



**Department of Public Works**  
**Eric W. Larson – City Engineer**

**Everette L. Varney, Mayor**

**City Council Members**

|               |                 |
|---------------|-----------------|
| David Lusby   | Mark Singer     |
| Kelly McEuen  | Bonnie Skinner  |
| Brad Penn     | Connie Tackett  |
| Larry Prather | Marvin Thompson |

**Drainage Easement and Common Open Space Maintenance 2011 Task Force**  
**Minutes**

February 25, 2011, 11am, City Hall

- 1) Role Call - Attending: Eric Larson, Jim Burgess, Brent Combs, Earl Smith, Terry Thomas, Larry Prather
- 2) Define Issues – the City has a growing problem of drainage easement maintenance. We have old ones where maintenance isn't defined, we have them with HOA responsibilities but the HOA doesn't exist, we have some clearly defined as private, etc. AND Public Works is being asked to maintain them all.
- 3) Define Obstacles to enforce current policy – The lack of viable HOAs, lack of documentation on subdivision plats, and lack of recording of restrictive covenants and articles of incorporation for HOA have created much of the legal problems. Also, subsequent owners of homes are not always told of the requirements for HOA dues and maintenance responsibility for easements and common open space. Two examples are The Colony Subdivision and Bradford Place Subdivision. In The Colony, the HOA was never properly set up. Since there is no viable group to approach, and no dues/funds to make repairs, this work has fallen onto the shoulders of the City. Apparently past attempts to establish the HOA and correct the problem failed. There is also some history where the City actually did agree to maintain some land along the creek for a trail system. In Bradford Place, the developer assumed the responsibility of common space maintenance for years and now is attempting to set up the HOA, charge dues, and transfer HOA over to a resident Board of Directors. However, many of the owners are not the original owners, were never told of the HOA and dues, and like The Colony, are resisting the transfer of responsibility.

Another problem is that these common open spaces are documented at the PVA office as "HOA owned". If the HOA was never formed, then the problem becomes actually finding the owner or responsible party to issue violations, fines, or place liens. In addition, without a viable owner, the City is not getting the property taxes. Some common open space is actually on City ROW, so there is not an owner. Although the plats usually state that medians, stone entrance signs, etc. are HOA responsibility, the City has been required to mow and repair them.

There was also concern from the task force that the political will to enforce private party maintenance may be an obstacle and that the County Attorney's office may be unwilling to pursue lawsuit.



- 4) Brainstorm Solutions – 1) use City Attorney and fund time, expense needed to set up the HOAs if neighborhood is willing but the original developer is not. If the residents are not willing, use the funds to file suit to force the creation of the organization. 2) Public Works assume responsibility and increase manpower, equipment, revenue by some means. 3) Revenue could be raised by general fund, stormwater utility, special maintenance utility district for the neighborhood. 4) Future subdivisions are getting the HOA paperwork filed at the courthouse but more regulatory authority is needed to allow the Planning Commission to make sure the HOA becomes “viable”. 5) Do nothing – let the problem get worse and public outcry demands change. Then hold a neighborhood meeting and let the citizens come up with the solution to their problem. 6) Hold a workshop with City Council to discuss the options. It was suggested a representative from a successful, viable HOA be invited to speak as a case study.
- 5) Standard Operating Procedures needed? – Get problem areas on a map. Educate the public, elected officials, and realtors. People need to understand that private restrictions exist, common open space has to be maintained by private parties, and HOA exist to manage this and fund it by dues. We could have HOA Board of Directors report to Planning Commission annually. P&Z could post contact information on the website so that residents could find out who to contact to find out what the restrictions for their subdivision are.
- 6) Regulatory Changes needed? Update and strengthen Subdivision Regulation and Zoning Ordinance to give more authority to Planning Commission to make sure HOAs get set up, including the annual reporting. Set up special districts by ordinance. There needs to be clear distinction between special utility districts and private HOA, and how much regulatory authority the government has to make sure maintenance is done.
- 7) How do we resolve current issues? We need to work hard and fast on these issues because until they are resolved, the current problems will continue to be fixed by Public Works, which is already struggling to respond to all the problems.
- 8) Action Items:
  - a. Develop a map of problem areas – Staff will provide input to P&Z GIS.
  - b. Set up a workshop – invite a HOA. City Council will help define Plan for resolution.
- 9) Next Meeting? – No meeting was scheduled. The need for additional meetings will be determined after a workshop with the City Council.
- 10) Adjourned at approx. 12:00 pm.