A**

5 I. Call to Order

6 The meeting was called to order at 6:00 p.m.

7 II. Roll Call/Determination of a Quorum

8 Chairman Danny Williamson
9 Vice Chairman Lynette Swinski
10 Member James Buck
11 Member Robert Boardman

12
13 Absent were Member Robert Sebald and Member John Lackey.

14
15 It is noted that Member Chris Lee withdrew from the Board.

16
17 City staff present were Juan (John) A. Omana, Jr., Community Development
18 Director; Gary Schindler, City Planner; and Diana T. Adams, Administrative
19 Assistant.

20
21 Also present were Laura Campbell, Joan Phipps and Tonya Phipps.

22
23 III. Approval of Minutes - August 4, 2014

24
25 **MOTION:**

26
27 **Member Boardman moved to approve the Minutes of the August 4, 2014,**
28 **City Tree Board meeting, as presented. Member Buck seconded the**
29 **motion, which carried unanimously 4-0.**

30
31 IV. Citizen Participation (see attached).

32
33 Chairman Williamson opened the meeting to Citizen Participation.

34
35 There was no citizen participation and Chairman Williamson closed that
36 portion.

37
38 V. New Business

39
NOVEMBER 3, 2014-1
CITY TREE BOARD

1 A. 2014-TREE-03: Appeal of staff's denial of a permit to remove three palm trees
2 at 203 Quail Trail Court, Lake Mary, Florida 32746 (Public Hearing)
3

4 Gary Schindler, City Planner, presented Item A. and the related Memorandum
5 (Staff Report). It is noted that the overhead projector was not working. He first
6 pointed out there may have been a printer glitch back at the office in preparing the
7 agenda packets in that the second page of the Staff Report was missing. He
8 passed around to each of the board members a copy of the second page for
9 everybody to review and have included with their Staff Reports. He said, the
10 Applicant is here and this is an appeal of staff's denial for a permit to remove three
11 palm trees. The palm trees are located adjacent to the brick wall within Timacuan
12 and that wall is on the property at 203 Quail Trail Court. On July 30th, 2014, staff
13 responded to an application and went to the property to do an inspection. The
14 palms are, indeed, mature and for whatever reason -- and there is no rhyme or
15 reason for palms -- these are covered with boots, the remnants of the fronds, the
16 stems. I don't think they know why some palms have them and some palms don't.
17 It's the luck of the draw. And they do require more maintenance because they get
18 an unsightly appearance if they are not removed. Staff is allowed, by code, to
19 approve the removal of any non-historic tree within 15' of a structure, and,
20 specifically, walls and fences are not considered structures. The palms are outside
21 of the 15'. The closest would probably be about 20' to the structure and the second
22 and third are farther. I denied the application on that basis, and the Applicants,
23 Laura and Robert Campbell, have appealed, as their right, and Ms. Campbell is
24 here tonight and she would like to speak to the Board concerning their concerns.
25 He asked, do you have any questions for me?
26

27 Vice Chairman Swinski questioned, is this the only photo available (indicating to
28 Staff Report), or is there one that shows.....
29

30 Mr. Schindler answered, we're having some problems with the overhead (passes
31 around a colored version of the aerial attached to the Staff Report that indicates
32 where the palm trees are located).
33

34 Chairman Williamson asked, have the Applicants been informed of the mitigation?
35

36 Mr. Schindler responded, there would not be a requirement for mitigation. I believe
37 that they have enough trees on their property to meet the minimum standards.
38

39 Mr. Schindler concluded his presentation by reading aloud from the Findings of
40 Fact listed on page 2 of the Staff Report. He stated, the basis for the appeal is that
41 the trees pose a nuisance and a maintenance burden. Although the palms are
42 covered in boots, it is staff's opinion that the maintenance obligation does not
43 constitute a basis for appealing staff's original decision of denial. He then read

1 aloud the Recommendation listed on page 2 of the Staff Report. He said, it is
2 staff's recommendation that the Board deny the requested appeal of the arbor
3 permit for 203 Quail Trail Court, and if that is your decision, of course, Mr. and Mrs.
4 Campbell may appeal to the City Commission.

5 Member Boardman questioned, so, the trees are healthy as you have stated?
6 They are just a little unsightly if they are not maintained?

7 Mr. Schindler replied, I would not want to have palm trees if they had boots. It's a
8 pain. There is no question about it.

9
10 Member Buck asked, are these Washingtonian palms?

11 Mr. Schindler answered, Mexican Palms I am not familiar with. They look like
12 Washingtonian.
13

14
15 Member Buck stated, yeah. They look pretty close; same family.
16

17 Mr. Schindler concurred.
18

19 Vice Chairman Swinski questioned, are you able to estimate the last time they were
20 trimmed and the boots were cleaned out?
21

22 Mr. Schindler responded, you may ask that of Ms. Campbell; yes. I do not know for
23 sure. I remember they told me the last time they were maintained and trimmed, but
24 I would not venture that information when you have Ms. Campbell here to.....
25

26 Member Boardman asked, did you get an estimate on how tall they are?
27

28 Mr. Schindler replied, they are 20 to 30 feet tall.
29

30 Member Boardman said, that's pretty tall for a palm.
31

32 Mr. Schindler stated, it is; yes.
33

34 Member Buck said, that's probably why they're Washingtonian.
35

36 Mr. Schindler concurred. He questioned Ms. Campbell seated in the audience,
37 that's a fair estimate, isn't it? (No response from Ms. Campbell.) It's taller than
38 most stepladders or even extension ladders.
39

40 Chairman Williamson asked, so, you would have to have a professional come in
41 and trim them?
42

43 Mr. Schindler answered, yes.

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1 Chairman Williamson requested the Appellant come forward and address the
2 Board.

3
4 Laura Campbell, Appellant, 203 Quail Trail Court, Lake Mary, Florida 32746, came
5 forward in favor of granting the appeal. She stated, my husband's name is Robert
6 Campbell and he is home sick. We moved to Florida 12 years ago. We knew
7 nothing about palm trees. We knew nothing about anything. My husband bought
8 these trees for \$5.95 at Home Depot and he planted them over a propane gas tank
9 that we didn't even know was there. We thought palm trees – or we were told palm
10 trees grow very slowly. These are giants. The last time somebody cut them, the
11 leaf fell off – I don't know if it's called a leaf, but whatever it is ripped his whole arm
12 open. It's got, like, really sticky, horrible stuff on it. Truly, we are senior citizens. I
13 can't afford to have these things trimmed by professionals with cherry pickers a
14 couple times a year. I really can't. So, that's why I would like to have them
15 removed. The last time we had somebody that was going to come, he never
16 showed up. My husband called him twice and he never showed up.

17
18 Chairman Williamson questioned, because they look like they're in an area of your
19 yard that is – it's just a decorative island right there along the fence; right?

20
21 Ms. Campbell responded, yeah. And we have, like – I counted the trees on my
22 property. There's 30 trees on a quarter of an acre.

23
24 Member Boardman asked, how much -- the homeowners association, have they
25 been really on top of you about this? Lots of nasty letters and stuff?

26
27 Ms. Campbell replied, yes.

28
29 Vice Chairman Swinski questioned, when is the last time they were trimmed?

30
31 Ms. Campbell answered, I would say four to six months ago. Then, we tried to get
32 them trimmed and the guy never showed up. We called. He never showed up. My
33 husband is 75 years old. He cannot go and trim them. I mean, we have lawn
34 service, but these trees are out of control.

35
36 Vice Chairman Swinski asked, you mentioned they're on a propane tank?

37
38 Ms. Campbell responded, yes. Truthfully, when we moved here, we didn't even
39 know there was a propane tank under there.

40
41 Vice Chairman Swinski questioned, how did you find that out?

42

1 Ms. Campbell replied, when the guy came and said I have to put gas in your
2 propane tank, and we went out and looked at it. We didn't know. It's to heat the
3 hot tub, gas grill and the fireplace.
4

5 Chairman Williamson asked, you didn't notice any interference with the propane
6 tank when you looked at these trees, Mr. Schindler?
7

8 Ms. Campbell interjected by answering, when he planted them?
9

10 Member Boardman responded, no, no. When he looked at them.
11

12 Chairman Williamson questioned, the trees that are there now.
13

14 Ms. Campbell replied, I guess not.
15

16 Mr. Schindler added, the propane tank is buried. It's underground.
17

18 Ms. Campbell further added, that's why we didn't know it was there.
19

20 Chairman Williamson asked, will these trees ever pose a danger to that propane
21 tank?
22

23 Mr. Schindler answered, palm trees don't have extensive root systems, so it would
24 be certainly less of an impact than an oak, pine or a different type of tree. Now, if
25 you are concerned about the propane tank, that may be a basis. Three palm trees
26 would equal one canopy tree. So, if you wanted to approve this, then you could
27 condition it with the planting of one canopy tree.
28

29 Chairman Williamson questioned, would you be willing to mitigate one canopy tree
30 to remove all three of these palm trees?
31

32 Ms. Campbell responded, I'd do anything to remove the palm trees. I don't know
33 what a canopy tree is though.
34

35 Chairman Williamson said, Mr. Schindler could give you our official definition; a
36 canopy tree of our standards. It has to be of a certain height and a certain width, if
37 we do grant this.
38

39 Member Boardman asked, would you end up putting it in the same place?
40

41 Ms. Campbell replied, I can't put it in the same place.
42

1 Chairman Williamson stated, you wouldn't want to do that, not with the propane
2 tank there; no.

3
4 Mr. Schindler said, she could plant the canopy tree anyplace in the yard and we
5 would certainly give time for the trees to be removed and the replacement tree to
6 be planted.

7
8 Vice Chairman Swinski questioned, do you have a recommendation on time?
9

10 Mr. Schindler answered, we're in the cool period now, so this is the prime planting
11 season. Four months would be certainly not a problem. We certainly want to be
12 flexible, if that is your recommendation.

13
14 Ms. Campbell stated, there's a pretty yellow tree.....

15
16 Chairman Williams asked, a Tabebuia tree?
17

18 Mr. Schindler said, I'll provide at least a partial list. It's the oaks, sycamores,
19 maples, pines. It's trees that grow 40-60 feet high at maturity.
20

21 Chairman Williamson stated, which could be 30 years.
22

23 Vice Chairman Swinski questioned, did the propane company give you any
24 recommendation or express concerns about the palm trees when they were out?
25

26 Ms. Campbell responded, truthfully, no. They just come three times a year and fill
27 the thing and leave me a bill.
28

29 There being no further questions of Ms. Campbell, Chairman Williamson opened
30 the hearing to public comment. Hearing none, he closed that portion and
31 entertained board discussion and/or a motion.
32

33 **MOTION:**
34

35 **Member Buck moved to approve the appeal, 2014-TREE-03, of staff's denial**
36 **of a permit to remove three palm trees at 203 Quail Trail Court, Lake Mary,**
37 **Florida 32746, inconsistent with staff's Recommendation listed in the**
38 **Memorandum (Staff Report) and subject to the Appellants planting one**
39 **canopy replacement tree anyplace in the yard (not where the propane tank**
40 **is located) within four months (by March 3, 2015). Member Boardman**
41 **seconded the motion.**
42

43 **There was a roll-call vote on the motion, which was taken as follows:**

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1 **Vice Chairman Swinski - Yes**

2 **Member Buck - Yes**

3 **Member Boardman - Yes**

4 **Chairman Williamson - Yes**

5
6 **The motion carried unanimously 4-0.**

7
8 Mr. Schindler announced that staff will be sending official notification of this
9 action via U.S. Mail to the Campbell's.

10
11 B. 2014-TREE-04: Appeal of staff's determination of a violation of Section 157.23,
12 Pruning, and denial of an arbor permit for property located at 120 Willow Drive,
13 Lake Mary, Florida 32746 (Public Hearing)

14
15 Gary Schindler, City Planner, presented Item A. and the related Memorandum
16 (Staff Report). It is noted that the overhead projector was not working. He said,
17 you will remember that within the last year – I don't think it's been any longer than a
18 year that the City's code was changed – that chapter on trimming. We have never
19 required a permit of one and two-family dwellings, but it was ambiguous as to
20 whether or not one and two-family dwellings could be cited for improper trimming,
21 and we changed the Code to specifically say that, yes, one and two-family
22 dwellings and the owners of those dwellings could be cited.

23
24 Mr. Schindler stated, this began back in September. I received a telephone call
25 about some tree work that was being done. I did an onsite inspection and I found a
26 tree crew working and I stopped and talked to someone who seemed to have some
27 authority. I asked him, I said, are you removing the trees? And he said, oh, no, no.
28 We're just doing trimming. And I said, that's fine. No permit is required for
29 trimming; however, you must trim in accordance with the American Association of
30 Certified Arborists, the proper trimming. He said, oh, yes. No problem. I went back
31 to the office. I had been assured that that's what they were going to do. Well,
32 come to find out they didn't. You have a picture in your packet, a sheet of the
33 results. There are five trees that have been hat-racked. We have a very specific
34 definition of hat-racking. There is no question these trees have been hat-racked.

35
36 Mr. Schindler said, I was off for a couple of days and when I got back Mr. Omana
37 said, Gary, someone has called about the condition of the trees. I want you to go
38 out and take a look. The person who had called had forwarded this photo
39 (indicating to photo he held up). I went out and sure enough that is the condition of
40 the trees on the property. By that time, I had received an application to remove the
41 trees. The application had been signed by a Mr. Richard Hatcher. And not
42 knowing – I went to the property appraiser's website and it said this property is
43 owned by Phipps not Hatcher. I don't know if Hatcher is – perhaps he is buying this

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1 on contract. So, what I did was I sent a Notice of Violation to Ms. Phipps and to Mr.
2 Hatcher and then we proceeded to this point where Ms. Phipps has appealed the
3 fine. Per Section 157.23(G), the fines are applicable to the contractor and/or the
4 property owner, irrespective of whether a permit has been issued. In light of this,
5 the City is taking action against the property owner and the tree removal contractor.
6 Staff met with the City Manager, explained what we proposed to do, and she
7 concurred. But, it is possible that the \$4,100 fine could be levied against both of
8 them, but we felt that that was perhaps a little too stringent. So, what we have
9 done is we have divided the fine and have assessed a \$500 fine to Ms. Phipps
10 because it says there are two -- when you have improper trimming, there are two
11 criteria; one is the number of trees. \$100 per tree. Then, there is the size of the
12 tree that is the second aspect. Mr. Hatcher, in his application for an arbor permit,
13 gave me the size of the trees. So, it was pretty easy. I was not able to get access
14 to the rear yard until Ms. Phipps called me and I met her there, but Mr. Hatcher
15 gave me the information and I was very happy to use it. I figured he was not going
16 to make them any larger than he needed to, so I took him at his word and the fine
17 that you see, the \$3,600, is based upon the fine and the size of the trees.

18
19 Mr. Schindler stated, Ms. Phipps is appealing the fine on the basis that the tree
20 contractor should be responsible for knowing and following the City's Arbor
21 Regulations. We agree that the tree contractor should be responsible and we have
22 tried very hard to make sure that irresponsible contractors do not work in the City;
23 however, the ultimate responsibility does fall on the property owner. She contends
24 that the property owner should not be held accountable. Well, this is the basis for
25 her appeal and this is for you to decide. Now, I have listed 12 Findings of Fact on
26 the third page of the Staff Report, and based on those, these are the
27 recommendations:
28

- 29 1. Determine that a violation of Section 157.23 (C) (2) has occurred at 120 Willow
30 Drive resulting in five trees being trimmed in an injurious manner commonly
31 referred to as "hat-racking".
- 32 2. Determine that, per Section 157.23 (G), "hat-racking" a tree is prohibited by the
33 City's Code of Ordinances and results in a fine.
- 34 3. Based upon the fact that five trees were "hat-racked" and based upon the size of
35 the trees provided by Mr. Richard Hatcher, the total fine equals \$4,100.
- 36 4. Deny the appeal from Ms. Phipps that, as a property owner, she is not
37 responsible for the actions of the tree removal contractor.
- 38 5. Assess a fine of \$500 to Ms. Joan Phipps of 120 Willow Drive, Lake Mary,
39 Florida, 32746.
- 40 6. Assess a fine of \$3,600 to Mr. Richard Hatcher owner of Hatcher Land Planning,
41 616 Chicken Farm Road, Osteen, Florida 32764.

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1 7. Determine that, upon payment of the total fine, the City shall approve and issue a
2 permit for the removal of the five trees.

3 Mr. Schindler concluded his presentation by saying, I will be happy to answer any
4 questions. You have a copy of the permit that Mr. Hatcher submitted, you have
5 staff's letters to Mr. Hatcher and Ms. Phipps and you have a copy of the appeal from
6 Ms. Phipps.

7 Chairman Williamson asked, this Mr. Hatcher, is he a Certified Arborist?

8 Mr. Schindler replied, I have no idea. I mailed Mr. Hatcher a copy of the Staff
9 Report with a letter stating that the meeting would be tonight. I know that Ms.
10 Adams contacted Mr. Hatcher by phone and, from what she said, it was a very brief
11 conversation because he hung up on her. But, Mr. Hatcher has been informed of
12 the proceedings tonight.

13
14 Vice Chairman Swinski questioned, so when you visited the site on September 17th,
15 did you meet Mr. Hatcher?

16
17 Mr. Schindler answered, I don't know who I met. I saw people working. I was
18 approached at that point. I was told a name. I don't remember who I met, but
19 because they said we're not taking out the trees and we are definitely trimming in
20 accordance with best management practices, there was really no reason for me to
21 be concerned at that point.

22
23 Vice Chairman Swinski asked, you have not actually spoken with Mr. Hatcher then?
24

25 Mr. Schindler responded, Mr. Hatcher and I played telephone tag for a number of
26 days and then I decided to just mail him a letter stating what the situation was and
27 included a copy of the Staff Report. When I was off those few days, Mr. Hatcher did
28 contact Mr. Omana and – you know, it was very strange. Mr. Hatcher never, never
29 identified himself as being a tree removal contractor. As he told us, he was just
30 helping out Ms. Phipps. It wasn't until we got the appeal from Ms. Phipps that we
31 knew who he was and had the ability to contact him.

32
33 Vice Chairman Swinski questioned, on September 17th, were there Hatcher-
34 branded-landscaping vehicles out there?
35

36 Mr. Schindler replied, no. I did not see anything with a name on it.
37

38 Vice Chairman Swinski asked, there were just a group of people out there?
39

40 Mr. Schindler answered, there was just a group of people working. There were a lot
41 of vines that were being removed and there was one or more people in the trees

1 working to remove vines and working on the trees, but I never saw a vehicle with a
2 name on it.

3
4 Vice Chairman Swinski questioned, so, the only way we know that there were
5 Hatcher land planning people...

6
7 Mr. Schindler interposed responding, is from Ms. Phipps and the fact that he signed
8 the application to remove the five trees.

9
10 Member Boardman asked, but that was after he had hat-racked?

11
12 Mr. Schindler replied, yes. Definitely.

13
14 Member Boardman said, it's almost like he did that on purpose.

15
16 Mr. Schindler stated, one could draw that conclusion.

17
18 Chairman Williamson requested the Applicant to come forward and address the
19 Board.

20
21 Tonya Phipps, daughter of owner Joan Phipps, 120 Willow Drive, Lake Mary, Florida
22 32746, came forward and spoke on Joan Phipps' behalf in favor of granting the
23 appeal. She said, I'm there 99 percent of the time. I'm always there. I learned
24 about this after-the-fact. My father actually works in New York but was here at the
25 time and both him and my mom spoke to Richard Hatcher. He had left cards in the
26 neighborhood. We have his business card somewhere to show. It says tree
27 removal service. My mom wanted to clear out the rear yard of vines and she
28 wanted the trees to be trimmed and a couple of trees to be removed. We had no
29 idea – her nor I had any idea of this ordinance at all. We probably should have
30 known, but we had no idea. When my mom had initially had the consult with this
31 contractor, he told her that she would need a permit to get the trees removed. But,
32 he presented himself and he talked – I spoke to him on the phone – he presented
33 himself as a professional. This was his business. He's very experienced and he
34 had guys working with him. At the time that Mr. Schindler went to see him to see
35 what was going on on the 17th, Mr. Hatcher was the one on the ladder. He was the
36 one that Mr. Schindler spoke to. I had spoken to him when this all went down and I
37 asked him if he would be here today to be a witness and he said, absolutely, no
38 problem. I have an arborist's – he's a genius and he knows -- there's no way that I
39 hat-racked and cut these trees incorrectly. I hadn't seen the trees in broad daylight,
40 and initially when this happened and the Saturday that I went to my mother's house
41 – I mean, as soon as I got out of the car, I'm like – the word that came to my mind
42 was these are hacked. I didn't know what was hat-racked, but I said, oh, my God.
43 Like, I could totally see why this was a violation. I mean, it looked like a very

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1 unprofessional job anyway. My mom, in good faith -- because he presented himself
2 like a nice guy, that he was a professional, he had this business card to do this work
3 -- she paid him up front for the total job of trimming the trees, the removal and the
4 clearing out. She gave him everything. She initially gave him a deposit and then he
5 asked her for the total because he had guys to pay and blah, blah, blah. And she, in
6 good faith, believed in him. She paid him \$1,600 -- or my father did, and he never
7 showed up after that phone call after we got the citation. After he said that he would
8 be here today to be a witness. We have tried to call him. He is screening his calls.
9 He does not return phone calls. He has just turned out to be somebody who is not
10 what he presented himself to be. I understand that he is not here to defend himself,
11 but my parents hired him with the thought that this was a professional in this line of
12 work and that they were just going to trim the trees, they knew what they were doing
13 and we were reassured -- once the complaint went through to Mr. Schindler and we
14 heard -- we thought -- this is before I saw the trees -- we thought, well, everything is
15 going to be okay because he's a professional and he assured us that he did
16 everything within code, and he said that, like, verbatim, that he did everything within
17 code. Then, once we realized what it turned out to be, we were just floored. When I
18 saw the trees, I just couldn't believe it. I couldn't believe that a professional did this.
19 But, we hired him in good faith to do this job and we not only lost our money for this
20 job but then -- we initially thought the citation that we got was for the total of \$4,100.
21 That's why we wrote the appeal. We didn't know that Mr. Schindler was going to go
22 after both of us, the City was going to divide the cost of the citation. So, we're in
23 agreement that we have some sort of liability as well because we probably should
24 have done more research on this guy and made sure that he was licensed and
25 professional. We don't know that he is not, but we just can't imagine that he is a
26 professional and did this kind of work. We had no idea about this ordinance. We
27 just can't believe this fine. But, we are in agreement with the City's
28 recommendation. We think that, in this case, given all the facts, that it is fair. I
29 mean, the \$500 is fair, so we're not really disputing that, to be honest. We would
30 rather not pay anything, given the fact that we paid this guy \$1,600 already, but we
31 can understand if that is something that you guys can't deny and we're liable for the
32 \$500. We initially thought it was going to be the total of \$4,100. We just thought
33 that that would be so unjust for not knowing and then having this guy take
34 advantage the way that he did.

35
36 Vice Chairman Swinski questioned, how long have you-all lived in Lake Mary?

37
38 Ms. Tonya Phipps answered, 11 years. We moved from New York and we never
39 had any idea about the City Ordinance -- when it changed and when residents
40 became responsible for knowing what the tree code ordinance was.

41
42 Chairman Williamson asked, have you had any contact with this Mr. Hatcher since
43 all this? Will he return your call?

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1 Ms. Tonya Phipps responded, no. We have tried to call him multiple times and he
2 will not return the call. We have left him voicemail messages. He will not return the
3 call, and the information, the address and everything that we have that we included
4 in the appeal letter, is what we received – what we got off of his business card that
5 he left.

6
7 Member Buck questioned, did his card say he was insured or bonded?

8
9 Ms. Tonya Phipps replied, it did not say that, but I'm not absolutely sure.

10
11 Vice Chairman Swinski asked, when was the initial contact with him where he was
12 passing out cards?

13
14 Joan Phipps, 120 Willow Drive, Lake Mary, Florida 32746, came forward in favor of
15 granting the appeal and answered, Mr. Hatcher left – apparently, he was giving out
16 cards to each neighbor. He left it outside and I just took it and called him and he
17 came and we made an arrangement to trim the trees and clean the backyard and
18 take out the vines that were running.

19
20 Vice Chairman Swinski questioned, whatever that date was, did he have a
21 conversation with you at that point about I need to get a permit?

22
23 Ms. Joan Phipps answered, yeah. He told me that he – first he asked me do I need
24 a permit, and I said, I don't know. Then, he said, yeah, you need a permit. So, he
25 went to try and get the permit, but when he went, he had already did the trees,
26 hacked them already.

27
28 Vice Chairman Swinski asked, when did he tell you that he knew he had to get a
29 permit? Before he did the cutting on September 17th?

30
31 Ms. Joan Phipps responded, no. He told me after he did the trees. Yeah. After he
32 went up there because the neighbors called and that's when I guess he realized that
33 he did need the permit, but then he had already had his guy do the trees.

34
35 Vice Chairman Swinski questioned, and so you-all could recognize Mr. Hatcher if he
36 was here?

37
38 Ms. Joan Phipps replied, yeah. He was the nicest person.

39
40 Vice Chairman Swinski asked, and you mentioned that you saw him trimming the
41 trees himself – your daughter? When you came home, you said you...

42

1 Ms. Tonya Phipps interjected answering, no. My father was here at the time when
2 Mr. Schindler came. I was at work, my mom was at work, but Mr. Schindler and his
3 guys were there trimming the trees, and I spoke to him on the phone and he said he
4 was the one that answered Mr. Schindler's question.
5

6 Ms. Joan Phipps stated, but Mr. Schindler doesn't know him. So, he didn't know
7 who he was.
8

9 Ms. Tonya Phipps said, but he was the one on the ladder.
10

11 Vice Chairman Swinski questioned, you're saying he was on a ladder. Did you see
12 him on the ladder? Do you know what Mr. Hatcher looks like?
13

14 Ms. Joan Phipps responded, no. He wasn't on the ladder.
15

16 Ms. Tonya Phipps replied, I don't know what he looks like, but I talked to him on the
17 phone and he said that he spoke to Mr. Schindler.
18

19 Ms. Joan Phipps stated, yeah. He did, but he was not the one on the ladder. A guy
20 was on the ladder -- I was at work -- he was talking to Mr. -- when Mr. Schindler
21 came, he spoke to him. He doesn't know him, so he doesn't know who he is talking
22 to. The one on the ladder is his cutter, or whatever he called him.
23

24 Ms. Tonya Phipps said, I apologize, but he was the one that spoke to Mr. Schindler.
25

26 Ms. Joan Phipps stated, that's his worker. That guy on the ladder works for him.
27

28 Chairman Williamson said, it sounds like if this guy is a licensed contractor, or tree
29 trimmer or whatever, you may have to take legal action to get your money back.
30

31 Ms. Tonya Phipps stated, we plan to take him to Small Claims Court.
32

33 Ms. Joan Phipps said, yeah. Because he did absolutely nothing, and then I had
34 another man come because I wanted Mr. Schindler to see that we were cleaning the
35 place. The other guy came -- I had to pay another man to clean out what he didn't
36 do, and as soon as the guy came, he was, like, who did those trees like that.
37

38 Member Buck asked, is this his phone number on the application, or yours?
39

40 Ms. Tonya Phipps answered, probably. I also put the number on the business card
41 in the appeal letter, everything that was on the business card, so it should be.
42

1 Mr. Schindler stated, let me just say for the record that I went to the internet and I
2 tried to find a Hatcher land planning company and there was no – I didn't find
3 anything that was a Hatcher land planning. So, I was stymied until I received the
4 appeal.

5
6 Member Buck said, well, that's why I was just wondering on the phone number
7 whether he.....

8
9 Mr. Schindler stated, yes. In Volusia County it is a 386...

10
11 Member Buck interposed questioning, Osteen would be 386?

12
13 Mr. Schindler responded, yes.

14
15 Member Buck asked, or whether he just made the number up?

16
17 Mr. Schindler replied, no. We did play telephone tag, Mr. Hatcher and myself, and

18
19 Mr. Omana did speak with Mr. Hatcher.

20
21 Vice Chairman Swinski questioned, are you saying you couldn't find the business?

22
23 Mr. Schindler answered, I could not find the business listed on the internet.

24
25 Vice Chairman Swinski asked, so, is it a viable business like registered and.....

26
27 Mr. Schindler responded, your guess is as good as mine.

28
29 Chairman Williamson said, he's probably staying away from Lake Mary.

30
31 Vice Chairman Swinski questioned, so, what's the level of confidence – like, where
32 would a fine get mailed to Mr. Hatcher and what's the obligation to...

33
34 Mr. Schindler interjected, Chicken Farm Road in Osteen. That's the information he
35 had on his business card and that was the information that Ms.....

36
37 Ms. Joan Phipps stated, on his business card, which I have at home someplace,
38 only has his e-mail address and his phone number. I don't quite remember whether
39 it said insured or licensed, but I think it did. But, what I did – I had my son go on the
40 internet and get his address. So, that's how come I got that, but his address is not
41 on there. But then he did tell me that he lived in Osteen, so when – knowing that I
42 was able to find his address on there.

43

1 Chairman Williamson said, if he has a license number, with legal action, you should
2 be able to track him down.

3
4 Vice Chairman Swinski asked Mr. Schindler, when that permit was applied for with
5 Richard Hatcher, was his card with the application originally when he.....

6
7 Mr. Schindler replied, no. It was not.

8
9 Chairman Williamson opened the hearing to public comment. Hearing none, he
10 closed that portion and entertained board discussion and/or a motion.

11
12 Chairman Williamson then explained to Appellant Ms. Joan Phipps the appeal
13 process; that her and her husband have the right to appeal the Board's decision to
14 the City Commission, in writing, within 30 days from the date of this decision.

15
16 Member Buck questioned, if we agree on the \$500, can she get her money back
17 from Mr. Hatcher if she takes him to Small Claims Court?

18
19 Chairman Williamson answered, well, she would have to take legal action on that.

20
21 Member Buck said, yeah. I know.

22
23 **MOTION:**

24
25 **Member Buck moved to deny the appeal, 2014-TREE-04, of staff's**
26 **determination of a violation of Section 157.23, Pruning, and denial of an**
27 **arbor permit for property located at 120 Willow Drive, Lake Mary, Florida**
28 **32746; \$500 fine to Mr. and Mrs. Phipps and \$3,600 to Richard Hatcher,**
29 **consistent with staff's Recommendation listed in the Memorandum (Staff**
30 **Report). Member Boardman seconded the motion.**

31
32 Member Buck commented, I think if you take him to Small Claims, you can add
33 the \$500 on for doing that.

34
35 Chairman Williamson commented, I definitely would seek legal action against him.

36
37 Member Buck commented, what you have to do is whenever you have somebody
38 – they come through neighborhoods, but if they say they're insured or bonded,
39 you have to ask for a copy of their insurance. Make sure they give you a copy
40 because their insurance could have lapsed. They can give you a number, but that
41 number might not be good.

1 Chairman Williamson commented, and never pay for anything before it's done.
2 He took advantage of you. It's sad.

3
4 Ms. Tonya Phipps stated, he went right to my mom. She's elderly and she trusted
5 him. He presented himself like he was a very nice person. He knew what he was
6 doing. He asked her, Ms. Phipps, could you possibly give me the rest of the total
7 amount, the balance, because I have to pay my guys. She trusted him and he
8 never came back even after we received the citation. I got on the phone with him
9 and he seemed really nice as well, and I said, will you attend that meeting with us
10 and explain – because, at the time, we just really were so naive about the whole
11 thing. We just thought there is some misunderstanding here. He is going to help
12 explain this, but he just never returned any of our calls after that. He just
13 disappeared.

14
15 Chairman Williamson commented, you are probably not the first person he has
16 done this to.

17
18 **There was a roll-call vote on the motion, which was taken as follows:**

19
20 **Member Boardman - Yes**

21 **Member Buck - Yes**

22 **Vice Chairman Swinski - Yes**

23 **Chairman Williamson - Yes**

24
25 **The motion carried unanimously 4-0.**

26
27 VI. Adjournment

28 The meeting was adjourned at 7:15 p.m.

29
30
31
32
33 _____
34 Danny Williamson, Chairman

Diana T. Adams, Administrative
Assistant

**NOVEMBER 3, 2014-16
CITY TREE BOARD**