CALL TO ORDER
Kerry Karl, Chair, called the meeting to order at 1:02 p.m.

ROLL CALL
Roll call was taken. All members were present, with Members Jamison and LeFils arriving at 1:07 p.m.

APPROVAL OF NOVEMBER MINUTES
Chair Karl called for comments or edits to the November meeting minutes. Member Hoblick requested more detail be added in the goal setting portion of the minutes to include the council list from the first staff presentation.

Member Fitzsimmons motioned to approve the amended minutes as proposed by Member Hoblick. Vice Chair Lammers seconded the motion. Motion passed unanimously.

APPROVAL OF DECEMBER MINUTES
Vice Chair Lammers motioned to approve the minutes as drafted. Member Morrissey seconded the motion. Motion passed unanimously.

REVIEW OF CHAPTER 72, TREE ORDINANCE
Chair Karl stated that all comments submitted were added to the document for review. Ginger Adair, Environmental Management Director, explained how the Ch. 72 ordinance language document was highlighted to show areas where there were comments.

Member Fitzsimmons discussed an article he provided regarding the need for housing and the natural relationship verses the relationship to development and encouraged clustering. He then mentioned the article provided by Member Zelenski, which focused on preserving trees in diverse ecosystems. He then offered that maybe focus should be on planting new trees rather than preservation of existing trees. He offered that consideration should be given to allowing developers to pay into the tree fund for each platted lot (maybe a flat fee) in lieu of the tree bank for replacement based on the number of trees removed, which would be cost effective and meet the goal of Volusia Forever.

Chair Karl asked how much was going into the tree fund. Ms. Adair stated she would research.

Member Lites suggested utilizing incentives rather than mandates.

Member Hoblick raised a question regarding the county forester’s discretion in Chapter 72. Ms. Adair responded that is existing language and tweaks may be made. Keith Abrahamson, County Forester, clarified his office consists of 6 field staff and two other support staff. Field staff act as his designee and then provide their determinations for review and approval. He also noted that all determinations
may be appealed to the Development Review Committee (DRC). Clay Ervin, Growth and Resource Management Director, further explained that a perfect rule cannot be written to address all situations that may arise. Having subject experts allow for flexibility in decision making to meet the purpose and intent.

Member Malmborg inquired if a conservation impact fee could be considered and offered consideration should be focused on the environmental core area.

Discussion ensued regarding tree surveys, providing tree conservation where possible, and then paying in the fund as required.

Member Karl suggested a subcommittee to discuss these concepts further and inquired if that meeting would need to be noticed and have minutes taken. Chris Ryan, Assistant County Attorney, replied that he would research further and then advise the Committee.

Continuing the discussion on the Tree Ordinance, Ms. Adair noted that staff would be providing examples where comments or questions requested clarification. She also added that the order of the Ordinance sections as written did not make logical sense, and the discussion would proceed in the logical order that staff suggests.

Member Karl asked if the Committee was in agreement with the four additions provided by Member Lammers on Page 1, Lines 6-10 of the Ordinance. Member Morrissey stated she was in support of adding the language, with the exception of trees in relation to reduction in crimes.

Member Malmborg questioned if the additions would be defensible by staff. Mr. Ryan responded that inclusion of the proposed language is acceptable in the purpose and intent. Vice Chair Lammers reiterated she would like the benefits of trees upfront in the purpose and intent. Discussion ensued regarding small changes to communicate intent as a preamble to the rules. Ms. Adair stated staff would massage the language and bring back for consideration.

Ms. Adair then requested clarification on Member Zelenski’s comments and the term “old growth”. Discussion ensued about the term and the size of trees that are not considered historic yet but should still be protected. Ms. Adair offered the term mature as a substitution. She then summarized the direction of the committee to include the first three bullets offered in Member Lammers’ comments and that staff would find the appropriate placement in the ordinance. Mr. Ryan offered the whereas portion of the ordinance for placement.

Member Lites discussed the benefit of small trees for the purpose of sequestration. Chair Karl requested that he research further and provide information to staff for consideration.

Ms. Adair continued the review of the comments, beginning with the definition of nuisance trees. She then provided a brief overview of the Environmental Management website, highlighting the resources found there to address Member Jamison’s comment regarding a list of invasive species.
Member Morrissey made note of three terms that were not defined. Those terms include protected tree - Ms. Adair responded this will be added, exempt tree – Ms. Adair stated the proposed language will replace nuisance with exempt, and native vegetation – Ms. Adair noted that it is found in Chapter 50, but should be added to 72 as well.

Member Fitsimmons requested clarification on the distinction between hazard and risk. Ms. Adair responded possible danger to a car, person, etc. is a risk. Hazards create an increased risk. These terms were added to meet the legislation and legal determinations at the time. Mr. Abrahamson added the International Society of Arboriculture is the industry standard to determine how to assess risk versus hazard. He added a risk assessment is acceptable for exemption.

Vice Chair Lammers requested clarification regarding the removal of the invasive list. Ms. Adair affirmed, stating that there were inconsistencies in the list, for example, citrus is exempt, not invasive. She then offered that the list may be updated or removed, with a reference to the appropriate site. Ms. Adair addressed the terms deteriorated tree and native vegetation, which were inadvertently left out of the definitions distributed to the committee.

The discussion continued in relation to the exemption of tree removal from owner-occupied homes. Chair Karl requested clarification on Member Gow’s comment regarding this exemption. She explained the exemption should be considered for all single-family homes, regardless of owner occupation, i.e., rentals.

Discussion ensued regarding tree removal permits for historic trees on owner-occupied lands, the reasons to keep or remove the exemption, and the requests of insurance companies to have trees removed if they pose a risk. Ms. Adair explained that residents could still apply for a permit for the removal of historic trees, but replacement expense may be considered.

Member Malmborg suggested a guide for the process. Chair Karl agreed with an education component for the public.

Member Hoblick raised concern with infringement on private property owner rights.

Discussion ensued regarding property rights, different standards for owner-occupied and rental properties, onus on the government for cost of removal or replacement, blanket exemption removal, and case by case review.

Member Jamison stated she was against removal of the exemption without alternatives for conservation. She added additional committee research was needed. Member Morrissey echoed that she was not prepared to make a decision on this matter. Member Gow agreed, noting that the scope to modify needed to be looked at if the exemption was not removed.

The review of comments continued, moving to trees grown for sale and specific zoning classifications being exempt if for silviculture purposes.
Member Jamison asked for clarification on the three-year time period for rezoning. Ms. Adair explained if trees were removed under exempt agricultural circumstances and the owner later comes applies to develop a subdivision before the allowable time lapses, staff would presume the clearing was done in anticipation of the development. Mr. Abrahamson discussed the statistical analysis process to determine the number of trees that were previously located on the site and explained that property owners or prospective buyers have the duty of due diligence if the site is purchased.

Member Malmborg inquired if this had been recently enforced successfully and if litigation had occurred in result. Mr. Abrahamson replied in the affirmative that this had been recently enforced successfully and no litigation had occurred. Mr. Ervin further clarified that planning companies that assist in the application process of subdivisions research property as part of their due diligence. He noted there is always an inherent risk of buying raw land. Member Gow echoed that developers are aware of the three-year requirement and usually check before purchase. She then clarified that even if the property is not kept for three years, the developer may rebut the presumption of staff. Ms. Adair agreed the owner could rebut the presumption but must provide evidence for consideration.

At 2:33 p.m., Chair Karl requested a five-minute break.
The meeting resumed at 2:40 p.m.

Member Karl summarized the discussion prior to the break and then asked if the owner has the ability to rebut, does the number of years matter. Ms. Adair provided the review criteria for the presumption. Member Hoblick inquired about violations. Ms. Adair explained if the exemption is denied, the owner would be responsible for replacement. This decision may be appealed to the DRC and then to County Council. She noted had occurred a handful of times in her years with the county.

Member Hoblick inquired if there should be tougher penalties. Member Fitzsimmons offered that minimum standards should be incentivized. Member Lites reiterated that planting should be encouraged. Member Malmborg echoed that development is not incentivized and there should be prescriptive language. He then asked if someone purchases 1000 acres would clearing being exempt if it were owner-occupied. Ms. Adair answered only the buildable area would be exempt. Mr. Abrahamson added there are incentives for keeping trees until a later date.

Vice Chair Lammers inquired about the requirement that only 20% of lots can be cleared in a subdivision in one year. Mr. Abrahamson explained the subdivision process and DRC’s ability to grant waivers. He then provided visuals for a subdivision and tree survey. Ms. Adair clarified if lots in a subdivision remain wooded until ready for development, there would not be a requirement for replacement within the buildable area of the lot. Member Gow requested clarification if that would benefit the developer or the builder. Mr. Abrahamson responded it could be anyone.

Discussion ensued regarding replacement and the benefit of waiting to clear.

Member Fitzsimmons discussed trees within setbacks. Mr. Abrahamson clarified that per the residential section of the tree code, applicants could choose the option to clear a lot and replant 1 tree per 1000 square feet for lots less than 20,000 square feet.
Chair Karl asked if there was a preference between the two options. Mr. Abrahamson answered that it would be based on the requestor’s preference and staff would review based on the request. Ms. Adair reiterated that every site is different and staff evaluates based on the site specifications and the developer’s preference. Member Malmberg elaborated that some developments may require drainage and infrastructure considerations that may affect the process. He noted the developers must meet requirements while considering the most economically viable options.

Discussion ensued regarding natural habitats, 100-year stormwater containment requirements, and other requirements that are outside the county’s purview. Ms. Adair agreed that the process is complicated. She reiterated that the perfect Code cannot be drafted, allowing the county forester considerations allows for common sense application, and the committee should keep the larger picture in mind and work to build consensus on the framework.

Chair Karl asked about conservation subdivisions. Ms. Adair explained cluster subdivisions allows for a decrease in the minimum lot size requirement only and does not include density bonuses. Conservation subdivisions must be located within ECO, or be immediately adjacent, and requires open space but allows for density bonuses.

The review continued, circling back to Member Fitzsimmons’ comments on Page 3. Member Fitzsimmons clarified that trees grown on agricultures sites (monoculture) should be exemption, specifically noting laurel oaks. Mr. Abrahamson discussed the typical life span table as provided by staff, noting two types of laurels and that the Code is specific to the tree condition. Ms. Adair added that staff has no desire to protect a potentially hazardous tree.

Member Surrette asked how the committee could review and discuss items without taking so long. Ms. Adair offered the committee may ask how often something occurs, and if staff responds that it occurs rarely, we move on to the next item. Member Jamison expressed that property rights is in the weeds and should be considered and discussed.

Chair Karl took this opportunity to encourage members to reach out to new council members as their appointed council members may not still be seated. She recommended the committee provide an understanding of their purpose and find out what the newly appointed council priorities are.

Discussion ensued regarding the committee’s purpose to review standards and recommend changes and educational components to extinguish misconceptions of clear cutting was also discussed.

Ms. Adair recommended consideration be given to allowing staff to present on topics first and then allow for dialog and comments. She offered the following as items for decision points:

1. Do we have graduated protection in ECO/NRMA?
2. Should there be increased tree protection?
3. Is tree protection levels appropriate in Urban areas of the county (is 15% the right number)?
4. What exemptions should be allowed?
5. Should specimen and historic tree lists be revised?
6. What habitats are we trying to protect (should NRMA be modified)?

Chair Karl requested clarity on how the Committee wished to proceed with those questions in mind. Member Malmborg offered that an outline rather than presentation might be best. Member Surrette recommended isolating questions and not let conversations become so broad. Vice Chair Lammers agreed with Member Malmborg and requested focused outline, small presentations.

Member Gow reminded the committee of their purpose, which was to review things in their entirety. Ms. Adair agreed with this statement and noted she appreciated the perspectives discussed during this meeting. She offered as a starting place, staff could respond to the committee provided comments, although this recommendation was not agreed to. Staff agreed to provide a short presentation at the next meeting.

Member Karl stated that the next meeting date was to be determined once council had established their meeting schedule for the year. The committee agreed that meetings would occur on a monthly basis.

ADJOURNMENT
The meeting was adjourned at 3:57 p.m.