

**LORAX Task Force**  
**Draft Minutes**  
**Tuesday, May 30, 2017**

**Task Force Attendees:** Chair Councillor David Eppley, Chris Burke, Sean McCrea, Flora Tonthat, Kirt Rieder, Ric Rennard, Barbara Warren, Polly Wilbert

**Observers:** Jeff Cohen, Darleen Mellis (For portion of meeting: Mark O'Donald, Lou Sirianni)

This meeting focused on the meanings and consistencies in the draft ordinance language, which had been distributed by email to the LORAX Task Force on the afternoon of the meeting.

DM: Preliminary comment: Need to include street trees in language

DE: It is important that we set a task force schedule through the summer, doing meetings every 2-3 weeks to be able to submit an ordinance draft to City Council by its last July meeting, so Council has the full fall to consider the ordinance for passage by the end of the year.

KR: Cambridge, Newton, Lexington, Somerville ordinances were used as starting places for the draft language and then selected language was combined. It became a 30-page document to then reduce down, with further reduction by David Eppley for this 5-30-17 draft.

DE: The Planning Board with City Council can change zoning for this to fit with the zoning.

KR: Existing codes are sometimes contradictory which causes consternation.

DM: Top of page two LORAX, which is defined later, needs to be fixed.

PW: If we wish to continue to qualify as a Tree City USA, we should ensure that the ordinance sets out the intent and parameters to qualify.

KR: Salem Tree Management handbook will underpin the ordinance in terms of city tree operations.

DE: Asked Ric Rennard about Salem's manual: pruning guidelines, types of trees to be planted, type not to plant, etc. Could Ric accomplish a review and update of the manual this year? Ric responded that he could try. Draft is a good start, but we have to get into other additional areas in arboriculture.

KR: Field vs ordinance.

BW: Tree management manual can be updated on the fly as needed, without needing Council approval.

RR: The City (Sean McCrea/Dave Knowlton) will bring in contractors and the contractors will need to abide by the manual, as part of the work permit process.

DE: National Grid also needs to conform to manual. Anyone doing tree work must comply with the tree manual. Practices that change can be updated rapidly by updating the manual at the department level, species changes, etc.

PW: Loss of street trees needs to be covered on the first page.

DE: Are street trees a protected class?

RR: Yes.

DM: Definition of protected shade tree on page 4.

DE/KR: Remove section in the third paragraph in statement of purpose to make it more inclusive.

CB: Discussion of qualifications. Definition of an arborist to be used and certification required. Private versus public certification. Licensed by Massachusetts?

RR: Not all owners of tree companies are certified arborists.

DM: Top of page 4: Definition of setback. Is it specifically appropriate for Salem?

KR: Needs to be fact checked as to City of Salem zoning.

DE: City solicitor is reviewing this ordinance language to make sure that it meshes with city zoning.

BW: Exempt lot definition

PW: An example of the Joseph Story house conversion timeframe. Planning Dept. should validate whether the 18 month timeframe is an appropriate length for ordinance timeframe for exemption.

JC: Concern about timeframes with constraints. No recourse, fine/punishment. If tree is cut down, is there recourse? Private vs public view. Right to cut tree that hangs over property line. Look at setback?

DE: Takes down a tree, sells the house the following month.

DM: Are setbacks more appropriate to entities like strip malls?

KR: Setback applies more broadly, to single family homes as well. Setback needs to mesh with existing city setbacks.

DE: Setbacks could be defined more broadly.

BW: Street trees, protected trees. If an owner of a tree on a private lot wants to cut down a tree, significant trees are protected trees.

DE: A protected tree (as defined) is located in setback area if it meets the caliper requirements.

KR: It's an assessment to go the city if you cut down the tree.

DM: Bolster the definition. Red flag.

KR: 6-inch caliper may be too small.

CB: How can you put a restriction on a private property without it being a "taking"?

KR: As an example, has as a client an MIT project, which had to confirm to a Cambridge take down payment required to the City. Cambridge has a law that covers that.

DE: Trees provide a positive public health benefit.

CB: Will check for a test court case re uncompensated “taking” of a tree.

CB: Discussion re Century Bank cottonwood tree being protected as it would be in the setback.

MO: Is 6 inches too large, should it be 4 or 5 inches?

DE: Different standard, different communities.

CB: We want entities to be able to take down a dying tree.

DE: Read the exempt conditions.

PW: Buffer question. If Planning Board requires a buffer, but the buffer trees are cut down by a later owner, what is the enforcement? How is the intention of the Planning Board’s requirement sustained over time?

KR: No teeth Perpetuity, can’t be enforced.

PW: Create conditions in perpetuity by Planning Board?

BW: Mitigation / 5 year Mitigation Plan in definitions vs Page 13 Mitigation /C.

JC: Solar panel installation example of cutting down trees to qualify for federal solar tax credit vs penalty cost from cutting trees. Cited large solar projects. Why do we take down trees? Financial benefit/Perceived risk.

DE: Green tension, butting up against each other.

JC: Based on cost of solar panels. Today, artificially encouraging people to do something. Someone is getting a financial benefit. Some kind of financial barrier to taking down a tree is a good thing. Wants it to be a stronger financial impediment. Penalty is mitigated a little because of solar tax credits.

KR: Has to be operable.

PW: Planning Board power to fulfill order in perpetuity needs to be continued if trees in required buffer taken down, then either replace in same buffer or seek a waiver from the Planning Board to abandon the buffer.

JC: Building inspector has a power in this process.

BW/DM: Tree warden look at all of this??? Coordination of planning board/building inspector, tree warden, other entities?

DM: Unfunded mandate (in terms of inspections).

DM: \$300/day fine (penalty for violating a stop work order)

CB: General problem as it pertains to park and recreation, take into account state law. Tree warden doesn't have jurisdiction in parks without written permission. Cites several instances in language. Park and recreation jurisdiction needs to be conformed.

DE: Park and rec trees subject to pruning requirements of the city's tree manual.

CB: Park and rec get a report when tree work is done.

KB: Really wants to know in advance (CB or if an emergency report afterwards).

RR: Rules can be taken from Chapter 87 esp. re parks.

DE: And schools

RR: Visits at invitation from the schools. Went into the Willows re tree issue without checking with Park and Rec. first. Marked out trees, but it's a recommendation from the tree warden.

DE: Set down schedule re meetings: **LORAX Meeting Schedule: Monday: June 12<sup>th</sup>, 26<sup>th</sup>, July 10<sup>th</sup>, 24<sup>th</sup>**

Email comments on draft ordinance language to Dave Eppley. Intend to get through the full ordinance by the end of the next meeting. Will submit to Beth Rennard for compliance. Further recommendations to Council and Mayor. Need an ongoing commitment for sufficient tree planting and DPS for contracted services. Recommendations for a final report.

FT: Update what we have talked about from this meeting.

DE: Will recirculate a new copy.

DM: P 10 Council of tree landscapers, P 12 \$5 DBH in of protected tree to be removed (calculation) then a flat fee on P 6 (BW totally different) Page 8 notification Page 13 150 or 300 feet/choose one. Mitigation P3 estimate from local landscaper. P 13 \$50/inch Choose One, Definition of LORAX members.

PW: Check with entities re willingness to provide members to Commission.

DE: Find a home for this Commission within a department/with a staff person paying attention.

BW: Where will the expected Gateway Cities trees be planted go? So that we spread the wealth around.

BW: Get setback information for next meeting.

