



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes City Commission Workshop

CITY COMMISSIONERS

Linda M. Yates, Mayor
Vanessa Carusone, Vice-Mayor
Christopher B. Hanks, Commissioner
Jill Luke, Commissioner
Debbie McDowell, Commissioner

APPOINTED OFFICIALS

Peter Lear, Interim City Manager
Mark Moriarty, City Attorney
Patsy Adkins, City Clerk
Kathryn Peto, Deputy City Clerk

Thursday, May 25, 2017

1:00 PM

CITY HALL ROOM 244

Chapter 45 of the ULDC - Tree Ordinance

NOTE: This is a draft copy of the minutes of the 05-25-2017 Commission Workshop Meeting, has not been approved by the Commission and is subject to change.

CALL TO ORDER/ROLL CALL

The North Port City Commission Workshop Meeting was called to order at 1:00 p.m. in Room 244 by Mayor Yates.

Present: Mayor Yates, Vice-Mayor Carusone; Commissioners Hanks, Luke and McDowell; City Manager Lear; City Attorney Moriarty; City Clerk Adkins; Deputy City Clerk Peto; Recording Secretary Hale and Police Chief Vespia.

The Pledge of Allegiance was led by the Commission.

1. PUBLIC COMMENT:

PUBLIC COMMENT WAS HELD: 1:07 P.M. - 1:20 P.M.

Pete Pedersen: Clear cutting of trees; reserve water underground

Allaine Hale: the City's beautification standards.

Edie Driest and Cheri Lee: the importance of trees.

A. [17-1089](#)

Unified Land Development Code, Chapter 45 - Tree Protection Regulations.

Commissioner McDowell provided a brief overview of the discussion item.

A discussion ensued regarding the need to have definitions added into the Code.

There was a consensus to direct staff to consolidate all definitions into one section and add "for this section only" for some words that are unique to the chapter.

Discussion ensued and the following concerns were expressed: (1) it was stated that the 35% canopy requirement is meant to mean at maturity, per parcel, but additional clarification was requested; (2) it was stated that after receiving a Certificate of Occupancy (CO) a permit is not required to cut a tree on residential property as long as the owner does not go below the 35% requirement; (3) clarification is needed regarding the exemptions and exceptions as stated in ULDC Chapter 45-6(a); (4) after concern was expressed that if commercial property and residential property follow the same rules regarding tree removal, they will be able to clear-cut because they have received a CO, clarification was provided that the suggestion was specific to single family lots being able to remove trees without a permit after receiving a CO; (5) the caliper requirement is to ensure the survivability of the tree; (6) there was a suggestion to make trees easily obtainable for citizens or developers to plant on properties; (7) it was stated that other trees could be added to the Priority Tree List; (8) scenarios were discussed regarding the removal of trees--when and where a permit is required or not required; (9) clarification in the tree removal section to state that after the CO, as long as the canopy requirement is met, a permit is not required to cut trees; (10) it was stated that a mitigation fee does not automatically go with land clearing; (11) it was verified that a "no fee" permit must be issued to remove a dead tree; (12) confirmation was provided that a live tree requires a tree removal permit; (13) it was stated that the property file will show if mitigation fees were paid by previous owners; (14) a concern was expressed regarding a way to ensure the survivability of trees on residential lots with new homes, and allow transplanting of trees on large commercial properties and subdivisions; (15) it was stated that harvesting trees was not previously addressed in the ULDC but could be considered as well as an incentive program for tree protection and preservation; (16) the likelihood of survival for different trees was explained; (17) following a concern regarding clear cutting large commercial parcels, it was stated that all the infrastructure must be in place to support the entire development regardless of how many parcels have been leased and are ready for construction; (18) following a concern, it was stated there is a two-year survivability clause for landscaping in commercial areas.

Deputy City Clerk Peto replaced City Clerk Adkins at 3:10 p.m.

There was a consensus to direct staff to work on a tree harvesting policy with a survivability provision.

Discussion continued: (1) it was stated that clear-cutting is detrimental to the community; (2) after it was stated that standards of clear-cutting and mitigation requirements should be the same for commercial and residential properties, clarification was provided that ULDC 45-12(B)(4) states that the scale of development is considered when Heritage trees are allowed to be removed. Additionally, large lots are required to accommodate Heritage trees, but on a 10,000 square-foot lot it places an undue burden to the property owner; (3) it was stated that a 3-inch caliper tree takes an average of 15-20 years to grow to a 15-inch tree; (4) it was stated that fees levied for tree mitigation go into the Tree Fund, which in turn, pays the Arborist's salary; (5) the City's maintenance requirements for trees needs to be reviewed; (6) subsequent to a question, City Attorney stated that a Community Development District (CDD) is a governmental entity and State Statutes exempts them out of the City's permit requirement, but must comply with the City's Comprehensive Plan of having a minimum tree canopy of 35%.

There was a consensus to direct staff to redefine the language pertaining to shaping and cutting of trees.

Discussion continued: (1) clarification was provided that a Community Development District (CDD) has the right to remove a tree without a permit because it is a government

entity, but it seems inconsistent with Florida Statute 190.004 [3] which states a CDD cannot take any action that is inconsistent with a municipality's Comprehensive Plan, Ordinances or Regulations; (2) it was requested to remove the exemption for CDDs from the City's Code; (3) clarification was provided that street trees are not considered part of the 35% canopy coverage requirement and the CDD stated on record that they will form a Tree Committee and planned to do replanting; (4) a different conversation will be required to consider changing the 30-inch diameter Code requirement.

PUBLIC COMMENT:

Pete Pedersen; Allaine Hale: tree regulations.

Commissioner Hanks left the meeting at 4:02 p.m.

Recess 4:02 p.m. - 4:17 p.m.

PUBLIC COMMENT:

Doug McNamee: street trees in the Bobcat Trail CDD and incentives to plant from a "land bank" for a nominal fee.

Discussion continued: (1) following a question, and for the record, it was stated that currently there is no pending variance request for trees in connection with the Bobcat Trail CDD; (2) an alternative was proffered to consider reducing the City's requirement to replace street trees with 10-foot caliper trees, by implementing a "right tree, right place" provision that allows a subdivision to replace a smaller caliper tree to accommodate their spacing; (3) it was suggested that shade tree designations need to be more flexible and based on the development; (4) it was stated that the current City requirements for street trees was not a requirement for all streets at the time the Bobcat Trail CDD was created but was a preference handled through the Development Order; (5) it was stated that a land clearing permit is needed when an adjacent lot is purchased with no intention to build, only to make it attractive. However, a permit is not needed if the improvements are done by hand; (6) it was suggested to clarify the language in Section 45-5(c) and allow the clearing-out of underbrush without a permit; (7) it was stated that it is the land owner's responsibility to make sure the requirements are met regarding protection of the protected species on their land; (8) a suggestion was proffered to increase the fine for illegal land clearing; (9) it was stated that commercial land clearing fines are higher than residential land clearing fines; (10) verification was provided that the City Arborist performs a site visit for land clearing permits and does not approve the permit if tortoise burrows etc., are found; (11) because the underbrush issue was not in the Section of the ULDC under consideration today, staff was given direction to review and clarify the difference between clearing underbrush by hand and by machinery; (12) after a concern was expressed regarding clearing underbrush with machinery because environmental concerns aren't addressed, it was suggested to require a permit to clear underbrush by machine and an environmental survey; (13) following a brief discussion, it was decided not to change the requirement for an underbrush permit; (14) staff will review the lot clearing requirements and report any potential issues during the revision along with reasoning of behind the provision; (15) following an explanation for the minor gap difference for Heritage tree mitigation on pages 12 and 13, it was recommended to leave it as stated because it is legally defensible; (16) it was suggested to tighten the tree code, reducing the mitigating diameter from 30-inches to between 15 and 20-inches and provide incentives to keep the trees that don't have to be removed.

City Attorney Moriarty left the meeting at 5:05 p.m.

PUBLIC COMMENT:

Pete Pedersen: residential buffer zones.

There was a consensus to direct staff to remove the requirement in Section 45-5(c) that a Development Order must accompany a land clearing permit; and that a resident may remove trees as long as the 35% tree canopy requirement is intact. Commissioner Hanks was absent.

Discussion continued regarding incentives: (1) it was suggested to find ways to preserve trees, not increase the fees for clear cutting; (2) an alternative suggestion was to increase the mitigation fees at the 15-inch mark and also preserve trees through incentives; (3) it was noted that the experts say a 6 to 8-inch caliper replacement tree doesn't have a good survival rate; (4) it was stated that Heritage and Champion trees are defined in State Statutes; (5) a comparison mitigation calculation would be helpful to show the impact on a single family home and provide creative ways to offer incentives to save trees; (6) the list of tree sizes from the Lowes property will be forwarded to Director Williams to use as a comparison.

There was a consensus to direct staff to provide recommendations to incentivize tree preservation including a review of unintended consequences. Commissioner Hanks was absent.

Discussion ensued: (1) it was recommended for the Commission to give direction to include the tree mitigation discussion part of the ULDC re-write; (2) it was noted that the environmental chapters of the ULDC could be reviewed at a community input meeting for the ULDC re-write.

There was a consensus to direct staff to gather Commission direction from today's meeting, schedule a community meeting to discuss all the ULDC environmental chapters, incorporating the information gathered at today's meeting. Additionally, Neighborhood Development Services Director Williams will provide a memo to the City Manager tomorrow morning, requesting terminating the Contract with the University of Florida to do the ULDC re-write, and bring back to the Commission as soon as possible for approval. Commissioner Hanks was absent.

It was noted that earlier in the meeting, it was stated that a permit is unnecessary to remove a dead tree, but Section 45-7(B)(1) requires it.

There was a consensus to direct staff to make minor changes in the Tree Ordinance, clearly state the reasons for the change, and that they are corrections, not a re-write of the Ordinance. Commissioner Hanks was absent.

2. PUBLIC COMMENT:

There was no public comment.

3. ADJOURNMENT:

Mayor Yates adjourned the North Port City Commission Workshop Meeting at 5:46 p.m.

City of North Port, Florida

By: _____
Linda M. Yates, Mayor

Attest: _____
Patsy C. Adkins, MMC, City Clerk

Minutes approved at the City Commission Regular Meeting this ____ day of _____, 2017.