

January 20, 2005 Workshop Agenda

Landscaping, Land Clearing and Tree Protection

Agricultural Exemptions Issue

Sites having a bona fide agricultural or silvicultural use, as determined by the Property Appraiser's Office or domestic agricultural uses as determined by the Natural Resources Management Office, are exempt from Land Clearing and Tree Protection permitting provided best management practices are used and clearing is done in conjunction with the agricultural purpose or activity. The land clearing exemption for a property owner requesting land clearing for new agricultural activities has no time limitation as to how long the property must remain in agricultural use before being potentially developed or rezoned except that an active development order cannot be pursued while clearing in conjunction with agricultural purposes or activities. Therefore, the ordinance does not prevent an applicant from obtaining an exemption letter, clearing the entire property, and immediately afterwards applying for rezoning or development. Some properties seeking this exemption are in excess of 700 acres.

In 2003, 22 agricultural exemption packages were submitted to NRMO totaling 873 acres. In 2004, the rate of agricultural exemption submittal is almost four-fold that of 2003. At the current pace, NRMO will process 84 exemption packages and exempt over 1600 acres for domestic and commercial agricultural use this year.

Legislative Intent Agricultural Exemptions

It is the intent of the Brevard County Board of County Commissioners that Chapter 62, Article XIII, Division 3, Brevard County Code, be amended to:

1. Clearly state that bona fide commercial agricultural operations as determined by the Property Appraiser's Office are exempt from the provisions of Article XIII, Division 3 provided best-management practices are employed. Allow exemptions for the addition of new lands to existing bona fide agricultural operations.
2. For properties seeking new commercial or domestic exemption for agricultural use, establish a three-year time period (from the date of clearing) for which the County shall not entertain the conversion of these properties to nonagricultural uses and require the recording of an agricultural covenant. Allow for waivers in hardship cases such as, but not limited to, bankruptcy or property sold for settlement of an estate.
3. Establish requirements for properties seeking conversion prior to the 3 year time period, including land clearing penalties under Sec. 62-4362 and vegetation replacement under Sec. 62-4366 (d) except in cases of bankruptcy or estate settlements.
4. Require the preservation of "protected" trees (10" or larger) on land cleared for domestic agricultural use consistent with the preservation requirements of Section 62-4366(b)5.
5. Define domestic agriculture as property used for a primary residence and non-commercial agricultural activities such as, but not limited to, the keeping of livestock or vegetable production for personal use.
6. Allow exemption for historical agricultural lands that are put back into production.
7. Allow waiver for fire management practices and habitat management.

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Tree Protection Issue

Currently, the Land Clearing and Tree Protection Ordinance does not allow consideration of removal of trees on parcels one acre or larger, whether vacant or developed, in the absence of a development order. This requirement is intended to prevent speculative land clearing prior to the County's approval of proposed development. For new developments or construction, this is generally not a problem. However, this requirement also prevents consideration of individual tree removal on lots greater than one acre when no development order is anticipated or required. For example, existing homes on lots one acre or larger could not remove a protected tree to create a new landscape bed. This activity does not require a building permit or other type of development order so a separate land clearing permit could not be issued. The ordinance also doesn't allow consideration of the removal of citrus trees prior to issuance of a development order and may require preservation of citrus trees if they provide canopy coverage or meet other preservation thresholds. The ordinance does not consider whether the existing canopy is native or non-native species or whether protected trees are native or non-native species not considered undesirable species.

Legislative Intent Tree Removal Permits

It is the intent of the Brevard County Board of County Commissioners that Chapter 62, Article XIII, Division 3, Brevard County Code, be amended to provide for a tree removal permit option for lots or parcels one acre or larger to be used under limited circumstances and in the absence of a development order. This tree removal permit would require replacement of removed trees with native species where applicable, and to exclude citrus trees and other non-native trees from canopy, replacement and preservation requirements.

Citrus trees and non-native trees would not require replacement. Removal of native trees would require replacement with one or more trees of the same species where the total dbh of the replacements is equal to 150% of the dbh of the removed tree, and if the removed tree is a protected tree with a dbh of 10 inches or greater, replacement trees must have a minimum dbh of 4".

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Landscaping, Land Clearing and Tree Protection

Canopy Protection and Betterment Plans Issue

The preservation requirements of the Land Clearing Tree Protection Ordinance do not allow for replacing or transplanting canopy or individual protected trees unless the protected trees are in excess of that which is required for preservation.

The Landscaping Ordinance allows the substitution of landscape betterment plans when there are adverse site conditions. However, adverse site conditions are not defined and there are no codified evaluation criteria for betterment plans.

Legislative Intent
Canopy Preservation and Landscape Betterment Plans

It is the intent of the Brevard County Board of County Commissioners that Chapter 62, Article XIII, Divisions 2 and 3, Brevard County Code, be amended to provide more flexibility and clear direction in the utilization of betterment plans for sites where alternative site plan designs cannot result in meeting the specific landscaping/tree protection requirement as outlined elsewhere in the code and which demonstrate characteristics that adversely affect plant viability or preservation, including, but not limited to:

- 1) Existing site conditions, such as topographic elevation changes, electrical lines, utility easements, or buried solid waste.
- 2) Redevelopment sites where existing landscaping does not meet current standards and where existing site conditions, such as but not limited to impervious surfaces, access locations, or building locations, prevent the site from meeting the current landscaping requirements.
- 3) Sites where type or distribution of existing canopy or other protected trees are such that preservation requirements would prohibit site development or conflict with required development standards, such as stormwater or roadway designs.
- 4) Alternative site plan designs do not result in meeting the specific landscaping/tree protection requirements as outlined elsewhere in the code.

It is also the intent of the Board of County Commissioners that criteria be established for the evaluation of betterment plans to include:

- 1) Results in landscaping that exceeds specific goals and intent of the landscaping code.
- 2) Provides sufficient tree plantings to achieve a tree canopy equal to 30% of the site within 5 years of planting or 5% more than what existed at the time of development, whichever is less.
- 3) Provides heat island mitigation and landscape buffers, as required by the landscaping code.
- 4) Replaces protected trees with new plantings of the same species at a cumulative rate of 150% of the cumulative diameter at breast height (dbh) of the trees removed, using minimum 4" dbh plantings. (Citrus trees can be replaced with native species.)
- 5) Reduction of parking requirements up to 30% in order to preserve existing protected trees and their canopy.

It is also the intent of the Board of County Commissioners to provide that public projects such as roadway projects, utility corridors and stormwater retrofit projects be allowed to mitigate for their canopy impacts by protecting similar habitats off-site.

It is the intent of the Board of County Commissioners that the following changes be made to the land clearing and landscaping regulations;

1. Revise definitions to be consistent in both land clearing and landscaping regulations.
2. Provide definition of canopy in land clearing regulations.
3. Revise available waiver for parking requirements to be consistent with the site plan regulations.
4. Clarify that landscape plans are not required for bona-fide agricultural projects.
5. Create waiver process for hardship cases with clear criteria and process.
6. Provide definition of "site" for purposes of calculating canopy preservation requirements that excludes non-forested wetlands and natural water bodies.
7. Revise relocation criteria to provide flexibility and clarity.
8. Revise code enforcement fines and procedures to be consistent with the recently adopted changes to Chapter 2, Brevard County Code.
9. Require restoration of illegally cleared areas.
10. Clearly state that removal of non-native species by hand or small power tools is an exempt activity. Removal of these species involving heavy equipment or on water front properties should require a prior consultation with NRMO staff to ensure proper disposal of debris, erosion control, and prevention of adverse impacts to adjacent properties.
11. Require that landscape plans, including betterment plans, be signed and sealed by a Professional Engineer or Landscape Architect registered in the State of Florida.

The Board of County Commissioners may also wish to consider reducing the canopy threshold from 25% to 15% for industrial projects and projects within the established boundaries of the Merritt Island Redevelopment District, and/or allow such projects to meet minimum landscaping requirements on-site and mitigate for canopy requirements offsite.

PUBLIC COMMENTS SUMMARY

The following is a compilation of the public comments received either in meetings held on June 9, 21, 23, 28 and 29, and July 19, 2004 or received by the Natural Resources Management Office via mail or email. The comments are organized by the three proposed legislative intents and general comments. Similar or duplicate comments have not been eliminated. This summary also includes the comments received during the May 25, 2004 Board of County Commissioners meeting.

Agricultural Exemptions

Define domestic agriculture

Who determines bone fide agriculture and best management practices?

5 year time period is too long

3 year maximum time period may be acceptable

NRMO and P&Z staff do not understand agricultural issues

#3 should also allow for consideration of hardship cases in addition to bankruptcy and estate settlement

Allow consideration for fire management practices

All regulations should exempt agriculture

Silviculture ignored

Establish an agriculture advisory board or add agricultural members to any land development regulation review committees or boards, this would allow better coordination with staff

Agricultural advisory board could advise staff on who is bona fide and who is not

Allow exemptions for existing bona fide agriculture operations to add new lands

Delete best management practices requirement from intent, new requirement not in existing regulation

Define domestic agriculture to clarify that it is not bona fide operations and means residential property owners who may want to clear for pasture, etc.

Make sure that existing exemptions, regulations and definitions favoring agriculture are not weakened

Consider a sliding scale time period

What will control it? Recorded covenant?

Should consider waivers for hardship

Should have waivers for hardship or disability

Lands that have been historically agricultural but have ceased operations should be exempt if put back into agricultural production

Need to define hardship

Leave agricultural exemption alone

Make it clear that proposed time limit does not apply to existing bona fide agricultural lands

Don't prevent rezoning; prevent site or subdivision plans approvals

Silviculture is a long-term crop; how best to address time limits?

Define domestic agriculture

Why should domestic agriculture have to preserve canopy?

Eliminate Best Management Practices requirement, not in current ordinance

Restoration should allow contribution to a fund

Time limit on conversion to non-agricultural uses should be 10 years
10 year time limit does not help agriculture, 2 years long enough
Close loophole and provide penalties
Seems to favor those who gain
Premature conversion should not be allowed
Penalty should be increased
Provide disabled exemption
Let landowner properly manage land rather than create multiple levels of bureaucracy
Educate public on Best Management Practices so independent action can be taken
County does not have right to tell people they can't clear their property
Explain the intent better in layman's terms- might have more support
Make it clear that there is no harm to existing owners
Ensure pre-existing bona fide agriculture are exempt from County regulations
Explain differences between the Property Appraiser's tax exemption from County's land clearing exemption for agriculture
Prohibit NRMCO from limiting or restricting types of agricultural activities
Have broad waiver criteria for hardship cases, could be a privacy issues
Make waiver process simple to obtain
Do nothing, leave it as it is and enforce existing regulations on books
Should be ten (10) year limit
Ten (10) does not help agriculture, 2 years long enough
Close loophole, have penalties
Seems to favor those who would gain
Premature conversion should not be allowed
Penalty should be increased
Allow conversions for disabled or elderly
Property owners should decide management for lands, not multiple levels of government
Educate people on Best Management Practices
Clarify that bona fide agriculture is exempt, better language
Remove BMP's, not mandatory and not in existing ordinance
Five (5) years too long, 3 years or less
Provide waiver process for hardships
Establish agricultural Advisory Board to review proposed regulations
Clarify that existing agricultural lands are not held to time limit
Allow addition of lands to existing agricultural lands without time limit on conversion
Provide waiver process for hardship cases
How to define "bona fide"
Keep existing definition in ordinance
Tie the existing and proposed agricultural exemption to the land, not property owners
Some places tie the sales prices of the lands to the intent for the property
F.S. 120.52(8)(e) requires regulations based on logic and fact
EELS program clearing land- Buck Lake, County should abide by their own rules
Define domestic agriculture
Should not protect palm trees greater than 10 inches
Expansion of existing agriculture should be exempt, moving one nursery to another parcel
Use Tax Schedule F as proof of bona fide agriculture

Tree Removal Permits

Unclear when you need a permit
Clarify that this doesn't apply to agriculture
How are native plants defined? IFAS, FNPS?
Exemption for sites having more than 25% canopy and required # of inches per acre.
Require type for type replacement, no palms for hardwoods
Clarify exemptions for hazard and dead tree removal
Allow exemption for fire/habitat management practices
After the house or building is constructed, they should have exemption from tree cutting permit
Repeal the code section that prevents residents from removing trees
Don't require permit for removal of non-native trees
150% replacement requirement is a problem; 100% may be OK
Exempt any lot or parcel from tree removal permit as long as minimum landscape requirements maintained
Allow for fire management practices
Exempt agriculture and silviculture
Encourage removal of undesirable and invasive plants
Repeal prohibition against land clearing
Exempt 5 acres or less from land clearing/tree removal
Clarify that this does not apply to bona fide agricultural activities
Exempt 5 acres or less but only for homestead properties
How would the County apply this to someone who owns more than one 5 acre lot?
Exempt one single-family dwelling on 5 acres or less
Establish mitigation fund but make sure funds are spent in the community instead of elsewhere
County projects should have to comply with same regulations as private projects
Plant trees along river, Pineda boat ramp has no trees
Oppose removal of canopy, even citrus, want more detail, thought
Encourage removal of non-native, invasive plants
Should not have to replace diseased trees

Canopy Preservation and Landscape Betterment Plans

Brazilian pepper should not be counted as canopy
Will the 5% canopy increase results in higher bonds?
5% canopy increase-no way to meet in 5 years, can't meet 25%
Larger trees needed to meet 5% increase are expensive to install
Ordinance hits commercial owners hard- requires tree survey, costs are high
Would like easier relocation criteria
30% parking waiver to preserve trees doesn't help the developer
Eliminate the requirement to preserve understory in canopy preservation area
Industrial and Commercial uses are prohibited in wetlands, now faced with 25% canopy preservation, allow flexibility for wetland impacts
Clarify that this only applies to landscape plans required when subdivision or site plans are submitted and does not apply to agricultural issues
#2 requires fast growing trees may be a problem
#4- silviculture needs to be protected

Define what we mean by preserved natural areas
Need good, clear definitions i.e. dbh, betterment plans, protected trees, waivers
What is the science behind the requirements? Should put science first.
5% increase in canopy is not reasonable, requires 30% canopy
30% canopy won't allow grass, pasture
Residential parcels (owner-builder) less than 5 acres should be exempt from any canopy preservation requirements
Criteria not clearly defined and who they apply to
Method of canopy measurement too much for average citizen
150% replacement- where is the scientific evidence for 150%?
Size of 4 inch dbh replacement trees are too big, too expensive, and too heavy for average citizen to lift
Exempt damage from hurricanes and other storm damage
Don't require something that would change natural habitat
25% canopy preservation on properties results in overcrowding and poor tree growth
Throw it out and go back to the Constitution
Performance standards- need to define goals and intent backed by science
Clarify that heat island requirement is only used for parking lots
Need a very clear definition of heat island and that it only applies to parking lots
Should be a maximum of 25% canopy preservation; if only 20% exists, then should only have to preserve the 20%
Canopy coverage requirements should only apply one time to a lot or parcel
Exemption or waiver for people who have allergies or other medical conditions who shouldn't have trees
Treat commercial development different from residential uses
Commercial development better able to handle replacement requirements
Different rules for commercial and residential to balance
Determine canopy coverage by excluding all non-plantable areas such as parking, buildings, setbacks, septic tank and drainfield.
Consider safety factor if trees too close to buildings
Trees difficult to preserve due to existing drainage and fill requirements
Provide off-site mitigation for canopy preservation
Allow payment into an arbor fund for canopy and tree protection requirements
Existing conflict between PUD open space requirements and canopy coverage, open space can be grassed non-treed areas
Canopy preservation should be based on percentage of existing canopy, not the entire site
Differentiate between preserving canopy and preserving associated understory, makes that area unusable for other uses such as parking
Like having clear criteria in writing
Increasing canopy coverage by 5% is too restrictive on betterment plans
Palm trees should be excluded from canopy calculations, not much canopy, they come out of the ground 4 inches dbh
Government should follow its own rules
Don't exempt public projects
Habitat preservation should count as adverse site condition and count towards preservation

Tree mitigation funds should go back to the neighborhood area, e.g. out of Merritt Island, back into Merritt Island

Area losing the trees should gain the trees

Canopy should be restored if not present

Don't count non-native trees toward canopy restoration or replacement

Use non-functional wetlands for drainage

Wetland preservation should count towards canopy preservation

Parking reduction helps but not in all cases

Provide flexibility in building setbacks

Give tax breaks on preservation areas

Give credit for retention pond trees

5% increase within 5 years encourages fast growing species; relate it to trees, not species; maturity; not years

Provide incentive to provide shade trees in existing parking lots

Development within cities should have to follow County requirements

Exclude citrus and non-native trees from canopy calculations and replacement requirements

Apply landscape and canopy requirements at development plan stage

Benefits of planting trees along the river bank; boat ramp north of Pineda has no trees along the bank

Oppose removal of canopy, even citrus; provide more detail and thought

Ensure more canopy in the end

Public projects should not be allowed to mitigate if private projects cannot

Redevelopment sites consideration

Provide alternative for parking medians

Compensatory storage forces cutting down of trees, reconsider stormwater requirements

30% canopy coverage within 5 years may encourage one species taking over

Off-site mitigation important for commercial sites

Use funds to plant trees in parks

Roadway projects- Right of way finances killing us

St. Augustine grass and pines planted in medians

Educate public, most will do what is right

Exempt storm damage from replacement

Existing 25% canopy requirement makes it hard to have pasture, let alone increasing it by 5%

Size of replacement trees too large for average person to handle

Single-family residential should have different standards than for commercial development

Make fines proportional, i.e. \$500 for single-family, \$5,000 for commercial

Exempt single-family 5 acres or less from land clearing restrictions

5% increase in canopy coverage penalizes owners for Acts of God or circumstances beyond their control

Permeable parking should be allowed to reduce stormwater requirements

Include a waiver process to allow community to decide whether to waive regulations for community important projects

Ensure more canopy in the end, hard to quantify

Public projects should not be allowed to mitigate if private projects cannot

Provide consideration for redevelopment sites, parking medians

Stormwater requirements forces cutting down to trees, revise stormwater regulations

Doesn't want to encourage 30% canopy
Off-site mitigation important for commercial, etc.
Plant trees in parks
Roadway finances- ROW killing us
Canopy depends on how fast trees grow
How to handle natural events and replacement of trees?
Train public, most people will do the right thing

General Comments

Throw out existing regulations and rewrite them based on science, simplify them
Repeal confusing and ineffective, unenforceable sections
Make regulations clear and understandable to citizens
Separate requirements for new development from existing homes
Repeal existing regulations
Separate these issues
Treating public like children

January 20, 2005 Workshop

**Land Clearing,
Tree Protection and
Landscaping Regulations**

Natural Resources Management Office

Existing Agricultural Exemptions

- Existing code allows someone to obtain an exemption, clear the property, then develop without saving tree canopy
- No differentiation between commercial and domestic agriculture

Agricultural Exemptions

Legislative Intent

- Does not affect existing bona fide agricultural operations
- Only applied to new lands
- 3 year time limit before converted to non-agricultural uses
- Recognizes hardship cases

Existing Tree Protection

- Properties \geq 1 acre are restricted on clearing even after development is completed
 - Prevents people from removing individual trees for purposes other than development
- Many non-native species and citrus are not exempted from tree protection or canopy preservation requirements

Tree Removal Permit Legislative Intent

- Removal of citrus or non-native trees would not require permit
- Removal of native species would require replacement
- Dead or hazardous trees or healthy trees in excess of preservation requirement would not require replacement

Existing canopy preservation and “betterment” plans

- 25% preservation of canopy with little flexibility
- No standards for adverse conditions and minimal standards for landscape (“betterment”) plans
- Landscaping and land clearing regulations not coordinated with each other with regards to betterment plan utilization

Canopy Preservation and Betterment Plans Legislative Intent

- **Defines adverse site conditions**
 - Scattered canopy, topographic changes, high water table, existing pavement, preserved natural areas (i.e. wetlands, endangered species habitat), salt spray conditions, etc.
- **Establishes criteria and performance standards**
 - Provides required heat islands and buffers
 - Achieves required tree canopy plus 5% in 5 years
 - Results in landscaping that exceeds specific goals and intent
- **Mitigation Options**
 - Provides flexibility if onsite mitigation is not feasible due to canopy survival or other constraints

Natural Resources Management Office

Options:

- 1. Approval of Legislative Intents, direct staff to prepare proposed amendments, and grant permission to advertise.**
- 2. Direct minor changes to the Legislative Intents, direct staff to prepare proposed amendments, and grant permission to advertise.**
- 3. Direct major revisions to the Legislative Intents to be brought back to the Board prior to drafting code amendments.**
- 4. Provide other direction.**

JANUARY 27, 2005
Board of County Commissioners Workshop

For those who would like the entire minutes of the workshop, you can obtain them at this web address <http://webinfo2.brevardclerk.us/minutes/m012705.htm>. Otherwise, we have just excerpted the landscaping discussion in this document.

PUBLIC COMMENT, RE: TREE PROTECTION AND CANOPY PRESERVATION

Bobbie Bockman stated last week she mentioned that she hoped that staff would consider working with some professionals in site planning and landscaping in the community; she brought with her a list of some people who have volunteered to work with staff in any reworking of Code or new Code; and submitted the list to the Chairman.

Chairman Pritchard stated this is a workshop; and he believes in being more lenient with the formality of these types of meetings. He encouraged the Commissioners, when they have a question, to ask it, as there has never been a problem with too many people talking at one time.

Ms. Bockman stated she appreciates the Board's interest in this issue and in looking to make some of the Ordinances and Codes more workable and livable. She stated if staff would request input on some of the issues, there may be a smoother approval procedure.

DISCUSSION, RE: LAND CLEARING, TREE PROTECTION, AND LANDSCAPING

Chairman Pritchard stated this segues into what he and Mr. Brown were talking about before the meeting convened; and requested Mr. Brown talk about the workshop he attended and whether or not this can work to the County's advantage.

Natural Resources Management Director Ernie Brown stated he and other staff members attended a workshop dealing specifically with tree ordinances and designing them to work with the community and the development community with beneficial attributes; and it spoke to flexibility in many areas. He stated one of the messages was to work with the community in the front including the stakeholders, civil engineers dealing with development, developers, builders, the Native Plant Society, the Sierra Club, and all the interest groups from different perspectives; they would come together to help mold the draft ordinances so that they are implementable and achieve the goals of the community; and when they come back to the Board, they will have already worked with the constituents and they will be on board with what is being proposed. He stated it is sometimes a little longer process; but it makes a better product; and if the Board is so inclined, once they conclude the comments and discussion today, the Board may direct the staff to develop that kind of balanced stakeholder work group to help add, amend, and revise the Ordinance, and come back with a draft ordinance for the Board's review.

Chairman Pritchard stated that makes sense. Commissioner Scarborough requested information from the workshop conference. Mr. Brown stated there were three very prominent speakers, one of which was Dr. Ed Gilman who is an Extension Horticulturist; and he brought forward some very good technologically and scientifically sound

approaches to tree management and ordinances. Mr. Brown stated he had a lot of good information; there is a lot going on right now that the County can take advantage of and make it a very open process; and they can come together to come up with some good consensus that meets the needs of the community and the needs of the tree protection ordinances.

PUBLIC COMMENT, RE: LAND CLEARING, TREE PROTECTION, AND LANDSCAPING

Tuck Ferrell stated he has quite a few cattle ranches in the County; and he is also a retired commercial appraiser, so he has seen both sides of this issue. He stated on the ranch, they never thought there would be a problem with having to get clearing permits to maintain the pasture; some of the things are scary that they have to deal with because they plant pasture and have to keep it clean; and they were used to selling and moving palm trees around. He stated they do not usually destroy the palm trees in the pasture; they let them grow to a certain height and sell them; they do not want them in the pasture, but they do not always destroy trees because they are a good thing and other people can use the trees in other locations. He stated they try to relocate or sell the trees rather than mow them over; and he does not know what the County is trying to accomplish; but it can be difficult for the farmers and ranchers at times. He stated it depends on how things are construed; the aerial photos and maps are not always correct; and he had cases where he was trying to get exemptions, the experts used the aerial photos for interpretation, and they were wrong. He stated they cannot always go by an aerial photo; there were instances of Brazilian peppers and Australian pines, which should be destroyed because they are alien plants; and good management by farmers to get rid of those plants should be encouraged because they will take over. He stated melaleucas have taken over some areas like Palm Beach County; he has a ranch down there; it is horrible what has happened because the melaleucas have been let go; and he hopes it does not happen in Brevard County. He stated they are having to do huge things to the environment; the melaleuca has ruined much of the environment in Palm Beach County; and Brevard County has some of that, but it is not as drastic. He recommended thinking about the way some things are done; stated he had interpretations by staff of palmettos; they used photo interpretations for much of this; and they said he had wetlands and ponds, but they were just palmettos. He inquired how far will the Board go with some of the landscape ordinances; stated cabbage palms can be moved; and he does not think some of the things should be used in the criteria. He stated it is difficult for some people to try to build on some of the properties; if it is commercial development, it should be treated differently from residential development; and it is very difficult to deal with trees. He recommended the Board look at some of those things.

Commissioner Voltz inquired if Mr. Ferrell has anything specific that he is talking about with the ordinance. Mr. Ferrell responded moving cabbage palms, how the County deals with agricultural people, how the County deals with the permitting process, and what the County is going to require. He stated it needs to be put in the paper; and inquired if the County is going to

make every ranch owner who wants to clear or maintain a pasture go in for a tree removal permit. He stated it may be just light bushhogging; he does not know how things are defined; but it is very scary. Mr. Ferrell stated it is hard to understand how far this goes;

he does not think people realize the thresholds; and they have tremendous problems with it. He stated the canopy situation is very difficult to work with on some properties; and another one that is difficult is the Wetlands Ordinance. Commissioner Voltz stated she was talking specifically about the agricultural activity that Mr. Ferrell mentioned. Mr. Ferrell stated they should be allowed to sell trees; most farmers are in the tree business, selling palm trees as a course of business; and that could be eliminated. He stated they sell a lot of cabbage palms, as does Viera.

Commissioner Scarborough inquired if that is prohibited currently. Commissioner Carlson stated there is an agricultural exemption. Commissioner Scarborough stated if everybody does it, it is not prohibited. Mr. Brown stated Mr. Ferrell brought up a key point, which is clarity of the ordinance, what exactly is an agricultural exemption, and what does that afford the agricultural community. He stated that is something the County needs to work on with the group and the agricultural community to make sure it is clear what the exemptions provide so that people trying to make a living can get that answer quickly. Interim County Manager Peggy Busacca advised last week the Board discussed the fact that whatever it was thinking about doing would only impact newly created agricultural lands, not existing agricultural lands. Commissioner Scarborough stated if he had a piece of property that he was not using as agricultural, but was just open fallow land, he could not sell cabbage palms out of there; but he does not have any problem with Mr. Ferrell as long as his property is agricultural. Mr. Ferrell stated all of their properties are cattle ranches; with Commissioner Scarborough advising then he does not have a problem. Commissioner Scarborough inquired if someone without an agricultural exemption can harvest cabbage palms; with Amanda Elmore, Environmental Permitting Supervisor, responding that would be part of a silvicultural operation, and they would come in for an agricultural exemption and go to USDA and get their best management practices. Commissioner Scarborough inquired if they would have to go through that process in order to harvest cabbage palms; with Ms. Elmore responding that is correct, but it would not be prohibited. Ms. Elmore advised the other part is it would have to be permitted by zoning; and there is a zoning review so it is not just Natural Resources that is reviewing. Chairman Pritchard inquired if that is an expensive process to go through; with Ms. Elmore responding it is \$78 for a Natural Resources review and \$37.50 for the Planning and Zoning review. Chairman Pritchard stated Mr. Moehle said that when they sell a tree, if the person has his own equipment to dig it out, they sell the cabbage palms for \$10; and inquired what kind of a business can someone have when it is \$80 for a permit, but they sell the product for \$10. Ms. Busacca advised the permit is good for the property, not for each tree. Chairman Pritchard stated he understands that; but if it is a smaller operation and they have to go through this because they have a dozen cabbage palms they want to get rid of, they are not going to make any money. Commissioner Scarborough stated it would not even benefit a person to mobilize their equipment to come and get a \$10 cabbage palm; and they have to be doing it in bulk. Chairman Pritchard stated if someone wants to buy trees and bring their equipment, they are going to do 100 trees; with Commissioner Scarborough agreeing. Mr. Ferrell advised relocating trees could be a way to save them. Chairman Pritchard stated one of the things that came out last time was about a ten-inch diameter tree; somebody inquired if they come out of the ground at ten inches; and advised some do. He recommended people look at some of the cabbage palms and sabal palms; stated they may be two feet tall, but they have a ten-

inch trunk; they are coming out of the ground at ten inches; and it never occurred to him that what he was looking at was a new tree with a ten-inch trunk. Commissioner Scarborough stated the cabbage palm grows wild; it is sold at minimal prices; and it is moved around and planted everywhere. Chairman Pritchard noted it is also edible. Commissioner Scarborough inquired if there is anything special in how they deal with cabbage palm; with Loren Rapport, Landscape Operations, responding small cabbage palms do not transplant; they usually have to have seven or eight feet of clear trunk before they can be moved from one point to another; and that is a proven fact. Richard LeAndro submitted pictures to the Board, but not the Clerk; and stated the pictures are an example of the high trees presently hanging over power lines in one small area on North Carpenter Road. He stated probably 80% of all power outages are due to fallen trees over power lines; he worked for 42 years for Florida Power & Light Company; and he went on a lot of calls where he had to do tree trimming to restore people's power. He stated a lot of properties are owned by absentee owners; they do not care what misery they cause the people who live here permanently; he has underground service; but he have as many, or more, outages than people with overhead services. He stated going underground is very expensive; it is very hard to maintain; the outages are far longer; and his power goes off quite frequently when trees fall across the lines. He stated Palm Beach County is looking at an ordinance similar to Brevard County's; and read aloud a letter he put in the Palm Beach Post as follows: "Before Florida Power & Light is allowed to raise rates for their customers, they first should be required to bill those customers whose trees cause the power outages. It has been estimated that up to 80% of all power outages are caused by fallen trees. Because of inconsiderate homeowners and builders that plant high-growing trees close to power lines, many other owners are inconvenienced with loss of power. Just remember all the pictures of trees falling on homes and cars. If homeowners want to surround their homes with high-growing trees, that's their problem. I just don't want their trees to become my problem. Our neighborhood has underground service and we have more power outages than the norm because all underground cable gets their source from overhead wires. Florida Power & Light does not plant trees, but everyone looks upon Florida Power & Light during a storm restoration to bring in all the crews that we're all complaining about to cut all the trees that have fallen across power lines. What a fallen tree does to a power line, for those who don't know it, it's not the poles fault. The pole is designed and built to hold the wires up. The reason there's such tension on the lines is that in the storm the wires don't slap together. Each line carries 7,620 volts. One tree on a power line that has tremendous tension to keep the lines taut can do a domino effect, as we've seen in the papers, all the way down the line a half a mile long. The County needs to rethink their present tree Ordinance and prohibit any planting of high-growing trees within 25 foot of power lines. Planting of pine trees and oak trees should be prohibited. There are many lower-growing trees that are environmentally friendly, cause less allergies, and are attractive to birds and butterflies. The County Ordinance had to be enforced and those homeowners that have these trees near power lines should be given six months to remove the trees, and I feel sure Florida Power & Light would help share the cost because of the tremendous burden on them."

Chairman Pritchard stated the issues of tree protection and canopy are intertwined; and inquired if the Board wants to hear speakers on both issues; with the Board reaching consensus to hear all speakers at once.

Charles Moehle stated the agriculture community was in attendance at the workshops and meetings; and requested the Board not leave out the agriculture community in the task force. He stated he mentioned palm trees last time; and he thinks palm trees are a special consideration all by themselves.

*Assistant County Attorney Eden Bentley's presence and Assistant County Attorney Christine Lepore's absence were noted at this time.

Mr. Moehle stated they have different roles in agriculture, clearing, and landscaping; in agriculture they are both a product and a nuisance weed; and they are treated that way. He stated someone mentioned having zoning to have an agriculture exemption; but that should not be tied to zoning because there are agriculture exemptions in various zoning classifications; and the agriculture exemption is established by the Property Appraiser. He stated palm trees are both a product and a nuisance weed; Mr. Rapport was correct; but in the business there is a differentiation between palms under 12 feet and those that are approximately 12 feet because those under 12 feet do not transplant well and are not generally used by landscape planners. He stated all the palms seen in landscaping are the taller trees; palms come out of the ground with trunks anywhere from six to ten inches; and right then, they are a nuisance which is how they should be treated in the clearing ordinance. He stated in the landscape ordinance they are a nuisance weed but also a good product to use; the cabbage palm is the State tree; and there are tons of them. He stated they do not fall down in the storms; they look good with good understory; they make good landscaping; and they have a role in the canopy cover with parking lots. He stated the County can encourage more of them; they look better; they are not a problem; and they do not have to be. He stated the only thing that goes away from the trunk is a palm frond; it does not create big limbs that overhang; it is a good tree; but it has to be treated differently. He stated the gentleman who was talking about Florida Power & Light thought no one should be allowed to plant the trees near power lines; but the ordinances are so burdensome that in many instances, one has to plant them there. He stated the ordinances make no sense, particularly when they go back and forth with what it required in relation to practicality. He stated it is great that Mr. Brown wants to do the task force; and he can cut his time short, because the task force is the place to do it and get it right. He stated all the Ordinances should be trashed and started over; but if the Board cannot do that, it should have an overhaul because there are so many conflicts. He stated the County Attorney was tasked with going through to get those complications; maybe Mr. Brown is capable of handling it; but in the past the Natural Resources Management Department was not capable of handling it. He stated it is a good job for the attorney because it really comes down to a legal issue when it comes to conflicts; it needs to be fixed; and the sooner the better because none of the Ordinances at this time are practical or make sense.

Commissioner Carlson stated the people who were before the Board a week ago said that the County should go back to the point system; and requested Mr. Moehle share the deficiencies of the point system. Mr. Moehle advised the point system does not work because it looks at plants as they are planted and not as they mature; and the problem with the point system is that it is necessary to plant too many plants to get what looks

good in five to ten years. Commissioner Carlson stated she wanted to make sure the Board remembers that was an issue; the model did not work; and the model needs to be tweaked, so obviously getting some professional assistance might be of help. Mr. Moehle stated he suggested the Board start fresh with looking at it and maybe not use the point system, but use something else; the point system is complicated no matter how it is used and may not work; and it depends on the trees. He stated the promotion of the fast-growing trees that will have canopy in five years is a mistake because they are the brittle species that come down and cause problems; and the whole thing does not make sense. He reiterated the point system does not make sense; but the Board may be able to make it make sense.

Rich Kern stated he has been working with designing projects using the current tree canopy Ordinance for a couple of years; and most ordinances make sense; but this is not one of them. He stated the 25% tree canopy preservation Ordinance as it is currently being interpreted and enforced does not work well with land development projects; the way they have been instructed by staff to interpret the rule is they are suppose to preserve every single tree onsite in place without transplanting them until they have achieved 25% of the gross site area in tree canopy; and this is extremely difficult to comply with. He stated they have a project being built in South Brevard, Pelican Lakes; it is an 86-lot subdivision; and they had to do a betterment plan to get the project through. He stated it was an old abandoned dead orange grove; quite a few palm trees had grown up, so now they are having to transplant approximately 3,000 palm trees; and on top of that they had to do the 5% bonus for the betterment plan, so they are having to import approximately 1,000 four-inch oak trees. He stated they do not know where they can find that many four-inch oaks. He stated they have a small project on Merritt Island, a medical center; and they are saving every single tree on the site; however, one tree was damaged by a storm and killed; and staff was contemplating having them do a betterment plan on that site but it was finally approved. He advised he has a small commercial site on US 192 that is less than an acre; and his development staff is saying they will probably never get a plan approved because of landscaping on it. He stated he has a large site, which was an old grove, in the north part of the County; looking at it from the air, the whole site is covered by the grove; however, the flaw with the tree canopy Ordinance is that it does not count spaces between the trees, but only the actual canopy of the tree. He stated if there is an orange grove, and one does not count the spaces between the trees, even though the whole site is covered with the grove, there is only 25% canopy with the grove; and with a site like that, it would not be possible to put a single house on the whole site without doing a betterment plan first. He stated the goal of preserving the trees is good; but the 25% canopy rule, and the way it is being interpreted and used is a bad way of doing it. He recommended the Board come up with a better system than just a straight percentage of gross site area for the tree canopy; and stated the Board needs a system that will look at the whole site and make it work. He stated going through all the calculations, it would be necessary to put some many trees in there, that they would not even fit on the site. He requested the Board work with the professionals and the community to try to accomplish this.

Barbara Morehead stated for the first time in a decade she sees the Board listening; it has been a long time since common sense has even been thought about by the Commission; and she appreciates it. She stated in May of 2000, staff presented to the Commission a

concern about heat islands, which was a new term for parking lots; one of the recommended methods of mitigating heat islands was to expand the existing Code to not only require tree preservation but to increase replacement size and to include residential as well; and about a year later, the Board meet in special session to discuss land clearing, tree canopy, tree size, quality of growth, and quality of life. She stated now, in 2005, after public hearings all over the County, the Board is still having meetings and nothing is solved. She stated participants in the public hearings overwhelmingly spoke against the proposals because they also raise cattle and trees and are in the agricultural business; and it is important that staff hear the agricultural comments. She stated tree removal permits are only about three issues, money from the permits, more micro-management of people's lives and property, and jobs for those who enforce; and tree canopy, as proposed by staff, is seriously flawed with no consideration given to the future growth of the major trees. She stated the health, best growth methodology, and impact of the mature trees, such as oaks, maples, and bald cypress, affect structures and infrastructure. She stated in Florida, a live oak can gain up to two inches per year and attain a 30-foot spread in approximately seven years, if fertilized and watered properly; and this is based on her experience and observation. She stated best management practices require proper spacing of major trees to achieve good growth and health, and prevent overcrowding; this week she spoke with a number of growers and large landscape firms around the State; and the consensus was that one oak per average homesite would avoid placement too near the residence, sidewalks, or utilities and would allow grass to grow. She stated driving around various developments this weekend, she and her husband noticed many homes in developments on average lots that were just swamped; there would be an oak on the side of the driveway and another on the other side; and the house was covered. She stated it was beautiful, but there was not a blade of grass, no plants, and in some cases the sidewalks were beginning to uproot; and many people have told her about the foundations of their houses getting uprooted. She stated they are faced with that themselves; they have giant oaks; and their back porch is getting uprooted. She stated the State Forestry offices recommend a range of 40 to 50-foot spacing for major trees to allow for uncrowded healthy growth; and they are not just talking about tree canopy but about spacing. She stated people come into the nursery bemoaning that they have to put 100 trees on a little property; they know they are going to die; the landscaper will not guarantee it; and it is poor business. She stated the tree caliper that is being required for a lot of projects means that the trees will not be found in the County; businesses are losing money because people are going out of the County to buy the trees; and commented on the American Forest as a data source. She stated the group started out with good intentions and deeds; but it progressed into just another environmental tax exempt outfit that thrives on grants and government contracts, like hogs feeding at the taxpayers' trough; and even more interesting is that the group has its own large retail tree nursery in Florida called Historic Trees, that specializes in the large canopy trees that staff has been recommending. She stated the sales representative she spoke with recommended six large size trees for a one-acre homesite at a reduced cost of \$1,500 plus tax and shipping. She stated on May 31, following a Board discussion on additional tree size requirements, Commissioner Scarborough commented, "it is not all scientific"; and he was right. She requested the Board scrap this albatross and get back to common sense.

Carmine Ferraro stated he briefly looked at the notes; and he is excited to see number 15 on page 7. He stated he emailed each Commissioner last week after the last workshop; he has always been impressed about the County taking a proactive approach; the County has led in a lot of areas, such as strategic planning and looking at the big picture as opposed to the little picture. He stated there were a lot of comments at the previous workshop about many parts interacting with one another; and he hopes the Board can look at all of that as a whole because there are agencies in conflict and Ordinances in conflict. He stated he was encouraged to hear the Board is looking at some type of committee or citizens group to provide input from the development community; something that was not mentioned was the local growers and wholesalers who do not have the types of trees required; and since there are requirements to plant certain types of trees, it is frustrating. He stated he is encouraged by the way the workshop is going; and he will concentrate briefly on number 15 about offsite mitigation. He stated he would love to see this develop into something that would never be challenged again in the next ten or fifteen years; it is workable, fair, and equitable for everybody; and he would encourage the Board to consider some type of a requirement in terms of a list of what would qualify for offsite mitigation and what the steps would be in calculating offsite mitigation. He noted the scrub jay offsite mitigation process is cut and dry; it is simple; there is science involved in it; and it is fair and equitable. He inquired if there is a five-acre site and 80% of the trees are old, dying, and rotting, should that person mitigate in the same respect as someone with a thriving canopy of trees; and stated there needs to be that equity. He stated it says the Merritt Island Redevelopment District was getting some type of consideration; then it said to allow any development project to mitigate for canopy requirements offsite; and inquired if that is for any project in the County. Chairman Pritchard stated he will address that when Mr. Ferraro is done. Mr. Ferraro stated another question is about offsite canopy mitigation being considered a betterment plan if it serves canopy preservation goals by purchasing land or conservation elements for vegetative communities similar to those being removed, and the offsite mitigation area is located within the general vicinity; inquired if it is not available within the general vicinity, could there be some identified preservation areas that could be found for someone to be able to mitigate into that bank and does staff have clear steps on how to get there. He offered himself as a volunteer to serve on any citizens group to provide advice from the development community.

Commissioner Voltz stated she does not think the County needs to require so many trees for a project that someone has to go offsite to plant them; and that is ridiculous.

Chairman Pritchard stated one thing everyone learned in the hurricane was that there is a lot of canopy because it was all over the streets for weeks. He stated the intent was a bit of a paraphrase on page 8 about the Board wishing to consider reducing the canopy from 25% for industrial within the Merritt Island Redevelopment area; and they thought that any redevelopment area should be given an incentive to go there before going elsewhere. He stated it was mentioned by Con Bennett at the meeting on Tuesday that the future of development is redevelopment; and he believes that is correct. He stated they are going to be careful about what they are doing in areas that have not been touched yet; so the intent was to do this within the MIRA area but also to expand it into any other area. He stated this was a product of a committee he put together; it is all open for interpretation; and it

can be expanded Countywide. He stated it can be stricken; but these were points the group thought were important and made sense.

Brad Smith stated he is a registered landscape architect and certified planner; when he was working on the planning and design of the Chain of Lakes project, he had to write a letter to staff advising the cabbage palms and citrus trees from the old grove were impediments to pedestrians and needed to be removed; something is wrong with that picture; and the system is obviously broken. He stated the next point is the concept of mitigation; and there is a good potential for using that for a funding source for the EELs program. He stated in stormwater mitigation, there are situations where there is a non-productive ecosystem and there is mitigation offsite as part of the development strategy; the offsite area is one of high ecological value; and those development dollars are put toward something that makes good ecological sense. He stated the same can hold true for mitigation of not just canopy but other situations when there are the proverbial twenty pounds of potatoes in a ten-pound sack; and it does not make sense to mitigate offsite if some of those dollars can be taken to buy critical habitat that has been identified in the County. He stated that may be a great funding source to accomplish multiple objectives; and it should be pursued because it makes a lot of sense. He stated it is important to do early site analysis to look at the condition of the trees; pine trees are not worth designing around because they are going to die; and that is most of the canopy in the County. He stated transplanting works, and not just for cabbage palms; and he has been involved in projects where they have moved 36-inch oak trees and they never missed a lick. He stated there are a lot of other site considerations the Board heard last week, including topography, site planning, safety, grading, drainage and stormwater management, utilities, and a lot of things that seem good on paper but do not always work in the field; when they get out in the field, they sometimes have to make a judgment call; and no matter how much time they spend and how many experts they consult, they are never going to get an infallible recipe that works in every condition and makes sense. He stated they cannot cover every unforeseen situation; sooner or later someone needs to make a decision; and staff needs some discretion and someone needs to accept responsibility and be accountable. He stated there is also a need to rely on professional judgment; registered design professionals have their charge with health, safety, and welfare issues; those are some of the situations the Board needs to recognize; and as a player, he has to give the decision makers information to make good decisions. He read aloud from Chapter 41 of the Florida Statutes concerning landscape architecture; stated they work all the time with civil engineers; both disciplines are needed; and inquired in talking about a landscape betterment plan, which of the professions is better qualified. He stated he is not trying to take anything away from his engineering colleagues, but in this particular area it is a landscape architecture, not an engineering issue. He stated engineers deal with site planning and design; and both are needed, but not in that specific area. He stated the bottom line is the County has to rely on professional judgment to get a recipe that works, but there has to be flexibility in the field.

Commissioner Colon inquired if the Board ever looked at what Mr. Smith was talking about regarding the EELs program and mitigation. Commissioner Carlson stated there has been discussion about mitigation banks and things like that when talking about EELs; the Board had a list recently about what it talked about at the workshop; and it was looking at all different avenues of funding sources and things like that. She stated she was

shown what Cocoa Beach did and the language in the City's Ordinance; there is an arbor permit and in lieu of tree replacement onsite, the applicant may be required to contribute cash to an arbor fund in an amount equal to the value of the replacement trees including planting; and it goes on to say the value of the replacement trees shall be determined by resolution of the City Commission. She stated that may take it a little far; but the idea is there. She stated she does not know if there would be enough money that could be accumulated in a mitigation bank for something like that; and she would leave that to the Selection Committee to see what it would come back with in terms of its discussions based on what the Board requested of it. Commissioner Colon inquired where would an idea like this be more appropriate; and should it be handed over to the EELs Committee to give feedback or is it something the Board should give direction to staff to work with. Commissioner Carlson stated the Board should ask the Selection Committee what it thinks about it. Natural Resources Management Director Ernie Brown stated a lot of the discussions that came up at the conference indicated arbor fund programs were effective in funding urban forestation programs and landscape maintenance programs; Mr. Rapport's office deals with the landscaping maintenance of the roadways; Cocoa uses an urban forestation program; and a lot of the national ones have an urban forestation program that would fill in the gaps that are blighting the community. He stated they have discussed the Wickham Road look aesthetically; and in areas where there may not be a quick solution or an accountable individual to resolve it, those funds have been used in other parts of the country to address the blighted areas. Commissioner Voltz inquired if the County could take money like that and give it as grants to cities to use for betterment of landscaped areas. Mr. Brown responded it is wide open; and if that is the direction the Board chooses to go for mitigation, it is open for development. Commissioner Carlson stated the County occupies half the acreage and represents half the population; a lot of cities have their own arbor programs; but they should be integrated if the Board does something like that. She stated it is a great idea; it could be used to buffer EELs properties potentially; but with EELs property, it is looking at taking habitat and mitigating habitat onsite. She stated they can develop and utilize that sort of scenario, preserving x number of acres or putting in a mitigation bank to preserve x number of acres as a balance; and it is more than just taking a tree out and deciding what to do with it or having money in lieu of putting a tree on a piece of property. Commissioner Scarborough stated the more he thought about going into the EELs program, the more he thought there was a real danger there; he asked his staff to look at why landscaping is required; Ms. Morehead mentioned the heat islands; and some of the reasons for landscaping are to increase property values, buffer sound, produce oxygen, reduce carbon dioxide, provide a cooling effect and windbreak, and prevent soil erosion. He stated they found that people drive differently and behave differently when there are trees; and commented on transferring trees far removed into an environmental community. He stated a lot of things would not come into play to benefit the actual community if they move it to the EELs program; and although he values Mr. Smith's opinion, he is concerned about making this a part of EELs as opposed to meeting some of the fundamental reasons in the community that would benefit from that particular activity. Commissioner Scarborough stated he likes what Mr. Rapport has shown him that the City of Cocoa is doing; he likes that concept; and he likes and

supports what Mr. Brown is talking about. Commissioner Carlson stated that is more of a beautification program.

Commissioner Colon stated that is why any other option is better than what the County has because there are some properties that have no value to them; and commented on blighted areas. She stated the community would love to see what the regulations have done in a positive manner versus not being able to see it; and just the fact that the Board is looking at different options is very positive.

Commissioner Voltz stated she does not support mitigation; she does not think the County should cause someone to plant so many trees that they cannot fit them on their property and they have to pay to put them somewhere else; and it is a ridiculous concept. She stated if the Board is going to go that way, she would support putting it in a fund and doling it out to those people or cities to landscape along the roads.

Dolores Kane stated what she is going to talk about may have already been corrected; there was a time when one had to purchase a permit to develop property; and inquired if that still has to be done. She stated that is ridiculous; and inquired why does she have to get a permit to have a survey. She stated they talk about buildable area; one can only put vegetation and trees in the plantable area; they make exceptions for septic tanks, drainfields, sidewalks, driveways, and structures; and there should also be an exception under power lines. She stated there should be a restriction that any tree planted under power lines should be a medium to low-sized tree. She stated she had a piece of property that is 15 feet wide by 900 feet long; it is probably the only one in the County; the oak trees were falling down during the hurricanes; and she had to pay to get rid of them. She stated one should be able to cut down trees that are in the way of the power lines; she loves oak trees; but she does not like being without power. She stated she should not have to have a permit to remove trees from around the power lines.

Chairman Pritchard inquired why is a permit needed for a survey; with Mr. Brown responding it goes back to defining parameters of what is occurring. Mr. Brown advised the surveying permit basically says what one can do to survey the property, and puts boundaries so there is no misunderstanding about what is being authorized, meaning they cannot go in and clear 15 acres to do a survey. Chairman Pritchard inquired how much is the permit fee; with Ms. Elmore responding \$78. Ms. Kane noted it is only if the trees exceed a certain width. Ms. Elmore advised that is correct; it is only if greater than five feet for soil testing and eight feet for a survey; and it also insures that they cannot use machinery in wetland areas, for instance; so all the other environmental concerns are reviewed under a survey permit. Chairman Pritchard stated the other point Ms. Kane made was about trees under power lines. Mr. Brown stated staff has developed a tree report as a result of the hurricanes; and that will be coming to the Board shortly. He stated the current Ordinances do not expressly encourage, promote, or require planting under power lines; but it does not enforce or prohibit it from happening. He advised Sherry Williams was the primary author of the tree report; it shows very clearly that the County should be requiring compliance with the FP&L guidelines; there is very clear criteria as to what can be planted and how far apart; and it is pivotal to address and resolve those issues in the long term.

Mr. Rapport stated a lot of times he looks at landscape plans done in Jacksonville for projects in Brevard County that do not reflect where the overhead power lines are and

will have oaks or other large trees; and that means it has to be taken on an individual basis each time a site plan comes in.

Sherry Williams of Natural Resources Management stated she will provide some clarifications; and Ms. Elmore will address the utilities because there is a provision in the Ordinance that discourages planting within utility rights-of-way. Ms. Williams stated what Mr. Rapport brought out was a good point; during site planning and subdivision plan review, the Environmental Permitting and Natural Resources Management Departments need full copies of the plans because a lot of times there will be a landscape buffer, but they do not get the utility plan with it, and a landscape buffer may be planned where a sewer or water line is going in the utility easement.

Ms. Elmore stated Section 62-4334(q) addresses location of plant materials; and it says, "vegetation utilized to satisfy the landscape requirements shall be located on the site in such a manner as to not interfere with drainage systems or utility services or create an unsafe visual clearance." She stated when they review site plans, they look for that; and as Ms. Williams described, sometimes they have to look at another page as the power lines may not be noted on the landscape plans. She stated they do not approve plans where there would be a conflict with power lines and trees; however, often after the CO is issued, vegetation is added, and the owners in their zeal to create instant landscape will plant trees too close together or too close to the road; and unfortunately, there is no review of what is done after the CO.

Chairman Pritchard inquired if they cannot plant under the power line and they are required by the Code to plant x amount of canopy, is that forcing an offsite mitigation; with Ms. Elmore responding usually they can be creative and find other places that vegetation can be placed or it can be pulled back just a bit so it is not directly under the power line. She stated they could use medium species trees rather than large species trees; they do not require people to plant live oaks, although that is a common misconception; and what is required in the type C roadway buffer is to plant medium or large species trees, one every 25 feet. She stated they could be little gem magnolias, which stay relatively small; they could be East Palatka hollies, which stay small and have a thinner canopy; and if they are pulled back, there should not be a conflict. She stated it is just a matter of being creative and seeing what makes sense.

Commissioner Colon stated the County's innocence was taken away during the hurricanes; she personally dealt with that when a beautiful oak tree landed in her home. She stated everyone knew how much she loved the oak tree; everyone thought she had to be devastated; but at that particular time, her home was more of a priority. She stated she is encouraged by the discussions the Board is having; the Board cannot continue to put its head in the sand and continue with the Ordinances the way they are; and it is a new day. She stated the oak tree is not the same beautiful tree she used to look at; it is ugly now to her after what she faced; and she is sure her insurance company is not happy either after the damage that was done to her home.

Rick Renfro stated last week there was a lot of talk about people wanting to apply for an agricultural exemption with the intention of clearing their property and about how not to allow them to circumvent the policies in place. He stated one reason they might feel the desire to circumvent the policies is because they might feel that County officials are trying to circumvent their ability to use their property as they think is appropriate. He

stated he is defining the term tree protection as the general Ordinances that are being discussed; and if the goal of such Ordinances is to protect trees, then the owners should be allowed to come up with a strategy to achieve the goals as an end result if they want to develop their property, and also have a landscape plan and strategy to preserve the trees rather than trying to box them into the current flawed Ordinance. He stated the way the owners can do that is by using a number of tools such as preserving trees onsite, relocating trees on the site, replacing trees, or as a last option, mitigating them. He stated he would refer to people like Rob Lee, Rick Kerns, and Brad Smith who have experience in specific ways to do that; and requested they be allowed the flexibility that is currently not there. He stated a matrix was distributed last week; there were comments from Chairman Pritchard today; and those go a ways toward adding some flexibility and doing some of the things that make it possible for people to protect trees and develop property, if that is what they want to do. He stated it needs more; and he would defer the specific options to the professionals who know how to do that and know what is going on in the field. He stated currently 25% needs to be maintained; but if a site does not have 25%, then the policy is they have to maintain and protect every tree on the site; and that does not seem like it goes in the spirit of trying to protect trees. He suggested if there is less than 25%, it could be specified as "up to 25%"; and if there is only 10% coverage, then they would have to maintain the 10%; but they should not have to add trees. He stated in a larger picture, he does not think one specific policy should be used as a tool to wage a larger battle; a tree protection ordinance should not be used to stunt or restrict growth by adding costs and red tape; and if the goal is to preserve trees, there should be a policy that allows landowners to do that and also develop their property rather than trying to focus on one specific Ordinance with language that does not allow any flexibility.

Chairman Pritchard inquired when the Board talks about canopy and 25%, if there was one tree on the property, does it mean a person could take out the one tree and put in 25% of what the canopy was. Ms. Elmore responded the language was actually 25% canopy cover of the area of the site, if present; for instance, if there were four trees, that does not mean they would preserve one out of four; and it means the person would probably have to preserve all four trees depending on their canopy size and on the size of the property. She stated when there is only 11% canopy, the Ordinance, as it is written, would require preserving all 11%; and without the betterment plan, there is no flexibility. Chairman Pritchard stated if the 11% was in the middle of the lot, that would be an unbuildable lot; with Ms. Elmore responding that is correct. She stated she needs to correct one point; one does not have to add to achieve the 25%; it is 25%, if present; and the County does not require adding plantings. Chairman Pritchard inquired if someone has four trees, one in the middle of the lot and three elsewhere; and the one in the middle prohibits development, can it be relocated, or if relocated does it now have to come to another standard. Ms. Elmore stated those are the types of things staff looks at under the betterment plan. Chairman Pritchard inquired when that happens, are they looking at 150%; with Ms. Elmore responding possibly. Ms. Elmore stated that is the case if it is being removed; however, if it is being relocated onsite, then there is no replacement because they are relocating that diameter at breast height onsite. Chairman Pritchard stated if it was four-inches diameter at breast height and they decided to move the tree, they would be okay; and if they decided to replace it with another four-inch, they should still be okay. Ms. Elmore stated a four-inch tree

would fall under the threshold for replacement under the betterment plan; and it is for ten-inch and larger. Chairman Pritchard stated then they would have to plant three trees because of the one that would be moved; with Ms. Elmore responding possibly.

Hugh Evans Jr. stated there are several items that are critical to the process; the first is defining the definition of canopy; and they talked about things that may be excluded and may not be excluded. He stated citrus trees would not make any sense as a canopy tree as they have a limited life of 30 years; people have addressed pine trees in the process; and because of the fill requirements, drainage requirements, and other things associated with development, it is almost impossible, once one gets under the limb structure of a pine tree, to save it. He stated if they change the water around a pine tree, it is going to die; he developed several subdivisions; and in Greystone, they saved a wide path down the back of all the lots of 50 feet hoping to preserve the pine trees; but all they did was preserve the opportunity for some tree experts to come in three years later and cut down all the pine trees that had died. He stated the Board needs to look carefully at what it is trying to preserve; and the focus should be on the hardwood trees that have longer lifespans and are more important to the overall aesthetics of the community. He stated there are several areas in the Zoning Code that will be difficult if the Board proceeds with the 25%; one of those is in industrially zoned areas; most industrial buildings take up a larger percentage of the site, some in the neighborhood of 45% to 50% plus parking; and for instance, preservation on the County's property in Titusville is going to be difficult to maintain without having to buy additional property for the industrial users. He stated another area where there seems to be great conflict is commercial properties; the County does not allow mitigation of wetlands, which makes no sense because it is preserving wetlands in areas that may not be the best to preserve; and now it is going to preserve tree canopy. He stated there could be a commercial property with 25% wetlands and 25% tree canopy; and it would be even further unbuildable in the areas where they are trying to encourage development. He stated where they have infrastructure, water, sewer, and roads, those areas should be developed; the Board may want to consider if a person is fortunate enough to have 25% wetlands, to allow him to count that percentage against his tree canopy preservation because at least he is preserving something on the site under the County's Ordinance; and that is an area that needs to be looked at as the Board continues the process. He stated in working with the City of Melbourne in developing several office parks, they were allowed some flexibility in building setbacks to be able to save oak trees; they have been allowed to move the setbacks and adjust driveway dimensions, parking islands, and those sorts of things to preserve larger trees; and it is important to build that into the process if the Board is really trying to preserve trees. Mr. Evans recommended allowing some flexibility in adjusting the setbacks and design because there is a conflict between the fire department and tree preservation; there is a proposal to allow a 30% reduction in parking on commercial property, but it will not work; looking at all the commercial development, they are building beyond what the Code requires because their tenants require a 1-to-200 parking ratio and the County only requires a 1-to-300 parking ratio or something in that area; and giving them that reduction is meaningless because they need parking for the tenant, so he does not think that is an area where it will help in the overall preservation. He recommended focusing on the preservation of specimen type trees and hardwood trees rather than some of the less valuable trees.

Kris Hebert, representing BSE Consultants, stated she has a few points with the Codes today; looking back prior to the preservation, they were getting a lot more land clearing without much incentive to keep the trees; the County was giving more tree points, but was not allowing a lot of creativity; and then they came to the preservation part of the Landscape Ordinance, which required them to change their way of thinking. She stated they had to go onto a site, look upfront, and think how to design the site for preservation; and it makes things more difficult, but not always impossible, although staff knows of a few problems. She stated she has seen some of the problems with the new preservation and design provisions; a lot of times when designing the sites, 40% of the property is taken up between the infrastructure, stormwater, and tree preservation; it is a good portion of the site depending on what the use is; and it may or may not work. She inquired if there are a lot of suggestions as far as how to come up with creative ways to work around these issues. She stated one of the issues she has run into is having the 180-inch requirement and 25% of the site; there was a site where they had the 25% and 2,000 inches, but it really was not 25%; some of it was open space and grassed areas, so it was not really canopy coverage; and the Board may want to look at one or the other or some combination of the two. She stated groves have been discussed today; orange trees are not afforded much protection; generally they do not have understory associated with them; and when one comes into a site, they are protecting 25% to meet the requirements. She stated if someone wants to remove them and provides a betterment plan, he is required to have 30% canopy; just removing them and providing a tree coverage and native understory would be a betterment without encumbering someone with the additional percentages; and that is just in some of the grove areas. She stated generally every grove has ditches; filling in some of the ditches may change the hydrology; and trees may not survive long-term, which is what the Board is looking for in these sites. She stated when they go to betterment plans, the County is asking for 30% instead of 25% coverage within so many years; most people are looking for fast-growing canopy-producing trees at that point; and inquired if the Board is encouraging biodiversity or buying the one species of trees that will grow and meet the requirement. She stated there needs to be more flexibility as far as what the Board is really asking for; mitigation has been thrown out a lot; they mitigate for wetlands all the time; and sometimes they work better off-site rather than on-site; but when they start looking at the options, they need to start looking at boundaries and types of areas being mitigated for, such as giving a pine forest for a cabbage palm hammock. She stated there are different assessment methodologies; the Board should come up with some sort of assessment that gives percentages for the type of canopy being preserved or the type of mitigation for what the Board wants it to look like long-term, or whether it is close to or isolated from EELs lands; and there are a lot of issues associated with it. Ms. Hebert stated a lot of times people think mitigation is great because they do not have to deal with it; the Board can do a mitigation bank; and that is a good incentive, which some people would like. She stated a lot of times it is necessary to look at all the issues; a lot of the canopy will conflict with stormwater or with the wetland issue; they are running into an era where there are multi-levels; and everybody needs to talk about all the issues and make sure they all meet and work together. She stated the Board has incredible staff as long as it allows it some latitude; interpretation is a bad word nowadays; and it may be that the Board should let staff work through it, interpret it, and then come back to the Board with a good plan that

meets the criteria. She stated in that way it will be the Board's decision, and not staff's decision; and they will be upheld together. She stated if the Board is going to have any type of committees, she will offer her services to serve on them.

Chairman Pritchard stated what is most interesting is that there seems to be a meeting of the minds; years ago when someone bought a house, landscaping meant three crotons and a hibiscus; and now it means two oaks and something else, and people are planting them five feet apart; but they are getting better.

Commissioner Scarborough stated he would like to look at what staff heard the other day; he is not putting aside what Chairman Pritchard has done because he appreciates it and the comments; but he would like to see what staff has, and whether the Board, based upon that, wants to create a committee. He stated he does not know if he is going to be prepared to look at that unless he sees what staff has in conjunction with Chairman Pritchard. Chairman Pritchard stated what he has falls in line with what he did at the last meeting. Commissioner Scarborough stated the Board went over that a little. Chairman Pritchard stated the Board did not get to the third part. Commissioner Scarborough stated he sees things coming together; but expressed a desire to see Mr. Brown's report and have a briefing. He stated ever since he has been on the Board, there has been this discussion; there are three different postures; one is very much environmentally inclined; and the Board had Sylvester Rose, who was a horticulture agent at the Agriculture Center, address it. He stated they had the development concern; and there has never been the concept of the totality of what makes sense and for what purposes; but he hopes that sooner or later that will come together and make sense regardless of what perspective looks at it. He stated he has specific concerns after listening to the discussion for a number of years; but maybe the seminar staff went to will help him with what is being done; and suggested taking a break. Chairman Pritchard stated the reason he wants to go through this is because he would like to have the Board say it makes sense and have that as part of the committee's discussion. Commissioner Colon advised the Board may say it makes no sense; with Chairman Pritchard conceding the Board could say that.

Bob Wille stated one of the items in the package that was worked on with the committee is very important; and that is number 14, the exception of public projects such as roadway projects, utility corridors, and stormwater retrofit projects. Mr. Wille stated this is not a private issue; and it is a public need and benefit that the community has from those sorts of projects, those that are most expensive and difficult to accomplish in the very tight fiscal situation that the County finds itself in. He stated right-of-way issues for road projects are approaching, if not exceeding, 50% of the entire project cost for environmental stormwater needs and so forth; and to add an additional burden such as the tree canopy ordinance, the public would find excessive, and it would preclude the County's ability to meet the obvious public needs and benefits. He encouraged the Board to exempt those sorts of projects as it goes through the process; and stated it is very important. He stated he works for a builder-developer; when they do projects, they go to great extent to save all the existing canopy trees on the lots as well as when they put in the roadways; and the Board needs to be aware of the difficulties they run up against in their attempts to do that. He stated they have the need to clear the right-of-way for the roads and so forth; but then they have utility corridors; and the Board has been hearing a lot of discussion about trees and getting into power lines. He stated just about all new projects have underground utilities; that is not the issue anymore; and that is typically

done on private property under easements, not in the road rights-of-way. He stated typically FP&L wants a 25-foot clearance beyond the right-of-way; that is what they have to do if they want to get power to their projects; and there may be a specimen oak tree right out there. He stated he is telling the Board what they are up against; it is very difficult to try to save trees because now there is a road right-of-way as well as a 25-foot clearance easement that the utilities want so they can send their crews out there and run their trenchers straight down without any obstructions, roots, or anything else; so those are great difficulties, and he wants the Board to be aware of them. He stated there are efforts to save trees, but it is difficult; and they also have to hope that Mother Nature has not put the trees some place where there is no sidewalk, driveway, swimming pool, house, or anything else. He stated lots are getting smaller and smaller; and the Code says that what is left needs to have all these trees and shrubs. He stated when he moved to Florida in the 1960's, Merritt Island was stripped clear; houses were being thrown up left and right; and there was not a tree there. He stated if he went to the same community today, he would find mature trees as well as the same homes he grew up in; and planting trees was a family project, which they took pride in. He stated in his 25-plus years in Florida, he has learned that stuff grows fast in Florida.

The meeting recessed at 2:55 p.m. and reconvened at 3:11 p.m.

*Assistant County Attorney Eden Bentley's absence and Assistant County Attorney Christine Lepore's presence were noted at this time.

Chairman Pritchard stated he would like to go to the report that he presented to the Board at the last workshop, and have the Board go over the items to see if they are something they would like to pass on to the committee they are talking about forming with Mr. Brown of Natural Resources. Chairman Pritchard stated on page 6, in the first paragraph, he would like the line that is highlighted; and the next one is the addition of "infill." He stated there are already amenities in an infill project; and the definition given a little further down is "vacant, disturbed site surrounded on two or more sides by an urbanized or developed area." He stated paragraph four at the bottom is reducing the rate to 100% from 150%; and the Board talked about that earlier.

Commissioner Scarborough stated the Board may not even be dealing with this particular ordinance when it is all over; he knows Chairman Pritchard has dealt with it; but if the Board has a new thing come back, it may have to talk about it. He stated he does not mind listening, but needs to be briefed on the new approach; and this may not be the approach the Board ends up with.

Chairman Pritchard stated the only thing he is suggesting is, if the Board does not have a problem with the recommendations, they will provide a little guidance to Mr. Brown; if Mr. Brown and his group decide that the new approach has nothing to do with this, that is fine; but if they decide they will be bantering back and forth, it would be nice for the Board to provide a little direction as to how it feels.

Commissioner Carlson stated anytime it deals with a number, it would be nice to hear from the group; and she does not know where the numbers like 150% came from. She stated she does not know if it is a subjective number; and she would rather leave it. She stated she has a feeling it will go to a more reasonable rate, no matter what it is, based on what she has been hearing from the folks who had the workshop.

Mr. Brown stated that is exactly where staff is going, should the Board decide to go that way; the recommendations are valuable because they provide a direction or preference of

the Board; and it helps give boundaries and guidelines. He stated staff is going to request, if they go the route of a task force, to have some local professionals such as landscape architects and engineers, to pull on all of the available science to get the numbers to meet the needs of the community and interest groups that are coming into play; and it is his understanding the group would use the recommendations to set the guidelines to move forward, but that they are not written in stone.

Commissioner Scarborough stated one item is to replace protected trees; Mr. Evans looks at a broadleaf evergreen or hardwood tree as being protected and some others not; and inquired what is a protected tree of same species. He expressed concern about cumulative rates; and stated he is not happy with the change to 100%, and may have many more comments he needs to make. Chairman Pritchard stated he is not disagreeing.

Commissioner Scarborough stated he is not going to be voting for an adoption of the recommendations because he does not think it is comprehensive of his thoughts; and he cannot give an indication to Mr. Brown that this expresses his views because it does not totally express his views.

Commissioner Voltz stated she does not think the Board will be voting on anything; but it would be good to have the discussion because these things are important. Chairman Pritchard stated the two items came up today.

Commissioner Scarborough stated one of the things that Commissioner Carlson said is that one can have a certain level of canopy on a lot; once one has that certain level of canopy, that is appropriate; and if the Board says within the guidelines, one can remove 50% and still have a full-canopied lot, then a person could remove 50% without any replacements. He stated back in 1988 and 1989 the discussion was that such wooded lots should have zero replacement even though there is a removal of trees because it is such a heavily wooded lot; in other words, it is already at saturation and it is marginal what else can be planted there. He stated the point is if he is going to say this is okay, then he is also saying that is all that is okay; and he does not know if it is, so that is his dilemma today.

Chairman Pritchard stated he understands that; all of the parts they are discussing need to be addressed; and the only thing he is saying, as he mentioned earlier, is that if there are four trees and one is taken out, it has to be replaced with three trees because of the ten-inch rule, so that is why he brought 150% down to 100%. Commissioner Scarborough stated he is saying maybe zero is needed in certain cases; with Chairman Pritchard responding in certain cases, zero is needed. Commissioner Scarborough stated he does not know how the Board could state that. Chairman Pritchard stated the part about zero when there is a heavily wooded lot and the canopy is being reduced, but there is still 25% when it is done does not apply to this paragraph; and what he is saying is the direction to say 150% is silly.

Commissioner Scarborough stated if the Board is going to vote on this, he is going to excuse himself from the meeting because he does not want to vote against Chairman Pritchard's ideas, but by the same token he does not want to indicate that he is happy with having his comments incorporated at this time; and he needs to get additional input on it.

Chairman Pritchard stated on page 7, the intent of the Board is to provide that public projects will be allowed to mitigate; that is coupled with 14, that those projects are exempted and do not need to be mitigated; and he does not think that taxpayers' money

should be used for certain things. He stated he does not think that taxpayers' money should be used for schools that cannot be built on a lot because of scrub jays; if it is built the mitigation is \$6 million, so the building ends up being built far away from where there was a desire to build the school because they cannot afford a \$9 million purchase, \$3 million plus \$6 million to mitigate. He stated government projects should be exempt from this because it only bounces back on the taxpayers.

Commissioner Scarborough stated he is not trying to be argumentative; but the private sector can say there are rules but government does not have to comply while the private sector does; and that is fundamentally unfair. He stated if it is wrong for government, it is wrong for the private sector as well. Chairman Pritchard stated it is the taxpayer who pays. Commissioner Scarborough stated the government should not have rules that are for the betterment of the whole community and have government exempted from those rules. Chairman Pritchard stated government derives its money from the taxpayers; in this situation, the property where a school was going to be built ended up being purchased by a developer who could have cared less about the extra \$6 million; the developer built a shopping center; but the government could not build the school because of the cost. He stated that is his point; and they can charge government all they want, but who pays for it. Commissioner Scarborough stated it is not a matter of the government having to pay; if it is a good rule, it should not be a rule that the government is exempted from just because there is a cost; there is cost to the private sector as well; and inquired is it fair for one side to be exempted but not the other. Chairman Pritchard stated when the private sector does it, its business plan allows for it; the private sector business plan is to derive a revenue from the product it is selling; but the government's business plan is to charge the taxpayers.

Commissioner Voltz stated if there is a school that does not go some place because of this, then maybe some of those things need to be on an individual basis.

Commissioner Carlson stated that can be addressed; the Board needs to practice what it preaches; and it should not cost a lot when the Board is trying to create something for the public good. She stated that is where it gets mixed up with how the tax dollars are being used; and commented on trying to put in a road that would serve the public but it costing too much. Chairman Pritchard stated that is his point. Commissioner Carlson stated it becomes cost prohibitive. Chairman Pritchard stated he is not too sure that is a good rule; with Commissioner Scarborough advising then the Board should address the rule.

Chairman Pritchard stated it is the rule if they are talking about scrub jay property; right now it is in litigation because the people are pushing it and trying to manage growth with a surrogate; they are saying it is not the bird anymore, but the habitat; so the 24 acres for two birds has sort of flown away and they are going to protect the habitat. He stated the private sector does not care how much it is going to cost because it will pay the money and build its shopping center; but it hurts government that is trying to keep taxes down; and if it cannot put a school where it should be and it ends up being moved 20 miles away and kids are bussed, that is the part he does not agree with. He stated number 10 is stricken involving heavy equipment; and the rest are additions. He stated number 12 is allowing the relocation of cabbage palms; and relocation of cabbage palms will not require development to also meet the betterment criteria that was listed. He stated number 13 is to exempt citrus grove trees from the canopy preservation requirements; 14 is to exempt public projects such as roadway projects, utility corridors, and stormwater retrofit

projects; and 15 is to reduce the canopy threshold from 25 to 15% for industrial and commercial projects within MIRA and whatever else the Board might want to add, and allow these projects to meet minimum landscaping requirements onsite, and allow any development project to mitigate for canopy requirements offsite. He stated some of these were written based on what the material was prior to the discussions that the Board had, so a lot of it will change. He stated 16 is to exempt from preservation requirements development projects within established developed areas; and this is talking about infill. He stated number 17 is to exempt from preservation requirements an infill site of two acres or more.

Commissioner Voltz stated on number 13, does the Board want to include pine trees; with Chairman Pritchard responding he would think so. Commissioner Voltz stated she personally likes pine trees, but has lost a number of them. Chairman Pritchard stated it is something the committee can address; and he has a feeling this will be coming back, and he will wonder who wrote it.

Chairman Pritchard stated number 18 is most important; it gets back to where staff has to be responsible to the needs of the community; and it is to establish additional flexible tools and incentives. He stated staff can fill in the blanks; it can be for everywhere, for redevelopment, blighted or disturbed areas; but in particular it would be for blighted and disturbed areas because they want them to be redeveloped. He stated the County does not want to create barriers that say no; it wants to be able to go to an old building and do something with the site because it is sitting barren; and if it is not permitting or landscape or other types of incentives, then maybe the County should step in and provide some tax incentive that will encourage redevelopment of those areas before going out to plow down more green spaces.

Commissioner Scarborough stated the Board needs to be careful with its vocabulary; there has to be a blighted area to move to a redevelopment area; and Merritt Island is considered a redevelopment area but some people would say it looks like one of the most prosperous areas in the County. He stated they could go to another area where there is an abandoned mall, which is what Chairman Pritchard is addressing, where they would need that latitude, but it would not meet the classification of blighted; so he does understand what Chairman Pritchard is saying. He stated to go in and hit the abandoned areas, which are to some extent eyesores, would be an aggressive posture; however, part of the problem is that it is a sea of asphalt without any softening. He noted there are no oaks planted within the seas of asphalt; and if there was landscape to augment, it may be a part of the plan. He stated staff mentioned there are multiple problems; there is the wetland mitigation issue; there is the landscaping issue; and if the multiple issues are piled up, all of a sudden a site may become very problematic, not just because of the landscaping but because of the other things. He stated in certain sites, the County, in order to move forward with the landscaping, may have to be more generous in allowing the offsite wetland mitigation to have the site be a nice looking part of a corridor; and he does not think there is a silver bullet to this. He stated it is a matter of pragmatically asking questions, whether it makes sense and is going to work; and if the County does not do that, it is going to have good sites on major corridors that are going to be left undeveloped because of the problem, and will find urban sprawl because people will have to go to sites that meet the multiple requirements. He stated people will have to find a large enough tract to do it all, which will mean there will be traffic going to places it does

not need to go; the County will have to spend more money on transportation; one problem creates another problem; and hopefully Mr. Brown has an answer to bring to the Board.

Chairman Pritchard stated a perfect example was the Pantry Pride site on Cocoa Beach, just north of SR 520; it was blighted, disturbed, and vacant for years; and then a thrift shop moved in, which did not enhance the neighborhood. He stated the majority of the facility was old and decrepit with no plantings; but Publix moved into it; and now it is a knockout. He stated that is what he is encouraging; MIRA will contribute up to \$10,000 toward façade improvement; some businesses have undertaken that and have included landscaping; they are taking old storefronts and modernizing them; and the Board needs to encourage much more of that. He stated it is much better to redevelop than it is to push out and develop.

Commissioner Carlson stated in terms of redevelopment plans, they have landscaping committees that help systematically guide the redevelopment; and MIRA did that. Chairman Pritchard stated generally they ask Mr. Rapport, who is on the committee; he looks at it very pragmatically, saying they do not need 8,000 new trees, but need this or that; and that is what is put in. He stated it is always aesthetic as well as economically possible; and that is what he wants to encourage. He suggested when Mr. Brown develops the group, that it look at that issue; stated the County needs to find ways to say yes to have a better Brevard; it should not be saying that it does not want any more development; and there should be no more surrogates. He stated the Board needs to be sure that what it is doing is being done responsibly so there can be the landscaping and all the nice things the Board wants, but not the restrictions that prohibit people from doing anything.

Commissioner Carlson stated Bob Wille had an interesting perspective when he was talking about underground utilities and things like that; he said they hope that Mother Nature did not put a big oak where their site plan was going to go; and she would say that they ought to look at the site first and see where the oak tree is planted before doing their site plan so they can preserve some of the stuff that is already there. She stated that does not always work in the commercial/industrial sector, but it certainly could work in subdivision design, which takes up the majority of space in the County that is undeveloped.

Chairman Pritchard stated in subdivision design that is absolutely true; however, it is the single-family lot that runs into a problem.

Commissioner Voltz stated there are problems even in a subdivision; there may be trees scattered throughout that are unsightly; and they really cannot build the character of the neighborhood they would like to build because of two or three trees that might be sitting there. She stated she does not think that is really what the Board wants; and it just wants nice looking neighborhoods.

Chairman Pritchard stated one of the neighborhoods that he lived in earlier, when it was built, had a road put in with a bit of a job because there was a dead tree with a heron's nest in it; it became the focal point; and the person who built the house that was on that property built around the tree because it was the focal point; but one of the hurricanes knocked the focal point over. He stated it was neat to go by the old dead silver tree with

the heron's nest and see all the amenities that were done for it; but then the wind blew it over.

Commissioner Colon stated the Board approved approximately \$100,000 for the City of Palm Bay, based on funds left over from Minton or Malabar Road; and she would appreciate staff advising of the status. She stated those dollars were specifically for beautifying Minton Road; there was a discrepancy over who would maintain it; medians are more expensive when there are trees there; but she would like staff to follow up and find out where those dollars are. She stated the dollars went there; she does not see any trees; and inquired where are they. Interim Assistant County Manager Ed Washburn stated it was Malabar Road. Commissioner Colon stated the money was supposed to be for Minton Road; there is nothing on Malabar Road; it is asphalt; so they were focusing on the medians on Minton Road, although the money may be left over from Malabar Road. She stated those dollars are probably sitting there; the City of Palm Bay probably has a plan for them; she has not had an opportunity to ask; and requested staff find out. Commissioner Voltz stated the City of Palm Bay did not want to take over the responsibility of irrigation. Commissioner Colon stated something was worked out there; but that is a different subject. Mr. Washburn advised he will find out. Commissioner Colon reiterated she does not see any trees; she drives up and down there; it has been sitting there for about a year; the City probably has a plan; and she would like to find out. Commissioner Scarborough stated he has brought up from time to time the issue of Port Orange in the southern part of Volusia County; it has encouraged development by the way it has gone about creating a beautiful community; and the amazing thing is it is not a wealthy community, but is one of the more attractive. He suggested staff pull the Port Orange Ordinances and look at things that work and make the overall statement that one is in Brevard County. Commissioner Carlson stated the Board looked at that for the Sign Ordinance.

Commissioner Voltz stated the problem is Port Orange started off doing everything when it became a city; the Sign Ordinance was there and they had to come into compliance; and it was the same with landscaping. She stated she does not think it would be appropriate for an older community that is already established; and she does not know if it would work. Chairman Pritchard stated some of the south Florida communities that were older did that; they had a phase-in period; and they have changed the looks of their communities. Commissioner Scarborough requested staff look at what will work and what will not work; stated he would be interested because that is something that was brought up by people in North Brevard; and they want to know why Brevard cannot look more like Port Orange. Commissioner Voltz stated it is nice.

Commissioner Carlson stated one thing she wanted to reiterate concerns stormwater and parking lots; she wants to make sure it is on the record that the committee look at more user-friendly parking with trees and such; and if they are going to be taken away from utility easements, which they should be, they should be incorporated into the parking to try and reduce the heat issues. She suggested providing incentives to do that by reducing parking and working with stormwater credits to leave natural land the way it is because it is self-absorbing; and stated it seems that would be a huge incentive so that development does not have to come in and clear the landscape because there are always complaints about requirements for drainage. She stated in order to drain the property right, first they have to clear it off and see what they have; if they know what the habitat is and the

drainage ability of that habitat, they should be able to preserve some of it without having to do anything to it; and it would look nice. She stated at some of the places along Wickham Road, they have preserved pine tree clusters and different things like that; there is nothing wrong with just leaving things there; and that is the beauty of Port Orange, that it left the natural habitat in place and built around it instead of clearing it all off and causing a panic in the community.

Chairman Pritchard inquired if Mr. Brown has an idea of a timeline for the group he is putting together, when it may come back to the Board, and what should be done in the interim. He inquired what guidelines are people going to have to follow for citrus and pine, for example. Mr. Brown responded he is not sure how the Board would normally respond in a process where it has agreed to an ordinance change, but still has to go through the process. Chairman Pritchard stated he would not want to abate anything. Commissioner Carlson stated she does not think the Board has any choice but to hope it gets some input and then develop as best it can. Chairman Pritchard stated he thinks the Board said it does not consider citrus as a canopy.

Commissioner Scarborough stated what is frightening to him is to say maybe this, maybe that; Mr. Evans said there are certain things that everybody would say looks good; there could be small varieties; and then they could get around to being species specific, requiring replacement of certain species. He stated there are certain plant materials that perform a number of

functions such as screening, fresh air, and aesthetics; and Commissioner Voltz made a point that they could be preserving trees that look awful. He stated they may come up with some methodology; he does not want to tell a person what type of tree to plant because that is wrong; but the Board could say certain trees have less significance. He inquired if the Board cares if there are some cabbage palms that could be moved around on the back of a truck; and is the pine tree the same thing as a mature oak tree. He stated they need to go in a complete sense and say this is the type of plant material; but he does not know if the Board can do that. He stated Mr. Evans made that comment; a certain type of plant may be a favorite plant material that cleans the air, provides more buffering, and makes a quieter impression, while something that is just there and dripping sap may not; and inquired is there a way within some of the ordinances to hit the more favored trees, if they are in good shape and healthy. He stated if the trees are dead, they are dead; and they do not want to preserve trees like Chairman Pritchard was saying he lived next to. He stated they could go to those plant materials to look at what would be good rather than species; and inquired if a person took out a tree and the County required it to be replaced with just one species, but they wanted another type, and the County insisted it be replaced with the same type that was removed, would Mr. Rapport find that odd. Mr. Rapport stated the group they are working together with now is looking at more flexibility in choice; that is going to be important in this modification; they have set goals for the landscape ordinances; but if they cannot meet them, they can go a little lower and satisfy them, but diversity is what they are looking at. Commissioner Scarborough stated if there was a collection of one variety of trees and there was some kind of blight, it could wipe them all out; and it would actually be preferable to encourage more diversity. Mr. Rapport stated diversity is what they are trying to encourage; and it would probably be some non-native trees with the native trees that are known to be proven winners in this area. Commissioner Scarborough stated in the ordinance it says replace with the same

species. Mr. Brown advised the betterment plans allow some flexibility; and they did bring up the topic about the bonding, which may be the interim solution. He stated he was anticipating four to six months for this; he does not envision the wholesale shift from conservation/preservation of trees and landscaping to absolutely nothing; he does not anticipate, based on the discussions today, a 180-degree change; but they are talking about some improvements to make the ordinance a better product. He stated if they get close and the County has them bond, and then it sits for six to eight months or a year, in the bonding situation, they have not lost anything; they have not adversely impacted the community; but the County has allowed them to continue on with their project. He commented on the professionals on staff; and stated there is a lot of internal knowledge. Commissioner Scarborough inquired can the Board say that if someone is removing an oak, and wants to plant a magnolia, they can do so because it is within the same classification, or does it have to have everything super-reviewed. He stated a betterment plan talks about a lot of staff involvement; and he is wondering if the ordinance can be written more friendly so it is already a known factor. Chairman Pritchard stated that would provide leeway and discretion also. Mr. Washburn stated he thought they were talking about what to do in the interim, not to get to where Commissioner Scarborough is talking about. Commissioner Scarborough stated he understands; and they are just discussing the interim until the group comes back with the report.

Chairman Pritchard inquired what about taking the position now of exempting citrus grove trees from canopy preservation requirements. Ms. Elmore advised there are some property owners who want to preserve their citrus; they do not want to pay for new plantings so they are saying they have the canopy there; they are healthy trees; and even in subdivisions, staff has seen this. She stated the owners would like to continue to maintain the citrus trees and that would head off some of the cost of replacing the canopy; so staff sees it on both sides, with some folks who do not want the citrus, and others who want to preserve citrus trees. Commissioner Scarborough stated the Board can say they can have it whatever way they want; and a lot of people want to have mature citrus trees when they buy a home. Chairman Pritchard commented they want it for the first year until the fruit hits the ground and they have 8,000 oranges they are trying to get rid of; but he knows what Commissioner Scarborough is saying. Commissioner Scarborough stated he has a feeling the Board can weight this down too heavily. Commissioner Carlson stated staff's job is to reduce the weight; they are trying to streamline and make it more user friendly; and the Board needs to give staff a chance to do that and see what they come back with in terms of a product. She stated hopefully it is going to be flexible like what the Board is talking about.

Chairman Pritchard inquired when will staff be coming back; with Mr. Brown responding he originally envisioned a four to six-month ad hoc task force; they would go to the professional organizations and get their best people who are genuinely interested in coming up with team-based consensus solutions for this; and they would then go through a period of four to six months of collaboration to come out with a product that takes the current two Ordinances and folds them into one.

Commissioner Scarborough stated he would like to be assured there are going to be some people on the task force like representatives of the garden clubs; they are very knowledgeable about plants; many of them are master gardeners; and if the Board does not include them, they would be asking to be included subsequently. Mr. Brown stated he

agrees; he had a very short list that needs to be expanded; and the object is to get the breadth of the stakeholder interest group. Ms. Williams stated Sally Scalera is present, and hopefully she will join the group. Chairman Pritchard stated they also need to get the agricultural interests. Mr. Brown stated they will include the Farm Bureau and the Soil and Water Conservation Districts as well to give some good representation. Upon motion and vote, the meeting was adjourned at 3:50 p.m.

**ATTEST: RONALD PRITCHARD, D.P.A., CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

SCOTT ELLIS, CLERK

(S E A L)