

FEAB August 2020

FEAB MEETING MINUTES

August 14, 2020

3:00 p.m.

Fairhope Civic Center Delchamps Room, Fairhope, AL

Member Attendees: Gary Gover, Ben Frater, Mike Shelton, Tony Pritchett, Amy Paulson

City of Fairhope: Kim Burmeister, Planning and Zoning Department; Christina LeJeune, Planning and Zoning; Jessica Sawyer, Community Development

Honored Guests: Steve McClure, Corey Martin

Minutes taken by: Kim Burmeister

FEAB MINUTES:

January and February 2020 FEAB minutes were approved as written.

DISCUSSION OF ITEMS:

FEAB Membership / By Laws Resolution:

Gary has been discussing membership by-law revisions with the City Clerk, Lisa Hanks. Lisa has suggested a definitive number of FEAB members, so Gary is revising to reflect 9 members. This means that at all times the quorum will be set at 5 members in attendance, regardless of how many are actively on board. Kim confirmed there are currently 9 members of FEAB, at least two of which are inactive. There is language added to remove inactive members or members who miss more than three regular meetings. Members must be residents of Fairhope. The draft resolution for by law changes is attached (Figure 1 and 2) with the recommended changes in bold. Corey asked if the FEAB had an environmental lawyer on board. Tony mentioned Ron Allen, past FEAB member who is not a current member but might be available to offer advice on an as needed basis for FEAB. Mike made a motion to accept the recommended changes as a resolution. Tony seconded. Resolution passed.

Resolution#1: FEAB By-Law amendment; passed with no amendments

Draft for City of Fairhope Code of Ordinances

DIVISION 2. - ENVIRONMENTAL ADVISORY BOARD^[4]

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- Sec. 2-81. - Mission.
- The mission of this board shall be to provide policy advice to the mayor and city council regarding *environmental* matters that concern the City of Fairhope.

(Ord. No. 1435, art. I, 9-13-10)

- Sec. 2-82. - Membership.
- (a)

Members will be residents of Fairhope. They will be interested in the *environmental* issues. Employees of *environmental* agencies or companies having economic interests in *environmental* matters will be welcome to attend board meetings and comment on issues under study.

(b)

The board will consist of nine (9) members. Members may be nominated by the mayor, city council or by other members. Members will be appointed by the city council. **A member with unwarranted absence from three (3) regular meetings shall have resigned their appointment.**

(c)

The city will assign a qualified employee to attend meetings and be responsible for taking meeting minutes to be distributed to members and other interested parties and maintain an up-to-date listing of members and their addresses. Other city employees with *environmental* responsibilities are urged to attend meetings.

(d)

The board may have sub-committees, which will each have its own chairman and appropriate objectives. Such sub-committees may meet separately as needed, but will report their activities in regular monthly board meetings.

(e)

The city council will appoint one (1) councilman to attend board meetings and/or keep informed of board activities. At a minimum, the councilman will meet with the board chairman every three (3) months to keep apprised of *environmental* issues under consideration.

(Ord. No. 1435, art. II, 9-13-10)

- Sec. 2-83. - Officers and meetings.
- (a)

The chairman of the board will be selected by majority vote of the members attending the first meeting of the year and may serve as long as the board decides.

(b)

Figure 1 Fairhope FEAB By-Laws amendment page 1

The chairman will organize and preside over meetings and appoint members to special sub-committees as needed to accomplish issues being addressed.

(c)

A majority vote of attending members will be required before an issue is brought before the mayor and city council.

(d)

The monthly meeting will be held at 3:00 p.m. on the second Friday of each month at a location determined by the chairman. Other special meetings may be called as needed.

(Ord. No. 1435, art. III, 9-13-10; Ord. No. 1541, § 1, 7-13-15)

Figure 2 Fairhope FEAB By-Laws amendment page 2

Dyas Triangle Property Resolution:

Amy has drafted a resolution for the Dyas Triangle Park. She went over the resolution with emphasis on the natural resource inventory being the first step. Mike agreed. Ben reminded everyone that a conservation easement is a legally binding document. Amy referenced other studies available (City of Fairhope Natural Resource Inventory, 2003 [2003 Fairhope NR Inventory](#); Thompson Engineering Fly Creek Watershed Study, 2013, Watershed Restoration Project, <https://www.fairhopeal.gov/home/showdocument?id=6719>). The 2003 inventory is not specific enough to the triangle. The Thompson Engineering study while comprehensive is not based on scientific assessments. Tony has concerns with “Questions and Additional Information” page 3 of the resolution draft. Gary referred to this page as a companion piece. Jessica said the questions page will be very helpful to staff. Amy reminded everyone these are only put in the resolution as a guidance for questions that might be presented to Council or Staff. Tony suggested these changes to the “Questions” page:

1. Change title of this page to “Potential Questions from the Public”.
2. Change bullet number two to read: “Will the easement restrict property rights?”
3. Change bullet number three to read: “Do we need outsiders to consult, manage or develop the area or can the city handle it?”
4. Change bullet number four to read: “Can we increase coordination between city functions?”

Amy made a motion to accept the resolution as amended (accepting Tony’s changes). See Figures 3, 4 and 5. Tony seconded the motion.

Resolution #2: Dyas Triangle Park, passed w/amendments

**FAIRHOPE ENVIRONMENTAL ADVISORY BOARD
RESOLUTION FOR THE DYAS TRIANGLE PARK
AUGUST 14, 2020**

Resolution: To best serve the citizens of Fairhope and the intent of the "Parkland" designation for the 109 acres known as the Dyas Triangle, the Fairhope Environmental Advisory Board recommends the following four steps be implemented by the City of Fairhope:

- 1- Prepare a *Natural Resource Inventory* of the entire site.
To determine the best Parkland uses for the property, planners must understand which potential uses are compatible with existing ecological functions and habitat values. This study would create a detailed baseline of existing natural assets at the site, including but not limited to Fly Creek watershed protection, native upland forest, greenspace connectivity, and native plant and animal species habitat.¹ The Study should conclude with professional, science-based recommendations for restoration and conservation, a long-term and interim management plan supporting the selected endpoints, and should provide details required to support an informed selection of compatible recreation options that enhance and sustain these functions and values.

It is anticipated that this study would cost less than \$10,000. It would prepare planners for the development of alternatives and site engineering as well as provide site-specific details for the upcoming Fly Creek Watershed Management Plan and the Fairhope Area Community-Based Comprehensive Plan.

- 2- Prepare *Site Development Alternatives* and select a *Preferred Alternative*.
In consideration of the information and recommendations from the *Natural Resources Inventory*, the City should prepare up to three viable alternative site plans consistent with the Parkland designation.² Site alternatives should consider a range of potential activities and amenities suggested through public involvement³ and should eliminate from further consideration any activities identified as incompatible in the *Natural Resources Inventory* or that are determined to be cost prohibitive.

Depending on timing, public engagement surrounding these alternatives may be incorporated into events associated with the upcoming Comprehensive Plan; however, public participation for this project could also proceed as a separate, complimentary process. The City should include natural

¹ This study could incorporate information and otherwise tier from the Woolbright and Todia, 2003, *Audubon International's Natural Resource Inventory for the City of Fairhope, Alabama*. The 2003 study is a high-level, comprehensive look at the natural resources within the City of Fairhope planning jurisdiction and makes recommendations for development compatibility and ongoing preservation priorities. However, the 2003 study does not provide enough detail about the Dyas Triangle for site-specific, planning-level use.

² These plans may build from or incorporate the 2014 preliminary design (Thompson Engineering, 2014, project number 13-1101-0157).

³ To date some potential recreation amenities have included the following suggestions: primitive trail system with some ADA-accessible paved trail access, bathroom facilities, nature center, walking, jogging, biking, climbing wall, archery, non-motorized boat launch, arboretum/botanical gardens, etc.

Figure 3 Amended draft resolution for Dyas Triangle Park page 1

resource conservation, public input, and cost in consideration of the selected preferred alternative.

- 3- *Restore the Dyas Triangle and Develop the Dyas Triangle outdoor recreation experience.*
Depending on the selection of the conservation/restoration ecological endpoint and/or the selected recreation amenities, grant monies may be available to support the implementation of the final decision (i.e., forest restoration grants and trails development grants).⁴ The City should retain the ongoing responsibility for management and upkeep of the site, unless partnered with a grant-giving or other organization with natural resources expertise relevant to the selected conservation endpoint.
- 4- *Consider conservation / protection options.*
As the asset is restored, developed, and functioning as prescribed by the management plan, the City should consider which options for long term preservation of the area are most appropriate.

The property has already been zoned as "Parkland" by the City, and while this designation provides the public some assurances to the allowable uses of the property, zoning designations can be changed, rendering the current "Parkland" designation as impermanent. It is worth considering a more permanent instrument to preserve the vision outlined in the management plan, such as revised deed language or a conservation easement. Deed language that describes the purpose of the property and the long term vision for it would remain with the deed for future generations as long as the City owns it, and would provide some legal protections that a zoning designation would not. Deed language can be altered by a court if the owner can demonstrate a hardship. A conservation easement provides similar protections, but cannot be removed, even in the case of hardship. It also must designate a third party to enforce the terms of the easement in perpetuity. A third party is typically a land trust or some level of government that has the ability to maintain the property in the desired condition as outlined in the conservation easement.

Regardless of the final designation of the area, the City should keep a qualified third-party conservation organization involved in site development and management to ensure that the best available science and technological considerations are implemented.

⁴ For example, community grants are available through the following agencies, nonprofit organization, and corporations: National Fish and Wildlife Foundation (NFWF), Alabama Gulf Coast Recovery Council, Natural Resources Conservation Service (NRCS), Alabama Forestry Commission, Alabama Department of Conservation and Natural Resources (Coastal Area Management Program), National Wildlife Federation, Southern Company (or other private corporations), National Park Service, Federal Highway Administration, IMBA Trail Solutions, etc.

Figure 4 Amended draft resolution for Dyas Triangle Park page 2

Potential Questions from the Public

- *Why now?*
The City is moving forward with Greeno Overlay, Volanta Park redevelopment, Fairhope Docks, and other projects so is primed to integrate planning elements as necessary between projects. The City has owned the property for many years at this point, and there is general consensus across interested stakeholders that it's time to take action and move it forward.
- *Will the conservation easement restrict private property rights?*
The City can move forward with managing and using the site and delay the conservation easement decision while it researches preservation options, engages qualified professionals, and formulates a science- and community-based decision for long term preservation.
- *Do we need outsiders to consult, manage, or develop the area, or can the City handle it?*
The City's capability and capacity to manage this site with in-house technical expertise and labor will be identified in the *Natural Resources Inventory*; thus, roles will be determined as additional information is obtained with the Inventory.
- *Can we increase coordination between City functions?*
All aspects of the evaluation of potential alternatives and development of the site will be coordinated and communicated between Fairhope governing entities, including the Mayor's office, City Council, and pertinent staff.

Figure 5 Amended draft resolution for Dyas Triangle Park page 3

Fly Creek Watershed Management Plan, update

Amy said the upcoming watershed management plan for Fly Creek will cover the entire Eastern Shoreline from Boudreaux's restaurant in Daphne to CR 1 in Fairhope/Point Clear. She said stakeholder groups are being formed and any suggestions on who needs to be involved, please let her know. She said Kim Burmeister is designated as a contact for the City of Fairhope. Kim said that Hunter Simmons, City of Fairhope Planning and Zoning Department Manager, and Richard Johnson, City of Fairhope Public Works Director, PE, both need to be involved. Jessica said it is imperative to get these two involved since they are both key stakeholders with comprehensive planning and stormwater planning for the Fairhope area.

Climate Change

Amy said she, Mike and Anna Miller are working on language for the draft Climate Change action plan for Fairhope. She is hoping she can have something prepared presentation-wise for the September meeting.

Living Shorelines

Amy would like the City of Fairhope Planning and Zoning, building department and Public Works Department to incorporate living shorelines into City planning and infrastructure maintenance. There are city bulkheads in need of repair (South Beach Park) that might be a good project area for a living shorelines demonstration project. CR 1 has several bulkheads being periodically replaced on private property. Amy feels that residents might consider living shorelines if they knew where to go to obtain information on them. Amy said some of the setback requirements with local government are sometimes not conducive to living shoreline projects. Gary mentioned the Working Waterfront upcoming plan has living shoreline project potential. Jessica said the City has environmentalists working on the plan which is subject to change.

Permeable Parking Proposal for Coastal Community College

Tony mentioned the need for more permeable parking in downtown Fairhope and mentioned Dean Moscher's recent suggestion of reworking Coastal Community College's large field as a permeable parking area. Jessica said Richard Johnson has been in discussion with staff about this. Corey said since this is a parking concern it is better addressed with the city Parking Committee than with FEAB. Tony said he would follow up with the Parking Committee.

Other business:

Membership: Gary said some FEAB members may be interested in having future FEAB meetings on-line or via conference calls because of COVID concerns. Per Lisa Hanks, City Clerk, the virtual meetings are not fully supported by state law at this time. That is Gary's understanding.

Wetland Ordinance: Amy is interested in having FEAB review the current City of Fairhope wetland ordinance but would like Erik Cortinas, Building Official, to be in attendance. Erik is the administrator of the wetland ordinance. Kim said the wetland ordinance regulates from no less than 20' from the wetland delineation line whereas USACE regulates from the wetland delineation line. Recent permitted wetland/grady pond fill activity at CR 13 and Manley has received a lot of attention. FEAB members are encouraged to begin reading over the ordinance.

<https://www.fairhopeal.gov/home/showdocument?id=142>

Meeting adjourned at 4:00 p.m.

Next meeting is Friday, September 11th @ 3:00 p.m.: Delchamps Room

FEAB August 2020

FEAB CONTACT INFORMATION:

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