

**VERO BEACH TREE AND BEAUTIFICATION
COMMISSION MINUTES
Thursday, August 15, 2019 – 9:00 a.m.
Council Chambers, City Hall, Vero Beach, Florida**

PRESENT: Chairman, Marilyn Black Dussault; Vice Chairman, Cynthia Schwarz; Members: Fran Robinson, Neal Roe, and Katherine Booth **Also Present:** City Attorney's office, Karen Emerson, Grounds Maintenance Manager, Nanette Haynes, Planning and Development Director, Jason Jeffries (arrived at 9:32 a.m.), and Senior Administrative Assistant, Rita Hawkins

1. CALL TO ORDER

Chairman Dussault called today's meeting to order at 9:00 a.m. and the Senior Administrative Assistant performed the roll call.

Mrs. Dussault welcomed Mrs. Karen Emerson, City Attorney's office, to their meeting. She asked each of the Commission members to introduce themselves.

2. APPROVAL OF MINUTES

A) July 18, 2019

Mrs. Robinson made a motion to approve the minutes of the July 18, 2019 Tree and Beautification Commission meeting. Ms. Schwarz seconded the motion and it passed unanimously.

3. PUBLIC COMMENT

Mrs. Sandra Bowden, Vero Beach resident, said that she and Mrs. Katherine Moss walk the paths at Riverside Park and they noticed that some of the trees need some maintenance and an assessment, especially since it is the rainy and hurricane season. She said part of the Tree and Beautification Commission's mission statement reads that they advise the City Council on all matters concerning the trees and the beautification needs of the City, so that is why they are starting with the Tree and Beautification Commission. They would like the Commission's input on the assessment of some of the trees, because some of the limbs are on the ground and they need to be lightened up a bit.

Mrs. Booth explained that those are native Live Oaks and it is normal for their limbs to be rather low to the ground or even droop to the ground. That keeps the trees center of gravity low, so they are less likely to be uprooted in windstorms.

Mrs. Bowden replied that she owns some trees too and she is aware that trees need maintenance at times. She is looking for the maintenance and the wellbeing of these trees to be addressed. She thinks they need to be lightened up a bit. Mrs. Booth asked her what she meant by lightened up. Mrs. Bowden replied that some of the weight needs to be taken off the limbs. Mrs. Booth asked her if she is saying to remove the limbs. Mrs. Bowden replied that she did not say that, but maybe an Arborist should look at them.

Ms. Nanette Haynes, Grounds Maintenance Manager, explained that the trees along the jogging trail and the area Under the Oaks receives minimal maintenance. Her understanding was that the trees were there when they developed Riverside Park. Nature does not need help unless people have altered the area and the only things the City did was create the paths. They lost two (2) trees during hurricanes, but that was because of all the rain and ground was so soft.

Mrs. Bowden said she is only asking to have the trees assessed by an Arborist. Ms. Haynes replied that she had those trees looked at by an Arborist a number of years ago, because they were worried about the root health of those trees due to all the activity that takes place Under the Oaks. They do not allow people to drive on the mulch area Under the Oaks to help protect the roots. They make people stay on the paths, or on the grassy areas. They can certainly have an Arborist look at them again.

Mrs. Bowden said the trees over near Riverside Theatre have more issues than the ones Under the Oaks. It might be time to have an Arborist look at them again. Ms. Haynes explained that when they trim those trees they just take off very little from the ends. When Oak Trees are on residential properties they have a tendency to lift the trees up more than the trees that are in their natural environment.

Mrs. Bowden stated that she and Mrs. Moss would like to walk the Park with Ms. Haynes at her convenience. Ms. Haynes replied absolutely she will do that. Mrs. Bowden can give her a call and she will meet them out there one (1) morning.

4. NEW BUSINESS

A) Dedicatory Bench Plaque Price Quote – Ms. Nanette Haynes, Grounds Maintenance Manager

Ms. Haynes stated that she provided them with a copy of the bench plaque invoice, which is \$168 (on file in the City Clerk's office). Mrs. Dussault stated that they already approved the wording for the plaque and now they have to approve sending an expenditure request to the City Council. Ms. Haynes explained that the plaque is one (1) price and the cost for the bench is the second part of the cost. She said the cost for the bench is \$400 and the plaque is \$168, so they will need to request an expenditure of \$568. Ms. Schwarz asked if they will get a bill for the bench. Ms. Haynes replied that she will provide them with an invoice.

Mrs. Dussault stated that since there are four (4) benches they need to decide which one (1) they want to put the plaque on. Ms. Haynes suggested they might want to select the bench that is in the upper left corner of the patio closest to the dedicatory tree. The Commission members all agreed with that suggestion. The Commission members discussed whether they would want the other benches to be dedicatory benches, but no decision was made.

Mrs. Dussault asked for a motion to accept the \$168 for the dedicatory bench plaque and Ms. Haynes forthcoming price quote of \$400 for the bench.

Ms. Schwarz made a motion to ask the City Council for permission to expend up to \$568 for the cost of a dedicatory bench (\$400) and the dedicatory bench plaque (\$168). Mrs. Robinson seconded the motion.

Ms. Schwarz asked what is tnenic lacquer that is listed on the invoice. Ms. Haynes explained it is a special lacquer that protects the plaques longer.

Mrs. Booth stated that she would like to see the other benches at the Centennial Tree be made available for dedicatory benches.

Ms. Schwarz asked to modify the motion to include that the plaque be placed on the upper left bench closest to the Centennial Dedicatory Tree. The motion passed unanimously.

Mrs. Booth said they discussed the possibility of having shade sails installed over thee benches and they thought maybe the Centennial Committee might help cover the additional cost. Mrs. Dussault said she will address the Centennial Committee when they meet.

Mrs. Dussault asked Ms. Haynes to provide the City Clerk's office with an invoice for bench, so they can submit their request to the City Council.

B) Trees For Life Literature for September Library Informational Lecture – Dr. Richard Baker, Pelican Island Audubon Society

Ms. Schwarz stated that Dr. Richard Baker, Pelican Island Audubon Society, is here today because he will be giving the lecture at the Library, which was changed to September 5, 2019 at 6:00 p.m. The poster was provided to the Commission members and it is what Dr. Baker will presenting at the Library (on file in the City Clerk's office). She asked if anyone had any questions.

Mrs. Robinson asked Mrs. Emerson if she would be allowed to attend this lecture based on the Sunshine Law. Mrs. Emerson replied that she is not precluded from attending, but she is precluded from having discussions with other Commission members about matters that might come before the Tree and Beautification Commission.

Ms. Schwarz stated that she might publish an article this week to get this information out to the public and Marsha Littlejohn told her that she could go on her radio show to discuss what is taking place.

Mrs. Dussault said that the Trees For Life poster is wonderful and full of information. The entire program is essentially listed on one (1) piece of paper and she commends Dr. Baker for being able to do that. She thanked Dr. Baker for participating in the Library lecture, because it is important that people realize the importance of trees, that they get an explanation of what the Trees For Life program is, and that they understand it is not just a tree giveaway.

Dr. Baker explained that he made this poster so the information was readily available when he made a presentation in Milwaukee, Wisconsin last week. He did his best to get as much information onto the poster. His presentation for the Library will be a Power Point with that information. He said he listed the January conference on the poster, so he passed out conference schedule flyers to the Commission members (on file in the City Clerk's office). He said it would be nice if the Tree and Beautification Commission could be a sponsor of the conference by making a \$250 donation. That would get their Commission advertised.

Mrs. Dussault said that individually they could, but not as a Commission because they are limited to what they can spend money on. Mrs. Emerson replied that is correct, they would not be allowed make a donation from the Commission.

5. OLD BUSINESS

A) Participation with the Pelican Island Audubon Society on a Tree Giveaway Program

Mr. Roe stated one (1) of the partners with the Audubon Society's Trees For Life program is a Vero Beach City Councilmember and others are from the Indian River County Parks and Recreation and the Indian River County Health Department. They are all Government agencies, so how can they be partners.

Mrs. Dussault replied that the County does not have a Tree Commission and for other County employees or departments she does not know their rules.

Mrs. Emerson explained that the Tree and Beautification Commission was set up by the City and the City Resolution 2015-07 specifies what the Tree and Beautification Commission can do. As for the County, she cannot speak for them.

Dr. Baker said they might be confusing the two (2) topics. One (1) is a partnership with the tree project and the other is the sponsor for the conference. Mr. Roe stated he was talking about the tree giveaway.

Mrs. Dussault explained that she spoke with Mrs. Emmerson earlier this week about Dr. Baker's program. The Trees For Life program can be a part of the Beautification Weekend as long as they are an entity all to themselves and the Tree and Beautification Commission is not in any way directly, indirectly, or even by perception that they are sponsoring or partnering with the Trees For Life program. They will have to figure out how to combine the Trees For Life program with the Beautification Weekend without violating any of the parameters under which the Commission operates.

Mrs. Dussault explained to Mrs. Emmerson that the Beautification Weekend is held on the second weekend in February and there is no table at a location or gathering. They advertise the weekend to encourage the public to beautify their property with projects, planting trees, flowers, etc.

Mrs. Emerson stated that there would not be a need for a formal agreement with the Audubon Society. When they make up their brochures or advertisements to promote the weekend, they can mention who is participating and they can include a very simple disclaimer.

Mrs. Dussault welcomed Mr. Jason Jefferies, Planning and Development Director, to the meeting and asked him to come to the podium.

Mr. Jeffries stated that he wants to give them an update on what they are working on in the Planning office. They are looking at the current City codes as they relate to environmental regulations, which includes tree protection. They are comparing their current regulations with the best practices of other communities, what is suggested by State agencies, and professional organizations. They are still

researching the information and they want to do a complete review of the City's regulations. When they get it put together in a couple of months, they will bring it to the Tree and Beautification Commission for feedback. If the Planning Department finds any areas for improvement they will include those recommendations. This will involve the Land Development Code, so it will be brought before the Planning and Zoning Board for their recommendation and then ultimately any Ordinance would be approved by the City Council.

Mrs. Dussault asked if they will be looking at Sections 72.42 and 72.43 of the Landscaping and Tree Protection Code.

Mr. Jeffries replied that they are looking at everything in the entire Landscape Code. There has been a lot of discussion not only on tree protection and tree removal, but also on protecting the Lagoon. The City Council has asked him if there areas of the Land Development Code that could be improved to encourage more Florida friendly landscaping, so he is looking at that aspect. He said the Public Work's Department is looking at stormwater runoff on sites that are being improved and if the sites need to be brought up to current Code. They will be focusing the staff's time on looking at what are the best practices and the current City Code. There have been some requests for data, but he believes the staff's time is better spent on looking at the City Code, what other cities are doing, looking at the model plans that are provided by the American Planning Association, and what Engineering Associations would recommend in terms of those Codes.

Mrs. Booth asked in regards to the data request that she made as an individual, will they be using that data, because it is historical and it will tell them what trees were not protected.

Mr. Jeffries replied that he does not think it is necessary to collect the number of trees that have been cut down. It is more important to do Code testing by looking at a site to determine what the City Code currently does. He explained that currently the City's strongest protection of trees is within the setbacks of a property. In the building envelope or the interior portion of the property the trees are less protected in terms of mitigation. They want to look at what other cities do and possibly have more protection of those trees. Regardless of what research they do what the model plan looks like, they have to balance it with the property owner's rights and the City's Comprehensive Plan. He reported that there are some new laws that were just passed that take away the ability of local government agencies to follow their own regulations.

Mrs. Dussault stated that this is a monumental task. They do not even know if the laws that they are trying to comply with will even exist, because they are being litigated.

Mr. Roe asked Mr. Jeffries if they will be adding or reviewing the Code Enforcement side of this and how do they interface with the Police Department on the Code Enforcement of these items. Mr. Jeffries replied that is one of the aspects and they have had discussions on the pruning issues. They will probably need to add more details and specifications to the Code. When it comes to land development issues the Code Enforcement Officer always confers with the Planning Department, because the interpretation of the Code comes from the Planning Director.

Mr. Roe said that the two (2) individuals are doing Code Enforcement over a large range of legal issues, so they might not have as much time as they would like to focus on trees. He asked Mr. Jeffries if he

will recommend budgeting funds for more enforcement of the Codes. Mr. Jeffries replied that would be a City Manager and City Council decision. Mr. Roe said they are putting more restrictions on businesses and residents, but the City cannot afford to enforce it.

Mrs. Booth said that since Vero Beach is developed and plots of land are open for redevelopment she would think there would not be much in the way of landscaping, especially of native plants.

Mr. Jeffries said there are many empty lots in the City that have never been built on and most likely a majority of the plants are native.

Ms. Haynes said a lot of the tree mitigation comes from properties that have older, smaller homes on them and now the new owners wants to tear them down and build bigger homes. There will be trees that need to be removed because they are using more of the property.

Mrs. Dussault stated that when it is all said and done they need funding from the taxpayer to fund the enforcement. The cost of implementing a program and enforcing it has to be taken into consideration.

Mr. Jeffries said he agrees, so they will look at the legal issues and the costs to the City. He wants staff to focus on the regulations and testing the Code rather than gathering past data.

Mrs. Booth asked how does mitigation protect and preserve the native trees. It seems to her that if someone wants to remove a tree they pay into the mitigation fund and they remove it. It does not preserve and protect the trees that it is supposed to protect. Mr. Jeffries said he rather disagrees with that, because if the mitigations fees are thousands of dollars it will discourage them.

B) Review the Revised Dedicatory Tree Specification List and Approve to Make Changes to the City Resolution – Ms. Nanette Haynes, Grounds Maintenance Manager

Ms. Haynes said that everyone should have received a copy of the updated dedicatory tree list based on the changes that were discussed at last month's Tree and Beautification Commission meeting. She stated that she missed a few notations on it and some of the trees do not have the life expectancy listed. She will make those changes and reformat it to a layout.

Mrs. Dussault stated that they will put this on next month's agenda again to review the additional changes and approve it for inclusion into the City Resolution.

C) Review Centennial Parade Float Details – Mr. Neal Roe

Mr. Roe reported that he submitted the Centennial Parade float project report that he wrote to the Parade Committee (on file in the City Clerk's office). He said he has been in touch with CW Willis and he left the selection of the plants and trees up to them so they can design the garden on the float. He informed CW Willis that there would also be signage on the float they will have to accommodate. He has three (3) Parade meetings that he will be attending, which are on August 29th, September 26th, and October 25th. He needs to get some information from CW Willis pertaining to the vehicle that will be in the Parade.

Ms. Schwarz stated that on her handout (on file in the City Clerk's office) she listed several things that she found on what science has to do in conjunction with trees.

Mrs. Dussault explained that the Heritage Center table and the Parade float are part of the Centennial. Their group is referred to the Centennial Tree Commission in respect to the Centennial trees. They have to be careful what they show, because it is going to be different from what they are going to promote for the Beautification Weekend. They have to remember they are not representing the Tree and Beautification Commission for the Centennial event. They are part of it because of the Centennial Tree dedication to the City and for Centennial Trees at the schools. In regards to the table, they can promote and show pictures of the trees planted at the schools, the Centennial tree in MacWilliam Park that was donated by DIGG Gardens, and anything else that is specific to the Centennial. They cannot present or discuss what they do as the Tree and Beautification Commission.

Ms Schwarz said that they talked about using the original Beautification Weekend banner that is smaller than the current one. Mrs. Dussault replied yes that is correct.

Mrs. Dussault said it sounds like everything is finalized with the Parade details based on the report that Mr. Roe provided. She asked Mrs. Emerson if she will need to go before the City Council to get approval to participate in the Parade. Mrs. Emerson said that since the Parade is a City function and this is a City Commission she does not believe they would need to get that approved.

Ms. Schwarz excused herself from the meeting at 10:22 a.m.

6. TREASURY REPORT

Mrs. Dussault reported that the Tree Replacement/Mitigation Fund has a balance of \$74,086.51 and the Tree Planting Application Fund had a balance of \$869.21.

7. CHAIRMAN'S MATTERS

A) Discussion of Program, Items, and Ideas for their Table at the Heritage Center Following the Centennial Parade on 10/26/19

Mrs. Dussault stated that this item was discussed with 5-C).

Mrs. Dussault reported that she spoke with Mrs. Barbara Hoffman, Cultural Council, regarding the care and the health of the Simpson Stopper trees that were gifted by the Tree and Beautification Commission. She said Mrs. Hoffman informed her that the trees are doing well, but two (2) of the trees went through a little bit of a shock after planting them.

Mrs. Dussault reported that the August 6th Trees For Life meeting that she was signed up to attend was canceled due to a lack of participation. Since they received the flyer today she believes they have all the information they need.

8. MEMBER'S MATTERS

Mrs. Emerson stated that she would like to cover House Bill 1159 that Mr. Jeffries referred to earlier. She explained that House Bill 1159 became effective July 1, 2019, which is the new Florida Statute 163.045. It is extremely confusing and it is being challenged by Pensacola, Florida. They had a three (3) hour hearing on August 6, 2019. Pensacola has some very old protected heritage trees and a property owner wanted to take down one (1) of these massive Oaks, so the City obtained their own Arborist to challenge the owners Arborist opinion. The Judge told the owner that they could file a memorandum in support. Some cities are challenging the constitutionality of the bill. The updates can be found on line using case number 2019CA1175. Some of the things that Mr. Jeffries was talking about has to do with planning and when buildings are being torn down and rebuilt. In that case there are landscaping requirements that are separate from this Statute and it does not apply to commercial properties, vacant land, and undeveloped property. This Statute only pertains to the removal of trees and it will likely come up as an issue in other cities.

Mrs. Dussault said that in the past she has tried to get legislative history on various pieces of legislation, but it seems like you have to go to Tallahassee, Florida to get it unless you are a member of the Florida Bar.

Mrs. Emerson explained that you can find it on line, but it can be hard to navigate through. You can find a lot of information at Online Sunshine, but will not have as much as Westlaw or LexisNexis. Keep in mind there are multiple ways of finding information without taking that step of going to Tallahassee, Florida.

Mrs. Dussault said that when there is a piece of legislation that looks like it is cobbled together there might be something underlying as to what is really going on.

Mrs. Booth said that studies have been done proving that Live Oaks and Laurel Oaks can withstand extremely high windstorms of over 200 miles per hours.

Mrs. Robinson stated that in Sunday's newspaper there was an article in the paper about people in India planting 220 million trees in a single day. They geotagged each trees and it is all online.

Mrs. Booth explained that she drafted a publicity article, which they each received a copy of (on file in the City clerk's office). She said that at a previous meeting Ms. Schwarz requested articles from the Commission members that could be used for publicity and education. Mrs. Dussault stated that she was not familiar with that request.

Mrs. Emerson stated that it sounds like she is asking about submitting an article in its official capacity where the Commission members would vote on submitting it for publication. She thinks that individual members have every right to write articles on the topic of Tree and Beautification in their individual capacity. If she is asking to submit it on behalf of the Commission she would say that the draft would have to be submitted and approved.

Mrs. Booth read a portion of the June 20, 2019 Tree and Beautification Commission minutes on page five (5) under member's matters where Ms. Schwarz talked about the article she wrote for Lemon Lines. Mrs. Emmerson said her impression from that request that Mrs. Booth just read is that Ms. Schwarz is doing this in her individual capacity and that she is asking for topics and contributions. It does not

sound like she is asking for permission on behalf of the Commission and she is writing and participating with the public on the topic.

Mrs. Robinson said that she did see Ms. Schwarz's article in Lemon Lines.

Mrs. Dussault stated that she has a copy of the article that Ms. Schwarz wrote, but she does not know if she submitted it from herself or under the Tree and Beautification Commission. She asked to have this item tabled until the next meeting to discuss the article that Ms. Schwarz submitted to Lemmon Lines and the article that Mrs. Booth wrote. Mrs. Robinson said that she will forward the article from Lemon Lines to the City Clerk's office, so they will have a copy of that as well for next month.

Mrs. Booth said she would like to go on record that the exaggerated and aggressive pruning of mature trees under electric lines is reckless and an endangerment to the citizens. The trees are being pruned in a way that they would likely fail in a windstorm, which would create huge clean up bills for municipalities. Mrs. Dussault said this is not related to the City. Mrs. Booth stated that they talked about it when they were previously discussing the City Code, how trees are being planted under mature trees, and they talked before about trees being planted under utility lines. She thinks that the City Council needs to be alerted to what is happening throughout the City. Mrs. Dussault asked Mrs. Booth to draft a motion and send it to the City Clerk's office to be included in next month's agenda, so they can discuss it and decide if they want to vote on it.

9. NEXT MEETING DATE

A) Next Meeting Date – September 19, 2019

The next meeting of the Tree and Beautification Commission is scheduled for September 19, 2019.

10. ADJOURNMENT

Today's meeting was adjourn at 10:48 a.m.

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