

**FEAB MEETING MINUTES**

December 10, 2021

3 p.m. @ Library Board Room

**Member Attendees:** Gary Gover, Jim Horner, Amy Paulson, Ben Frater, Rick Speight, Nigel Temple, Mike Shelton

**Members not in attendance:**

Michelle Melton, Jennifer Foutch (excused absences unless Gary says otherwise)

**City of Fairhope:** Kim Burmeister -Planning and Zoning Department

**City Council:** Corey Martin

**Honored Guests:** Annette Sanders, 401 North Mobile Street; Donna Marks, resident; Connie Whitaker, Darrel Williams, and Diana Brewer with South Alabama Land Trust (SALT)

**Minutes taken by** Kim Burmeister

Gary called the meeting to order at 3 p.m.

*Summary of meeting:*

- 1. FEAB would like to invite Don Bates, Osprey Initiative, to the January 2022 meeting to discuss litter getter location and options.*
- 2. Resident Annette Sanders still has concerns over City parklands not being fully protected or marked with signage (North Mobile Street)*
- 3. Corey and Jim Horner have met with Hunter and SALT staff to discuss options on obtaining and preserving pristine habitat, including Fly Creek parcels near North Hills phase 2.*
- 4. SALT presented their program and the benefits to the community on protection of pristine properties*
- 5. Fairhope, Daphne and Baldwin County are all working on comp plan updates. Efforts should be combined.*

**FEAB Minutes/Updates to Board:**

Amy made a motion to approve FEAB November minutes, approved unanimously.

**Agenda:**

Amy presented an agenda for today's meeting:

<hr/> <b>AGENDA</b> THE CITY OF FAIRHOPE ENVIRONMENTAL ADVISORY BOARD MONTHLY MEETING DECEMBER 10, 2021 <hr/>		
<ol style="list-style-type: none"><li>1. Acceptance of prior meeting minutes</li><li>2. Connie Whitaker, Executive Director SALT - land acquisitions presentation</li><li>3. Updates and Old Business<ol style="list-style-type: none"><li>a. Dyas Triangle: Ben / Michelle<ol style="list-style-type: none"><li>i. Ben provide insight on summary email, sent 11/23:<ol style="list-style-type: none"><li>1. Tree Assessment/ecological inventory – Auburn</li><li>2. GOMESA \$1M by Jan for trails and related infrastructure</li><li>3. Long-term Management Plan, implemented by City employees</li><li>4. 1.76-acre private inholding</li><li>5. Deed restrictions</li></ol></li><li>b. Comprehensive Land Use Plan – Ben / Mike<ol style="list-style-type: none"><li>i. (See Draft Issues, next page.)</li><li>ii. Submit additional issues to Amy <b>BY JANUARY 7</b>.</li></ol></li><li>c. Litter Gitter – did we get Mayor all info she needed/is more follow up required?</li><li>d. Clean Marina Project – who is POC to get Cory the info he requested last week?</li><li>e. Recycling: (Kim’s email 11/19)<ol style="list-style-type: none"><li>i. Material Repurpose Facility (MRF) update, per Baldwin County EAC:<ol style="list-style-type: none"><li>1. LaBella was awarded the RFQ, and the county is entering in to contract negotiations to finalize the scope of work and timeline.</li><li>2. Anticipate breaking ground by calendar year end 2022.</li><li>3. Anticipate accepting material by summer 2023</li><li>4. This will be a single stream facility concentrating on the materials the County and municipalities are currently collecting. Mixed paper, cardboard, plastic, &amp; aluminum.</li><li>5. This will be a program for all of Baldwin County</li><li>6. The County is hopeful to implement programs across all County schools</li></ol></li></ol></li><li>f. Motions from last month: Gary<ol style="list-style-type: none"><li>i. FEAB Stormwater Infrastructure Inventory Resolution – (?Jim Horner)</li></ol></li><li>g. Fairhope City Council: Jennifer</li><li>h. Baldwin County Environmental Advisory Committee and EAC sub-committee (wetlands and neighborhoods): Kim</li><li>i. Eastern Shore Watershed Management Plan: Kim<ol style="list-style-type: none"><li>i. Stakeholder Engagement meetings occurred on 12/6 and 12/9</li></ol></li><li>j. Bike and Pedestrian Committee: Gary</li></ol></li></ol></li></ol>	<ol style="list-style-type: none"><li>4. Parking Committee: Nigel</li><li>5. New Business?</li></ol>	

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**1- Establishment of Greenspace: intentionally selecting, restoring, protecting, and connecting green spaces across the City.**

"Green space" is defined as areas that remain in a relatively natural condition and bereft of manmade features, including infrastructure, impervious surfaces, and facilities. Green space can be used to protect vulnerable watershed assets, such as stream corridors or shorelines, but is not always associated with stormwater management and low-impact-development requirements on construction sites. It can provide aesthetic value, outdoor recreation opportunity, and habitat to local native flora and fauna. Typically, properties in the vicinity of green spaces have substantially increased real estate values, and Cities with a higher proportion of green space and connected green space corridors score higher on quality of life metrics for their inhabitants.

("Green space" can also refer to requirements on individual development lots or construction campuses enacted and enforced through ordinance and code. This consideration can be crucial to maintaining character, aesthetic quality, heat island reduction, and stormwater management benefits of a place.) n-

**2- Obtaining the Commitment of Elected Officials to the Comprehensive Plan.**

The finished Comprehensive plan will be accepted by the Planning Commission. In the past, this has left elected officials free of commitment to implement comprehensive plans. The resources required for implementation tasks have not been provided in past budgets. A way to approach obtaining necessary commitment and resource budgeting is to draft resolutions for implementing the policies presented in the comprehensive plan as part of the work required to finish the production of the plan itself. Attached is an actual example of the result of this having been done in a municipality.

**3 – Groundwater Quality.**

As the largest supplier of freshwater in Baldwin County, Fairhope can and should set the highest possible standards for groundwater quality and consumption by eliminating potential pollution sources and using best practices for conservation. The City of Fairhope operates 10 groundwater wells that deliver 4.6MGPD to 40,000 people. In addition, there are hundreds of additional water wells for mostly agricultural and residential use. All of these wells pump from the same aquifer.

*Goal:* Preserve and protect groundwater quantity and quality.

*Objectives:*

- Develop and implement a comprehensive groundwater protection strategy to ensure adequate and sustainable water supply.
- Develop and implement a comprehensive pollution management program to monitor and protect groundwater resources.
- Local Wellhead Protection Plans will be taken into consideration during review of development applications to maintain drinking water quality and protect groundwater from contamination.
- Limit the installation of additional wells and limit the number of additional households and irrigation systems that are dependent on wells through water conservation efforts and through the

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use of communal and/or central water systems where feasible and as approved by The State of Alabama, Baldwin County and the City of Fairhope.

- Ensure the location, depth, and rate of extraction of individual wells do not impact the quality and quantity of municipal wells.
- Assess the recharge and consumption rates for groundwater in each watershed by analyzing data from groundwater level monitoring and stream flow measurements. If negative impacts are detected, the information will be presented to the City Council for appropriate action.
- Develop standards for uses that consume and/or require the usage of large quantities of water in those areas that could affect neighboring wells and aquifers.
- Provide education to homeowners on the use, consumption, and value of a high quality groundwater system of aquifers.
- Study best practices/guidelines to reduce impervious surfaces and minimize increases in post-development runoff peak rate, frequency, volume.

#### **4- National Green Building Standard.**

NGBS is a points-based voluntary certification program developed by the National Association of Home Builders (NAHB). It applies to subdivision site work, single-family homes, duplexes, townhomes, multi-family, mixed-use, and residentially-used buildings like assisted living, group homes, and hotels. Many NGBS mandatory practices are required by our building code. And many optional practices (available for points) align with Comp Plan goals (wetlands protection, LID, tree preservation, walkability, recycling). 2020 NGBS Bronze Level is equivalent to 2018 IECC/IRC/IBC (current building code in Fairhope). NGBS is a code compliance pathway in municipalities across the county.

- Decatur, GA requires high performance building certs including NGBS.
- Pensacola, FL offers incentives for green building certs including NGBS. Fast-tracked permitting for all. Commercial: density bonus, reduced parking reqs. Residential: certification fees covered until the funds run out. They also require green building cert for new city buildings...unless the costs "significantly" outweigh the benefits.
- Montgomery County, MD allows NGBS Bronze as a compliance path. Many places in MD offer a property tax credit for Silver and Gold levels. MD efforts have been so successful that builders are pushing for NGBS options to apply statewide.

Benefits: eases burden on city staff, reduces permitting timelines, ensures code compliance for things the city doesn't inspect, improves quality of housing/building stock.

Here's a broader view: <https://www.naco.org/blog/attracting-builders-your-community-through-green-building-incentives>

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**PROTECTING CITY PARKS AND PRISTINE AREAS:**

Connie Whitaker, SALT Executive Director, gave everyone one a SALT publication hand out (below) and discussed the land acquisition and conservation easement opportunities offered by SALT. Conservation of land with SALT is obtained by three methods: Donation, purchase (at fair market value) and Conservation Easements. They are always looking for land opportunities. The property up for discussion currently is the Corte tract / Auburn Tract on the west side of North Hills Phase 2, Fly Creek watershed. It appears a conservation easement might be a good fit for this property. There is no public access for conservation easements. There are several SALT properties in Baldwin County, including Conservation Easements. She said conservation easements can be as flexible or stringent as the property owner wants. Public access is important because it raises public awareness of watershed protection and the beautiful resources in our area.

Mike said there is state owned property on CR 1. Amy said there is a lot of high quality wetlands on CR 1 which need to be considered.

Corey Martin said he did not think Corte is interested in selling the property at this time. A conservation easement might be a better pursuit if considering this property. This has been discussed with Mayor Sullivan. Corey met last week with Hunter Simmons, Jim Horner, Kim Burmesiter and the SALT staff.

Annette asked if SALT could assess the City Park area along North Mobile Street for potential conservation ideas. Connie said she would check it out.

Rick asked if there are other land trusts in this area. Connie said Pelican Post & Nature Conservancy are land trust companies working in this area, but SALT is the most highly accredited.

Gary would said he has requested a map of city owned properties from Hunter Simmons but has not yet received. Kim will check with Hunter/GIS to see if there is a map available of city owned property. City has a parks brochure that lists accessible park property (Parks Brochure). [show document \(fairhopeal.gov\)](https://www.fairhopeal.gov)

Connie's hand outs:



SOUTH ALABAMA  
LAND TRUST

*The South Alabama Land Trust is a non-profit organization whose members work to protect the natural resources of coastal Alabama and provide assistance and support for the Weeks Bay National Estuarine Research Reserve's goals and programs.*

**GUIDELINES FOR CONSERVATION EASEMENT PROJECTS**

***What is a Conservation Easement?***

A conservation easement is a legally binding contract between a landowner and a qualified organization such as the South Alabama Land Trust (SALT). With this contract, the landowner agrees to permanently eliminate some of the uses of their land while retaining ownership and control. The landowner and SALT work together to determine which uses should be prohibited to protect the conservation values of the land and which uses should be retained for future owners. For instance, easement donors may decide to retain the right to continue to live on the land, to farm and manage timber, to enjoy hunting and other pursuits, or to allow for a limited number of additional future residences for their children. In accepting the easement, SALT is obligated to forever ensure the provisions of the easement are upheld.

***What a Conservation Easement does***

An easement agreement typically:

- Restricts the uses of a property as necessary to protect its important natural, scenic, or historic features.
- Specifies the number, type, and locations of dwellings and other buildings.
- Prohibits quarrying and excavation of minerals.
- Prohibits dumping of solid and liquid waste.
- Limits the removal of trees without an approved woodlot management plan.
- Restricts or eliminates industrial and commercial activities, except for agriculture.

***What a Conservation Easement does not do***

An easement agreement typically:

- Does not permit public access to the protected areas, unless specifically desired by the landowner and SALT. (In certain situations, however, public access to a portion of the property may be necessary to meet the IRS's public benefit test.)

Figure 1 SALT handout pg. 1

to the conservation purposes test, if the easement meets one of the four aforementioned conservation purposes but permits the corruption of other conservation interests, the easement will not qualify as a tax deductible contribution.

### ***State Conservation Easement Laws***

The conservation easement must also comply with applicable state conservation easement laws. In the state of Alabama, compliance is regulated by Alabama Code §35-18-1 through 35-18-6 of the Alabama Uniform Conservation Easement Act. Copies of this Code are available at <http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm>.

***Please make sure that your tax professional is knowledgeable of all current federal and state tax codes regarding conservation easements.***

### ***Will There Be Expenses?***

The conservation easement project has costs for the following items:

- Baseline Documentation Report
- Environmental Site Assessment (Phase I report)
- Title Search
- Title Insurance
- Appraisal
- Easement Endowment
- Survey of the property, if needed

These costs are normally paid by the donor/landowner.

Easement donors should also anticipate additional expenses for tax and/or legal advice. SALT is not qualified to offer professional tax and/or legal services. Please be sure to consult your personal tax advisor and legal counsel to confirm the tax treatment of all such expenses. If you do decide to proceed with the easement donation without retaining legal counsel, we will ask that you sign a document upon closing that signifies that you have done this of your own volition and are fully aware of the consequences therein.

### ***Appraisals***

The donor is responsible for determining the value of the easement donation, and the Internal Revenue Code requires a qualified appraisal for gifts of property valued at more than \$5,000.

As recipient of your easement donation, SALT is prohibited from representing its value and maintains a neutral position regarding the hiring of appraisers. It is ultimately the donor's responsibility to contact a qualified conservation easement appraiser. However, we can provide a list of appraisers who are experienced in that particular field.

Figure 2 SALT handout pg. 2

Your easement may contain provisions that restrict the following:

- cutting of vegetation
- commercial and industrial uses
- some agricultural practices
- impervious surfaces
- excavations
- posting of signs
- construction of improvements
- dumping/depositing of waste materials
- underground storage tanks
- destruction of stream/pond/wetland buffers
- size and location of residential structures

In addition to these restrictions, the easement will contain other provisions relating to:

- administration and enforcement of the easement
- limitation of SALT liability
- condemnation
- secondary ownership

These provisions reflect current laws and regulations. Should you or your legal representative seek changes in these provisions, it will be necessary to confer with SALT's legal counsel.

All conservation easements must be reviewed and approved initially by the SALT Land Acquisition Committee, and ultimately by the entire SALT Board of Directors.

A conservation easement represents a real property interest conferred to the recipient organization. That makes the recipient organization potentially liable for cleanup and remediation of any hazardous waste materials found on eased land. SALT generally requires a Phase I Environmental Site Assessment (ESA) and may require a Phase II or Phase III ESA depending on the historical uses or observed conditions. SALT may further require indemnification against liability associated with the presence of hazardous or toxic materials should those materials be found.

***Easement Endowment***

*Property owner pays SALT one time endowment.*  
In accepting your conservation easement, SALT assumes a legal obligation to uphold the terms and conditions therein. These responsibilities include the following:

- *how often*  
regular inspection of the property
- review of construction and subdivision plans
- administration and archival of all easement documents and records
- legal defense of easement provisions

Figure 3 SALT handout pg. 3



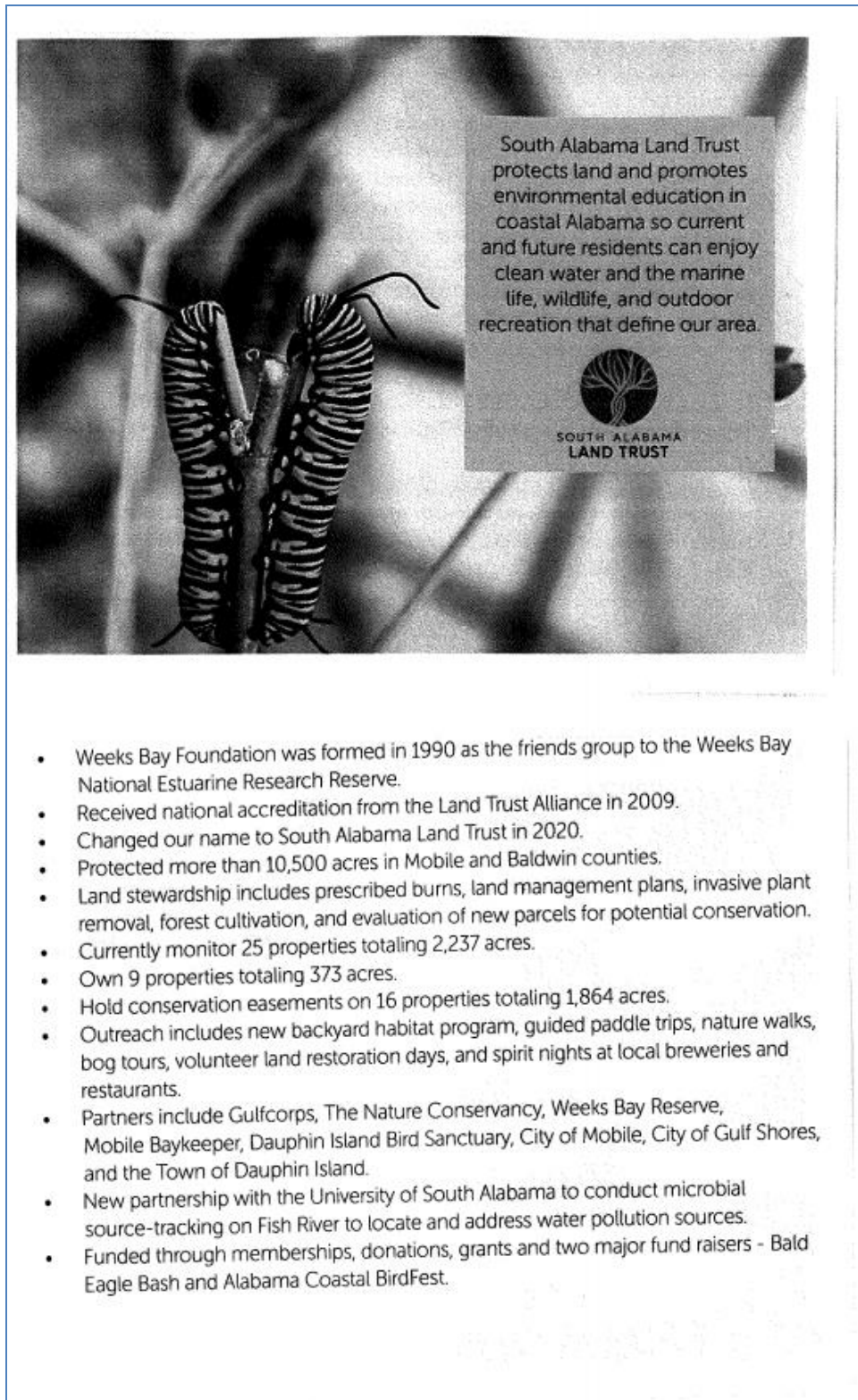


Figure 4 SALT hand out

**Triangle Property:**

Ben discussed existing structures at or near Triangle property with Corey.

Corey said City will be receiving engineered plans for park development and this can be used as a guidance tool for further discussion. This will show a vision for park area. Suggestions can then be made on park deed restrictions.

Diana asked if the deed would reflect perpetuity for park area at the Triangle. Corey said it would.

**Comp Plan:**

Amy is collecting comp plan comments (see page 3 and 4 of the agenda). If you would like to add comments to this lit, provide it to Amy no later than January 7<sup>th</sup>. She would like FEAB to consider a formal resolution for the comp plan at the January FEAB meeting, based on the comments. Resolution will go to Planning Department Team.

Corey suggested FEAB give concise map of visions for comp plan and consider offering language for connectivity and greenspace. Help the city identify what is missing in GIS layers (park properties for instance). Amy suggested a layer for ALL protected property in Fairhope.

Connie suggested City of Fairhope, Baldwin County and City of Daphne all work together on comp planning, as all three are revising comp plan.

Gary said communication with Daphne and County is important for connectivity of trails.

Corey said SB-107 has hindered communications between the County and Fairhope but this is improving.

**Litter Getter**

Kim had previously asked FEAB for their opinion on Litter Getter type device, proposal. FEAB member suggested alternative location, 13 & Twin Beech Road at Single Park property. This area, however, is a dry tributary most of the time. Winn Dixie pond on the other hand is a wet pond and receives run off from three shopping centers and a large portion of Hwy. 98. Mike asked if Don Bates could be invited to January FEAB meeting to discuss further. Kim will extend an invitation to Don Bates.

<https://osprey.world>



**Proposal #P21-026**

City of Fairhope  
 161 North Section St.  
 Fairhope, AL 36532

Attn: Kim Burmeister  
**Subject:** Maintenance of the Winn-Dixie Pond

**Scope of Work**

- Osprey Initiative (Osprey) will perform two tactical cleanups a month (for a total of 24 events) at the Winn-Dixie Pond off Morphy Ave. in Fairhope, AL.
- Osprey will manufacture and install up to 300 feet of Litter Boom at strategic locations within the pond to assist with litter collection.
- Osprey will maintain these booms in accordance with Osprey’s Litter Collection Device Cleanout SOP v1.2.
- Any litter or debris collected will be weighed and the Osprey modified ETAP methodology will be utilized to produce a litter profile over the extent of the project.
- This data will be tracked on ETAP field data sheets and recorded in a Microsoft Excel Spreadsheet. The data will be provided to the City of Fairhope on a monthly basis.
- All materials collected will be disposed of according to local regulations and applicable materials will be recycled.
- Additionally, under the scope of services, Osprey will meet with the City of Fairhope at a frequency to be determined to discuss data, field observations and how to utilize this information for education and outreach efforts.

**Cost Estimate**

	Quantity	Units	Cost	Sub-total
<u>Tactical Cleanups</u>				
Includes labor, materials, mileage	12	months	\$1,250.00	\$15,000.00
<u>Litter Booms</u>				
Includes installation, materials, and maintenance	300	feet	\$40	\$12,000.00
			<b>Total</b>	<b>\$27,000.00</b>

Donald W. Bates Jr.  
 Osprey Initiative, LLC  
 10/26/21  
 Date

Figure 5 Osprey Initiative proposal for Winn Dixie pond

**Other Business:**

Jim said Baldwin County recently passed a land disturbance ordinance regulating fill in flood zones:



Figure 6 Baldwin County Ordinance regulating flood plane areas

Meeting adjourned at 4 p.m.

Next meeting is Friday, January 14<sup>th</sup>, 2022 @ 3 p.m. @ Library Board Room

**FEAB CONTACT INFORMATION:**

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