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City of Batavia: Public Tree Management Practices

Review and Recommendations



White oak in Kibbe park

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Abbreviations

MTCM. Hauer and Peterson 2016 (see References). This 2014 census of tree activities within urban and community forestry provides benchmarks by population groups that create a solid footing for this program review.

Review and Recommendations

1 Introduction

This document is intended to accompany the report: “The Batavia Public Forest: Executive Summary of Tree Inventory Findings” (June 2016). That document carried out the following:

- identified 3,623 street trees and 697 park trees under City management
- reported on the condition of the trees, both structurally and biologically
- calculated the available planting space for city trees (about 1,700 sites)
- examined the maintenance needs within the limits of the data
- described the environmental benefits and reported their annual value

This new document responds to the following requirement in the RFP:

...the consultant will analyze the City’s current management practices and make recommendations with the goal of looking for opportunities to improve the City’s urban forest management.

Together, these two documents will then be incorporated into, and provide the foundation for, the **Tree Management Plan** for the City of Batavia. This work is supported by a 2015 grant (Rnd12-CMP-58) from the NYS Urban and Community Forestry Council.

2 Personnel

2.1 Field work

The City of Batavia currently employs 7 persons for tree care field work, all of whom have received formal training in safety and equipment use (Appendix A). In addition, the entire crew has attended regional workshops covering the following topics:

- Proper pruning and removal
- Tree risk assessment
- Tree identification

These qualifications are in line with the national averages for Batavia’s population category (MTCM). Further training would probably help the crew, both as a refresher for veterans and as orientation for new members.

On the other hand, none of the field personnel has actual credentials in tree care such as the Certified Arborist, Municipal Specialist, Tree Risk Assessment Qualification, etc. Three-fifths of the communities in the same population category share this lack (MTCM).

A word of caution: the crew and supervisor already have many duties besides tree care, and new tree duties will necessarily have impacts on the total workload that need careful monitoring.

2.2 Public relations

The primary means of public relations is through service calls to the Bureau of Maintenance. These calls are received primarily by the Clerk of the Bureau of Maintenance, though members of the Bureau and the City Administration also are contacted at times. The Bureau has a 30-day response policy.

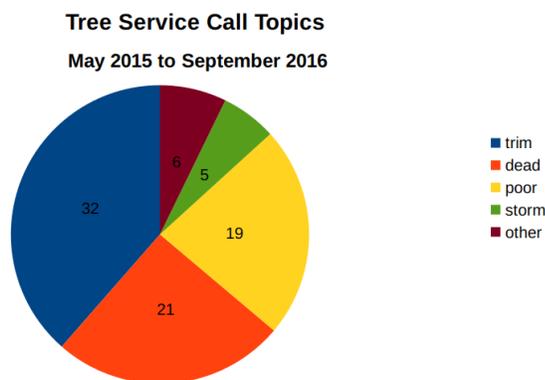


Figure 1

A review of the last 15 months of Tree Complaint Reports raises a number of observations:

- Three topics dominate the calls (Figure 1): the need for trimming, the poor condition of a tree and a dead tree.
- A very high percentage of the reports appear accurate, judging from the Inspection and Completion Reports.
- Multiple report forms exist where the actual topic of the service call is not indicated, or appears only in a margin somewhere.
- The critical legal information is being recorded, yet there is no easy way to review the service calls except by going through them one-by-one.

An alternative approach to handling these Reports would be to avoid paper altogether. The process might look something like this: the Clerk enters the information in an electronic form on a desktop computer, and stores it in a shared folder; that triggers a notification to the person responsible for inspection that a new report is available; the report is taken into the field on a tablet, and so forth. The advantages would be an increase in speed, easier data entry and retrieval, decrease in error, and easy tracking of status at any point along the way.

2.3 Volunteers

Volunteer involvement in tree maintenance and care is nearly non-existent. Only one instance of volunteer involvement in public tree work was found in the recent past.

On May 13, 2015, the United Way Day of Caring sent over 15- 20 volunteers to plant 50 trees on the perimeter of Centennial Park. Department of Maintenance prepped everything and volunteers put the trees in the hole.

MTCM reveals that in cities the size of Batavia an average of 37 people contribute each almost 9 hours of volunteer time, with tree planting being the most common activity by far. Batavia lags far behind the national benchmark in this important area.

If not being done already, the City could easily involve volunteers by establishing an annual municipal celebration of Arbor Day and having planting carried out by citizens.

2.4 Contractors

An annual contract for tree trimming and removal exists with Terry Tree of Rochester. This is renewable for up to three years and 2016 is their second year. Terry Tree has ISA Certified Arborists on staff and is well known for its expertise in tree work, especially in the removal of large older trees. No pruning and removal specs are issued for these tree care services, though the ANSI A300 Standards are referred to in the contract.

In 2015 the City of Batavia spent about \$32,000 for tree care services from Terry Tree, just about the national mean for its population group (MTCM).

Recommendations: Personnel

- Provide in-house training on currently recommended tree care techniques.
- Identify a Field Crew member for Certified Arborist training, and provide release time and funding.
- Revise the Tree Complaint Report form to include a topic checklist (e.g.: 1) trim, 2) poor, 3) dead, 4) other) to facilitate Clerk's work and to standardize the recording.
- Consider using an electronic Tree Complaint form that would facilitate review.
- Find areas where the Supervisor's load can be reduced with volunteers or technology.
- Review and summarize service requests and resolution on an annual basis.
- Coordinate with local Cooperative Extension for volunteer help from gardeners and 4-H kids.
- Set up volunteer groups to get involved in their local park planning and maintenance.

3 Field work

3.1 Equipment

The current field equipment list provided by the Bureau of Maintenance (Appendix B) is quite impressive, though the addition of a tri-edge pruning saw might encourage good-quality manual work. Given that large-tree trimming and removal are being contracted out, the items appear to constitute a reasonable tool set for the required tasks.

Almost half of the items in Appendix B are over 15 years old, however, and thus presumably near EOL; in fact, crew members indicated that some are already out of service. This situation carries important future implications for performance and budget that need to be addressed.

3.2 Planting

3.2.1 Species

Species diversity represents the best investment in the long-term survival of public trees by creating a resilient forest that is much more resistant to devastation by pests, soil problems and climate change. Selections for 2015-16 display a good awareness of this fact (Appendix C):

- A varied species selection
- Limited use of maples, a genus already dominant in the inventories

In addition to diversity, good cultivars for urban use are being planted, following established recommendations by Cornell University's Urban Horticulture Institute and—under power lines—National Grid's *Ten Thousand Trees...and Growing* program.

An alternative road to species diversity that usually requires less work and lower costs is to focus on the cumulative result instead of the annual order. Thus for instance, the City could select two species for the small, medium and large categories each year, giving residents a simple choice of the pair that suited available planting space. Changing the selections each year would mean that over time species diversity would be assured.

Three of the twenty-two listed in Appendix C are actual native species (i. e., sexually propagated with genetic variation), while another 7 are cultivars of native species and one is a hybrid with one native parent. The total of 50% native species being planted represents a good balance for use in the demanding urban environment.

3.2.2 Stock

Trees are purchased according to the lowest quote or lowest responsible bidder. By far the most successful vendor is Schichtel's Nursery in Springville NY, which is well known for its attention to the requirements of urban forestry. Russel's Tree & Shrub Farm has supplied a few, and Wayside Gardens, Northern Nurseries and larger regional garden centers have also been solicited.

No specifications are provided to the vendors, and without them QAQC becomes more difficult. This is particularly important for root structure, which plays a critical role in a tree’s survival and growth, and which can not be corrected once the tree is planted.

3.2.3 Site selection

Site selection for street trees is carried out on a per-resident basis, as the City tries to provide a minimum of one tree per property frontage. It can be difficult to find residents willing to have new trees planted and to provide basic care of watering once a week until established—the resident’s responsibility under current procedures.

There exist valid alternatives to this traditional approach:

- Site selection for entire streets. This approach is used when, for instance, major thoroughfares (such as Main Street) lack tree cover, leaving a bare concrete world for citizens and customers; or when a street has lost many trees in a short time, completely changing its atmosphere and lowering property values.
- Site selection for Wards. This is often done for “environmental justice:” the attempt to equal out the ratio of trees to residents so that tree benefits are provided equitably despite differences in social or economic status.

Criteria for selecting the planting sites, species, spacing, distance from signage, design for parks, etc., appear to be missing.

3.2.4 Transplanting

New trees are acquired in balled and burlapped (B&B) form. Other forms exist, and two of the most notable (bare root and grow bag) provide demonstrated advantages that may suit particular projects.

The actual planting process is carried out with the following steps, following the crew’s description and comments during an interview:

Element	Comment
hole	not following current techniques
mulch	used sporadically for weed control
water	at installation only
fertilizer	not used
stakes	wooden with plastic ties

The entire transplanting procedure could benefit from a review using current best management practices (Watson 2014). The City does not have a specifications sheet or up-to-date checklist with diagrams for crew use during planting, which tends to leave the crew to its own devices, and renders QAQC once again difficult.

3.2.4 Post-planting care

There are a few treatments for newly planted trees that are often used by the tree manager to reduce the plant's shock during the difficult first year:

- regular watering, critical to survival
- application and maintenance of mulch
- stake and tie removal

These treatments are apparently being left to the resident.

3.2.5 Survival

No data are collected on the survival rate of new plantings, making it difficult to draw a final conclusion about the planting procedures currently in use.

3.3 Maintenance

3.3.1 Training

Training is a form of pruning carried out on young trees to improve structure and reduce future problems from storms, pests, etc. Despite its demonstrated importance for the long-term survival and quality of urban trees, training is not being conducted on a regular basis.

3.3.2 Trimming



Figure 2: Flush cut on a Norway maple

The crew of the Bureau of Maintenance carries out much of the trimming for streets and parks. Most of the time this work takes place on an as-needed basis, triggered often by service calls.

As Figure 2 demonstrates, at least some of that work deviates from the standard quality of work that should be expected. The incorrect location of the undercut at the trunk has resulted in the absence of woundwood on the bottom quarter of the exposed surface (white arrow), which is impeding the wound from being sealed off to contain decay.

There does not appear to exist a trimming specification sheet or up-to-date field checklist with diagrams for crew review and use.

3.3.3 Removals

Removals are shared by the City crew and an outside contractor, depending on tree size and location.

No written criteria seem to exist for determining when trees are to be removed, so that citizen objections to individual tree decisions can not be answered with a statement of policy. Such a statement could also specify when and how the decision is reached about critical questions such as how long to continue to prune dead wood out of declining trees.

3.3.4 Preservation

No guidelines exist for tree preservation. In the cover photo, for instance, note that that native specimen tree lacks root care and protection; the crown indicates that it is beginning to suffer for that reason. Cooperation with other departments such as the Bureau of Engineering is essential.

3.3.5 Pests

No guidelines exist for municipal pest treatment. With the Emerald Ash Borer threatening, a general policy in addition to a specific plan would be useful.

3.4 Risk assessment

Risk assessment of public trees is not currently implemented, so that trimming and removal work relies primarily on service calls. Systematic management through the use of a survey cycle for trimming and risk assessment is both more prudent and more efficient, and has been adopted by about 60% of the communities in Batavia's population group (MTCM).

Work scheduling and execution is often carried out more economically by conducting a windshield survey of one or two Wards per year on a "rotating schedule," a procedure that can significantly reduce the costs of logistics (Miller et al. 2015).

3.5 Standards

Responsible and professional tree care relies on the existence of standards and specifications. The two words “standards” and “specifications” are often confused with one another:

- **Standards:** a collection of general procedures and rules
- **Specifications:** adaptation of the standards for a certain task

Standards available for use are listed in Appendix D. Within Batavia’s population group, 20-60% of the communities are incorporating the primary standards into tree management procedures (MTCM), with Tree City USA being the most common and ANSI A300 the least. Batavia incorporates the A300 standard into its procedures.

Recommendations: Field work

- If not already in process, a multi-year equipment replacement and update schedule should be created and costs budgeted.
- Assemble a *Public Tree Care Specifications Manual*; suggestions in Appendix E.
- Consider implementing systematic management.
- Set up an annual windshield survey for 1 or 2 wards for pruning and risk assessment.
- Adopt the suitable tree care standards from ANSI and other organizations, and use them to produce specifications.
- Develop—perhaps using volunteers—a recommended species planting list by tree size at maturity that will avoid the necessity of working with the detailed Cornell list each year.

4 Administration

4.1 Planning

4.1.1 Long-range planning

This topic has been identified by the City as a priority, and supported by a State grant. It will be the focus of the *Tree Management Plan*, where questions of the mission, means, goals and objectives of public tree management in Batavia will be examined.

4.1.2 Medium-range planning

Some effort has been made in this area, and more needs to be done. The search for more permanent solutions to current problems often focuses on training, and that seems to hold true for the case of public tree management in Batavia as well. The following areas have been identified:

- Tree work. The crew itself identified the need for training in tools and techniques, and that was corroborated by field observations.
- Electronic work. Training will be needed for the new computer-based tools delivered with the Executive Summary if they are to be incorporated successfully into tree management.

4.1.3 Short-range planning

The improvement of current operations is routinely pegged to the functionality of QAQC. Yet it has repeatedly been noted in the course of this Operations Review that that process is frequently absent. Successful QAQC, in turn, requires the presence of consistent procedures, specifications, data collection, analysis and application.

4.2 Funding

4.2.1 City of Batavia Annual Budget

In recent years, the allocation to tree management in the City Budget has been more or less steady around \$32,000 (Appendix F). Given the results of the tree inventories, especially the unknown work needed for the almost 600 street trees that still require consultation, that allocation may well not suffice for the coming period.

4.2.2 State grants

In 2015, the City applied for and was awarded for support from the NYS Urban and Community Forestry Council. The award of \$15,000 targeted the development of a Tree Management Plan. Communities have been successful in the past in returning to that funder for additional support upon successful completion of the first project.

Appeal for municipal projects related to visual enhancement and economic development—for instance, the installation of trees to render Main Street more attractive to residents, tourists and consumers—are commonly made now to the **Regional Economic Development Councils**. City personnel may be planning to make a proposal that could accommodate an item for public tree care.

4.2.3 Private grants

Tree care in City parks—especially Centennial, with its rich history—may attract financial support from local or regional foundations and interested individuals, particularly if a dedicated association of some sort exists. The City’s Planning department may have resources for pursuing such a goal.

4.3 Policy

Tree policies serve to establish the basis of all municipal activities, from planning to removal. The City does not have a freestanding policy such as a Tree Ordinance, but relies on two sections of the general City Code (Appendix G):

- § 159-12: Master Street Tree Plan
- § 159-13: Penalties for Offenses

In comparison with other cities of the same population group, the two sections of Batavia's City Code reveal some striking omissions. A couple of the most obvious deserve mention here:

- No statement of purpose or intent.
- No specific mention of Park trees.
- No mention of tree preservation.
- No procedures for managing the effects of private, corporate or municipal development.

This topic will be covered in the Tree Management Plan.

4.4 Tree Commission

A Tree Commission (AKA: Tree Board, Parks Board) serves as a liaison between residents and City personnel. Appropriately set up for local needs and capabilities, it can provide a valuable and time-saving role in tree care and management. Possible functions include:

- Recommending species selections for a given year
- Interacting with residents on concerns or community-centered activities about urban trees
- Contacting residents about planting sites

The City of Batavia does not currently have such a body, a position it shares with two-thirds of the members of its Population Group (MTCM).

4.5 Promotion

There appears to be little active promotion of tree planting, care and maintenance at the moment, although the Tree Management Plan should provide a good basis for such activity in the future. Many communities in the same population group as Batavia (MTCN: over 60%) rely on Arbor Day's "Tree City USA" program, which is easily set up, indicates a municipal commitment to trees and confers a widely recognized award on the City.

Another effective way to promote relations with the public that cares about trees and urban canopy is to make online documents about tree care available on the website. A good starting place would be with the excellent *Tree Owners Manual* (Johnson et al. 2012) along with simplified diagrams of correct planting and pruning.

Recommendations: Administration

- Improve and standardize QAQC procedures.
- Review the tree management section of the Batavia City Code for important restructuring, changes and additions.
- Create an *Administration and Policy Manual* for public trees.
- Explore funding possibilities for activities such as a removal spike, total street renovation or park management.
- Invite volunteer groups to form an advisory Tree Board with responsibility for specific areas.
- Consider becoming a Tree City USA to promote interest in public trees.
- Consider developing a proactive public relations program, starting with providing general resources on the website.

5 Conclusions

Reviewing something as complicated as tree care operation as an outsider has benefits and costs. Benefits include the awareness of information and techniques that those within have neither the time nor the inclination to chase down themselves, as well as a certain freedom from the pressure of tradition. The major costs are missing facts about crucial features and interactions, and recommending changes that simply make no sense for one reason or another in the actual context. My hope is to have threaded the needle in such a way, as always, that the benefits will outweigh the costs as the City of Batavia considers this Review and its implications.



Figure 3: Early Spring in Farrall Park

Resources

Hauer, R. J., and W. D. Peterson. 2016. *Municipal Tree Care and Management in the United States: A 2014 Urban & Community Forestry Census of Tree Activities*. Special Publication 16-1, College of Natural Resources, University of Wisconsin – Stevens Point. 71 pp. Online: <http://bit.ly/2c85rc4>

Johnson, Jill R., et al. 2008. *Tree Owner's Manual for the Northeastern and Midwestern United States*. USDA Forest Service, Northeastern Area State and Private Forestry: NA-FR-04-07. Online: <http://bit.ly/2cYtRZp>

Miller, Robert, Hauer, Richard, and Les Werner. 2015. *Urban Forestry: Planning and Managing Urban Greenspaces*. Long Grove, IL: Wayland.

Watson, Gary W. 2014. *Best Management Practices—Tree Planting*, Second Edition. Champaign, IL: International Society of Arboriculture.

Appendices

A. Field personnel responsible for tree care and their training

Name	Training
Brian Metz (Supervisor)	BOCES Conservation and Heavy Equipment, OSHA 10hr w/ Tree Trimming Safety, Bucket Truck Training – Altec, Chipper Training, Fire Extinguisher, Electrical Hazards, PPE, UFPO Underground Locating,
Richard Reeves	OSHA 10hr w/ Tree Trimming Safety, Bucket Truck Training-Altec, Chipper Training, Fire Extinguisher, Electrical Hazards
Peter Pahuta	OSHA 10hr w/ Tree Trimming Safety, Bucket Truck Training-Altec, Chipper Training, Fire Extinguisher, Electrical Hazards
Shawn McAlister	BOCES Conservation and Heavy Equipment, OSHA 10hr w/ Tree trimming, Bucket Truck Training- Altec, Chipper Training, Fire Extinguisher, Electrical Hazards, Debris Vacuum training
Shawn Easton	OSHA 10 HR, Bucket Truck Training In-House, Chipper Training, Fire Extinguisher, Electrical Hazards
Thomas Garlock	BOCES Conservation and Heavy Equipment, PPE
Aaron Crawford	BOCES Conservation and Heavy Equipment, PPE

B. Available tree-care equipment

Unit No.	Description	Date Purchased or Miles
218	Bucket truck: 2012 Ford F550 with Altec Bucket 35 ft, shared with Streetlights/Traffic signals	approx. 7500 miles.
280	Chipper: Bandit Model 1390xp w/ winch	2014
298-2	Chainsaw: Stihl MS362 20"bar	2013
298-3	Chainsaw: Jonsered Turbo 2071	1998
298-6	Chainsaw: Stihl MS193T 12" Top handle	2016
298-7	Chainsaw: Stihl 192 T-CE-14 14" Top handle	2014
298-9	Chainsaw: Homelite 925 Super XL 30"	1987
298-11	Chainsaw: Stihl MS-261 20"	2016
298-12	Chainsaw: Jonsered 2036 14"	1997
298-13	Chainsaw: Jonsered 2036 14"	1997
298-15	Power Pruner: Echo PPT 260	2000
298-16	Power Pruner: Stihl 131	2013
Misc. – Safety Equipment	Helmet w/ Face Shield & Hearing Protection, Chaps, Eye and Hearing protection, Gloves and Harnesses for bucket truck	

C. Recent species selections

Botanical Name	Common Name	Native	Cultivar
<i>Acer freemanii</i> ‘Scarlet Sentinel’	Scarlet Sentinel maple	x	x
<i>Acer rubrum</i> ‘Bowhall’	Bowhall red maple	x	x
<i>Amelanchier x grandiflora</i> ‘Autumn Brilliance’	Autumn Brilliance serviceberry	x	x
<i>A. x grandiflora</i> ‘Robin Hill’	Robin Hill serviceberry	x	x
<i>Cercis canadensis</i>	Redbud	x	
<i>Cornus kousa</i> ‘Heart Throb’	Heart Throb dogwood		x
<i>C. kousa</i> var. <i>chinensis</i>	Chinese dogwood		
<i>Crataegus viridis</i> ‘Winter King’	Winter King hawthorn	x	x
<i>Ginkgo biloba</i> ‘Autumn Gold’	Autumn Gold ginkgo		x
<i>Prunus virginiana</i> ‘Canada Red’	Canada Red chokecherry	x	
<i>Prunus x</i> ‘Accolade’	Accolade flowering cherry		x
<i>Pyrus callereyana</i> ‘Cleveland Select’	Cleveland Select flowering pear		x
<i>P. callereyana</i> ‘Aristocrat’	Aristocrat flowering pear		x
<i>Quercus bicolor</i>	Swamp white oak	x	
<i>Quercus palustris</i>	Pin oak	x	
<i>Quercus robur</i> ‘Regal Prince’ (now: <i>Quercus x</i> ‘Regal Prince’)	Regal Prince oak	(one parent)	x
<i>Robinia pseudoacacia</i> ‘Bessoniana’	Bessoniana black locust	x	x
<i>Syringa reticulata</i> ‘Ivory Silk’	Ivory Silk Japanese tree lilac		x
<i>Tilia cordata</i> ‘Glenleven’	Glenleven littleleaf linden		x
<i>Tilia x euchlora</i> ‘Redmond’ (now: <i>Tilia americana</i> ‘Redmond’)	Redmond American linden	x	x
<i>Ulmus x</i> ‘Accolade’	Accolade elm		x
<i>Zelkova serrata</i> ‘Green Vase’	Green Vase zelkova		x

D. Standards applicable to tree care

Official standards

ANSI A300. Mission: to develop consensus performance standards based on current research and sound practice for writing specifications to manage trees, shrubs, and other woody plants. Contractors should receive task-appropriate specifications that are based on this standard. Topics especially relevant to municipal tree care include:

- ANSI A300 (Part1) - 2008: Pruning (R2014)
- ANSI A300 (Part 2) - 2011: Soil Management (Fertilization)
- ANSI A300 (Part 6) - 2012: Planting and Transplanting
- ANSI A300 (Part 8) - 2013: Root Management
- ANSI A300 (Part 9) - 2011: Tree Risk Assessment
- ANSI Standard Z133.1 2012 - Safety Requirements

ANSI Z133. Safety standards. The 2012 revision of the ANSI Z133 Safety Standard provides the most current criteria in the United States for arborists and other workers engaged in arboricultural operations. Topics include;

- General safety
- Electrical hazard
- Use of vehicles and mobile equipment
- Portable power hand tools
- Hand tools and ladders
- Work procedures

ANSI Z60.1. American Standard for Nursery Stock. Important that buyers provide growers or distributors with specifications that conform to the terms of the Standard. Topics include:

- Specifications
- Minimum requirements
- Root ball requirements

Other standards

Tree City USA. A nationwide movement that provides the framework necessary for communities to manage and expand their public trees. It requires four core standards of sound urban forestry management: maintaining a tree board or department, having a community tree ordinance, spending at least \$2 per capita on urban forestry and celebrating Arbor Day.

ISA, Best Management Practices. A series of Best Management Practices (BMPs) for the purpose of interpreting tree care standards and providing guidelines of practice for arborists, tree workers, and the people who employ their services. Among the many topics covered are these:

- Best Management Practices - Tree Inventories
- Best Management Practices - Tree Planting
- Best Management Practices - Tree Pruning – English
- Best Management Practices - Tree Risk Assessment
- Best Management Practices Managing Trees During Construction

E. Technical and Specifications Manual

Here are the specifications that have been recommended in this document for inclusion in a new Manual for use by Bureau of Maintenance personnel.

- Species selection
- Site selection
- Stock
- Planting and Post-planting
- Training
- Trimming
- Removal
- Preservation
- Pests

F. Batavia City Budget: Recent Tree Care Items

Year	Trim/Removal	Planting	Comment
2016	\$36,250		Includes removal of 18 stumps from mature Oak trees for a special project. That cost removed gives \$32,416
		\$10,760	Includes planting 36 trees for a special project. That cost removed gives \$4,366
2015	\$33,250		
		\$4,500	
2014	\$34,000		
		\$3,350	
2013	\$30,000		
		\$5,250	

G. Public Tree Management in the Batavia City Code

The following sections in current Batavia City Code regulate public tree management:

§ 159-12 Master Street Tree Plan.

A.

Master Street Tree Plan. A Master Street Tree Plan as revised from time to time shall be applicable to the City of Batavia.

B.

City Arborist designated. The City Engineer, by virtue of his or her office, is designated City Arborist. The City Arborist is hereby given full jurisdiction, authority, control, supervision and direction of all trees which now or which may hereafter exist upon any public place and of all trees which now or which may hereafter exist upon any private place and come within the scope of this section and/or constitute a nuisance, as hereinafter provided.

C.

Compliance with plan. The Master Street Tree Plan shall show all varieties and/or species of trees to be planted in the public lands of the city and in the street rights-of-way. This plan shall be revised from time to time by the City Arborist and approved by the Council. No person shall hereafter plant, transplant, remove any public tree on or to any street or public place except to a location where it will be in conformity with the said plan and the species or variety therein designated. In any event, specific authority shall be granted by the City Arborist.

D.

Trees on private property; encroachments on streets. All trees standing upon private property having branches projecting into public highways, streets and sidewalks shall, under the supervision of the City Arborist, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not come within 10 feet of the ground where they overhang any public sidewalk or 16 feet over a public highway or street. Any violation of this shall constitute a public nuisance and may be abated by the City Arborist.

E.

Tree roots. Where the roots of any tree upon private property in the city penetrate through or under the surface of a public street, sidewalk or other public property, and cause damage to city property, including sidewalks, roadways, sewer lines or water lines, or where said roots are in such close proximity to said public property that damage can be reasonably anticipated, said condition is hereby declared to be a public nuisance, and may be abated by the City Arborist.

F.

Removal of encroachments by trees, etc., on private property. When the City Arborist shall find it necessary to order the trimming, preservation or removal of trees or plants upon private property under such conditions as constitute a nuisance as hereinbefore provided, he or she shall serve a written order to correct and abate the nuisance upon the owner, occupant or other person responsible for the nuisance.

(1)

Such an order shall be served in the method established by law for the service of a summons.

(2)

The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation, but under no circumstances less than 30 days. However, in cases of extreme danger to persons and public property, the City Arborist shall have the authority to require compliance immediately upon service of the order.

(3)

A person to whom an order hereunder is directed shall have the right, within 30 days of the service of the order, to appeal to the City Manager, who shall review such order within 30 days and file his or her decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. Any person to whom an order is directed must comply with such order within five days after an appeal shall have been determined.

(4)

When a person to whom an order is directed shall fail to comply within the specified time, the City Arborist shall remedy the condition or abate the nuisance and charge the cost thereof to the person to whom the order is directed. The City Arborist, or his or her employees and/or agents, shall be authorized to enter upon private property to remedy the situation complained of.

(5)

All such charges and costs for remedial work performed by the City Arborist shall become a lien against the real property, unless paid within a period of 30 days, in the manner provided for unpaid water and sewer bills, as provided in the City of Batavia Municipal Code.

G.

Removal of trees.

(1)

Diseased trees. All diseased, dead, dying or dangerous trees shall be removed from city property at city expense.

(2)

Healthy trees. Healthy trees growing on city property may be removed, after written request, if such trees, in the opinion of the City Arborist, unreasonably interfere with private property rights and then only if the cost of such removal is shared 60% by the city and 40% by the property owner making such request.

§ 159-13 Penalties for offenses.

Each violation of any provision of this article shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed \$250.