

# Shade Tree Commission Meeting Minutes

Wednesday, November 10, 2021

Meeting by Zoom

## Attending:

Chris Capodanno, Lucas Stelling, Sandy Batty, Phyllis Deering

Student Members: Rebecca Hirschfeld, Margaret Berei

Council Liaison: Cynthia Korman

### 1. Administration:

The October meeting meetings were confirmed

### 2. Inventory & Prune/Remove Work Orders

A few members need to complete their surveys. Our arborist will be completing his work by the end of this week, and we will combine his information with our recommendations and forward to Mitchell Stern and DPW.

### 3. Invasive Species

Margaret did a great article for the *Mountaineer*, the HS newspaper, regarding spotted lantern fly. STC members had a good walk with our Arborist, concentrating on invasives, including trees of heaven and black locust. Arborist thinks that he could help control it.

### 4. Development

The Planning Board has not scheduled review of the application for a parking lot expansion at 333 Rt 46 W (Newsweek).

Members reviewed the draft of comments regarding 367 Bloomfield Avenue (Route 46 West). The Commission approved sending it to the Zoning Board of Adjustment.

### 5. 2021 Tree Planting

Lucas reported the budget has funds for 39 new trees and we will also be planting four replacement trees, for a total of 43. We have estimate from Cerbos and Chris will put in PO request to the Borough for the trees. Lucas will schedule the utilities to mark out their lines before the trees are planted.

251 Boulevard donated two tree for planting on their ROW and locations and timing are being confirmed.

### 6. Liaison Updates

Environmental Commission is working on the Master Plan and publicizing the NJ plastic ban. The commission did a development review for the proposal at 367 Bloomfield.

Green Team has a new student liaison.

MLHS Student Update. The environmental club had a major effort regarding student landscaping for botanical garden. There was a good turnout with a lot of new members. They are planning an education program at Wildwood School and will send the parents the article on the spotted lantern fly. for parents. They are also coordinating with ML

Public Library on film showing and the social justice club to have a town presentation on the Green Amendment, an amendment to the NJ Constitution that says that all people need access to basic environmental rights.

Cynthia asked the STC for thoughts on the proposed beautification committee. The committee asked for more information on what projects the committee would be tackling.

7. Shade Tree Trust Fund

A discussion had taken place on the procedures for allocating the Shade Trust Fund, and separate communication between the Boro and a resident had taken place. Those are included here as reference

Fri, Oct 8, 2021 1:02 pm

Brett,  
See below in blue for some answers.  
Regards  
Mitchell

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Mitchell -

I just wanted to make sure the open questions on the Shade Tree Trust Fund did not get lost in the inbox. I include them here for ease:

1. Are the funds in the Shade Tree Trust considered public funds? – **Yes.**
2. ~~Is there a mandate or resolution that defines / constrains / limits how the funds can be used? I believe the original feedback I got provided me with some language from the IRS, and I am looking for where / how it is actually defined with how the funds can be used. If I recall, at one point we were told this was confirmed via resolution and I am interested in reading the actual resolution if I am correct... and if that language can be tracked down.~~
3. How are projects and spending decisions measured against any requirements or resolution? I assume Council is responsible for this element of diligence as part of the approval process? **Project are brought forward to Borough Council through Shade Tree with a recommendation. From there, it's up to Borough Council to decide if they should be funded.**
4. How does the public evaluate and offer input on spending proposals and projects specific to the Trust (as opposed to the broader mandate of Shade Tree Commission)? **Either at Shade Tree or Borough Council meetings.**
5. How does the public submit ideas for projects for the Trust? **Preferably through Shade Tree. They can also be submitted directly to the Borough Manager or Borough Council, at which time they would be forwarded to Shade Tree.**
6. How are donations acknowledged (confirmation or acknowledgment letter as an example)? **Check with Shade Tree on this. I believe they have a standard letter.**

7. How does the public monitor who donates to the fund, and how do we avoid potential conflicts of interest or inappropriate influence by people / businesses / organizations who have current or future business with the Borough? Are policies / procedures in place that prohibit these types of donations, and who monitors this process? [All vendors must be registered with the state of NJ and all public purchasing laws must be adhered to. Also, the Shade Tree Commission has no authority to enter into purchasing agreements. All purchases must be authorized by the Manager and CFO and approved by Borough Council.](#)
8. What bank is acting as custodian for the Shade Tree Trust Fund, and what is the current interest rate paid on deposit balances? [Provident Bank - .40%](#)
9. What is the process to determine competitive market performance for our interest-bearing public accounts (assuming these are public funds)? [We publicly advertise and receive bids from banks through an RFP process.](#)
10. How does the public monitor performance of the Fund, specifically the amount of interest earned, growth via donations, and outflows? [All of our budgets are of public record.](#)

Thanks,

Brett

On September 28, 2021 at 10:08 AM Brett Lane <[brettalane@optonline.net](mailto:brettalane@optonline.net)> wrote:

Chris -

I'm not sure how you tracked that down so quickly, but your research skills could have really helped me in college!

Teasing aside, thank you. This is interesting information for a few reasons:

- The original resolution designates that the Fund can accept donations from "individuals" (86:14 section 1, line 3). As you likely recall the reason we were seeking formation / administrative documents was to confirm exactly this - are there restrictions around who can donate?

A friendly thought from an outsider.. have the Borough attorney review and give you feedback on how a corporate donor (local business, nonprofit, any corporate structure like an LLC, S-Corp, LP) can participate given this language. Assuming the Sunrise donations were made via some corporate structure, that would be important to know... and for future donations from developers, local businesses, etc.

- The "individuals" designation did not surprise me, however, given the information in the Sunrise document (154:20) which confirms the Shade Tree Trust is interest-bearing. This conflicts with information we had been given during diligence when I was a member of the Commission, and could impact the profile of who can / cannot donate... all of which can be sorted out.

To be fair, while I may seem overly interested in the governance matters it is well intended (as it always was!). I have seen charitable funds started and forced to shut down due to operational and administrative blunders and it is a disaster, and one we do not want for Mountain Lakes. I care deeply about our tree canopy and know we can never maintain it on the annual planting budget alone. This Fund matters tremendously to the future of Mountain Lakes.

With the interest-bearing information confirmed, I will add a few questions directed to Mitchell and include my questions from yesterday so we do not have multiple e-mail strings:

1. Are the funds in the Shade Tree Trust considered public funds?
2. ~~Is there a mandate or resolution that defines / constrains / limits how the funds can be used? I believe the original feedback I got provided me with some language from the IRS, and I am looking for where / how it is actually defined with how the funds can be used. If I recall, at one point we were told this was confirmed via resolution and I am interested in reading the actual resolution if I am correct... and if that language can be tracked down.~~
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8. What bank is acting as custodian for the Shade Tree Trust Fund, and what is the current interest rate paid on deposit balances?
9. What is the process to determine competitive market performance for our interest-bearing public accounts (assuming these are public funds)?
10. How does the public monitor performance of the Fund, specifically the amount of interest earned, growth via donations, and outflows?

Thank you,

Brett

On September 27, 2021 at 10:48 PM Chris Capodanno <[chriscapodanno1@gmail.com](mailto:chriscapodanno1@gmail.com)> wrote:

Hi Brett,

So I did some initial legal research and attached are the findings if it may assist you and Mitch.

Best Rgs,

Chris

On Mon, Sep 27, 2021 at 9:57 AM Brett Lane <[brettalane@optonline.net](mailto:brettalane@optonline.net)> wrote:

Chris, thanks for the initial response. I realized after I sent this that most of this likely falls to Borough management given the authority the Commissions & Committees actually have... I appreciate your feedback on what you were able to quickly answer.

Thanks,

Brett

On September 27, 2021 at 5:49 AM Chris Capodanno <[chriscapodanno1@gmail.com](mailto:chriscapodanno1@gmail.com)> wrote:

Hi Brett,

Good to hear from you, and hope family is enjoying this prelude to fall.

The Fund is designated for Shade Tree Purposes and Tree Replanting.

The approval and procedures are the same as any other budgetary spending, which is approval of the Boro Manager, Boro CFO, and Council approval.

There is no current proposed spending for those funds.

Donations made via the Memorial Tree Program are outlined here and this is being updated to \$350 based on the costs and council approval.

<https://mtnlakes.org/committees-and-commissions/shade-tree-commission/honorary-and-memorial-tree-protocol/>

Contributions made by Developers are managed by individual project and the Boro Manager and Council approval.

Our Boro Manager Mitchell in copy can add any other points I may have missed. I know you have the previous communications with he and Monica to these questions you posed last year in June and his response shared around July 16, 2020.

Thanks,

Chris

On Thu, Sep 23, 2021 at 12:17 PM Brett Lane <[brettalane@optonline.net](mailto:brettalane@optonline.net)> wrote:

Chris -

I hope you and the family are well.

I caught up with Lucas who shared the news that the Shade Tree Trust Fund is growing - approaching \$60k! I wanted to pass along my congratulations. I am super glad you all stuck with it and I am thrilled to hear about the success.

I also want to encourage the STC consider diversifying sources of funding as the program grows (commercial and nonprofit donors as an example). Take advantage of the momentum! I can probably dig up the old fundraising framework if helpful for a revisit, or if you want to casually discuss ideas just let me know. FYI - it is a great time of year to be talking to people about charitable donations and a properly-worded community letter may yield some results.

You likely remember the procedural questions with the Shade Tree Trust we were hunting down when I was a member of the Commission, and as a mere civilian I am still interested. Given there are now actual funds in the account and supporting banking transactions, the questions I was asking around governance have moved beyond theoretical.

I started peppering Lucas with questions, and he politely told me to pump the brakes and direct my questions to someone who is equipped to answer them... and I am hopeful you or someone on Council / Borough Mgmt could provide me feedback (or point me in the direction):

- Is the money in the Shade Tree Trust Fund considered public funds?
- Is there a mandate or resolution that defines / constrains / limits how the funds can be used?
- How are projects and spending decisions measured against any requirements or resolution (assuming there are any)?
- How are future projects and spending decisions prioritized?
- How does the public evaluate and offer input on spending proposals and projects?
- How does the public submit ideas for projects?
- Are spending decisions required to be approved by Borough Council?
- How are donations acknowledged (confirmation or acknowledgment letter as an example)?
- How does the public monitor who donates to the fund, and how do we avoid potential conflicts of interest or inappropriate influence by people / businesses / organizations who have current or future business with the Borough?

Meeting was adjourned and next meeting is scheduled for December 8, 2021 7pm