



City of North Port

RESOLUTION NO. 2025-R-28

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, APPOINTING JAMES TOALE TO THE POSITION OF HEARING OFFICER WITH THE AUTHORITY TO HEAR AND DECIDE MATTERS RELATED TO ENFORCING THE CITY'S CODES, AS WELL AS ZONING-RELATED MATTERS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2-110 of the Code of the City of North Port ("City Code") creates and establishes the City's office of Hearing Officer, confers hearing officers with the jurisdiction and authority to hear and decide matters as the City Commission determines appropriate, and includes the powers and authority set forth in Chapter 2, Article IX of the City Code and prescribed in Chapter 2 of the Unified Land Development Code ("ULDC"); and

WHEREAS, per Chapter 2, Article IX of the City Code, the Hearing Officer functions as the City's alternate code enforcement system, utilizing Hearing Officers to conduct hearings to determine whether a violation of any code or ordinance has occurred, and to order compliance and penalties against violators; and

WHEREAS, per Section 2.2.4.B(1) of the ULDC, the Hearing Officer hears appeals of decisions or interpretations made by City staff or the ULDC Administrator regarding application of the provisions within the ULDC; and

WHEREAS, per Section 2.4.3.C. of the ULDC, The Hearing Officer is responsible for hearing appeals for the applications indicated "ZHO" in the Appeals column of Table 2.2.2.1. of the ULDC and making decisions on major variance requests; and

WHEREAS, on April 13, 2015, the City Commission appointed James Toale, Esquire as a Zoning Hearing Officer; and

WHEREAS, on October 26, 2015, the City Commission adopted Ordinance No. 2015-26, creating a new division of the City Code to include Sections 2-110 and 2-111, combining all hearing officer functions into an office of Hearing Officer; and

WHEREAS, on November 9, 2015, the Commission ratified Resolution No. 2015-R-31, appointing James Toale, Esquire as a Hearing Officer; and

WHEREAS, on January 12, 2021, the Commission adopted Resolution No. 2021-R-01, appointing James Toale to the position of Hearing Officer for a term of four years; and

WHEREAS, City Code Section 2-111(a) provides that a hearing officer may be appointed to preside over both the code enforcement and zoning hearings, serving at the pleasure of the City Commission; and

WHEREAS, City Code Section 2-505(d) establishes a Code Enforcement Hearing Officer’s appointment to a term not to exceed four years, with no term specified for a Zoning Hearing Officer; and

WHEREAS, James Toale, Esquire has expressed an interest in serving as the City’s Hearing Officer to preside over both the code enforcement and zoning hearings for an additional four years, utilizing the rates set forth in his Response to Request for Proposal No. 2015-13; and

WHEREAS, the City Commission desires to reappoint James Toale, Esquire as a Code Enforcement Hearing Officer to preside over code enforcement hearings for a term of four years, and zoning hearings, until removed by majority vote of the City Commission; and

WHEREAS, the City Commission has determined that this resolution serves the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – INCORPORATION OF RECITALS

- 1.01 The above recitals are true and correct and are incorporated in this resolution by reference.
- 1.02 James Toale, Esquire is an attorney in good standing with the Florida Bar Association, has practiced law for at least five years prior to appointment, and practices law within Sarasota County, Florida.
- 1.03 During his service as Hearing Officer, Attorney Toale has demonstrated satisfactory knowledge of municipal law and the general procedures for enforcement of municipal codes, as well as a temperament suitable for the exercise of the quasi-judicial powers vested in a hearing officer.
- 1.04 Attorney Toale has more than two years’ experience in land use, zoning, or other land use regulatory experience.
- 1.05 Attorney Toale is not a City employee, officer, or board or committee member.
- 1.06 The City Commission finds that James Toale, Esquire meets the qualifications to preside over code enforcement matters pursuant to Section 2-505(c) of the City Code and to preside over zoning matters pursuant to Section 2.4.3.C. of the ULDC.

SECTION 2 – APPOINTMENT

- 2.01 The City Commission hereby appoints James Toale, Esquire as a Code Enforcement Hearing Officer for a term of four years, invested with the power and authority set forth in Section 2-110 and

Section 2-509 of the City Code to preside over matters pursuant Chapter 2, Article IX of the City Code.

- 2.02 The City Commission hereby appoints James Toale, Esquire as a Zoning Enforcement Hearing Officer to preside over matters pursuant Section 2.4.3.C. of the ULDC, until removed by a majority vote of the City Commission.
- 2.03 The Hearing Officer shall be compensated as set forth in his Response to Request for Proposal No. 2015-13, at an hourly rate of \$195.00. Travel time is not compensable. Time will only be billed for the following actions of the Hearing Officer:
 - A. Review of appeals or petitions for variance.
 - B. Scheduling and conducting hearings.
 - C. Preparing written findings of fact, decisions, and orders.
- 2.03 When the Hearing Officer is named as a defendant for actions taken during the scope of his duties as Hearing Officer, he shall be compensated at an hourly rate of \$50.00 for time spent consulting with attorneys, preparing for and attending depositions, and preparing for and attending court hearings.
- 2.04 Despite the term of this appointment, pursuant to Section 2-505(d) of the City Code, the Hearing Officer serves at the pleasure of the City Commission and may be removed from service at any time, with or without cause, by a majority of the City Commission. Pursuant to Section 2-505(d), a Hearing Officer's office is considered vacant if the Hearing Officer fails to attend two of three successive hearings without good cause.

SECTION 3 – CONFLICTS

- 3.01 In the event of any conflict between the provisions of this resolution and any other resolution, in whole or in part, the provisions of this resolution will prevail to the extent of the conflict.

SECTION 4 – SEVERABILITY

- 4.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this resolution is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the resolution.

SECTION 5 – EFFECTIVE DATE

- 5.01 This resolution takes effect immediately.

ADOPTED by the City Commission of the City of North Port, Florida, in public session on April 8, 2025.

CITY OF NORTH PORT, FLORIDA

PHIL STOKES
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

MICHAEL GOLEN, CPM
INTERIM CITY ATTORNEY