

**BREVARD COUNTY LANDSCAPING, LAND CLEARING
AND TREE PROTECTION TASK FORCE**

February 13, 2006 Meeting Minutes

Task Force Members Present

Robert Day-Primary Representative, Brevard Nature Alliance
Jackie Gregory-Primary Representative, Commission District 1
Susan Hall-Alternate Representative, American Society of Landscape Architects
Billy Kempfer-Alternate Representative, Florida Forestry Association
James Payne-Primary Representative, Cattleman's Association
Maureen Rupe-Primary Representative, Commission District 5
Thomas Schuller-Primary Representative, Florida Farm Bureau
Lisa Smith-Primary Representative, Florida Native Plant Society
Jim Spratt-Primary Representative, Florida Nurserymen and Growers Association
Earl Underhill-Primary Representative, Florida Forestry Association
Facilitator-Marilyn Crotty, Director, Florida Institute of Government

Task Force Members Absent

Bo Barnavon-Primary Representative, Homebuilders and Contractors Association
Steve Brown-Alternate Representative, Florida Nurserymen and Growers Association
Kathleen Burson-Alternate Representative, Florida Native Plant Society
Bud Crisafulli-Alternate Representative, Florida Farm Bureau
Roger Daniels-Substitute Representative, International Society of Arborists
Lynn Girling-Primary Representative, International Society of Arborists
Don Hawthorne-Primary Representative, Garden Club
Vaughn Holeman-Primary Representative, District 4
Anthony Koromilas-Alternative Representative, District 1
Rochelle Lawandales-Primary Representative, Commission District 2
Robert Lee-Primary Representative, American Society of Civil Engineers
Charlie Moehle-Alternate Representative, Commission District 2
Brad Smith-Primary Representative, American Society of Landscape Architects
Dick Thompson-Primary Representative, Commission District 3
Dan Zrallack-Alternate Representative, American Society of Civil Engineers

County Staff Present

Ernie Brown-Director, NRMO
Dan VanGenechten, NRMO Environmental Specialist
Liz McDuffee-Secretary I, NRMO

Signed-in Citizens

None

Call to Order

Marilyn Crotty called the meeting to order at 1:10 pm after a quorum was present. (Nine representatives were present at 1:10pm - a tenth representative arrived later.)

After a short period of discussion, the 1/27/06 minutes were approved as written.

Subcommittee Testing Results

A subcommittee that was formed to test the draft Article against actual projects met on February 10 at Brad Smith Associates, Inc., 2090 W. Eau Gallie Blvd., Suite B, Melbourne, FL. Task force members who attended the meeting: Susan Hall, Kathleen Burson, Brad Smith and Rochelle Lawandales. Staff who attended the meeting: Sherry Williams, Dan VanGenechten and Liz McDuffee. In addition, Amanda Elmore was consulted briefly by telephone.

Susan Hall presented the subcommittee's results to the task force. (A copy of the minutes with the subcommittee's revisions is attached.) Susan explained that both NRMO staff and the subcommittee members tested several sites, including a large commercial site (Target – Viera), a small business site on Babcock Street (Palm Casual) and a large, 200-acre, planned community in Malabar (Eagle Crest). A project spreadsheet that was developed by staff was distributed to the task force. The spreadsheet showed a comparison between the requirements of the existing Article and the proposed Article for each project. Following is a summary of the subcommittee's findings:

1. No "fatal flaws" were discovered.
2. The new Article provides alternatives when preservation requirements cannot be met.
3. The new Article increases the minimum size of newly planted trees. It requires fewer - but larger – trees, creating an incentive for preservation.
4. The new Article has less preserved canopy requirements, but it contains more flexibility and incentives to preserve.

Article Revisions

Section 62-3634, Exemptions, page 7

1. Remove the following note and add it to the list of recommendations that the task force will present to the Board: "Task Force is unanimously opposed to exempting linear projects and recommends that this subsection be deleted. All projects, whether private or public, should comply with these regulations."
2. Remove the following staff note: "The Task Force requested staff to research whether electrical or gas corridors would be exempt. Chapter 403, Florida Statutes pre-empts local government regulation of transmission corridors and natural gas pipelines. These multi-jurisdictional activities are certified and permitted by the State."

Section 62-3635, Agricultural Activities, pages 8 and 9

Ernie Brown stated that there appeared to be some confusion regarding Bona Fide Agriculture use and other agricultural activities and how the proposed Article related to them. Pre-existing Bona Fide Agriculture activities are clearly exempt from the requirements of the proposed Article as specified in Section 62-3634, Exemptions (page 7). However, the title of and some of the verbiage in Section 62-3635, Agricultural Activities, seems to indicate that this section also applies to Bona Fide agricultural activities. After a period of discussion, the task force agreed to the following revisions to help clarify this matter:

1. Change the title of Section 62-3635 to “Non-Bona Fide Agricultural Land Clearing Activities.”
2. Add a definition of Non-Bona Fide Agricultural Land Clearing Activities to the Definitions section of the Article. Include the roll back requirements and what happens if there are requests to permit or rezone before the three-year roll back period is completed (i.e., preservation requirements revert back to the pre-land clearing status). Lisa Smith requested that the definition be clearly worded and, if possible, that examples be included – if not in the Article, then in the user’s guide. Ernie Brown will draft the definition of Non-Bona Fide Agricultural Land Clearing Activities and forward it to the task force separately from the Article.
3. Item (1)a: The task force discussed that NRMO is not approving the required Conservation Plan - just ensuring that it is included in the package. No changes resulted from this discussion.
4. Restate in this section that Bona Fide Agricultural activities (pursuant to s. 193.461, F.S.) are exempt.
5. Item (1): Change “Agricultural” activities to “Land clearing” activities. Add reference to Bona Fide Agricultural land.”
6. Item (1)c: Change “proposed agricultural use” to “land clearing activity.”
7. Item (1)d: Delete and replace with verbiage that states proposed non-bona fide agricultural land clearing activity will be subject to the roll-back requirements in this Article.
8. Item (2): Replace with “Proposed bona fide agricultural use activities on agricultural lands not yet classified as Bona Fide Agricultural Activity pursuant to s. 193.461, F.S. will be subject to the roll-back requirements in this Article.
9. Items (2)a, b and c: Delete these items and Appendix D (the requirement for a 10-year covenant was removed because a consensus was not reached by the task force on this item.) Replace the 10-year covenant with a three-year rollback requirement.
10. The task force reached a consensus on requiring a minimum rollback period of three years. However, although a majority of the task force supported raising the rollback requirement to five years, no consensus was reached (5 supported and 4 did not support). The task force agreed that a note for the Board would be added to the three-year rollback requirement.
11. Delete the following staff note: “The following section is not clear to staff. Although we captured the suggested language, we recommend the Task Force revisit this section to clarify its intent.”

Section 62-3636, Violations, page 9

1. Delete “No active development order shall be pursued for the period of three (3) years from proof of date of last violation or when a property owner applies for an active development order, whichever is later.”
2. Clarify that all funds collected and deposited to the trust be used - not accrued.
3. There was some discussion regarding deleting the option that trust fund money could be used for the purchase of environmentally sensitive lands; however, a consensus was reached to leave the option in the Article.
4. Delete the second “acquisitions” from the following sentence, “All acquisitions made through this program shall be voluntary acquisitions.”
5. Delete the following staff note: “Staff requests clarification on the Task Force’s revision of the above section.”
6. Delete the following note: “Ernie Brown to provide language from Terri Jones regarding allowance of administrative remedies.”

Section 62-3638, Land Clearing Performance Standards, page 11

In the opening paragraph, after “in perpetuity,” add “except as allowed by this article” and reference Section 62-3640, Landscaping Performance Standards, item 19, Removal Criteria.

Section 62-3639, Canopy and Tree Preservation Performance Standards, page 13

Item (1)g: Add a reference to Appendix C (i.e., the new column that will be added listing 25% of the calculated area of the expected mature tree canopy.

Section 62-3640, Landscaping Performance Standards, page 14

1. Item (3), first row of the chart: Change “Minimum standard is four (4) inch dbh ...” to “Minimum standard is three (3) inch dbh” (To be consistent with earlier changes correlating the caliper measurements to correct dbh requirements.
2. Delete the following note: “The Task Force did not reach the 70% consensus on whether dyed mulches should be permitted. Vote was 6-3 against permitting dyed mulches.

Section 62-3640, Landscaping Performance Standards, Item (17), Projects using Xeriscape or Water-Wise landscaping, pages 17 & 18

1. This section states that no more than 50% of all landscape areas may be irrigated; however, Jim Spratt noted that all new plants need irrigation until they are established. Because of this requirement, Jim felt that this section is designed to fail unless 50% of the site is preserved.
2. Item (17)c: Add that the use of mulch containing Chromated Copper Arsenate (CCA) is prohibited. Jim Spratt noted that the most important issue with regard to mulch is not whether it is dyed, but rather what material has been used to create the mulch. For example, pallets may be ground up, dyed and used as mulch and the chemicals from the pallets are harmful to the environment – not the dye. Jim explained that buyers should look for the National Soil and Mulch Council Certification on dyed mulch to confirm that it contains no landscape poisons.

3. The task force agreed that Jim Spratt would forward an email to staff (copy attached) suggesting revisions to 62-3640, item (17), ... projects using Xeriscape or Waterwise landscaping.
4. Item (17)d: Change “Less than” to “No more than.”
5. Item (17)h: Maureen Rupe asked if item (17)h would adequately address the issue of Xeriscape weeds that has arisen in the past (i.e., are they weeds or native plants?) Item (17)h states that “Property must be free of weeds and pests and not declared as an overgrowth public nuisance as defined in Chapter 114, Article II.” Jim Spratt volunteered to develop a definition of weeds for discussion at the Task Forces’ next meeting.

Section 62-3642, Maintenance and Inspections, page 19

1. Item (1): After “in perpetuity,” add “except as allowed by this article” and reference Section 62-3640, Landscaping Performance Standards, item 19, Removal Criteria (to be consistent with earlier change made to Section 62-3638).
2. Item (1): Divide into two items. Start Item (2) with “For multi-family, residential subdivisions,”
3. Item (2): Renumber existing Item (2) to Item (3).

Section 62-3643, Incentives for Increased Canopy and Tree Preservation and Increased Landscaping, page 20

1. Item (2)a: Deleted “... landscape requirements for the class of vegetation shall be reduced by 50%.” Revised Item (2)a as follows: For each one hundred (100) square feet of land with no dimension less than ten (10) feet, that is predominately vegetated by rare, endangered or threatened plant species as listed in Volume 5, Plants, Rare and Endangered Biota of Florida, University Presses of Florida, Gainesville, Florida, and as listed in F.S. 581.185, the property owner shall receive 200 square feet of landscape credit for that class of vegetation.”
2. Item (2)b: Replace six (6)% with five (5)%.
3. Item (2)c: Replace four (4)% with five (5)%.
4. Remove the following note and add it to the list of recommendations that the task force will present to the task force: “The Task Force recommends that a reduction of lot widths and sizes be considered in addition to density bonuses.”
5. Remove the following staff note: “Staff requests discussion on the incentives and whether they will be used.”
6. Remove the following staff note: “Percentages were determined by relating the previous point system to square footage. I.E. 30 points previously awarded/480 points per acre required = 6%.”

Section 62-3644, Waivers and Alternative Landscape Enhancement Plans

Remove the following note and add it to the list of recommendations that the task force will present to the Board: “The Task Force recommends costs should be established via Resolution. Please see attached resolution.”

All appendices

All appendices should reference their sources.

Appendix A

After some discussion among members about whether Appendix A should be deleted and replaced with the state list, the task force agreed to keep Appendix A. Lisa Smith stated that she is waiting for a response from the Florida Native Plant Society regarding its review of Appendix A and would like to return to this item at the next meeting. The task force discussed that removal of any plant listed in Appendix A would not require a permit, nor would the existence or planting of these plants count towards landscaping credit.

Jim Spratt requested that the state list also be referenced and noted that he would include wording with other proposed revisions that he would be sending to staff.

Appendix B

No changes.

Appendix C

1. The task force requested that another column be added to Appendix C showing 25% of the calculated area (πr^2) of the expected mature canopy for each tree. This addition was requested to facilitate implementing item g, Section 62-3639, Canopy and Tree Preservation Performance Standards: "Canopy coverage achieved through the use of planted trees shall be credited at 25% of the projected canopy at maturity of the species. If the actual canopy of the planted tree is larger than 25% of the mature canopy size, actual canopy coverage of the particular tree shall be credited." The task force also requested that examples be added to the planned user handbook.
2. Susan Hall asked the task force to discuss staff-proposed changes to Appendix C as defined in an email to Brad Smith (copy attached) that was distributed at the subcommittee meeting. Following are the task forces' responses to the proposed changes:
 - a. Item 1: Keep the following trees on the Appendix C list: *Cornus florida*, Dogwood, *Liriodendron tulipifera*, Yellow Poplar, *Cupressocyparis x leylandii*, and Leyland Cypress. (Staff recommended their deletion since, while they may technically be able to grow in Brevard, they are rarely seen here.)

- b. Item 2: Reclassify the following species (as proposed by staff):

Carpinus carolinia	American Hornbeam	Currently medium, move to large species
Juniperus virginiana	Eastern red Cedar	Currently medium, move to large species
Morus rubra	Mulberry	Currently large, move to medium species
Prunus caroliniana	Cherry Laurel	Currently medium, move to large species
Rhizophora mangle	Red Mangrove	Currently small, move to medium species, like other mangroves
Viburnum odoratissimum	Sweet Viburnum	Currently medium, move to small species

- c. Item 3: Keep the following trees on the Appendix C list: Jacaranda mimosifolia, Jacaranda; Piscidia piscipula, Jamaican Dogwood; Jatropha integerrima, Jatropha; Plumeria reba, Frangipani. (Staff recommended their deletion since, while they may technically be able to grow in Brevard, they are more tropical and less hardy.)
- d. Item 4: Remove Ficus aurea, Strangler Fig because of the invasiveness of the roots (as proposed by staff).
- e. Item 5: Reclassify “Little Gem” Magnolia from a small species to a medium species because of its mature size.

Appendix D

Delete Appendix D and its exhibits.

Resolution 06- ____

Ok as written

Citizen’s Comments

There were no citizen’s comments.

Next meeting

The next scheduled LLTP task force meeting will be held on Thursday, March 2nd from 1 PM to 5 PM at the Agriculture Center. The most recent 60-day extension that was given by the Board will expire on March 10, 2006.

Please check the Natural Resources web site at http://natres.brevardcounty.us/landscaping_meetings.cfm to review LLTP meeting material.

Please let staff know if you will be unable to attend any scheduled task force meeting. If a quorum of eight members is not present for the meeting, then no official business can be conducted. Staff will continue to make reminder calls to task force members the day before meetings.

The meeting was adjourned at 5 PM.