MINUTES OF THE ENVIRONMENTAL AND
NATURAL RESOURCES ADVISORY COMMITTEE
February 1, 2023

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

ROLL CALL
Roll call was taken, with Members Tobias, Jamison, and LeFils absent and Members Zelenski and
Anderson arriving at 1:05 p.m. All other members were present.

APPROVAL OF MINUTES
Chair Karl called for any comments regarding the January minutes.

Member Lites moved to approve the minutes. Member Fitzsimmons second the motion.

Member Fitzsimmons requested a clarification be added on Page 1 that he was asking for
consideration of payment, in lieu of the tree bank option.

The motion was amended to approve the minutes, with the requested edit. The motion passed
unanimously.

DISCUSSION REGARDING SUBCOMMITTEE
Chair Karl opened the floor regarding a subcommittee.

Ginger Adair, Environmental Management Director, discussed the requirement of minutes to be taken
and requested consideration be given to delaying the subcommittee until the annual budget
preparation is complete in April.

Chris Ryan, Assistant County Attorney, provided legal guidance, stating the subcommittee must have
an in-person quorum to meet, have general authority, and the number of members must be determined.

Member Fitzsimmons moved to allow for the subcommittee to be formed. Member Anderson
seconded the motion.

Member Gow requested clarification on the scope.

Chair Karl offered the subcommittee could focus on the suggestions made by the Committee as a
whole, such as utilizing a flat fee, a conservation impact fee, etc. She noted that the subcommittee
would be limited to fact finding and would bring recommendations forward to ENRAC.

Member Morrissey asked if the subcommittee would currently be limited to trees. Chair Karl
confirmed.
Member Gow offered the subcommittee should bring information to their meetings, rather potentially placing burden on staff members.

Chair Karl asked for volunteers for the subcommittee. Volunteers included: Chair Karl, and Members Fitzsimmons, Zelenski, Gow, and Anderson. The subcommittee will require a majority plus one vote, being three members. The members will meet in April.

The motion and second were restated. The motion carried unanimously.

**OTHER ITEMS FOR CONSIDERATION**

Ms. Adair discussed the meeting calendar for the year and offered that the July meeting could be moved if necessary. Member Fitzsimmons noted he would not be in attendance if it were to be on the 5th as scheduled.

Ms. Adair also discussed email issues and asked that members please reach out to staff if they are not receiving communication. She stated the committee should have received an invitation to the LID workshop scheduled for February 2nd. Member Morrissey stated she had not received the invitation, which was noted.

Ms. Adair explained the intent of the workshop, which was to discuss the barriers to LID with the grant team. She added the workshop had been noticed as multiple ENRAC members would be in attendance, but she requested that no two members be in the same breakout sessions to be in compliance with Sunshine Law.

Member Morrissey inquired if the meeting was open to the public. Ms. Adair confirmed but noted that anyone who wished to attend should RSVP to allow for an accurate headcount. She then asked if anyone had RSVP’d during the discussion, to please find a staff member upon arrival at the workshop to let them know they are ENRAC members to allow time for the reorganization of breakout sessions if needed. She stated breakout sessions were scheduled to begin at 9:55 a.m.

**CONTINUED REVIEW OF CHAPTER 72, TREE ORDINANCE**

Ms. Adair summarized the direction from the last meeting for staff to provide a high-level overview and then began the PowerPoint presentation. She summarized the basics as including exempt activities and properties, how development is treated differently based on the type, and the five main standards of the tree code. Began with current exemptions and discussed the proposed changes.

Member Lites inquired what “RA” meant. Staff responded Rural Agriculture, noting it is not commercial. Member Lites then asked about the proposed 2.5-acre agricultural exemption. Staff clarified the Code states “over 2.5 acres”, which limits to properties 2.51 and larger. The proposed change would read “2.5 acres or larger”.

Member Hoblick inquired if there were any exceptions for lands less than 2.5 acres. Keith Abrahamson, County Forester, responded in the affirmative, for lands with a bona fide agricultural use as determined by the Property Appraiser.
Ms. Adair continued the presentation with new construction for one- and two-family residential lots and what applies and does not, tree protection during development, tree and root protection, and potential changes.

Vice Chair Lammers requested clarification between dripline and root zone protection. Mr. Abrahamson explained limiting to dripline would cause higher mortality rates.

Member Malmborg inquired about growing trees in larger groups. Mr. Abrahamson discussed root mass and higher complexities.

Ms. Adair continued with tree removal and replacement information. Staff discussed calculation methodology. Member Malmborg further clarified the math and that, in his experience, usually requires payment into the tree fund due the inability to cluster. Ms. Adair noted that replacement can include planting, protection of existing smaller trees on site, payment into the tree replacement trust account, or a combination thereof. Mr. Malmborg added he has never been able to meet the replacement without payment and further explained the challenges for developers.

Member Lites inquired about the use of the tree funds. Staff responded that the funds go to the tree giveaways, grants to plant large areas and that the funds must be spent on public land or land open to the public.

Discussion ensued regarding balance, creation of urban sprawl, a focus on maximum densities, and the value of younger trees being less than larger trees.

Member Hoblick inquired why cross sectional versus DBH for DBH. Staff replied they would explore the math and provide a comparison. Member Malmborg stated that the City of DeLand’s requirements use DBH.

Discussion ensued regarding replacement for trees in the zoning setbacks, voluntary protection counting towards replacement, the difference between vested lots and newly created lots, and the incentives of focusing on one lot at a time.

Ms. Adair then presented potential changes to tree replacement and tree preservation areas, providing examples of tree preservation areas.

Member Morrissey asked if there is a minimum width or square footage for tree preservation areas. Mr. Abrahamson responded the area is subjective now but proposed changes would allow for root and canopy development. He explained that development too close to trees is considered removed.

Discussion ensued regarding root zone protection plans to mitigate, if specimen tree requirements are tripped, appeal process, natural vegetation retention areas, and the economic viability of options.

Ms. Adair continued the presentation, discussing minimum tree coverage, alternate standards for new residential lots, and potential changes.
Member Malmborg asked how long the required trees would have to remain once the residence becomes occupied. Staff responded the trees would be required to remain for two years and then noted that the failure rate was previously 20%, but it has significantly decreased now that tags are placed on trees at the final inspection. The sample tree tag was passed around to the members.

Ms. Adair explained one potential change as adding the ability for the county forester to waive minimum tree requirements based on site conditions. This would allow additional flexibility in certain situations.

Member Hoblick inquired if there are guidelines for subjectivity. Staff responded that circumstances are memorialized as they occur so they can be utilized later.

Discussion ensued regarding parameters, the appeal process, and standards for review.

The presentation on specimen and historic trees preservation continued.

Member Fitzsimmons noted the City of DeLand code, more specifically, the laurel oak is exempted from specimen requirements. Mr. Abrahamson displayed a photo showing a very healthy 55” laurel oak that was cut down, explaining not every individual tree of a specie is the same, and that the condition of the tree is the most important factor.

Member Malmborg inquired about the use of arborists for the tree surveys. Mr. Abrahamson responded an arborist may be utilized for the tree survey and staff will walk the site with the developer to discuss the trees as noted on the survey. He added a certified biologists may also be used.

Members Malmborg and Fitzsimmons stated they were not in agreement with the addition of certain specimens of oak, more specifically water and laurel. They noted the more specimens equals more required preservation and suggested consideration on a case by case basis.

Ms. Adair completed the presentation by discussing the potential changes to specimen and historic tree preservation, other potential changes, and the reorganization of the chapter to allow for better flow.

Member Morrissey requested confirmation that all potential changes discussed were specific to Chapter 72, not 50. Staff affirmed.

At 2:45 p.m. the meeting adjourned for a break and resumed at 2:53 p.m.

COMMITTEE RECOMMENDATIONS
Chair Karl directed the Committee back to the ENRAC Tree Ordinance Comment document, which was used at the January meeting as well. She noted the comments for review were noted on Page 3, lines 75-84 of the Ordinance and were in regard to the exemption for the removal of historic trees on owner-occupied lots.
Member Lammers inquired about state law on this matter. Member Gow stated state supersedes local.

Discussion ensued regarding considerations and process, should an insurance company notify the owner of the residence that a historic tree was considered hazardous and require removal. It was noted that should the exemption be removed, the process would be to make application through the DRC.

Member Morrissey motioned to remove the exemption for single-family, owner-occupied lots. Member Lammers seconded the motion.

Discussion on the motion included insurance waivers, authority for the county forester to issue permit administratively, and the burden of the process.

Member Hoblick asked if an insurance company provides a 30-day notice to comply, would the county staff be able to meet the time constraints. Member Morrissey also requested clarification on the process and timeline.

Mr. Abrahamson explained that the homeowner can apply for the removal permit and if the DRC determines the tree should be removed, staff will grant the permit. It was also noted the DRC timeline typically is 3-4 weeks.

Chair Karl then summarized the motion as stated and called for a vote. Motion passed 8:3, with Members Lites, Gow, and Malmborg opposed.

Member Surrette then motioned to reopen the previously stated motion to allow for insurance consideration. Member Gow seconded the motion.

Discussion ensued regarding the difference in process for removal or deteriorated versus healthy trees. Staff responded that if a tree was healthy, the owners would be required to apply for a permit and go through the process.

Member Gow expressed concern for the timelines and possible tree mitigation fees.

Member Malmborg stated the county forester should be involved. Member Lites concurred. Member Zelenski recommended a modification of the motion to include removals as required by insurance companies should be “at the discretion of the county forester”.

Member Gow asked what staff preference would be. Mr. Abrahamson stated he would prefer the decision be made by the DRC. Ms. Adair then summarized the options as: 1. A letter from the insurance company prompts a process, 2. A letter prompts a permit, or 3. The process as is. Ms. Adair noted she would prefer option 1 or 3, as 2 would be a completely new process.

Member Hoblick called for point of order to bring motion back.
Member Morrissey motioned that historic tree exemption be removed, with an exception being for emergency letter from a homeowner’s insurance company requiring the removal. Member Fitzsimmons seconded the motion. Motion carried unanimously.

Chair Karl then discussed the committee recommendations for the rebuttable presumption timeline.

Member Anderson motioned to increase the timeframe from three (3) to five (5) years. Member Surrette seconded the motion. Motion carried 6:5, with Members Malmborg, Lites, Gow, Fitzsimmons, and Hoblick opposed.

Ms. Adair then discussed the staff recommendation of removing language on Page 4, Section (3)b, lines 129-131, as this must occur regardless.

Member Hoblick motioned to support staff’s recommendation and to strike the language. Member Surrette seconded the motion. Motion carried unanimously.

Ms. Adair then moved on to the proposed language on Page 5, Section (6) regarding Airport Protection. She noted any change made in this Ordinance must also be captured in Chapter 50 as well. She explained the FAA would supersede county rules.

Member Fitzsimmons motioned to approve the language as proposed. Member Malmborg seconded the motion. Motion carried unanimously.

Member Malmborg then asked if the proposed language in (7) was creating conflict with previously stated (3)a. Staff responded if the proposed language in (7) was approved, trees can be removed in conjunction with roads.

Discussion ensued regarding examples of roads and tree removal. Chapter 50 was also discussed as being for accountability, not 72. Removing the word “local” from the language was then proposed.

Member Morrissey motioned to approve the proposed language in (7), lines 147-150, but striking the word “local”. Member Anderson seconded the motion.

Discussion on the motion included an increase in regulations on Public Works could lead to an increase in taxes, the exemption only applying to new public rights-of-way in the unincorporated areas, the value of adding the exemption, and if replacement was required for road realignment. Staff clarified the word “planned” as it related to roadwork.

Member Morrissey questioned a possible inconsistency of removing (3)b, and then removing the word “local”. Mr. Abrahamson clarified Chapter 50 was for existing, not “planned”.

Discussion continued regarding right-of-way not being preserved if (7) is amended to remove “local”, lands set aside for conservation, and the possibility of the exemption further protecting those lands.
Staff explained removal of trees as part of restoration plans and timber practices. It was also clarified that conservation lands do not have conservation easements.

Discussion continued regarding the administration of the exemption for road programs, possible enforcement issues, unintended consequences, and internal conflict.

Ms. Adair noted that if the proposed language in (7) was eliminated, there would be no change from how things are currently done. She then offered the committee may want to establish what should be protected and then decide on how to implement.

Member Gow proposed “new right-of-way alignments shall protect to the fullest extent possible”.

Member Morrissey then withdrew her motion.

Discussion ensued regarding any proposed language should be more of a guiding principle, rather than a specific rule. Members noted they would like to hear from Clay Ervin, Growth and Resource Management Director on this. The decision was then made to table the discussion.

Ms. Adair moved on to the proposed language in (8), regarding land management activities being exempt.

Member Gow motioned to approve the proposed language. Member Lites seconded the motion. The motion carried unanimously.

Ms. Adair then moved to (9), state and federal land exemptions.

Member Malmborg motioned to approve the proposed language. Member Gow seconded the motion. Discussion on the motion included concern that some entities may assume they are exempt but should still make application and prove exemption.

The motion failed for lack of support.

Member Gow then motioned to strike proposed exemption (9). Member Lammers seconded the motion. Motion passes 10:1, Member Fitzsimmons opposed.

**DISCUSSION**

Ms. Adair stated the next meeting will be on March 1st and the agenda will include discussion on the tree fund and continued review of Chapter 72.

Member Anderson requested a discussion about the County Attorneys interpretation that the county is not bound by Chapter 72 requirements, but must abide by the minimum standards in Chapter 50.
Member Zelenski asked for clarification on sunshine and how it applies to members who collaborate on other committees. Mr. Ryan responded nothing that might come before ENRAC should be discussed in other forums.

Chair Karl and Ms. Adair then reminded members to reach out to their appointment council member to discuss the committee composition and purpose.

**ADJOURNMENT**

The meeting was adjourned at 4:05 p.m.