



Meeting Minutes - Draft
Joint City Council / Planning Commission

Tuesday, February 18, 2025

1:00 PM

BIG ARTS - 900 Dunlop Road

1. Call to Order

The meeting convened at 1:00 p.m.

2. Invocation and Pledge of Allegiance

Mayor Johnson gave the invocation and led the Pledge of Allegiance.

3. Roll Call

Present: 12 - Mayor Richard Johnson, Vice Mayor Mike Miller, Councilmember Laura DeBruce, Councilmember John Henshaw, Councilmember Holly Smith, Commission Chair Ken Colter, Commission Chair Paul Nichols, Commission Chair Kate Sergeant, Commission Chair Erika Steiner, Commission Chair Lyman Welch, Commissioner Larry Schopp, and Commissioner Tiffany Burns

Mayor Johnson spoke to the purpose and process of the workshop.

Discussion ensued regarding setting the agenda. The agenda will be considered in the order of public preference as counted. The order being Item 5, 4(i), (b), (c), (d), (h), (a), (e), (g), and (f).

5. City Council and Planning Commission Recovery Discussion

Discussion ensued regarding concerns with regulations for locations/heights of electric meters, ensuring code amendments are not in opposition to Senate Bill 250, the purpose for recommending to discuss waiving the variance application fee, and focusing on getting residents and businesses back on the island.

Members requested hearing from the Public on how to streamline the recovery process, determining what is causing the permitting process delays, issues with contractors understanding the permitting and review process, traffic issues, need to improve appearance of the island, and concerns with contractors taking money but not doing the work.

Public Comment on non-agenda items:

- Eric Pfeifer - Chair of Economic Resilience Committee of Charitable Foundation of the Island (CFI) - spoke to concerns that the City cannot get back to 100% occupancy for businesses and residents due to losses of structures and delays in funding for repairs.
- Peter Pappas - Sanibel Resident - spoke to unacceptable risks for rebuilding homes

- at lower elevations following the storm
- George Lampros - Resident - spoke to concerns with the tax base as many homes are being put up for sale due to flooding from the Sanibel River and weir management issues.
 - Tim Lattner - Dunes HOA - spoke to concerns with distressed properties, inquired what the code process is, and concerns with water management in the Dunes.
 - Bryant Korn - Property owner - spoke to concerns with swale management
 - Mary Kay Haas - Sea Oats - spoke to concerns with water management and vegetation issues due to soil being washed out.
 - Marty Harrity - 1263 Isabel Dr - spoke to the need for an updated Land Development Code and issues with height limitations, density, and coverage determinations.
 - Chauncey Goss - Resident - spoke to the need to focus on what actions can be taken to improve recovery efforts.
 - Carmella Cioffi - MHK Architecture - spoke to concerns with height limitations, storm surge, angle of light, and the need for amending the land development code.
 - Bob Brooks - Beach Road - spoke to the need to take an approach for fast tracking common sense variances, such as addressing angle of light, property setbacks, and elevating ground level homes. He further spoke to creating fast track review board for issues with density and intensity of use and regulations for AC/generator platforms.
 - Bob Moore - Wild Lime Dr - spoke to the importance to focus on high level values and priorities for rebuilding and resilience.
 - David Berger - Resident - spoke to concerns with affect to adjacent properties from those that are being elevated and/or filled and redeveloped.

Discussion ensued regarding which direction the meeting would take, considering Senate Bill 250, and adjacent property rights. Discussion continued regarding what immediate steps could be considered, being prepared for more frequent storms and sea level rise, the need for updating the Sanibel Plan and Land Development Code, focusing on the high level concerns, and coming to a consensus on next steps.

Discussion turned to determining if the code needs to be simplified and cleaned up.

i. Distressed properties & dangerous buildings update

City Manager Dana Souza summarized the memorandum included in the agenda packet. Discussion ensued regarding abatement plans and if ground/vegetation maintenance were included. Deputy Planning Director Craig Chandler spoke to most of the abatement plans relating to the structures not vegetation.

Discussion ensued regarding unintended consequences by limitations from Senate Bill 250 (SB250). City Manager Souza spoke to opportunities for abatement already

existing in the code and not being in opposition to SB250. City Attorney John Agnew spoke to the restrictions of Senate Bill 250 relating to redevelopment, not necessarily code related issues. Members inquired if a buffer screen could be planted by the City to reduce the visual blight and charged back to the property owners, which may not be feasible but could be considered and researched.

Members inquired what actions can provide more enforcement power and why the Dairy Queen has not been declared distressed or dangerous. Mr. Souza spoke to the process code enforcement and abatement plans, for providing amendments to the code for distressed properties, and spoke to the exceptions or flexibility provided for in the code.

Commissioner Colter stepped out of the meeting at 2:52 p.m. and returned at 2:57 p.m.

Discussion ensued regarding including landscaping in abatement plans. Members inquired how to speed up the approval process to shorten from three months (PC, 1st and 2nd readings). Attorney Agnew responded by speaking to the purpose for Mayoral Proclamations and that not being the tool for this process. Mr. Agnew further spoke to options for addressing the needed code amendments, advising the emergency ordinance could be passed and would have to go to first and second readings within 60 days. Mr. Souza spoke to the hiring of a Code Enforcement Manager who will be on boarding in March.

Discussion ensued regarding abatement plans, including restoration of landscaping in them, and the possibility of demolition options. The discussion turned to what steps are taken if a notice of violation is not received/accepted by the property owner.

Public Comments:

- Tim Lattner - 1426 Causey Ct. - spoke to the HOA being interested in the distressed properties statuses for their neighborhood.

b. Developed area/fill/predevelopment grade discussion

Planning Director Paula McMichael provided a background for the discussion and a brief PowerPoint presentation. Dana Dettmar, Environmental Biologist, Natural Resources Department, continued the presentation relating to the conservation element relating to fill. Principal Planner, Kim Ruiz, Planning Department, spoke to the planning regulations for fill.

Vice Mayor Miller stepped out of the meeting at 3:14 p.m. and returned at 3:17 p.m.

City Engineer, Oisin Dolley, continued the presentation relating to the Public Works

regulations for fill and stormwater management. Jessica McNulty, Floodplain Manager, Building Department, continued the presentation relative to Building regulations for fill. The presentation then turned to recommendations.

Discussion ensued regarding calculating fill and if it was more restrictive in relation to Senate Bill 250 (SB250), to which Ms. McMichael advised would not be more restrictive. Discussion ensued regarding properties that were cleared of vegetation due to the storms and taking into consideration the issues with being able to replant during recovery efforts. Attorney Agnew advised that an area that was devoid of vegetation due to the storms would not be counted as developed area. He further spoke to a property that was under construction that has been served with a stop work order for work outside the parameters of the permit.

Discussion turned to attending a meeting called at the request of the Building Contractors to consider code regulations for fill and development grade calculations. Discussion continued regarding the pre-Ian policy for calculating fill, elevating from 8-10 inches above the cap of the road, and creating a berm for stormwater management. Members inquired what code changes were made to the policy. Ms. McMichael responded by speaking to the code requiring that all fill is counted as developed area and that policy allows for certain exemptions. Continued discussion ensued regarding the definitions of fill and developed area and there not being a written policy. Ms. McMichael responded that fill is counted as developed area and not being comfortable changing an unwritten policy when it has implications for floodplain management and stormwater drainage.

Commissioner Sergeant stepped out of the meeting at 4:19 p.m. and returned at 4:24 p.m.

Further discussion ensued regarding the need for the Planning Commission to consider updates to the definitions of fill and developed area and how the objectives can be achieved. Members reiterated the need for the discussions to be held at the Planning Commission level. Continued discussion ensued regarding ensuring garages are not flooding during rain events and managing run-off so adjacent parcels are not adversely affected. Consensus among the members was to send the topic to Planning Commission for further consideration.

City Manager Souza spoke to the presentation being factual and defining the limitations the Department has for interpretation and that there has been no written policy provided for review. Attorney Agnew spoke to having made the request to include the staff recommendations. Mr. Souza spoke to the code considerations being scheduled to go through the proper steps for approval or policy. Building Official Craig Mole spoke to the background for the recommendation of 24-inches of fill.

Attorney Agnew clarified that discussions are being confused with meeting the crown of the road or over development grade.

Public Comments:

- Barbara Boyce - Chair of City's Vegetation Committee - Resident of Seagull Estates - spoke to the residents wishing to restore vegetation while needing to bring in small amounts of fill to reinstall native vegetation.
- Mary Kay Haas - Sea Oats - spoke to replacing what has been washed out, not bringing in additional fill, and inquired if there is a carve out for those that are just replacing soil.
- Doug Viets - President of Sea Spray COA - thanked Staff for the work that has been done and requested the topic go back to the Planning Commission for further consideration and public input.
- Matt DePaolis - Sanibel Captiva Conservation Foundation (SCCF) - concurred with comments that the topic go to Commission for consideration and public input.
- Bob Moore - Resident - spoke his appreciation for the efforts and recommendations from Staff.
- Alicia Galante - Resident - spoke to the need to look at permeable/impermeable coverage regulations.
- Dean Martin - Civil Engineer - spoke to his experiences with the City, noting there was a policy though it was not codified.

By consensus the topic will go back to the Commission level. City Manager Souza spoke to adding the topic to the March 4th Commission agenda. Discussion ensued regarding there being an understood unwritten policy and Members inquired if the previous policy could be the temporary policy. Attorney Agnew spoke to there being concerns with there not being a written policy and the unwritten policy is in conflict with current regulations.

Further discussion ensued regarding the topics to be covered being 1) fill for construction of homes, and 2) replacement of eroded or washed out soil.

Discussion ensued regarding whether to recess and continue or to table to another meeting. Further discussion ensued regarding the item for waiving the variance application fees.

a. Waive variance application fee

Vice Mayor Mike Miller spoke to the background for the request and provided options for addressing. Discussion ensued regarding the variances still going to Commission for consideration, just the fee would be waived. Discussion turned to what items would need a referendum (such as building height limitations) or could be

heard at the Council level. Attorney Agnew advised that there could be a variance for height in respect to feet, but not for changing three stories above base flood elevation.

Discussion continued regarding waiving the fee or reducing it to \$500 to cover some administrative costs and allowing all variance requests to go to Commission for consideration. Deputy Planning Director Craig Chandler spoke to the code language for what variances are and are not permitted and explained administrative deviations.

Public Comments:

- Matt DePaolis - Sanibel Captiva Conservation Foundation (SCCF) - spoke in support of waiving the fees and to the challenges for addressing the timing of the hearings.

4. New Business

- c. Additional height exceptions for buildback
- d. Angle of light consideration
- e. Reinstate administrative or “short-form” review of conditional use permits for “eating places, restaurants, grocery stores, etc.” which expired December 31, 2024, through December 31, 2025
- f. Make all conditional use permits short-form through December 31, 2025 (except those that require city council approval: increased-density for BMRH, formula retail stores that result in over 60,000 SF of commercial floor area in all of the city's commercial districts; any commercial building exceeding 6,000 SF of commercial floor area; variety or department stores, or any commercial retail use with more than 2,000 SF of commercial floor area; or commercial units with street frontage exceeding 50 linear feet)
 - i. Public utility uses
 - ii. Institutional uses.
 - iii. Agriculture & Aquaculture.
 - iv. Recreation facilities.
 - v. Foster family homes.
 - vi. Residential child caring facilities and assisted living facilities.

- vii. Outdoor storage
- viii. Rehabilitation centers and social service homes.
- ix. Drive-in and Drive-through facilities.
- x. Motion picture theaters, except drive-in, and theaters for live performances.
- xi. Gasoline service stations.
- xii. Vehicle rental and leasing.
- xiii. Car washes.
- xiv. Docks, boat davits, boat lifts, and mooring pilings.
- xv. Automotive repair shops and marine sales and repair shops.
- xvi. Coin-operated laundries.
- xvii. Alternative shoreline stabilization project.
- xviii. Accessory security guardhouses and security gates.
- xix. Seawalls as accessory structures.
- xx. Formula retail stores.
- xxi. Seawall as accessory structure waterward of existing seawall.
- g. Code changes to implement the Town Center per R2P2 recommendations
- h. Revisit Resolution 24-074 deferring the installation of vegetation buffers

The remainder of the agenda items were tabled or sent back to the Planning Commission for consideration.

6. Adjournment

There being no further business, the meeting adjourned at 5:25 p.m.