

MINUTES OF THE COLLIER COUNTY
DEVELOPMENT SERVICES ADVISORY COMMITTEE MEETING

Naples, Florida, April 5, 2023

LET IT BE REMEMBERED, the Collier County Development Services Advisory Committee, in and for the County of Collier, having conducted business herein, met on this date at 3 P.M. in REGULAR SESSION at the Collier County Growth Management Department Building, Conference Room #609/610, 2800 Horseshoe Drive North, Naples, Florida, with the following members present:

Chairman: William J. Varian
Vice Chairman: Blair Foley
David Dunnavant
James E. Boughton
Clay Brooker
Chris Mitchell (excused)
Robert Mulhere
Mario Valle
Norman Gentry
Marco Espinar
Laura Spurgeon-DeJohn
Jeremy Sterk
Jeff Curl
John English
Mark McLean

ALSO PRESENT: Craig Brown, Development Review
Jeff LeTourneau, Supervisor, Code Enforcement
Jamie French, Department Head, GMD
Drew Cody, Senior Project Manager, Utilities Planning
Mike Stark, Director, Operations & Regulation Management
Mike Bosi, Director, Zoning Division
Diane Lynch, Management Analyst 1/Staff Liaison GMD
Julie Chardon, Ops Support Specialist II, GMD

Any persons in need of the verbatim record of the meeting may request a copy of the audio recording from the Collier County Growth Management Department.

1. Call to Order - Chairman

Chairman Varian called the meeting to order at 3 p.m. A quorum consisting of 11 members was convened; three arrived later.

2. Approval of Agenda

Vice Chairman Foley moved to approve the agenda. It was seconded by Mr. Curl. The motion passed unanimously, 11-0.

3. Approval of Minutes

a. DSAC Meeting – February 1, 2023

Mr. McLean made a motion to approve the March 1, 2023, DSAC meeting minutes. It was seconded by Mr. Mulhere. The motion passed unanimously, 11-0.

b. DSAC-LDR Meeting – September 21, 2022

Mr. Curl made a motion to approve the September 21, 2022, DSAC-LDR Subcommittee meeting minutes. It was seconded by Vice Chairman Foley. The motion passed unanimously, 4-0; Mr. Mulhere abstained because he was excused from that meeting.

4. Public Speakers

(None)

5. Staff Announcements/Updates

a. Development Review Division – [Craig Brown, Supervisor]

Mr. Brown said there was nothing new to report and asked if there were questions.

[There were no questions.]

b. Code Enforcement Division – [Jeff LeTourneau, Supervisor]

Mr. LeTourneau submitted monthly statistics from February 22-March 21 and reported that:

- We're getting a new director starting Monday, (Tom Iandimarino), and Mike Ossorio will be moving to the Parks & Rec division.
- There's been an uptick in code cases over the last month, mainly due to our staffing, which is getting close to full capacity.
- We just had three trainees go out in the field and we have three more people coming in and we'll be at full staff once they're trained.
- There's been a big uptick in illegal RVs in the Estates being used as rental units. We're going to start taking a hard look at those proactively. We've been getting a lot of complaints.

Mr. Curl asked how they could be proactive if most are hidden from view.

Mr. LeTourneau said they need to rely on neighbors, but they can see some from a legal vantage point from the road. It's not provable from the road unless we can stake it out and see people pulling in at night and parking there, going in with their lights on at night, utilities hooked up, etc. But we often need to get onto the property or a neighbor's property to verify that it's a violation.

[Mr. Gentry and Mr. Valle joined the meeting at 3:07 p.m.]

Mr. Curl noted that there's a lot of sign clutter starting to creep up, illegal signs for XYZ with no permit number at the bottom. Will you address that, too? He's seen that from the road.

Mr. LeTourneau asked if he's talking about rights-of-way or signs on people's properties.

Mr. Curl said Joe Blow's XYZ business is there and there is no permit number at the bottom of the sign, so you know it's not a legal sign.

Mr. LeTourneau said he'd mention that to the new director so they could start proactively approaching that. Two men work on weekends pulling signs out of rights-of-way, but they're not code investigators. They focus on garage sale signs.

Mr. Curl said he was talking about advertisement signs, not garage sale signs.

Mr. LeTourneau said he'd tell the new director about that.

c. Public Utilities Department [Drew Cody, Senior Project Manager, Utilities Planning]

Mr. Cody reported that:

- Last month, he reported that we were having problems in the deviation system. We reached out to the vendor to get them fixed. This month, you don't have a deviation chart because we engaged with the vendor and the whole system got much worse. After 2½ hours of trying to put a chart together for DSAC, it didn't make sense, so he wanted to report that to you.
- We've got the deviations moving and are having an internal meeting about it.
- The regular reports are in the packet.
- We're still cataloguing utility standards and are expecting to meet with Matt in the next two weeks to look for some prioritization.
- We're still soliciting feedback for issues you want us to review in our standards.

Mr. Mulhere said these are deviations from the standard utility design requirements and are probably fairly typical deviations. You probably don't get many wild, off-the-wall deviations.

Mr. Cody said that was correct. A lot of what we see involves minutiae that tells us this one runs under or near another structure so we need to evaluate this one differently so we're meeting tomorrow.

Mr. Mulhere said there are some unique things, but there may be some that may no longer be deviations once you look at the standards.

Mr. Cody said we're trying to catalogue those because he has to fight a system that's collapsing to enter each one. He has to type in everything that already was submitted on forms again, so he's excited about the idea of that not having that be a deviation.

d. GMD Transportation Engineering Division

(None)

e. Collier County Fire Review

None

f. North Collier Fire Review [Daniel Zunzunegui, Deputy Director]

Mr. Zunzunegui detailed his March report:

- We have a roughly five-day turnaround time for building review and four days for planning.
- We conducted 629 reviews, with 583 building and 46 planning-development review related.
- Only 20 came in for a third review (a second correction), so that shows our team continues to communicate code issues and provide solid code paths to work across the table to get permits issued.
- He hopes the DSAC finds us approachable, that we pick up the phone, answer emails and we're collaborating.
- We have 200 active permits in the queue distributed through the team and they're working hard to get them out in a timely fashion.
- Two new members joined, so he'll bring them to the next meeting to introduce them.

Mr. Mulhere said that looking at the stats, after zero plats pages recorded for two months, this month there were six, a record.

Chairman Varian said he also noticed that.

g. Operations & Regulatory Management Division – [Michael Stark, Director]

Mr. Stark discussed the March statistics and reported that:

- He's learning every day while working with staff.
- Some of the responsibilities for our division include overseeing the business center, which includes permit intake, as well as client services, the call center, finance and budget, cashiering, contractor licensing, records management, quality control, training and technology, which includes hardware and software applications, as well as GIS addressing and dedicated operation support staff.
- We try to exceed expectations every day. We maintain active hours at several business centers, including Horseshoe Drive North, Orange Blossom, Heritage Bay, Immokalee and Everglades City, to ensure customers receive prompt services.
- Those locations welcomed 205 customers, with 115 in Immokalee alone.
- The call center received 6,500 calls to the main 252 number, with only 187 calls dropped. We're a one-stop shop.
- Page 2 shows the numbers for permits applied for by month. The department received 4,861 permits through the CityView system, with a running annual total of 24,288 permit applications.
- 655 permits were related to Hurricane Ian.
- 217 permits are currently in routing as of April 3.
- The zoning front desk has 142 spot surveys, with 76 CO holds.
- Staff continues to coordinate with Building Review, Contractor Licensing, FEMA and the CityView team regarding post-hurricane recovery permitting and our temporary trailers.
- Staff processed 26 short-term vacation rentals, with 79 for the year. That doesn't include the Code Enforcement count for trailers in backyards.
- Over the past three weeks, under Jason Badge, staff have been testing the CityView software application. His team and other team members have dedicated Saturdays to ensure the software application updates remain functional and exceed expectations.
- Julie Chardon, who is here today, is new to our team and we want to welcome her on board. If there's anything you need for the board meeting, scheduling and any other services, reach out to Julie.
- We have 30 open positions within the department, with the majority due to internal promotions, so we've had opportunities to fill positions from within. That's one of our main goals.
- We worked diligently to address open positions in coordination with HR and are still working to ensure they're filled as quickly and efficiently as possible, while also looking at opportunities to fill those positions through industries in Collier County and the local school system.

Chairman Varian noted that inspections were at 27,000 and asked if there was a lot of overtime involved. **Mr. Stark** said they did some analysis on that. For those inspections, there was no Code Enforcement. We did the majority of that analysis first. There is still available overtime and there was an overtime cost associated.

Chairman Varian asked if it was just in-house now.

Mr. Stark said they're looking at that.

Chairman Varian mentioned that on page 7 of the reports, the front zoning counter permits applied for. Can those be done online? Do they have to be done at the counter? It looks like you have temporary-use permits and commercial certificates. Can those be done online?

Mr. Stark said he'd get him that answer.

h. Zoning Division – [Mike Bosi, Director]

Mr. Bosi detailed the March report and noted that:

- We'd been running a deficit within the zoning staff of three vacancies. We were able to fill one with an outside candidate, so we now have two. Hopefully, the labor market will loosen a bit.
- At the last Board of County Commissioners meeting, they approved four of the last of the 2017 Collier Housing Plan amendments, density and Activity Centers, density along transit lines, conversion of commercial zoning to residential when affordable housing is provided for and strategic opportunity sites, allowing for high-density residential when you have high economic opportunities.
- We provided the BCC with an update of the recently signed Live Local Act, Senate Bill 102. It allows for any properties – mixed-use, commercial or industrial – to be developed at the highest residential density allowed within the county. Thanks to Mr. Mulhere, that's 92 units an acre. If you're providing affordable housing, the minimum requirement would be 40% of units dedicated to 120% of AMI, which is roughly 10% below market rate. No public hearings would be required. You're also entitled to the tallest height within a mile from your project location, so if it's within a mile of the Mini Triangle, that's 162.5 feet.
- All commercial properties along Davis Boulevard will have opportunities and that height will change the complexion. The county will be prohibited from requiring a rezone process because developers will be entitled to it. How it fits on the site falls upon the architect, all the components of landscape, buffering and water management, all the components within the height that you're allowed within that mile area with the densities that you're allowed.
- It becomes an SDP exercise. That's what would be required. You're entitled to the density. What you have to satisfy is everything else associated with an SDP. You're going to see more recognition of that.
- Commissioner McDaniel was hesitant about allowing the conversion of commercial for C4 and C5 properties. The BCC removed that from the conversion process due to concern from neighbors and staff.
- C4 and C5 industrial properties are valuable commodities within the economic development activity of Collier County. We need those and they're scarce. We know urbanized industrial properties are always under pressure and now they've got additional pressure from affordable housing. There's density allocated to it that's lucrative in terms of the number of units that you can provide for. Or if you've got a tall structure, you're going to be able to fit a good number of those units within those areas, so there may be further pressure on those commercial properties and specifically industrial properties that will be a concern if many developers take advantage of the Live Local Act.
- On April 11, the BCC will be looking at the administrative code. It's on the consent agenda. He doesn't expect it to move, but at the last BCC meeting, there was a Bert Harris settlement discussion related to the Links of Naples, which is on the East Trail past SR 951, no night golfing. It's ag-zoned, a conditional-use in a conditional-use. If it's discontinued for more than nine months, our code says it's out, gone, no longer valid.
- The way the golf course conversion is written, it includes that in part of the golf course conversion. They would have to satisfy the intent to convert process, which has a demand for a 100-foot buffer. There is language that says the BCC can approve alternative standards. They could modify that, but the strict reading allowed the Links of Naples in April to initiate Bert Harris claims because of that additional taking, or the claim of taking, whether it's the 100-foot buffer that wouldn't be required for any other residential development that would be moving forward.
- The BCC rejected that settlement agreement and decided to fight this because one of the things associated with the Links of Naples is that it's in the Rural Fringe Mixed-Use District Receiving Area. The most they could get is one unit per acre and they would have to use TDRs. The settlement the County Attorney's Office arrived upon was three units per acre, so they've decided to fight that in court.

- The other aspect that it led to is that on April 11, the Board of County Commissioners will evaluate whether they want to maintain the intent to convert process for golf course conversions or if they want to get rid of the entire process. After the two golf course conversions we had, outside of the Golden Gate Golf Course, which we bought, they found that the majority of the golf course transitions weren't that contentious. But the Riviera and the Ironwood Golf Course have led to both parties entrenching themselves, with no real communication, give and take, discovery or improvement. It takes up a year of resources, time and public meetings and the outcomes haven't been favorable and haven't led to agreements or compromises. This will impact how we move forward with golf course conversions in the future.
- One perspective is to have them go through a straight rezone process and if they want to be entrenched, they want to be entrenched, but it's not going to allow for an early application of a Bert Harris claim because you don't know what the requirements are going to be in terms of the additional buffering or additional space that the BCC may impose upon that development without the code demanding a 100-foot buffer.
- For land-use petitions public hearings, we have four on April 11, five on April 25, one on May 9, five on May 23, eight on June 13 and five on June 27, so the Board of County Commissioners is loaded. Not all will be summary agendas.
- We've have some on Thursday before the Planning Commission. We have a GMP and a rezoning for The Carlisle Naples, including about 336 additional apartment units. Residents along Orange Blossom Road are up in arms. It's going to be controversial.
- We have a couple of self-storage facilities that we anticipate will have some baggage, so the BCC will be having some long meetings. Land-use will weigh them down.
- They may get a little lighter. Over the past three to four months, the request for pre-application meetings for entitlements has slowed down, which could be due to a slight pullback in terms of the entitlements needed. A ton are going through now. It's unknown how that will affect the next six to 12 months, but we have a heavy load for the next three months.
- As you know, the BCC won't be taking a summer break. They don't want anything controversial over the summer, but they want to have meetings. We're going to try to balance controversial items with opposition to get through it.

Mr. Brooker asked if he was aware of Senate Bill 250, which is working its way through the legislature now. The bill will hold that from September 2022, after Hurricane Ian hit, no local government can adopt a more restrictive land-use regulation until the end of October 2024, and any bill, regulation or law that was adopted since that time would be void. It's in its third reading in the legislature. The City of Naples is keenly aware of it. Has Collier County adopted anything more restrictive since Hurricane Ian?

Mr. Bosi said he hasn't been watching that bill, but he should be. He's not sure Collier County has adopted new land-development code regulations that could be construed as more restrictive, which could be deemed null and void. He'll have to check with the County Attorney's Office. If so, we don't get to debate it. We're obligated to follow what the state says.

[Ms. DeJohn joined the meeting at 3:31 p.m.]

A discussion ensued and the following points were made:

- The definition is more burdensome and more restrictive.
- If passed, the law would sunset in October 2024.
- It would affect new land-use codes that are more restrictive or more burdensome.
- The easier thing to do is to not adopt anything more burdensome or restrictive.
- The county wasn't aware of this last fall, so whatever was adopted, we'll have to review it.
- The rationale behind the bill is to allow people to get back on their feet after Hurricane Ian destroyed their livelihoods.

Mr. French provided an update about the AHAC resolution and DSAC ordinance:

- He has to change the ordinance to allow a non-voting member of AHAC on the committee.
- He noted that AHAC Vice Chair Jennifer Faron was in the audience and offered to send a notification to DSAC members about AHAC meetings, if they want to attend.
- He has to advertise the ordinance and received permission to do that.
- We got a 4-1 BCC vote to access the \$20 million in surtax dollars toward affordable housing. We still have to take it to the Surtax Subcommittee because the referendum requires their approval. Then we can begin to solicit and consider properties for the BCC to expend funds on, whether it's a deal with a developer, vacant land or somebody who wants to sell land.
- There is criteria that says high-risk high coastal areas will be eliminated. There's also an adopted scoring criteria that staff would make recommendations on that's similar to the Conservation Collier process.
- We're working on some other affordable-housing initiatives. We're working with Laura (DeJohn) on one and just met former DEO Secretary Dane Eagle, who now has a private consulting firm in Tallahassee. He's working with Verizon as a go-between. We're looking at that land development code involving cell towers and marinas.
- There's a lot of work we're still processing. There were more plats recorded, but not a lot of density to them. They're pretty simple.

6. New Business

Mr. Dunnivant requested that an item be put on New Business for next month's agenda:

- A local businessman was trying to open a project to turn it over to a tenant. He had as many contacts as DSAC members do in the county. By the time they went through everyone to open in a timely manner, it caused anxiety and frustration over some county requirements for private assets of utility and sites.
- He's asked about the release of lien requirements, inventory of assets or the items being incorporated into the systems. They're not their systems. It stops at the county backflow. It's all private and the test of doing that within the 45-day time frame for bacterial testing on lines being put into service in the county becomes onerous. If you miss the 45-day window, it takes 1½ to two weeks and now you're dealing with those issues.
- What's the history of the 45-day requirement? It was 30 days in Collier County. It was increased to 45 days in Florida, and 60 days for the FDEP. After we get our engineers, we have to get the lines signed off, they submit to the county for signature and then it goes to Fort Myers for DEP to sign off. Why are we at 45 days and Florida is 60?

[Mr. Valle left the meeting at 3:36 p.m.]

- He hears there's been talk in the past about this. Matt put together a phone call yesterday with (Assistant County Attorney) Derek Perry and (county engineer) Jack McKenna and he asked if there were legitimate reasons for that. He wanted to know who the county is protecting. Why is the county involved in payment of contractors when they have contract law and construction lien laws that can encumber our real property once you come onto the private property? Please verify that the systems are constructed properly and we'll go through all the inspections.
- Some of the closeout paperwork is meddlesome, intrusive, and terribly difficult within a 45-day period. It would be better at 60 days. He doesn't understand why the county does this and who it's protecting. These are private items that have been inspected by the county for proper installation.

[Mr. Valle rejoined the meeting at 3:38 p.m.]

Vice Chairman Foley said he appreciated that point and told the DSAC:

- We, as a subcommittee, and the Utility Subcommittee worked with staff five to seven years ago and took it from a double process of preliminary and final to a single process and that's now in place.
- There has been some history where we can work on this. It's a good idea to bring up, but you're in deep on it so your knowledge would be helpful to come to the table with me, John, Matt and his group and maybe Development Services as well. They're willing to listen and look at these applications because this process is like other municipalities. It's a little different. Some are more onerous and some are less.
- We should sit down and come up with ideas and answers about why these documents are needed. If they're written into an ordinance, maybe that could be modified.

Mr. French thanked him for bringing it to his attention and told the DSAC:

- He hasn't had the opportunity to speak with him yet about this.
- He noted this was a giant effort to get this down to a single phase.
- He'd be happy to bring the project back to discuss because he also has questions.
- We can lay the project out on the table. This is Ace Hardware's project.
- He spoke to Mike Wynn often about this project, as well as Baron Collier, PBS and Heatherwood. He's spoken to all the contractors and so has staff.
- The question is when you connect to a public utility, what happens if you default and the county has to take over? Those are the conversations we need to have with Public Utilities and Matt needs to spearhead that effort.
- We deal with this too, but we don't write policy. We review for consistency. This should have been a Public Utilities discussion on policy. He agrees with Dave. He's sorry he wasn't on the call but didn't know about it.

Mr. Dunnivant asked: How does a private developer default on a system that you've signed off on and accepted?

Mr. French responded:

- You're hooked to a county utility, so the county lays out the terms and conditions if you want them to provide service. It's no different from the way it's done in Ave Maria. They own the utility and as a regulatory body, they review for that when setting up your franchise.
- You set those rules as a utility and those rules may have been in place from a former administration. Whether or not they need to be dynamic or static, it's a good question. As we've advanced, whether there's bonding involved, warranties involved, etc., but in this case, the developer/landowner owns everything on the site.
- You're saying, "What does it matter if I've got encumbrances, or I've taken out a loan on this utility?" If I default on that, the community or development falls into disarray and the county must go in and take it over.
- Those are the questions he has. That's his understanding of why that was written.
- This is probably not the time to have this discussion. Staff needs to be at the table.

A discussion ensued and the following points were made:

- Some of those standards don't make sense in the development world.
- If a private developer defaults, the county shuts it off at the property line and that becomes their issue and it's no longer part of your system. The county has that control.
- What if there are other businesses there?
- What a default is needs to be discussed.
- This also affects parking lots. We have to get a release of a lien for the amount of asphalt and curbing we do in a private SDP. Why?
- Saying this is how it's historically been done is not an answer. Why has it been done this way?

- This can be put on the DSAC agenda for next month.
- This is a very specific project. Maybe a committee should be set up to discuss this. No one is opposed to modifying it. It's onerous.
- This has been occurring since at least 1995.
- There's room for a discussion to see both sides and improve it.
- Look at what other municipalities do. It's not the same. Some subcontractors refuse to work in Collier County. This is a long, cumbersome process. It's inefficient.
- We haven't had one commercial development that hasn't required a TCO to complete the turnovers.
- The way the process works is unreasonable.
- The issue is the way the way the process works and what it takes to get a full CO. We can debate what it protects and what it provides the public.
- Most contractors fail on the first submission because they're missing documentation.
- It doesn't matter what the project is, it's the process that needs to be changed.
- We need to determine the rationale for 45 days versus 60 for the DEP. Why are we reinterpreting code?
- A lot of these rules date back to the 1980s. We need someone at the table with institutional knowledge. Craig is the longest member on this team and wants to work to fix these things. He asked for Mr. French's input and support.
- We need to find where this occurred originally in the ordinance and why. A lot of the records are in a box in a warehouse.
- They are included in the current code by reference. What is the cross-reference and what are the constraining documents? They're adopted by ordinance and the ordinance adopts the Utility Standards Manual by reference.
- A university conducted a study that said bacteriological tests were good for 45 days, although the state DEP only recognizes them as valid for 60 days.
- We do all the plan review for consistency. The reason why we took it over from Public Utilities is predominantly because of the timelines we started to demand after the recession.

A discussion ensued about exotics and the following points were made:

- The DSAC will be looking at exotics again. There are over 9,000 lots still plotted in the Estates. We're starting to see a high amount of development and code cases about exotics. It's creating an issue so we're reviewing how the Water Management District handles it because they allow up to 5% to remain exotic for lot clearing. Jaime Cook is working on that and we're doing our best to try to mirror state efforts, even on clearing wetland areas.
- Exotics turn into kindling during fire season.
- They're just trying to create fire breaks and clear their property, but then a neighbor calls Code Enforcement about illegal clearing, an excessive amount of clearing, because there's a certain amount of native habitat that needs to remain. Sometimes it's wetlands.

The DSAC discussed upcoming meetings and made the following points:

- Mike Ossorio will stay through June to help with the transition to Tom Iandimarino, who worked in the parks system for 25 years. We can introduce Tom to the DSAC next month.
- Chris Mason, the new director of Community Planning & Resiliency, is looking to adopt the new flood elevation maps. We'll have him speak to the DSAC.
- The DSAC-LDC will meet at 2 p.m. April 18. They need to determine if they have a quorum. You must abstain if you have a current project in that area and the vote would benefit you or your client.

A discussion ensued over the new bill about instituting more restrictive regulations and the following points were made:

- It will curtail further LDC amendments if they're more restrictive.
- The intent of the bill was to stop Fort Myers Beach from regulating developers from being able to rebuild anything and it was expanded.
- It's not going after the LDC changes we do here, but it will get sucked in.
- The bill targets specific locales where post-hurricane rebuilding is going on, Captiva, Sanibel, Fort Myers Beach and the City of Naples.
- You can amend codes to allow good things that are less restrictive but must take out anything that's more restrictive.

7. Old Business

None

8. Committee Member Comments

None

9. Adjourn

Future Meeting Dates:

May 3, 2023, 3 p.m.

June 7, 2023

Mr. Valle made a motion to adjourn. It was seconded by Mr. Boughton. The motion passed unanimously, 14-0.

There being no further business for the good of the County, the meeting was adjourned by the order of the chairman at 4:09 p.m.

COLLIER COUNTY DEVELOPMENT SERVICES ADVISORY COMMITTEE



William Varian, Chairman

These minutes were approved by the Committee/Chairman on 5/3/23, as presented (choose one) or as amended _____.