

**FAIRVIEW MUNICIPAL TREE COMMISSION
MINUTES**

Meeting, Tuesday, 05 July 2016 7:00 pm

1. Chairperson, Debby Rainey called the July 2016 meeting to order at 7:00 PM.
2. Roll was taken. A quorum was present.
In attendance: Debby Rainey, Chairperson; Patti Carroll, Mayor; Toney Sutton, Vice Mayor; Mike Berkley, City Arborist; Lisa Anderson, Planning Commission; Jane Woodall, Secretary.
Absent: Brandon Butler.
Guests: John Lavender, Director of Recreational Services, Lose and Associates; Wayne Hall, Codes; Scott Tucker.
3. Approval of Agenda: TSutton made a motion to approve the amended agenda. LAnderson seconded the motion. The Tree Commission voted to approve the agenda for the July 2016 meeting as is; none opposed.
4. Approval of Minutes:
 - 4.1. Approval of minutes for monthly Tree Commission meeting May 2016 (Note: there was no June 2016 meeting).
TSutton moved to approve the minutes of the previous meeting; LAnderson seconded the motion. The Commission approved the minutes for the meeting as is; none opposed.
5. Old Business
 - 5.1. Mapco Property Mapco Property noncompliance - Follow-up on landscape compliance and confirm trees have been pruned and planting completed. (WHall, MBerkley)
WHall noted that, since the bond for this property was released 3.5 years ago, all the city can do from a Codes standpoint is request, but not demand, that the property owners maintain the property, unless it becomes a public hazard (ability to see to get into or out of the property). MBerkley noted that there is one of the oaks on which the top half is dead (the central leader for the tree), which may be a safety issue. Some of the redbuds also need pruning. However, unless there is a public safety concern, per WHall, there is nothing the city can do but suggest action be taken.

Some suggestions made regarding issues like this were to consider changing the ordinance and extend the coverage of the bond from 3 to 5 years or to require something in the Codes about the maintaining of the property. In part, to do this, it was pointed out that the city needs to get all their codes books and documents to agree. WHall noted that it is a project for next year and the BOC needs to determine which projects to work on. PCarroll noted this is a project that was put into the budget and that now that the budget is approved, we could move forward with this. WHall thought this was about a \$35K project.

This item will be closed as a Tree Commission agenda item.
WHall will continue to call and watch the tree that has the dead top for safety issues; a directive was given to WHall to send a letter to the property managers about the concerns and as a potential warning, to have a paper trail in case the dying tree does become an issue.
 - 5.2. Update on the Road Scapes project on Hwy 100 and Hwy 96 junction in Fairview and associated dedication. (Note: because of the extensive discussion, the minutes have been summarized and to some extent, items grouped based on the items discussed. For the entire discussion, please view the video of the meeting.)
To bring the Tree Commission up to date: WHall noted that Burl Tidwell (road inspector with TDOT) contacted him about drainage issues/concerns as did Shawn Bible, the Beautification Director for the State. They set up a meeting with Denise Butler, Whitney Sullivan, Denise Baker, Lose Associates

FAIRVIEW MUNICIPAL TREE COMMISSION MINUTES

Meeting, Tuesday, 05 July 2016 7:00 pm

Page 2 of 6

(Andrew Kraeger has been out due to an illness and John Lavender was at the meeting), Ms. Kimrey (?), Burl Tidwell; the two state engineers were not at the meeting.

John Lavender, guest at the Tree Commission meeting, continued the update: TDOT stopped short of putting a stop work order on the project after the road engineers became concerned about the median planting and the fear it would interfere with drainage and if we were to have a big rainfall, there would be road flooding. That is where [the project] stood when everyone came together for the meeting. When Lose and Associates put the plans together to go to TDOT and when they did the plans, they looked at the areas of the median, and where there were positive areas for inverts/culverts, they separated the plants to allow for the drainage. After they got into construction, there was still some concern (based on some flooding close to the Post Office) that in the median there could be flooding of the road with heavy rains; even after the plans were approved, one of the road engineers (different from the ones that approved the plans) expressed concern about road flooding and suggested using river stone rather than mulch in the flowerbed areas.

To provide a solution that TDOT would be ok with, what Lose and Associates proposed was possibly using river stone rather than mulch in the beds; this would keep anything from washing off and covering up culverts. Initially, the proposal for doing a middle of median was mixture of soil, mulch and stone or just stone; since then, he has done some calculations and it will take about 200 cubic yards of stone to cover all the beds in the median – the cost comes to about \$10-15K for the river stone (this does not count for the labor); they have not spoken with LSI yet - they needed to get something that TDOT was able to go with first. JLavender said he spoke with Shawn Bible this morning and she thought she could spend about \$10K, but she is still going through channels at TDOT to be sure the engineers are comfortable going that route if we (City of Fairview) choose to do that. DRainey asked if that would increase the amount the City would need to match and the answer was, "Yes," (WHall and TSutton) – roughly about \$3K. It was noted that the use of stone would decrease the future maintenance in the area. MBerkley noted though, if it were not done correctly, then grass/weeds would take over. JLavender said they did suggest using the weed barrier cloth underneath; mulch would have to be placed a couple of times a year.

PCarroll noted that [the median] was a real eye sore as it is and to just throw rocks on it would not help; the plants are (also) too close together as it is. She noted that we had looked forward to this [project] for a long time. Several Tree Commission members said they get calls every day about what is going on with the planting and why are we letting them die. PCarroll said she thinks they are planted incorrectly. MBerkley has the original plans and noted the actual planting is not too different from what it was to be. TSutton noted that he spoke with Dan Kubit and the planting is almost exactly the way it was supposed to be, with the types and locations of the plants.

MBerkley noted he received a letter from Ken Bryant, Project Manager and Quality Inspector [with Lose and Associates], on 20 June 2016 that let him know that LSI was coming up short on finding the Virginia spirea (these are about 50% dead of the ones planted) – they were finding about 57 of the 113 listed on the plans. Out of the 57, only about 30 of those planted may still be living. These are planted on 2 foot center, but MBerkley has one at his nursery that is about the width of the table [about 6 feet]. Ken Bryant had noted some possible solutions to not being able to locate the number of spirea. TSutton asked who would be responsible for revising the plan. JLavender noted if there is a change order, it would go to Lose and Associates to let LSI know.

Additional, extensive discussion on who is responsible included the following:

JLavender said Lose and Associates was helping just to get through the TDOT federal requirements for funding and assisted with some of the process and does not send someone out to inspect on a regular basis. They will be doing a final inspection. It is a modified CEI [Civil Engineering Inspection] at best on this project. MBerkley noted on the original plans, under specifications (specs), the word "inspect" is

FAIRVIEW MUNICIPAL TREE COMMISSION MINUTES

Meeting, Tuesday, 05 July 2016 7:00 pm

Page 3 of 6

constant on it and he asked who does the inspections. Per JLavender, they will do the final inspection (and have not done this yet) and everything that is dead will have to be replaced.

DRainey/MBerkley asked who is supervising or who is in charge and JLavender noted that we were (indicating the City of Fairview). MBerkley said he has not had any communication from the city to do an inspection and WHall said he had not been told it was supposed to be the City doing the inspections; JLavender noted that a CEI is typically a daily, monitoring activity. DRainey asked what a "modified CEI" would be - once a week? once a month? Per JLavender, from Lose and Associate's role, this would be for anything where there was a question, they would be out here. He noted the contract is between LSI and the City of Fairview.

DRainey asked, at this point in time, does MBerkley [as the City Arborist] have the right to go out and request changes – the response was "yes." JLavender noted again that all the dead plants will have to be replaced before the final inspection.

DRainey asked if the city is responsible, have we [the City] been included in these conversations. MBerkley and WHall both stated, "No;" MBerkley reiterated he is not getting any communication from Lose and Associates, LSI or the City – just from the citizens. WHall noted that, all along, Andrew Kraeger [with Lose and Associates] had indicated that they would be doing the inspections. John Lavender could not say what was done at the beginning, but it is within the city's right to say something. It was stated that WHall has the right to ask MBerkley to go and talk with LSI.

DRainey asked [later, to clarify] if MBerkley has the right to go to LSI and tell them that they have to remove the "mess" and not plant until October – JLavender again responded "yes" – and again noting, that the contract is between City and LSI (as the contractor) and emphasizing again that everything that is dead must be replaced before the final approval. WHall also noted that per Shawn Bible, there is also a warranty for one year from the end of the project sign off.

JLavender confirmed that MBerkley has the right to ask [LSI] that these things be fixed now. MBerkley noted that LSI may not do with what he asks.

Summary of discussions on timing of planting:

- LAnderson asked about timing of the planting and MBerkley noted that on the specs, it has the recommended planting be from January through the first half April or from the last part of October through the end of December and we are now in July. JLavender stated the Notice to Proceed was given at the end of February and he did not know why LSI had waited so late (to start planting).
- Planting started May 12 – PCarroll noted the planting was done the week before the dedication occurred. Per JLavender, LSI had a 90 day contract from the Notice to Proceed to do the planting.
- MBerkley noted that the buyer with LSI was "pulling her hair out" trying to find the required plants (and was not familiar with all of them on the list). MBerkley noted that you don't wait until you've won a bit to determine if you can fulfill the requirements and said he wants to clear this up as soon as possible. Andrew Kraeger was in contact with WHall – noted that LSI was late in getting inventory. Then there was a communication breakdown when roles were transitioned.
- Currently, TDOT does not want to plant anything else until the fall. JLavender noted that there is an \$8K watering item in the budget.

FAIRVIEW MUNICIPAL TREE COMMISSION MINUTES

Meeting, Tuesday, 05 July 2016 7:00 pm

Page 4 of 6

Summary of discussions on deviation from original plans:

DRainey wanted to know if LSI has this kind of reputation – JLavender noted that he considers LSI a “top tier” landscaper. MBerkley noted that LSI got the low bid [on this project] and that does not necessarily equate to quality; that it is up to the landscape architect to set the standards.

PCarroll asked for a list of what was not done on the specs that Lose and Associates put this together. MBerkley noted that [in the original plans]:

- the soil mixture was supposed to be 50/50 original soil and top soil and this was not done;
- that all beds were to be cleared of all weeds and grass prior to planting; LSI used a “ditch witch” to dig the ditch, no soil or amendments were added, and the area sat fallow for a long time and the weeds came back; no preparations to the beds were made.
- beds were to be fertilized with granular fertilizer
- Some plants that were put in were dead
- MBerkley noted that the spacing of the spireas was [also] an issue.
- Also, the landscape architect was to be notified 48 hours before beginning work and this did not happen. JLavender was sitting in for someone else so could not answer why there was no notification.

Summary of discussions on the use of river rock rather than mulch:

- DRainey wanted to talk more about the river rock – she, like PCarroll, said the river rock is not at all what we had envisioned [for this project]. MBerkley asked how the engineers learned about this and WHall said that one of them lives in Hickman County and drives by the area; after the project was started, an engineer (someone that did not have knowledge of the project) questioned it. DRainey asked how could the engineers not have knowledge of the project and be doing the engineering on it. DRainey asked if there was anything we could do other than the river rock.
- The engineers that raised concerns did not want mulch and really did not want planting in the median at all. It was noted that Shawn Bible does not want to tear it out since she is wanting beautification and money has already been spent – trying to find a solution to satisfy TDOT and the City. However, TDOT engineers are over Shawn Bible’s position. WHall said that he would talk to Shawn Bible tomorrow to see what decisions were made.
- MBerkley said that in the original plans, the beds were to be a little above grade and the water would go around them.
- MBerkley said the river rock will not work as many of these plants were chosen for their ability to colonize and this will not happen with the weed cloth [under stone].

Other Commission Member comments on current state of the median:

PCarroll noted that currently it is a disgrace and is unacceptable; she is disappointed and thinks it is a disgrace for TDOT and the community;

LAnderson noted that it is such a waste of money [what has been done].

TSutton said we could spread out some of the remaining plants.

WHall noted that, to date, there has been one payment to LSI for plants that have come in. (~\$15K)

What is to be done:

- TSutton would like a letter from Lose and Associates to oversee [the project] confirmed or have Mr. Bryant come and talk with MBerkley and WHall. Since it is within MBerkley’s right as City Arborist to direct the contractors, it was asked who does MBerkley contact? JLavender said that Ken Bryant would probably be the best one; back-up would be John Lavender.
- MBerkley to sit down with LSI and decide what needs to be done and direct this and let them know that they will not be paid until it was done.
- Clean up the median.

FAIRVIEW MUNICIPAL TREE COMMISSION MINUTES

Meeting, Tuesday, 05 July 2016 7:00 pm

Page 5 of 6

- Remove dead/dying plants; provide some mulch for existing living plants for the summer
- Planting schedule – No more plantings until October
- Stake trees (had to replace the smoke trees in the loop section) (MBerkley also noted as 8-foot smoke tree that is bent over touching the ground because it is not staked properly. PCarroll noted that one tree had a broken limb from the recent storms.)
- Keep the area with the trees maintained

MBerkley, PCarroll, WHall to get together with Shawn Bible, and persons above from LSI, Lose and Associates and TDOT (including the engineers – current and the ones that signed off on the project) and work out a solution – they should be able to get persons together between now and the next Tree Commission Meeting. To get together to show the engineers with concern and let them see the original specs (with raised beds) and see what they can suggest or if they are ok with the original specs. Since it is clear now that the City responsible, MBerkley and WHall to go to LSI and get them to clean up the current situation. It was also requested that a representative from LSI attend the next Tree Commission Meeting.

- 5.3. Fast Pace Clinic Update – update on unwrapping large tree out front – confirm with MBerkley it is unwrapped.

MBerkley confirmed this is done.

- 5.4. The Meeting Place (church building on Hwy 96) – Update (WHall, MBerkley) on compliance issues and violation concerns.

WHall gave the update: They went back with plans to the Planning Commission and The Meeting Place was able to get the retention pond approved. They have been given a temporary certificate of occupancy until the planting season. They must be compliant with the plantings and other items on the original plans before the permanent certificate of occupancy – this goes through October 2016. Everything must be planted before the city grants the permanent certificate of occupancy. They will need to complete what is on the original plans (regarding the plants).

This item will remain on the agenda, but the Tree Commission will put the item on HOLD for discussion until the September 2016 meeting.

- 5.5. Dead tree at Stuff It In. – Follow-up.

Need to move some trees back because of TDOT right-of-way and this stressed the trees. The City is holding the \$55K bond. They will replace the dead tree(s) in the fall (2016). They need to replace with the same caliper as per the original plans.

This item will remain on the agenda, but the Tree Commission will put the item on HOLD for discussion until the September 2016 meeting.

- 5.6. ITEMS ON HOLD due to a hold on funds supporting the Road-Scapes Project:

- 5.6.1. Review and provide additional details and information on recommendations sent to the BOC from the April 2015 Tree Commission meeting– any update from Mr. Kraeger?

6. New Business

- 6.1. Update on appointments/re-appointments to Tree Commission.

Per TSutton, DRainey was reappointed to the Tree Commission. LRichards resigned his position and this position remains open; this was a citizen appointment. It is still on the BOC agenda.

FAIRVIEW MUNICIPAL TREE COMMISSION MINUTES

Meeting, Tuesday, 05 July 2016 7:00 pm

Page 6 of 6

7. Update on Tree Bank Funds. (WHall)

WHall relayed the balance remains approximately \$97,948.28 plus the interest (the past two months) minus \$15K paid to LSI (Roadscapes). (Note: from the previous minutes, this amount does not account for the \$648 spent on redbud trees picked up for City Hall right before Christmas; this has not been deducted yet from the Tree Bank fund.)

8. Citizen Comments – None.

9. Adjournment: With no further business, DRainey adjourned the meeting at 8:25PM. (The next Tree Commission Meeting date – Tuesday, 02 August 2016.