



Meeting Minutes - Draft  
City Council

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Tuesday, June 11, 2024

1:00 PM

BIG ARTS - 900 Dunlop Road

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**Joint City Council - Planning Commission Workshop**

**1. CALL TO ORDER (Mayor Johnson)**

The workshop convened at 1:02 p.m.

**2. INVOCATION AND PLEDGE OF ALLEGIANCE (Vice Mayor Miller)**

Vice Mayor Miller gave the Invocation and led the Pledge of Allegiance.

**3. ROLL CALL**

**Present:** 11 - Mayor Richard Johnson, Vice Mayor Mike Miller, Councilmember Laura DeBruce, Councilmember John Henshaw, Councilmember Holly Smith, Roger Grogman, Eric Pfeifer, Ken Colter, Paul Nichols, Erika Steiner, and Lyman Welch

**Absent:** 1 - Kate Sergeant

**4. REVIEW**

Mayor Johnson spoke to the process for the workshop, noting a 5 p.m. stop. City Manager Dana Souza provided a brief background for the joint workshop, noting at the end of the workshop some items will be directed to Council and others to Planning Commission.

- a.** Amendments to the LDC that have been enacted to expedite Hurricane Ian recovery. (*McMichael - 10 minutes*)

\*Note: Attached Ordinances that are not related to Hurricane recovery have been redacted to avoid confusion.

Planning Director Paula McMichael summarized the enacted Land Development Code (LDC) amendments following hurricane Ian that were included in the agenda packet and advised two additional from 2022 that were not included.

Discussion ensued regarding the amendments with temporary deadlines and the possibility of looking to extend the end date (i.e. Ordinance 23-020). Ms. McMichael advised that was one of the items to be discussed later in the agenda.

- b.** Planning Commission's approved priorities, to date, that require LDC amendments. (*McMichael - 10 minutes*)

Planning Director McMichael spoke to the priorities as attached to the agenda. Deputy Planning Director Craig Chandler spoke to Sec. 126-937 being considered redundant and necessary for review.

Councilmember Henshaw inquired what the input data was for the priorities and how much public comment was provided. Mr. Chandler advised some were Staff recommendations and others were from experiences while working with applicants over the years.

Commissioner Steiner inquired what constitutes a complete application and if review could speed up the permitting process. Ms. McMichael advised it may, noting Staff has ability to waive items that would not be relevant to the permit application. Mr. Chandler spoke to that section being more housecleaning following the implementation of online permitting.

Councilmember Smith inquired as to why open body of water was being pushed to August, spoke to impermeable coverage having an impact, flat roofs being covered at LDC this morning, advised the need to clarify green building incentives, and inquired why Sec. 126-1023 Traffic Impacts was not higher in the list.

Councilmember DeBruce spoke to items that should move up in the priorities ranking such as incomplete applications and dealing with conditional use permits, traffic studies, and non-conforming uses. Ms. DeBruce suggested Sec. 126-1023 be made a top priority. City Manager Souza spoke to tying that section to the conditional use permits and complete applications sections for review. Mr. Souza further spoke to permits needing to be complete before submission, noting code language regarding traffic impacts.

Councilmember Smith inquired as to the definition of substantial improvement. Ms. McMichael spoke to the term being included in the vegetation standards, the trigger being substantial improvement of the structure (i.e., elevating home to comply with Flood Code is not a substantial improvement). Mr. Chandler responded that substantial improvement for vegetation standards was initially based on project cost (greater than 50% of project), which became difficult to monitor. Discussion ensued regarding compliance with flood regulations did not fall in the substantial improvement category.

Commissioner Pfeifer inquired as to the goal of the workshop and if additional items needed to be included in the priorities. Mr. Pfeifer spoke to looking forward to hearing from the public.

Vice Mayor Miller inquired about the processing times for development permits. Mr. Chandler responded that for the Building Department was operating on 5 days for Building reviews, with 7 days for Planning reviews. There were no Public comments from the audience.

Councilmember Henshaw inquired if there were another mechanism to use for getting input related to the Planning Commission priorities. Mayor Johnson inquired if a survey could be implemented. Mr. Souza responded that a survey could be developed, though some specific issues could be addressed today.

Commissioner Grogman proposed moving up permitting processes on the priority list. Attorney Agnew advised the agenda Item 8a was next steps, noting Item 4 was just a review while Item 5 gets into discussions.

## **5. DISCUSSION – JOINT WORKSHOP DESIRED OUTCOMES (McMichael - 30-45 minutes)**

- a. Discussion and Direction regarding agenda items 4 and 5, developed by staff (to be reviewed later in meeting)
- b. Recommendations from Planning Commission Members received prior to meeting (emails included in agenda packet):
  - i. General discussion of what outcomes are desired to aide property owners' recovery from Hurricane Ian, such as:
    - 1. Permitting Process Changes that require amendments to the LDC, such as temporarily making Change of Use a short form application (staff review) -vs- a long form application (Planning Commission review).
    - 2. Substantive Changes to the LDC, such as changing a conditional use in the General Commercial District to a permitted use.
- c. Address abandonment standards and timelines for nonconforming uses.
- d. Discussion of retail/food/services businesses needed on Sanibel to add to quality of life.

Attorney John Agnew spoke to the process for the remainder of the agenda. City Manager Souza noted the Commissioner comments were included in the agenda packet.

Commissioner Steiner summarized her comments as provided in the agenda packet. Councilmember Smith spoke to focusing on items that can be changed to improve processes. Mayor Johnson spoke to considering residents, businesses, and visitors while making updates to the code. Commissioner Nichols spoke to the lack of redevelopment happening following the hurricane and inquired why not many hearings were coming before the Commission. Councilmember DeBruce concurred with hearing applications were being held up by Staff and advised that items need to be moved to the Commission level.

## Public Comment:

- Miles Sweiss - Resident and Business Owner - spoke on his experience getting back into operation and the need for a plan to get businesses reinstated following the next disaster and what's the process for temporary relief.
- Jason Haliburton - Sanibel Resident - spoke to having experienced frustrations with the permitting process.
- Jeremy Campana - Paper Fig Owner - spoke to issues reopening following the storm due to regulations for vegetation buffer standards for commercial properties.

Commissioner Pfeifer stepped out of the meeting at 2:24 p.m. and returned at 2:26 p.m.

## Public Comment:

- Ben Dahlmann - 937 East Gulf Dr. - spoke to process concerns and what the purpose of the traffic study was in their situation.
- Matt Pierce - Island Business Owner - spoke to concerns with the complexity of the permitting processes and requirements.
- Chris Davison - Island Inn General Manager - spoke to concerns with the complex process, appreciate the topics that are being reviewed, and inquired if permitting fees for new construction could be reviewed.
- Joshua Stewart - Resident - concurred with a survey or town halls for public participation and recommended a permit tech to assist with the application process.
- Rich Roberts - works for Island Resident - concerns with changes to processes following the storm, now taking longer and more combative with Staff, and consider updates to Sec. 126-131.
- Dawn Ramsey - Resident and Business Owner - spoke to concerns with the time limits for non-conforming commercial uses.
- Jeff Muddell - 1475 Angel Dr. - concerns with build back regulations as plans have been considered an addition, not build back, requiring many additional submissions and fees.
- Ryan Benson - Commercial and Residential Owner - recommends allowing an application to go before Commission so Commission can request additional information as needed.

Commission Colter - speaking as a resident - inquired how to assist with getting multi unit residential buildings and condos re-opened, thanked the Staff for their hard work while being short staffed, looking forward to an updated public permitting portal.

Councilmember DeBruce spoke to working through specific areas such as changes to conditional uses, Sec. 126-131, and allowing more time for applicants to come back. Attorney Agnew spoke to the process for ordinances changes beginning at Commission and having two hearings at the Council level.

The meeting recessed at 3:05 p.m. and reconvened at 3:20 p.m.

## 6. COMMERCIAL DISTRICT CONSIDERATIONS

- a. Permitted land uses - implemented through Business Tax Receipt (BTR)
- b. Conditional uses - require approval from Planning Commission - common CUPs:
  - i. Restaurant
  - ii. Bike Rental
  - iii. Formula Retail
- c. Nonconforming uses - abandoned uses
- d. Change of use - Sec. 90-126 - increase in intensity of use - change in nonconforming use to different use - change when development standards differ (parking)

Councilmember DeBruce spoke about Sections 126-81 and 126-82, specifically inquiring if sub-paragraph 1 of Section 126-82 should be revised to eliminate the requirement for a traffic study. Commissioner Pfeifer advised that parking standards were discussed at the Land Development Code Review Subcommittee meeting this morning.

Commissioner Grogman inquired as to input from the Planning Department. Mr. Chandler spoke to discussions at the Commission level regarding parking standards. He further spoke to the difference between permitted and conditional uses. Discussion ensued regarding applicants agreeing to recommended conditions while in public hearing and that a conditional use runs with property and does not expire.

Discussion returned to traffic and parking studies, if the requirement for conditional uses for businesses that existed prior to the hurricane could be eliminated. Ms. McMichael spoke to the process and purpose for conditional uses. Discussion continued regarding the possibility of removing the traffic study requirement and what types of businesses would require a traffic study. Ms. McMichael spoke to the code language, noting that a traffic study was not required but could be recommended. City Manager Souza spoke to some businesses that could require a traffic study or survey and looking to clear up the language. Ms. McMichael spoke to the need for traffic analysis relating to traffic flow at intersections on the main streets.

Discussion ensued regarding amending the process to allow for more administrative (Staff level) approvals and reviews. Ms. McMichael advised that there could be an analysis provided in lieu of a traffic study by an engineer, noting long form applications would still go before Commission for a public hearing. Commissioner Welch spoke to following the process while providing an analysis for Commission review. Councilmember DeBruce spoke to

removing “shall not adversely affect the health, safety and welfare of the community or its goals and objectives; and shall be inherently beneficial to the community or reasonably necessary to its convenience” from 126-82(1) making it broader and adding clarification in a new 126-82(1)(a).

Vice Mayor Miller spoke to keeping conditional uses as a long-form permit and being reviewed by Commission, getting it through the process faster, and possibly reducing fees. Councilmember Smith spoke to being aware of unintended consequences. Commissioner Steiner spoke to items coming before Commission also allowing for public input and updating language may reduce unintended consequences.

Councilmember DeBruce summarized the consensus as:

- Look at eliminating the parking standards
- Staff to bring back revision of Section 126-82(1) so there is not an obligation for most conditional use permit applicants to prove development does not adversely affect compatibility with other uses or adversely affect the traffic flow to a greater extent than permitted uses
- If Staff would like to include a clause to retain the ability to require proof of parking requirements if needed

Discussion ensued regarding the topics going to Commission for consideration to follow State Statutes. Ms. McMichael spoke to the option for allowing approval of a temporary certificate of occupancy (CO) while getting approval for the conditional use permit. City Manager Souza spoke to having some samples from other municipalities.

Discussion ensued regarding concerns for unintended consequences with a temporary CO and how to process a conditional use in a more streamlined process. Councilmember Henshaw spoke to an undue pressure on the Commission by issuing a temporary CO. Discussion ensued regarding the Commission meeting every two weeks and there not being a long hold time for Commission review.

Discussion turned to the permitting process and requirements and timelines for legal advertisements of public hearings. Attorney Agnew spoke to updates to legal advertising requirements, noting that the County has not provided the required website for transitioning from advertising in papers as opposed to online.

Mayor Johnson inquired as to the use of an ombudsman. City Manager Souza responded that the need was there and considering a position or contract for an ombudsman. Councilmember DeBruce inquired if there could be an ad hoc committee type ombudsman. Mr. Souza replied that concepts were building and still need to be worked out with Staff.

Discussion ensued regarding the robust public input and there being three new staff members in the Planning Department who will be focusing on processing permits. Discussion turned to compliance with standards in getting businesses back operating and how to make a landlord become conforming, not at the tenant's responsibility.

City Manager Souza spoke to the possibility of extending deadlines. Ms. McMichael spoke to previous accommodations made to get commercial centers in compliance. Discussion ensued returned to installing a facilitator/ombudsman to guide the process in an expedited way. Attorney Agnew spoke to Ordinance 23-020 which extended the deadline from 12 to 24 months and could be extended to 36 or 48 months. Vice Mayor Miller spoke to the possibility of 1yr or a specific time following termination of the local state of emergency. Discussion ensued regarding how long the local state of emergency is expected to end and that the local state of emergency is an assist for funding requests.

Discussion ensued regarding providing extensions for non-compliant vegetation buffers prior to the storm and the need to allow for extensions in the current situation. Further discussion ensued regarding the continued need for the local state of emergency status. Attorney Agnew spoke to the difference between using a specified date or a time period. Discussion ensued regarding regulations under the Mayoral Proclamations and items that will be done via ordinance. Mr. Agnew noted this would be a change to Section 126-218 and noted the December date was chosen as 2-years from date permits resumed being issued following the hurricane.

## **7. STAFF RECOMMENDATIONS – AID BUSINESSES RECOVERY**

- a.** Temporarily waive some applications from going to Planning Commission:
  - i. Long form development permit to implement CUP - VAR
  - ii. Long form development permit per Sec. 82-421 (9) buildback in the Gulf Beach zone but reducing footprint within the Gulf Beach

Paula McMichael spoke to background for the request and summarized Staff recommendations. Discussion ensued regarding build-back approval clarifications.

- b.** Administratively approve waivers (landscaping & parking waivers).

Paula McMichael spoke to background for the request and summarized Staff recommendations. Discussion ensued regarding this being temporary, revisiting or sun-setting in 18-months, and will then go to Planning Commission for approval. Ms. McMichael spoke to the items that are being recommended for Staff Level/Administrative approval (Section 82-351).

- c. Administrative approval of change of use.

Paula McMichael spoke to background for the request and summarized staff recommendations, noting specifically Section 90-126.6(d).

- d. Allow for a temporary CO prior to CUP approval.

- e. Waive or reduce certain public hearing fees.

Ms. McMichael advised this would be reviewed and brought back.

- f. Sunset provisions.

Ms. McMichael advised that staff recommended 18-months for revisiting or sun-setting.

## 8. MEETING REVIEW AND NEXT STEPS

- a. Based on today's discussion, what changes to the Planning Commission's approved priorities are necessary?
  - i. What is the desired process for consideration?

City Manager Souza spoke to sending the priorities back to Commission for review and revision. The joint group concurred.

Discussion returned to extending the deadline for non-conforming uses to become conforming and if it were possible to not require a conditional use permit for existing businesses to return to operation. Attorney Agnew spoke to the approval process. Mayor Johnson inquired and Attorney Agnew advised that Mayor Johnson does not have a conflict of interest in this situation as no actions were being taken.

Discussion ensued regarding reconvening for a joint workshop in 3 months and scheduling at 6 p.m. for public participation. City Manager Souza spoke to the upcoming town-hall which will be hosted by the Planning Department and requesting some flexibility in scheduling as we are in budget season as well.

## 9. ADJOURNMENT

There being no further business, the meeting adjourned at 5:16 p.m.