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The City of Pretend

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Introduction

It's the Magic Kingdom at City Hall. Field arborists pretend to work. The Arboreal Manager pretends to manage. The Planning Commissioner pretends to supervise. The Law Department pretends to investigate.

All this pretence, just to avoid addressing the glaring problems of the arborist division – shoddy work, fraudulent inspections, false data entry, wasted city time, no oversight, no accountability, no management.

The “Investigative Report” discussed below concludes with a “Final Action Form” asking the “Disciplinary Authority” to explain within 30 days “any action initiated by the department to address the recommendations” of the report. The current administration inherited the mess in the arborist division. Mayor Franklin is long gone. Mayor Reed will now make the mess his own ... or not.

Background

In response to a series of The Tree Next Door sponsored reports analyzing the field book and database entries of the two field arborists retained after a budget-driven layoff at the end of June 2010, in late October city COO Peter Aman ordered both an “internal” investigation of the arborist division by the Planning Department and an “external” investigation by the Law Department. In mid-November the “internal” investigation was cancelled at the request of the Law Department to “ensure that the integrity of the investigation is maintained and to prevent the need for a duplication of our efforts.”

This long anticipated “Investigative Report” was submitted to the COO on February 28 and released to the public, without comment, on March 15, 2011. It is a brief 10 page narrative, clipped to an inch of documents. The report is posted at www.treenextdoor.org.

What is ignored

The mid-November request to Planning cited above, signed by Compliance Manager Jeffrey B. Norman, stated that “the Department of Law will conduct a thorough investigation and provide the results to the COO. Thanks.”

Thanks, but no thanks. Mr. Norman's report is certainly thorough – a thorough sham. Though the TTND papers are indexed as “Documents Reviewed,” none of the specific charges of arborist malfeasance made in six data-heavy analyses posted on The Tree Next Door website between August 19, 2010 and January 5, 2011 are even remotely considered. These ignored allegations include:

- A dismal record of enforcement actions by the entire arborist division for the first six months of 2010
- No evidence of any work performed by arborist Stan Domengeaux on an average of nearly two days per week during the first six months of 2010
- Numerous and recurring violations of mandatory Standards of Practice by both Domengeaux and arborist Michael Franklin
- Less than half of both Domengeaux's and Franklin's field book entries entered into the City database
- Dead, dying or hazardous (DDH) tree inspections claimed by Domengeaux at non-existent addresses
- Unrequested DDH inspections on vacant lots or boarded-up houses claimed by Domengeaux
- Dangerous “nuisance trees” documented by both Domengeaux and Franklin without required follow-up
- Fraudulent “No Trees Impacted” inspections claimed by Domengeaux

Rather than focusing on the allegations and the data behind them and trying to determine whether or not fraud indeed had occurred, whether or not Standards of Practice and Standards of Conduct were violated, whether or not dangerous conditions were allowed to stand, whether or not the City database was corrupted or that City time was wasted by the actions of these arborists, Mr. Norman conducted what appears to be free ranging, unfocused and softball interviews with the perpetrators themselves plus a few peripheral City employees. No “outside” witnesses were interviewed. Specific and detailed questions concerning alleged violations or unacceptable behavior were studiously avoided. Mr. Norman accepts outlandish and/or irrelevant statements as if they were true and/or important. The result is a predictable – and probably preordained – pretend investigation. It is a whitewash.

What is included

Though the Investigative Report is largely gloss and wholly reliant on self-serving statements from select city employees, some interesting elements do emerge. For example, according to Mr. Norman, former Arboricultural Manager Ainsley Caldwell

discusses the Standards of Practice – occasionally and interchangeably referred to as “SOPs” or, still less often, “Standard Operating Procedures” – as follows:

Caldwell stated that the Arborist Division provides guidelines in the form of Standards of Practice. Caldwell explained that the Standards of Practice are professional expectations as opposed to Standard Operating Procedures which are rules.

Caldwell issued the first set of comprehensive Standards of Practice in 2006. He re-issued and re-stressed the mandatory nature of the Standards of Practice in 2008 and again in 2009. He has testified under oath that the Standards of Practice were and are required to be followed. This is the first time that he has downgraded the Standards of Practice to “professional expectations,” differentiating them from required Standard Operating Procedures.

The current arborist division Standards of Practice are posted at www.treenextdoor.org. The Tree Next Door has filed an Open Records request for the “Standard Operating Procedures which are rules” distinct from the “professional expectations” of the Standards of Practice. For the time being we too will pretend that they exist.

Standards of Practice

The Standards of Practice were developed to ensure equal protection and equal enforcement of the law by city arborists across all geographic sectors. The Standards of Practice were discussed and debated in regular arborist staff meetings from 2003-2006 as they were developed. The comprehensive Standards issued by Caldwell in 2006 meld as much modern arboricultural science into the law as the ordinance will allow. The Standards have been vetted and approved by both the Director of the Bureau of Buildings and by an independent International Society of Arboriculture Board Certified Master Arborist.

SOP's and “people persons”

The arborist division in the Bureau of Buildings was created in 2000 following major changes in the Tree Protection Ordinance. Field arborists were hired, for the first time in Atlanta, specifically to implement and enforce this law. The Tree Protection Ordinance remains in effect. The Standards of Practice remain mandatory. The arborist’s job description has not changed.

Yet in one of Caldwell’s most telling comments to Mr. Norman,

Caldwell further noted that Domengeaux is a people person and likes to work with people to resolve their issues. Caldwell advised that while some arborists like to simply cite individuals and walk away, Domengeaux utilizes his discretion to try and amicably resolve issues.

No evidence is advanced to show whether Domengeaux is a “people person” or not, but whether he is or not simply doesn’t matter in terms of the job: Domengeaux could be the Mother Teresa of arborists ... and it would still be irrelevant.

Like all city arborists, Domengeaux is a special police officer sworn to enforce the Tree Protection Ordinance and paid to enforce the Tree Protection Ordinance. The Tree Protection Ordinance is enforced according to recognized, accepted and mandatory Standards of Practice. If what Caldwell is saying is true – and again, there is no evidence put forward in Mr. Norman’s report on which to base judgment – he is baldly and approvingly stating that Domengeaux is not doing the job he was hired to do, without being held accountable.

Caldwell’s own job, until he was relieved of his duties as Arboricultural Manager in December, was to ensure that Domengeaux and others did their job according to the Standards of Practice. Instead he makes excuses. He too is not held accountable.

Judging subordinates

Though he approves and excuses their failings, Caldwell appears to have little respect for his former subordinates according to Mr. Norman. Concerning Domengeaux,

Caldwell noted that in his opinion, Stanley Domengeaux was satisfied with performing his duties as an Arborist and had no aspiration to advance beyond that position. Caldwell stated that Domengeaux tends to only do what is required and is hesitant to do anything above and beyond.

Concerning Franklin,

Caldwell stated that Michael Franklin maintains a similar attitude to Domengeaux, as far as his lackadaisical attitude. Caldwell noted that Franklin is well qualified, but does the bare minimum.

Such observations have little to do with an investigation of fraudulent activity or dereliction of duty, yet it is of such tangential concerns and unsubstantiated statements that Mr. Norman’s investigation is constructed. Nonetheless, their inclusion in the report makes one wonder why the City is devoting so much time, energy and administrative and legal resources to excuse and retain such marginal, low performance people as Caldwell describes.

The troublemakers

It is not just his erstwhile subordinates that beset Caldwell and besiege the arborist division. According to Mr. Norman,

Caldwell stated that he has grown weary of a small segment of the populace attempting to discredit all of the work done by the Arborist Division. Caldwell believes that certain people will not be satisfied unless things always go their way.

Did Mr. Norman request names of people representing this accused “small segment of the populace”? Did he try to interview any of the dissatisfied “certain people” so vexing to Caldwell? There is no evidence if he did.

The Tree Next Door is the only organization mentioned in Mr. Norman’s report. It may be that unnamed TTND members are at least some of those “certain people” causing Caldwell such fatigue. TTND does not pretend otherwise.

But let’s be crystal clear: TTND’s *sole demand* is that

the Tree Protection Ordinance be implemented and enforced by the City, as written and according to the established Standards of Practice.

TTND does not “discredit” the work of those in the arborist division who actually do their jobs. But we too have “grown weary” of that segment of the arborist division -- Domengeaux and Franklin—who refuse to do their jobs, and of Caldwell, who enables them by refusing to supervise their work or hold them accountable.

And our weariness also extends now to the Compliance Manager of the Department of Law, Jeffrey Norman. His phony investigation and phony report discredits himself and discredits the Law Department. Not even Tinker Bell’s magic wand could make this “Investigative” Report credible, or lessen its stink.