

TOWN OF KENNEBUNK
BOARD OF SELECTMEN MINUTES
TUESDAY, APRIL 2, 2019 - 5:45 P.M.
TOWN HALL, ROOM 301

1. ATTENDANCE

Chairman Morin convened the meeting at 5:45pm. Present were: Selectmen Richard Morin, L. Blake Baldwin, Christopher Cluff, Wayne Berry, Edward Karytko, Shiloh Schulte and William Ward, Jr.

Also present was Town Manager Michael Pardue and Community Development Director Christopher Osterrieder.

Also present were members of the Tree Committee: Wayne Cutting, Robert Palmer, Patricia Kincaid and Paul Cotton.

2. DISCUSS THE PARSONS BEACH ROAD TREE PROJECT WITH REPRESENTATIVES OF THE TREE COMMITTEE

The Board entered into discussion on the topic of the Parsons Beach Tree Canopy project. Wayne Cutting, Town of Kennebunk Tree Warden and Tree Committee member spoke about how the Tree Committee began this project in 2011. He referenced a site walk that included Larry Dwight. He offered that an independent assessment of the trees had been performed. Mr. Cutting said that Larry Dwight was well aware of the project and that it was believed that Larry was communicating with residents of the Parsons Beach area. Wayne spoke of acquiring a grant for this project. He also spoke of the selection process that was employed to select the best suited trees for this area.

Bob Palmer spoke, citing that he was a member of the Tree Committee. He spoke of insect infestation related to the trees in question. Mr. Palmer discussed the tree replacement selection due diligence that was employed.

Paul Cotton, Tree Committee member, spoke about the three phase approach that was supported by the Tree Committee, and supported by Louise Spang and Larry Dwight. Mr. Cotton referenced a recent conference call that took place approximately two weeks ago during which Charles Dwight offered an approach to this initiative.

Selectman Baldwin spoke of the positive relationship the Town enjoys with the Parsons / Dwight family. He further spoke of the great experience the Tree Committee members have as it relates to the tree assessment. He also spoke of the recent removal of the Linden Tree at the corner of Main and Fletcher Streets. He applauded the actions of the Town for working to preserve the safety of the people. He stated he is troubled that somehow “we” have lost touch with the “family” (meaning those residing in the Parsons Beach area.) He referenced that we need to know who we need to speak to that represents the “family.” He stated that we thought we were in close contact with representatives of the family, but hypothesized that perhaps the family members were not sharing information among themselves.

Trish Kincaid, Tree Committee member, spoke about her experience as a master gardener and self-proclaimed “tree hugger.” She spoke of the due diligence employed by the Tree Committee as they assessed this program and it’s rollout.

The Tree Committee representatives spoke about the anticipated growth rate of the proposed trees.

Julia Burns Riley of the "Parsons Family" spoke, saying that they were not advised by Louise Spang of the process. Ms. Riley explained the family dynamics, citing that there are two clear pockets that comprise the "family." Ms. Riley said that Larry Dwight and Louise Spang have failed to effectively communicate the conversations that were between them and the Town.

There was significant discussion concerning the impact to safety the "crumbling" trees are creating.

Selectman Schulte suggested the Town needs to quickly engage in conversation with both sides of the Parsons / Dwight family to discuss the proposed plan.

Discussion ensued regarding the wasps that are reportedly impacting the referenced trees.

Chris Osterrieder spoke, offering his appreciation for the work of the Tree Committee. He referenced this project dates back to 2012. Chris spoke about the acquisition of the Tree Grant, along with many other initiatives that have taken place in the Parsons Beach area i.e. paving the road, directional bore of a new waterline, etc. Chris outlined the many communication steps that have been taken place with the area stakeholders, to include Charles Dwight (a member of the Parsons Beach Association), and Louise Spang, among others.

Ms. Riley asked that Charles Dwight's email received by the Board today (4/2/19) be inserted into the record of tonight's proceedings.

Chris Osterrieder outlined the pragmatic approach envisioned for tree removal / replacement.

Selectman Baldwin referenced the importance of advancing this initiative due to safety, while also speaking of the tight window of opportunity that exists.

A motion was made to have the Town Manager arrange a meeting with representatives of the Parsons family / Dwight family in an effort to advance conversation on this project.

MOVED: Cluff

SECONDED: Baldwin

VOTE: 7 in favor, 0 opposed. The motion passed.

3. ADJOURNMENT

A motion was made at approximately 7:07 p.m. to adjourn the meeting.

MOVED: Cluff

SECONDED: Baldwin

VOTE: 7 in favor, 0 opposed. The motion passed.



Christopher Cluff, Secretary
Kennebunk Board of Selectmen

Date: 4/9/19

Email

From: Charles Dwight
Sent: Tuesday, April 2, 2019 4:47 PM
To: Selectmen
Cc: Mike Pardue, Chris Osterrieder
Subject: Canopy Tree Project on Parsons Beach Road

To the Board of Selectmen:

Unfortunately, I will not be able to be at the meeting of Selectmen this evening at 5:45pm, but would like to provide input on the Tree Canopy Project and therefore request this email be presented at and read into the record of the meeting.

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My family owns Riverhurst Farm at Parsons Beach Road and Western Avenue. The part of Parsons Beach Road, where the large maples that form a canopy are located is entirely enclosed within our property. As such, I think it is appropriate that we be consulted before a project as significant as the removal and replacement of trees along the road is undertaken. During the summer, numerous visitors enjoy being welcomed to Parsons Beach by walking or driving down this picturesque road and it is a significant tourist attraction to the area.

In January of this year, Peter King who works on our farm was approached by a member of the Tree Committee and told the town was planning to cut down all the trees on the east side of the road within a week or two. He wanted to know if we would give permission to have the trees dropped on our property, because it would be difficult to work entirely within the right-of-way of the road. Peter passed on this persons contact information to me and I spoke with him to get more information. Please note, to this point I had not been notified or consulted on the project but was told the decision had been made. I was somewhat alarmed by this and reached out to Mike Pardue and began conversations with Mike and Chris Osterrieder about the project. Again, this contact was on my initiative, the town did not approach me to get my opinion. Through these discussion, I was led to believe:

- The project would not proceed until I was in agreement with it,
- The project was open for modification: at one meeting that include George and Lelly Smith (property owners on Parsons Beach) we discussed the possibility of only removing trees only as necessary perhaps 1 or 2/yr. over the next 20 years rather than removing half of all the trees immediately, many of which are still healthy, and
- The type of replacement trees being planted was open for discussion.

Subsequently, in an email to Chris Osterrieder, I expressed by concern with 1.) the removal of the maples and 2.) with the oak trees that would be planted as a replacement. This was followed by a conference call on Thursday, March 21 that included myself, Chris, Mike, two members of the Tree Committee and a town Selectman, where I again expressed my concerns. I also relayed the results of an online survey I conducted of members of the property owners in the area through the Parsons Beach Association (PBA). There were 28 responses of which 83% were against removal of the trees. Mike ended that conversation by saying he would consult with the group and get back to me shortly, which I assumed would be by Monday or Tuesday of last week. I did not hear anything until Chris sent an email Friday afternoon stating the work would start this week, and it would proceed within the Town's right of way. Initially, I

responded to Chris that if the decision was made, that I would not impede the work. With more time to think about it however, I came to the following conclusions:

- The decision to cut down the trees had already been made without any consultation with me, other property owners in the area or the public,
- These were not good faith negotiations, as I was led to believe, given the the decision had already been made and was not open for modification,
- The only reason I was being consulted was to gain permission to work on the farm property when removing the trees,
- When the town concluded they would not get this permission or it would take too long to secure, they no longer had any reason to talk with me.
- The email was sent to me Friday afternoon, when no one was available to talk to in order to limit my ability to respond (and I did try to reach both Chris and Mike on Friday after receiving the email without success). Again, I see as the town acting in bad faith.

Now in regards, to the trees, my feeling is as follows:

First, as I understand it the trees were planted just over 100 years ago by my Great Uncle Henry Parsons (who also donated Parsons Field and Parsons Way and whose father donated funds to build the Kennebunk Free Library). Norway Maples can live up to 250 yrs. old so although the ones on Parsons Beach Road may be getting a bit ragged, I believe with proper care many of them can safely continue for many more years.

I also have serious concerns about the replacement trees that are to be planted. Twelve (12) of these Maples were removed about 9 years ago on the north end of the road near the horse riding ring and replaced with white swamp oaks. These have done very poorly and look terrible. I think perhaps this is because this type of oak likes dense, wet soil, but the soil on the Road is well draining sand. In addition, the oaks apparently have a parasite that came with them when they were planted 9 years ago. The parasite either has not been treated or is hard to get rid of. In either case, if more of these oaks are planted, it is highly likely the the parasite will spread to them. Therefore, I think it would be crazy to plant more of the same oaks as replacements for any maples that are removed. I also don't think the removal of the existing maples should proceed without out a viable alternative. As a result, I would recommend that:

- The removal of the maples along Parsons Beach Road be suspended at least until a viable replacement is determined.
- The white swamp oaks planted previously should be removed and the location can used to test alternative trees that might perform better.
- I would suggest planting the same Norway Maple since we know they do well in this location. In addition, we have many growing wild on our property that could be transplanted and we also could perhaps set up a nursery at the farm to use to replace trees as needed at minimum cost. I know there is resistance to them because they are an invasive species, however the area is relatively self contained being bordered by water on three sides. In addition, we already have them around the farm property, so I don't see this causing any additional problem.

At a minimum, I think the tree project should be differed until a full consideration of alternatives to cutting down the trees, which includes all impacted stakeholders, can be undertaken.

I want to close by saying that I appreciate the Board of Selectmen giving this issue the time and consideration that it deserves and that although we may have differing views, I know that we all have the best interest of the Road, the

surrounding area and the town at heart. I also appreciate everyone's interest and hope that we can arrive at a solutions that will honor the legacy of Harry Parsons and preserve the character of Parsons Beach Road.

Sincerely,
Charles Dwight

Email

From: Charles Dwight

Sent: Sunday, March 31, 2019 11:19 PM

To: Chris Osterrieder

Cc: Bryan Laverriere; Mike Pardue; Wayne Cutting; Jeff Rowe; Robert Mackenzie; Eric O'Brien; Paul Demers; Brian Paul; Robert W. Palmer

Subject: Re: Parsons Beach Road Canopy Project

Hi Chris,

I want to clarify my previous note on Friday. It should not be read to mean that I agree with the Town's decision to cut down the trees on Parsons Beach Road or that I want the Town to proceed, only that if the town is going to remove the trees that I did not want to impede the work. To be clear I am not in agreement with cutting down the Trees on Parsons Beach Road at this time. In addition, I would request the town not proceed with the project at the current time, particularly given the resistance among many of the Parsons family members, as well as the public. In addition, having given it further thought, I would ask that if the town proceeds with the project, that it stay with in the road right of way and not utilize our property for the purpose.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Charles Dwight

redacted phone number

On Fri, Mar 29, 2019 at 4:39 PM Charles Dwight wrote:

Hi Chris,

Thank you for providing the update on the tree project on Parsons Beach Road. I appreciate that it is a town road and the town needs to make decisions regarding maintenance of the road and that safety is a particular concern. I also appreciate that you spoke with me regarding my concerns about cutting down the trees and the new trees being used and also that you were willing to adjust your plan to and cut down trees on both sides of the road rather than just one side as I think it will look better keepin the trees semetrical on both sides.

Given that the town has made its decision on how to proceed, we want to do whatever we can to make it easy for the work crew to proceed. Therefore, I am fine with them coming onto our property to the degree need to facilitate their work and this includes dropping the trees on our property, on both sides of the road, if that makes it easier or saves cost. I checked with Peter King who is at our farm and he confirmed that we will not use the pen near the road next week. The town has always been good about clean up after projects near our property and I am sure that will be the case this time, as well; so, I don't have any concerns there.

If you feel you need our assistance with anything as the project moves forward, please feel free to contact either myself or Peter King (207-468-9678) who is at the property.

Regards,

Charles Dwight

redacted phone numbers

On Fri, Mar 29, 2019 at 3:05 PM Chris Osterrieder wrote:

Louise/Tim/Charles:

I wanted to reach out to you and let you know the Town is going to advance the Canopy replacement project along Parsons Beach Road next week. After multiple discussions, we have deliberated on the necessary and appropriate steps to advance the initiative. I suspect that there may not be unanimous support for the approach that the Town is taking, but in retrospect, it is difficult to arrive at a solution that is both a reasonable compromise and achieves the goals of the Canopy project and complies with the Town's approach to managing Parsons Beach Road.

In 2010, the Town retained the services of an independent Arborist, Urban Tree Service of Rochester, New Hampshire to perform an assessment of the trees along Parsons Beach Road. The assessment comprehensively reviewed all of the trees, identified the deficiencies/distresses and recommended various courses of potential corrective action (pruning, removal, etc.). Almost every tree was identified as having exhibited some form of storm damage, which Norway Maples are susceptible to. More than a third of the trees were recommended for removal. The assessment was not intended to be a replanting plan and did not make any recommendations about the size or type of species that may be suitable for replacement. The Tree Committee undertook a planting effort back in 2011 on the westerly end of Parsons Beach Road and attempted to approach the rehabilitation in a progressive approach.

After careful consideration and renewed discussion with the Tree Warden and relying upon the vast experience of our members of the Town of Kennebunk Tree Committee, we are planning to advance the removal and replanting of trees along Parsons Beach Road. The removal and replanting of the trees has been marked out along the road and the new spacing of the trees will be 30 feet on center which is consistent with the planting scheme deployed during the prior phase closer to Western Avenue. Similar to the initial phase of work and consistent with the earlier planting project, the Town is proposing to plant a Quercus bicolor or Swamp White Oak. This species has been reviewed and identified by the Tree Committee as one that is appropriate for the environment along Parsons Beach Road.

The Town in conjunction with the Tree Committee has secured the purchase of 28 Swamp White Oaks from a nursery in New Jersey and these will be delivered to the Town in the coming weeks. In anticipation of the pending delivery of trees, the likely increase in usage of the area and other seasonal departmental demands, the Public Services Department is scheduled to commence the removal of the trees along Parsons Beach Road the week of April 1, 2019. This work will occur at the terminal point of the prior phase, nearest the Riverhurst Farm and extend easterly approximately 420 feet toward Back Creek. The trees will be removed on both sides of the road and replanted at the same 30 spacing as the previous phase.

This decision is a deviation from the prior decision of the Tree Committee to focus on the northerly side of the street, In deciding to amend its approach the Town considered the following:

1. Multiple telephone conversations with the abutting property owner
2. Review of the original Tree Assessment by Urban Tree Service
3. Site visit by Town Staff (Public Services Director & Town Engineer)
4. Review by the Tree Warden
5. Discussions with the personnel involved in the prior replacement phase (Excavator operator & former Public Services Director)
6. Timing and obligations to fulfill the grant
7. Changes in tree structure based on further deterioration and additional storm damage

The tree removal operation will be undertaken under the direction of Bryan Laverriere, Public Services Director. I have discussed the requirements of grant compliance this is being factored into the process.

This process will involve some disruption to access to the area and residents should be advised to expect delays or seek an alternate route if legal rights exist (Harts Road). Public Services staff will confer with other Public Safety Department to facilitate this operations.

All work being contemplated is expected to occur within the Public Right-of-Way. Should any unintended damage occur, it is always our policy to assess and take appropriate corrective action to mitigate this in the manner deemed most appropriate. If you note or have any such concerns, please contact me or Bryan Laverriere so we can review and develop a plan of corrective actions.

Each of you have been very helpful in our efforts to coordinate activities in and around Parsons Beach and the road itself. We do not have a direct audience with the family and would ask that you share this information with them and advise them to please feel free to contact me with any questions.

At this point the Town does not have any formal plans for future efforts to address the trees with respect to timing, but given the recent observations, if safety concerns present themselves, it is likely that isolated removals of a tree could become necessary. This would only occur if deemed a safety hazard. I hope would be to utilize and expand the relationship we have developed prior to any future decisions on timing of next steps.

If you have any questions about this process, please let me know and as mentioned, please share this message with any individuals that you feel may benefit from it.

Thanks,

CHRISTOPHER J. OSTERRIEDER, P.E.

Director of Community Development // Town Engineer

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