



## **TOWN OF HAVERHILL**

### **OFFICIAL MINUTES**

#### **MEETING:**

#### **Code & Ordinance Committee**

**DATE:**    **February 23, 2021**

#### **ATTENDEES:**

Mayor Jay Foy; Council Member Mark Uptegraph; Council Member Dennis Withington, Council Member Ray Caranci; Town Administrator Janice Rutan; Deputy Town Clerk Jean Wible; Code Enforcement / Public Service Devon Kirms; Town Attorney John Foster and Town Planner Josh Nichols (via tele-conference).

**CALL TO ORDER:** Mayor Foy called the Workshop to order at 12:07p.m.

Town Attorney John Foster stated we were going to talk about permitting of fences, the ADU (Accessory Dwelling Units) ordinance and dead trees.

**Trees:** Attorney Foster stated we have an ordinance requiring the removal of dead trees. Attorney Foster stated he had just learned from Town Administrator Rutan and Code Inspector Kirms that some of the dead trees are habitats for birds. Town Administrator Rutan stated the Town is a bird sanctuary and when we write letters informing our residents that they have to remove dead trees, they take exception because there was a family of birds in it. Code Inspector Kirms stated that when a resident informs her there are a family of birds in the tree, she does allow the resident to wait until the birds are done nesting. Mayor Foy

stated we are concerned about the health, safety, and welfare of residents, like a dead tree falling on someone or hurricane season. Discussion ensued.

Town Attorney Foster stated the issue presented regarding dead trees was the Town of Haverhill had not reasonably enforced the ordinance that required certain trees with a particular diameter be removed once a year. Attorney Foster stated the reason it was being brought up today was, unless the Town Council had a different feeling, the Town was going to enforce the ordinance on dead trees because of public health, safety and welfare issues as these trees can become a real problem. Discussion ensued.

Town Attorney Foster stated that under the landscape code there is a variation option available to residents. If enforcement was going to mean something to a homeowner that they do not believe is justified, they can always come before the Town Council seeking a variation. Discussion ensued.

Mayor Foy asked should Town Council add something relative to risk to the ordinance and if so, the Town would have to have somebody to do it. Council Member Caranci stated a certified arborist with tree risk assessment qualification would have to do it. Code Inspector Kirms reported she does not feel at this time that she had received enough push back from property owners to change or adjust the ordinance. Discussion ensued.

Council Member Withington asked if the county had an initiative in effect regarding the removal of Australian pines. Town Planner Josh Nichols stated they must be removed when coming in for development in the county, but it is too big of an area for the county to patrol and tell someone that they have to remove them from their private property. Discussion ensued.

### **Fences:**

Town Attorney Foster stated Code Inspector Kirms had received some other code provisions from other municipalities dealing with fences. CI Kirms reported that she had reached out to a handful of municipalities to see if or when they require a building permit when repairing or replacement of fences:

**The Village of Royal Palm Beach:** Replacing/repairing less than 9% of any one side of the property fence does not require a permit. Replacing/repairing 10% or more of any one side of the property fence requires a building permit. Discussion ensued.

**The City of Greenacres:** Code read as the Town of Haverhill does which is, when replacing a single piece of wood or two, a permit is not required. If replacing an entire panel or more, a permit is required.

**City of Palm Beach Gardens:** Code read as the Town of Haverhill does which is when replacing a single panel or two a permit is not required. If replacing a panel or more, a permit is required.

**Lake Worth Beach:** Replacing/repairing anything less than 16ft does not require a permit, anything 16ft or more does require a permit.

**Town of Jupiter:** Had taken a huge step back on requiring permits for fences because of COVID. They only require fencing to be permitted around a pool.

**Lengthy discussion ensued.**

**Accessory Dwelling Units (ADU's):**

Town Attorney Foster stated in proposed ordinance (491), the date used for the Town no longer accepting ADU applications was October 1<sup>st</sup> which was the beginning of new fiscal year or could be a date selected by Town Council as it was Council decision.

Attorney Foster reported the Town could not repeal the ordinance because it will continue to apply to the people who currently have ADU's and need the annual inspection and annual permit, etc. Attorney Foster stated what we had basically established in the proposed ordinance (491) that effective October 1, 2021 no new applications would be received and processed. The Town will amend the special exception uses probably in August 2021 to permanently delete ADU's.

Code Inspector Kirms reported the Town actually only had two (2) that were built and being used as such and one (1) that had the approval but had not yet been built.

Town Administrator Rutan stated that through this new ordinance, we are allowing people who have existing dwelling units whether it be in their home or an outside building, to bring it up to code and then sign the covenant that it will be used strictly under the terms of the way the ordinance was written today. Discussion ensued.

**ADJOURNED:** 1:15 p.m.

**SUBMITTED BY:** Jean Wible, Deputy Town Clerk