

VERO BEACH TREE AND BEAUTIFICATION COMMISSION MINUTES
Thursday, March 18, 2021 – 9:30 a.m.
Council Chambers, City Hall, Vero Beach, Florida

PRESENT: Chairman, Marilyn Black Dussault; Members: Fran Robinson, Neal Roe, and Katherine Booth **Also Present:** Assistant City Attorney, Jenny Flanigan, Planning and Development Director, Jason Jeffries, Grounds Maintenance Manager, Nanette Haynes, and Senior Administrative Assistant, Rita Hawkins

1. CALL TO ORDER

Chairman Dussault called today's meeting to order at 9:30 a.m. and the Senior Administrative Assistant performed the roll call.

Mrs. Dussault asked if there are any objections to Mr. Jason Jeffries, Planning and Development Director, discussing item 6-A) first so they can give him their recommendations. There were no objections from the Commission members.

2. APPROVAL OF MINUTES

A) December 17, 2020

Mrs. Booth said she has a couple of corrections. On page three (3), Under item 6-B, Landscape and Tree Protection Ordinance it was stated that the City's Comprehensive Plan does not talk about mandating or requiring the use of native plants. However, the CMP under the Potable Water sub element through its Land Development Regulations it states "*The City shall require a minimum of 50 percent of plant material for required landscaping in multifamily and nonresidential development shall be made of drought tolerant plant material to reduce water consumption for irrigation*". She said the City Code follows the CMP and has its specifications adopting that native plants will be at least 50 percent of the plant materials.

Mrs. Dussault said that is not a correction, but in doing research she found information that was inaccurate.

Mrs. Booth replied yes.

Mrs. Booth said the next correction is on the same page where Mr. Jeffries stated "The City cannot just change a policy without showing the benefits as they apply specifically to the City of Vero Beach". Per the video the words "of native plants" should be inserted after the word "benefits" so they know what was being discussed.

Ms. Jenny Flanigan, Assistant City Attorney, explained that the approval of the minutes is to approve that they accurately reflect what happened at the meeting and not to correct the accuracy and truth of what the City Code is.

Mr. Roe made a motion to approve the minutes of the December 17, 2020 Tree and Beautification Commission meeting with the one (1) correction being made. Mrs. Robinson seconded the motion and it passed unanimously.

3. ELECTION OF OFFICERS

Mrs. Flanigan explained that she will take the gavel and conduct the Election for Chairman and once that selection is made she will pass the gavel back to the Chairman to conduct the Election of Vice Chairman. She stated that the floor is now open for nominations for Chairman of the Recreation Commission.

A) Chairman

Mrs. Robinson nominated Mrs. Dussault for Chairman. Mr. Roe seconded the motion.

Ms. Flanigan asked if there were any other nominations. With no other nominations being made the nomination was closed. The motion passed unanimously and Ms. Flanigan announced that Mrs. Marilyn Dussault was elected as Chairman of the Tree and Beautification Commission.

B) Vice-Chairman

Mrs. Dussault announced that Mr. Neal Roe is resigning from the Tree and Beautification Commission at the end of the month (March). She said she cannot thank him enough for his participation on the Commission. He has been an incredibly important member and he will be missed terribly. They wish him well.

Mrs. Booth said she really appreciated his creativity and ideas that he brought to the Commission.

Mrs. Dussault nominated Mrs. Robinson for the position of Vice Chairman. Mrs. Booth seconded the motion. There were no other nominations. Mrs. Fran Robinson was unanimously appointed as Vice Chairman of the Tree and Beautification Commission.

4. PUBLIC COMMENT

None

5. NEW BUSINESS

A) Arbor Day Celebration and Proclamation - April 30, 2021

Mrs. Dussault stated that the Arbor Day Proclamation will be read at the April 6th City Council meeting at 8:30 a.m. The issuing of an Arbor Day Proclamation is one (1) of their requirements for being a Tree City USA community.

Mrs. Dussault said they did not have an Arbor Day celebration last year due to the coronavirus. She asked Ms. Hayes what she thinks they could do or if she has any ideas for Arbor Day.

Ms. Haynes stated that she has room for one (1) more tree at Leisure Square if they want to invite the children from Rosewood Magnet School.

Mrs. Dussault said under normal circumstances they would send a letter to the school to invite the children, but she is not sure if they can do that. There might be restrictions that they are not aware of.

Ms. Haynes explained that they can certainly plant a tree somewhere else without the children. The Commission members can be there, invite the press, and have a small tree planting ceremony.

Mr. Roe said Leisure Square would be easy and they would welcome anyone who could attend.

Mrs. Robinson said the children at the after school program at Beachland Elementary School have been going out and working in the garden, so she is not sure if there are still restrictions.

Mrs. Dussault said she would really like to have something more Citywide and visible to celebrate the day, but she does not want to expose the children and teachers to anything that might affect their health.

Mrs. Booth suggested they plant some type of evergreen because they really clean the air.

Ms. Haynes replied she thought about planting some Slash Pines along 20th Avenue where she did the canal planting a few years ago. They could still invite people and they can park along the side of the road.

Mrs. Dussault said she likes the idea of using pine trees.

Mrs. Booth asked if there is irrigation there.

Ms. Haynes replied no, that is a place they have to hand water. The land belongs to Indian River Farms Water District, but they gave the City permission to do the planting there.

Mrs. Dussault said that sounds like a good idea and she wants to put together some information that can be sent out to the press.

Ms. Haynes said she will draw up a map showing the location of the project.

Mrs. Dussault stated that she will make that announcement at the City Council meeting when they issue the Arbor Day Proclamation.

Ms. Haynes asked to have Mr. Calin Ionita, Senior Forester, contacted to invite him to the Arbor Day event.

B) Tree Issues with Respect to Paying Fines and Senate Bill

Mrs. Dussault explained that she included a copy of Senate Bill 916 with the agenda pack for the Commission members to review. She said there is another piece of legislation that has already passed several years ago and two (2) law suits are still on going.

Ms. Flanigan stated that there are also legislation bills number 596 and 6023 to repeal Florida Statute 163.045 completely, but they have not been heard in Committees.

Mrs. Dussault said she would love to see the fines increased substantially, but based on Mr. Jefferies presentation it sounds like it is out of their hands right now. Perhaps when the new Tree Protection and Landscaping Ordinances are completed they might have another opportunity to look at. They will have to follow the legislation, because the probability of appealing the original Bill is very slim. It is

difficult to balance making the fines substantial enough without infringing on the property rights of both buyers and sellers. Right now this has gone to City Council and they made their recommendations, so they have to leave it up to the Planning and Zoning Board.

Mr. Roe stated that the Planning and Zoning Board is operational in enforcement, so they (Tree and Beautification Commission) should approach their discussions and how much they invest in their discussions based on the Planning and Zoning Board's input. At some point they need to stop and say they have come this far, but they need to let the Planning and Zoning Board do their job and City staff do their job, but all together they are informing City Council.

Mrs. Booth said she appreciated Mr. Jeffries coming to the meeting today. She had a lot of questions, ideas, and thoughts about the Ordinance changes and revisions. She likes being a part of the process and believes it should be a part of what the Commission does so they give value back to the City.

Mrs. Robinson said that educating people can be their best resource for preserving Live Oak Trees. Educating Realtors would be one (1) way to pass on the information to potential new property owners.

Mrs. Dussault said that they are an Advisory Commission and on this particular issue she believes they need to leave it up to the Planning and Zoning Board and the City Planners. They can certainly revisit the subject and educate the public.

Ms. Haynes suggested that someone from the Commission attend the Planning and Zoning Board meeting to share their ideas.

6. OLD BUSINESS

This item was heard before item 2.

A) Landscaping and Tree Protection Ordinance Recommendations - Mr. Jason Jeffries, Planning and Development Director

Mr. Jason Jeffries, Planning and Development Director, stated that his memo to the Commission was included in the agenda packet (on file in the City Clerk's office). He stated that last October the City staff did some benchmarking of Landscaping and Tree Preservation Codes from similar cities. They came up with recommendations on four (4) items. As an Advisory Committee, he is looking for their broad recommendations on what they would like to see changed in the City Code. The Landscaping and Tree Preservation Ordinances are located under the Land Development Regulations and per Florida Statutes the Planning and Zoning Board has to make the formal recommendations to any land development changes. He will take any recommendations or items to look at to the Planning and Zoning Board and they will make their recommendations to City staff on what changes they want to make. City staff will make those changes and present them to the Planning and Zoning Board for their approval before they are submitted to City Council. Of the four (4) items that City staff recommended, three (3) involve the Landscape Ordinance, which deals with any new development and what the City requires in landscaping site plans. The Tree Preservation Ordinance deals with the protection of the trees and it applies to all properties in terms of the removal of any tree over three (3) inches in diameter at breast height (DBH). He is looking for the Commission's general recommendations on these two (2) Ordinances. He explained that City Council has already directed staff to improve the protection of trees in the City, especially Live Oak Trees. City staff will make amendments and will prepare a draft Tree Protection Ordinance to present to the Planning and Zoning Board at their April 15th meeting. He

said they are looking at how to protect the Live Oak canopy and add regulations for historic trees. They consider historic trees to be Live Oak Trees, but they have not determined the details and the size requirements. They will have to weigh the ability to develop a property along with the protection of the trees. Right now the City's Tree Protection Ordinance exempts utilities, because when the Ordinance was written the City owned the water and electric utilities. In Chapter 163, the Planning State Statute, provides some provisions that exempt utilities from tree preservation, but it also carves out that the City has provisions for historic or tree canopies. There are some areas they can regulate on how the utility companies prune trees and what they do with the Live Oak Trees. The two (2) things they will see coming forward pertaining to the Live Oaks is the protection of them in new development and the utility companies pruning them.

Mrs. Booth asked if the protection is for both Live Oaks and Laurel Oak trees.

Mr. Jeffries replied right now they are just talking about Live Oak Trees, because they live longer and take longer to grow compared to Laurel Oaks.

Ms. Nanette Haynes, Grounds Maintenance Manager, said they might want to have a conversation about adding Laurel Oak Trees. They do not live as long as Live Oak Trees, but they do grow faster and they are a big part of the tree canopy here.

Mr. Jeffries stated that they are just adding another layer of protection to what is already in place and more stringent protection on historic trees. They cannot put too many trees in the historic category because then they start getting into the development rights. They might be able to add some things to the specimen trees to add some protection to the Laurel Oaks.

Mrs. Booth asked if he was interested in knowing the science regarding the Laurel Oaks.

Mr. Jeffries replied that his staff is looking at the University of Florida's research on them.

Mrs. Booth said they will find that there is no scientific evidence that Laurel Oaks are not long lived and they are not prone to wind damage.

Mrs. Booth said she does not see any increased mitigation costs for the removal of Sabal Palms that she discussed with him. Sabal Palms are important to the native ecology. Her opinion is that mitigation does not protect a tree, so she would like to see that it is more costly to remove a Sabal Palm.

Mr. Jeffries replied that the costs listed on his handout are based on the replacement cost of the tree. They cannot arbitrarily just increase the cost, because it would be considered a regulatory taking.

Mrs. Booth said she understands that Sable Palms are normally taken from the wild and planted on people's properties. They do not usually grow them from seeds and plant them when they are three (3) feet tall, because that can take many years.

Ms. Haynes explained that Palm Trees are grown on tree farms and they have to go by the industry standards on the replacement costs.

Mrs. Booth asked if they could be put under historic trees because they can live 750 years or so.

Ms. Haynes replied that she does not know of any city that has considered any Palm Tree in a historic realm. Palm Trees do not usually have that designation.

Mr. Jeffries stated that if they are done discussing the Tree Protection Ordinance he would like their final recommendations so he can move forward. He will be having a discussion with the Planning and Zoning Board at their second meeting in April. They will be dealing with a specific proposed Ordinance on tree preservation changes for historic trees and improvements to the Landscape Ordinance. The Planning and Zoning Board is eager to have this discussion so they can make their recommendations to City Council. He reminded the Tree and Beautification Commission that this is only a broad conversation about direction in terms of changes and not specific details on the proposed Ordinance. The Planning and Zoning Board will only be discussing the Landscape Ordinance in April. It will be later on in the year after they receive direction from City Council before they look at any updates to the Tree Protection Ordinance. He said the three (3) areas that City staff thought they could improve were to require property perimeters to be landscaped, building perimeters to be landscaped, and that landscape plans be designed by a landscape professional.

Ms. Haynes asked if this applies to single family residences.

Mr. Jeffries replied no, it would be for commercial and multifamily developments. The only time a single family home might have landscape requirements is when it is a planned developments with a Home Owner's Association. There is currently a Bill with the State Legislature that specifies that cities cannot require landscape plans on single family properties. It has been his practice to not make changes when there are bills being approved by the Senate, because then they have to go back and change the City Code.

Mrs. Booth said that sometimes their best management practice can get grandfathered in under the new legislation.

Mr. Jeffries replied no, that only applies if the Senate specifies in their legislation they will allow something to be grandfathered in up to a certain date, but the Bill he is speaking about does not allow that. Sometimes cities have to change their Code because State Statues change.

Mrs. Dussault thanked Mr. Jeffries for his time. They will vote on the recommendation and have them to him today.

At this time the Commission proceeded to item 2-A), approval of the minutes.

This portion of the discussion took place after item 5-B).

Mrs. Dussault said they need to go over the recommendations that Mrs. Booth made. She agrees with several of her recommendations, but not all of them. She put together her recommended amendments to the Landscaping Ordinance and some on the Tree Protection Ordinance.

Mrs. Booth went over her handout titled "Recommendations to City Planning - Amendments to Landscape and Tree Protection Ordinances" (attached to the original minutes).

Mrs. Dussault said Mrs. Booth's work is thorough and comprehensive and it deserves their vote.

Mr. Roe made a motion to approve the recommendations from Mrs. Booth and to submit them to Planning and Development for consideration. Mrs. Dussault seconded the motion and it passed unanimously.

Mr. Jeffries said he would like to point out a few things. He sees on the list that there are recommendations to single family properties.

Mrs. Dussault said that they fully understand that there are elements of the list that individually they do not agree with or cannot be done.

Mr. Jeffries explained that it is not just a point of agreeing with them. Some of the items pertaining to the single family properties are inconsistent with the City's Comprehensive Plan. The recommendation to increase the amount of native plants is something they could consider, but to restrict the amount of turf that is allowed they would have to justify the scientific basis for it. The clean-up of pet feces, mulching of grass and a few others are City Codes and they have nothing to do with land development. The 10 foot buffer between the turf and the shoreline and the irrigation discharge is something they can look at.

Mrs. Dussault stated that they are giving him the entire list and they know that some items cannot be considered. They are just ideas that they have discussed and they will let him pull out what he believes he should take to the Planning and Zoning Board. She said the Commission agrees on the three (3) recommendations that City staff previously made.

Mr. Jeffries asked if they are not recommending allowing landscape plans from a Landscape Designer.

Mrs. Booth replied that she listed her thoughts as to why a Landscape Architect would be a better choice.

Mrs. Dussault explained that they did not go through the recommendations line by line, but she did not want to drag this out any further.

Ms. Flanigan said that one (1) member of their Commission can attend the Planning and Zoning Board meeting and when these items are brought up they can explain where there is disagreement among the Tree and Beautification Commission members.

Mr. Jeffries said to make this simple, on the subject of a landscape professional he will state that there was not a consensus from the Tree and Beautification Commission, so no recommendation was made. He will do his best to present these ideas, but just so they know as the Planning Director, he cannot make some of these recommendations to the Planning and Zoning Board.

7. TREASURY REPORT

Mrs. Dussault stated that they received a copy of the Treasury Report (on file in the City Clerk's office) She asked if there were any questions pertaining to it, which there were none.

8. CHAIRMAN'S MATTERS

Mrs. Dussault announced that on March 29, 2021 at 9:30 a.m. in the Council Chambers there will be a City Council workshop to discuss the composition of many of the City Commissions and Boards. They

are having a great deal of difficulty getting participants for the Commissions. She will be there and she would urge anyone who can attend to do so.

9. MEMBER'S MATTERS

Mrs. Booth said she forgot to mention in her memo that the City of Sebastian includes single family properties in their Landscape Ordinance.

10. NEXT MEETING DATE

A) Next Meeting Date – April 22, 2021

The next meeting of the Tree and Beautification Commission is scheduled for April 22, 2021.

11. ADJOURNMENT

Today's meeting adjourned at 10:57 a.m.

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