

MINUTES OF THE COLLIER COUNTY
DEVELOPMENT SERVICES ADVISORY COMMITTEE MEETING
Naples, Florida

November 1, 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 Community Growth Management Community 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
James E. Boughton (excused)
Clay Brooker
Jeff Curl
David Dunnivant
John English
Marco Espinar
Norman Gentry
Mark McLean (excused)
Chris Mitchell
Robert Mulhere
Laura Spurgeon-DeJohn
Jeremy Sterk
Mario Valle
Hannah Roberts (AHAC-non-voting)

ALSO PRESENT:

Jamie French, Department Head, GMCD
Jaime Cook, Director, Development Review
Thomas Iandimarino, Director, Code Enforcement
Drew Cody, Senior Project Manager, Utilities Planning
Cormac Giblin, Director, Housing Policy & Economic Development
Michael Sawyer, Project Manager II, Transportation Engineering
Michael Stark, Director, Operations & Regulatory Mgt. Division
Jason Badge, Supervisor of Project Management, Operations & Regulatory Mgt.
Doug Sposito, Deputy Building Official, GMCD
Michael Bosi, Director, Planning & Zoning, GMCD
Marissa Fewell, Planner III, GMCD
Eric Johnson, LDC Planning Manager, GMCD
Richard Henderlong, Planner III, GMCD
Diane Lynch, Management Analyst I/Staff Liaison GMCD
Julie Chardon, Ops Support Specialist II, GMCD

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

1. Call to Order – Chairman

Chairman Varian called the meeting to order at 3 p.m.

A quorum of 10 was present in the boardroom; two members joined later.

2. Approval of Agenda

Mr. Curl moved to approve the agenda. Vice Chair Foley seconded it. The motion passed unanimously, 10-0.

3. Approval of Minutes

a. DSAC Meeting – October 4, 2023

Vice Chair Foley made a motion to approve the October 4, 2023, DSAC meeting minutes. Mr. Curl seconded it. The motion passed unanimously, 10-0.

4. Public Speakers

(None)

5. Staff Announcements/Updates

a. Development Review Division – [Jaime Cook, Director]

Ms. Cook told the DSAC:

- We finished the interviews for Cormac Giblin’s replacement and are working through the HR process. We hope to have a new manager in place within the next month. Hopefully, at the December meeting, she’ll be able to introduce that person to the DSAC.
- We finished the interviews for the environmental manager position (Sarah Harrington’s former position) and it’s worked its way through the HR process so that one will soon be confirmed.

b. Code Enforcement Division – [Thomas Iandimarino, Director]

Mr. Iandimarino provided a September update:

- We had a slight steady decrease in cases that were opened, from 500 down to 490 for the last couple of months as you.
- If you look at the history, October and November tend to be a bit slower for cases that are being opened.
- The vast majority of cases are called in and we respond, so for the next couple of months, we will be more proactive getting out there and opening new cases. That’s the direction we’ve got going forward for the next couple of months.
- He’ll tell them in January how that’s going.

[Mr. Gentry joined the meeting at 3:03 p.m.]

Mr. Curl asked if the self-initiated checks will include Golden Gate Estates.

[Ms. DeJohn joined the meeting at 3:04 p.m.]

Mr. Iandimarino said countywide. We're not discriminating. Supervisors will be tasked with kicking it up and opening more cases. We have a policy that we're allowed to do whatever we can to go in and get it done.

[Mr. Dunnivant joined the meeting at 3:04 p.m.]

Mr. Curl said he's giving you a list that is easily seen.

Mr. Iandimarino said he's welcome to call in and identify properties and we will initiate all that you give us a call on. That's perfectly allowable.

Mr. Curl said when you're fighting traffic on Golden Gate Boulevard and trying to get somewhere, you don't really have time to sit there and figure out what the (address) is. Unfortunately, he can't tell him unless he's onsite.

c. Community Planning & Resiliency Division [Chris Mason, Director]

(No report)

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

Mr. Cody provided a September update:

- The chart is unexciting, which is great and shows work is going well.
- We no longer have a consultant helping us with FDEP permits. Those are in-house entirely.
- For any resubmissions, we're going to be forcing those on to the new templates and the new process, not the revision process. We're completely done with that older, more drawn-out review process on the FDEP permits.
- We're seeing an uptick in utility planning. A lot of emails are coming into individual employees. Going into the holidays, please make sure you're sending requests to the utility planning email box because a lot of us are going to be out for periods of time and you're going to get work delays unless it goes to the utility planning box.

e. Housing Policy & Economic Development [Cormac Giblin, Director]

Mr. Giblin said he had no updates but could answer questions.

Mr. Brooker asked if they were seeing many Live Local Act submissions.

Mr. Giblin said two to four are currently being evaluated.

f. GMD Transportation Engineering Division [Mike Sawyer, Project II]

Mr. Sawyer said the only new thing occurring now is the AUIR, which will be going to the Planning Commission for the first hearing tomorrow and to the BCC on December 12.

g. Collier County Fire Review [Michael Cruz, Captain]

Mr. Cruz detailed the October report:

- For future projects coming up in the next 12 months involve Tesla, which is building an 8,000-square-foot addition and some warehouse projects.
- Inspections are going smoothly.
- Reviews are taking two days.

- Planning review turnaround is about two days.
- There were 210 self-issued permits for (over-the-counter) fire-alarm system projects.
- There were 22 sprinkler permits.

h. North Collier Fire Review [Linda Naples, Senior Fire Plans Examiner]

Ms. Naples detailed the October report:

- 616 building permits were reviewed, with an average turnaround of four days.
- 52 planning reviews were done, with an average four-day turnaround.

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

Mr. Stark provided an update on the CityView software application testing feature enhancement, private provider administrative fees, and division upgrades:

- At the DSAC's request and under Jamie French's direction, our team, led by project manager Jason Badge, coordinated with the vendor to obtain a quote for a feature enhancement to CityView. The first quote was \$18,000 and we continued to move forward.
- We went back to our software vendor because there was a \$2,400 annual fee associated with that. We were able to coordinate with the vendor to remove that fee, lessening the overall cost.
- We're looking at separate variable costs associated with the texting feature from Verizon, T-Mobile, AT&T, etc. Every month is calculated by usage. For 12 months, it's \$1.15 per text, so the average cost is 0.00634 cents.
- For September, when there were 446 text messages, that amount would have cost \$180.38 annually. Historically, it would be between \$1,700 to \$2,700 annually for the 450,000 estimated texts.
- After discussion with our team and leadership, we're recommending capping text messages to three cellphone numbers, a primary and two secondary numbers. The justification stems from maintaining the fees at the current rates and the estimated time frame for the feature enhancements.
- It normally would take 90 days to look at this for a feature enhancement. Our goal for the scope of work, obtaining a purchase order authorizing the changes, and then the rollout and testing is May 2024.
- We're open to comments and feedback. Mr. Badge and Mr. French also can answer questions.
- Significant programming must go into the CityView application. Rather than a feature enhancement, this is an upgrade.
- The justification by removing the \$2,400 was because this would be a feature benefit for all other CityView customers.
- May is the completion date in a perfect world. We still must go back to the vendor and some programming must occur. If we can do this sooner, we will, but want to ensure it's tested properly.

During questions by the DSAC, the following points were made.

- 28,000 is the number based on this month's actual usage.
- Everyone won't be able to use the feature if it's limited to three cell phone numbers.

- Not all customers will add three numbers for texts. This is the worst-case scenario.
- Getting the feature finished sooner rather than later is best.
- The DSAC asked for a timeline and some level of accountability to show when each phase is completed.
- Sprint will be the first provider added through a purchase order.

Mr. Badge told the DSAC:

- This feature change requires a version update from our software vendor. It's not a service pack that's quick and easy to test. It's a whole new version that we must test. We're not just testing a feature, we're testing the software's entire functionality to ensure it's still working and not introducing new bugs into the system.
- That's why it's taking more time for development. They must do their own development of the version, add a feature and do their own QA/QC.
- Once we get it, we also must test all those features, which takes about a month, depending on the number of features. It could take 1-1½ months of testing.
- If we have to wait to fix bugs, it could take longer because they have to take it back to their programmers to fix the bugs. They rerun it through QA/QC, and then we get it back and validate it.
- That's why there's a longer timeline. It's an overall enhancement to the version of the software and requires a major version update versus just a service-pack software update.
- We want to make sure we're not breaking anything when we're deploying the updates and creating a worse experience for customers. We want to leave it in a better spot than it was before.

[No vote was needed and staff is proceeding with the upgrade.]

Mr. Stark introduced Doug Sposito, Deputy Building Official, and said he'd be involved with the next item.

Mr. Stark told the DSAC:

- On November 14, staff will make a recommendation to the Board of County Commissioners to implement changes to the Private Provider Administrative Fees.
- Per Florida Statute 553.791, Section 2B, local jurisdictions may only charge a reasonable administrative fee for licensed and private provider inspections that are calculated on the flat fee or percentage of construction cost based on the cost incurred by the personnel providing the services.
- To reflect these changes, per the statute, a \$40 administrative fee per identified inspection will be implemented in the fee schedule, which is our resolution for November 14.
- The Private Provider Administrative Fee is a reduction from the \$45 fee that was collected for the building inspection fee, which is an 11% reduction.
- The fee reduction will be applied to the building trade provider, only the Private Provider Administrative Fee.
- The new administrative fee is based on reductions in operating costs from field activities compared with increased office activities for tracking project progress, software enhancements, overall document processing and document storage.

Chairman Varian asked if there were any questions, noting that it's self-explanatory, state law and you making it work.

Mr. Stark detailed the October monthly report:

- There were 3,966 permit applications through the CityView software portal. Compared with October FY23, it's a 6.9% increase, 273 permit applications.
- 386 permit applications were related to Hurricane Ian.
- The Business Center intake team assisted 1,189 walk-in customers.
- The satellite locations handled 121 walk-in customers.
- The Call Center received 5,800 calls to the main number, with an average call lasting under three minutes.
- There were 272 permits and 265 spot surveys, of which 157 are CO-holds.
- 36 pre-application meetings were scheduled.
- We have 320 full-time employees and 27 positions in the hiring pipeline.

Chairman Varian said about a year ago, you suspended submittals on Sundays and holidays because you were falling way behind. When can you start that again? We all agreed that had to be done due to the hurricane but can it start again?

Mr. French told the DSAC:

- Legislation is currently tracking and if it passes, it requires three to five days to turn around all applications and I think we will see critical failure throughout Florida if we allowed that again.
- Some communities went back to an 8-5 p.m. schedule, got rid of all fees and paid for this through taxpayer dollars, not industry clients.
- We don't believe, especially when you look at something as complicated as Great Wolf Lodge or the Ritz-Carlton, there's no way any of you could have provided a cursory review within three days.
- Single-family homes are easier, but when you get into the complicated nature of some structures, plus topography, planning and zoning considerations within setbacks and certain criteria, we're monitoring that.
- Based on the way the board has looked at their budget, we have captured as many efficiencies as possible, but as costs go up, our costs also go up. We've held strong on not raising fees and have reduced fees. We're the only one in the county and state that has reduced fees unless others eliminated programs.
- To bring that back now, we'd be happy to look at it, but it will require more staff, different working hours and more money.
- If that's what this industry wants, he will need the DSAC's help to speak to commissioners and management about an increase in operating costs.

Chairman Varian thanked him and said he just wanted to ask.

Mr. Mulhere asked how many satellite offices there were and how many worked out of Everglades City and Copeland.

Mr. Stark said there are satellite offices in Everglades City, Heritage Bay, Immokalee, and Orange Tree. Staff are in Everglades City and Copeland about three times a week.

Mr. French answered questions and the following points were made:

- If you submitted Friday after 5 p.m., all permits that come in on the weekend would be considered a Monday submittal and staff won't get to Tuesday submittals for three or four days. That adds up and we spent about \$2.5 million on overtime.
- Would it make sense to increase intake staff? No, we're staffed accordingly, but our costs have gone up and we've been losing employees to the City of Naples, Lee County, other government agencies and private providers, so there was a push from the industry and the agency to retain staff.
- About 40% of staff still commute from Lee County, so we offer building inspectors a take-home vehicle option, which increases productivity. The overall cost is around \$70,000 yearly and an inspector is still over \$200,000 a year.
- When you look at intake, it's the availability of staff. After you train them, they get recruited away. We had an average of a 12-13% increase in starting salaries just to be competitive with other government agencies. We're not even competing with the industry.
- We still have vacancies that are two to three years out for building inspectors. The staff aren't available.
- The reason we're hiring our own HR manager and HR staff is to offer some corrections so we can be in better control, but the volume stacks up.
- If we don't have staff to review plans, the only way we can manage is to run it like an online service, with employees working on plan reviews out of Everglades City, Orange Blossom, Heritage Bay and Immokalee.
- We've maximized technology so we don't have an employee sitting idle. We just need a physical presence on the retail side and that increases productivity.
- If they can work in satellite offices, we don't need to shrink cubicles here.
- More staff equates to higher fees.
- Applications submitted over the weekend will push work back.
- The queue is about two days. We're getting behind on spot surveys because the same people who deal with satellite office customers answer planning questions and review spot surveys because they don't need a license.
- If we pull a licensed plans reviewer or an engineer for that, it takes them off more complicated work that may set your project back in other areas.
- Digital is where the efficiencies are.
- With the new legislation, we expect more rejections, especially with glass and glazing. We'll see more failed in the field because they're not going to be licensed in Collier. We're going to have a lot more infiltration of what we consider an unlicensed contractor from other areas. That will change our work.
- We're going to have a lot more corrections in the field. Doug Sposito and Fred Clum may not be as available by phone because they're in the field.
- If you're looking at the DSAC reports, we're down in costs and commodities are starting to balance out.
- If this market doesn't pick up again, we won't even be purchasing replacement vehicles because we're concerned about the economy.

- We need to ensure we've got staff to fulfill the obligation that we've made to the industry. We've collected the money, so we owe you the work within a reasonable time. We don't want the level of service to drop. We'd like to improve it, but now may not be the right time.

A discussion ensued and the following points were made:

- Intake usually takes two to three days.
- There's often missing documentation and that slows the process.
- Collier County is one of the fastest in processing in the state and the country, according to the Plante Moran study, which cost the county \$330,000. Collier was compared to Las Vegas because it put a lot of money into its system, but the study said we had a number of efficiencies and they learned something. They also identified areas for opportunity.
- It sounds like there are no efficiencies that can be improved. It's a staffing issue, which is a cost.
- It also could be the quality of staff, so we're struggling with that.

Mr. Stark told the DSAC:

- We are now sustainable with our workforce and the training program.
- If you go past employees' desks, you're going to see reports up and they're monitoring them regularly throughout the day to ensure the numbers are coming down.
- If there are different efficiencies that we can capture from that, a lot of conversation and information sharing goes on. It takes an army to do this.
- A lot of information must flow through different areas depending on the type of permit application and what we're trying to accomplish.

j. Zoning Division – [Mike Bosi, Director]

Mr. Bosi told the DSAC:

- The industry continues to have an insatiable appetite for entitlement to new development through pre-app requests.
- The Board of County Commissioners' public hearing schedule has 22 items between November 14 and February 13.
- For the Planning Commission, 14 items will be heard between November and the first December meeting, so we continue to have a strong workload.
- For the first time since he returned 2½ years ago, zoning is fully staffed. He had to take a couple of employees from the front-counter zoning desk to get to that point.
- The AUIR will go to the Planning Commission in November or December 12. There's a big hole in AUIR in terms of unfunded needs. We're close to \$600-\$650 million over the next five years. Identified projects are needed to maintain a level of service, but funds aren't available.
- There will be a need to identify alternative revenue sources or rearrangements within the fiscal structure to address all those needs moving into the future.
- We receive yearly population projections from the University of Florida Bureau of Business Research and have had a steady decline. This is the lowest we've had in

the 15 years he's been doing the AUIR. Our pace of growth is slowing. He believes it has a lot to do with housing affordability.

- We were at about a 1.1% annual growth rate. Three years ago, it was around 1.9 or 1.95, so we're seeing less population move here over the five-year period. That helps with the lack of funding and lack of funding sources within our capital improvement programming.
- Everyone expects us to grow more, but our pace continues to slow. The population is over 400,000, a large number, so to get a percentage, the whole number must rise. Our percentage has been going down since about 2018.
- The Board of County Commissioners on November 14 will also hear the final four affordable housing initiatives, the last from the 2017 Community Housing Plan that ULI conducted for us.
- Every month or two months, we will have a project with a significant 20-35% of affordable housing proposed, so the industry is responding to the need and the number of units we've set aside since 2019.
- Over 3,000 units have been set aside as income-restricted so we're doing an adequate job of trying to keep pace. When you have such a deficit, if we're not approving 1,000 units, we're falling behind.
- We just finished three Public Information Meetings about affordable housing in the Urban Estates. The board asked us to talk to the Urban Estates community to see if they'd be interested in a program of renting guest houses. Currently there's a restriction on renting guest houses for commercial benefit.
- The meetings were lukewarm in terms of response. We sent out 3,558 postcards to all the Urban Estates zoned lots and didn't get the turnout we hoped for, but early returns show a favorable appetite for renting out guest houses short- or long term.
- The state has tied our hands with short-term rentals. If guest houses become rentals, you could have a guest house that's a short-term rental next door.
- The majority of residents are interested in the program.
- We plan to go to the AHAC in December to provide them with our findings, and then will go to the BCC in February.
- Not many were in favor of renting out guest houses if it's only for income-restricted units. He told the AHAC early on about that and the AHAC recognized that even if it's not targeted toward income-restricted tenants, allowing guest house rentals helps with the supply and demand imbalance.
- We're putting together our findings. Surveys for Urban Estates residents will still be available on our website for three weeks.
- We hope to get positive direction from the Board of County Commissioners to start a program.

A discussion ensued and the following points were made:

- These are for residential, not commercial use. Collier has a restrictive LDC home-occupation standard, while state statutes are more permissive.
- Many people at the Public Information Meetings said they knew of residents renting out their guest houses, but they'd like to open it up to legitimize it.
- This committee should review Growth Management Plan Amendments before they go to the BBC because once they're adopted, it's meaningless.

- For land-use petitions that go to the CCPC and then the BCC, it might be worth looking at converting that to the HEX, the hearing examiner, rather than a public hearing. Because the BCC doesn't hear anything controversial over the summer, the delay becomes burdensome on private property owners and developers.
- Mr. Bosi understood, but it requires an amendment to do that. A hearing examiner's powers are limited.
- We have a backlog because the BCC doesn't hear controversial items in the summer.
- Mr. Brooker had what was considered a controversial item that was delayed five months and it turned out not to be controversial.
- For almost any petition seeking an increase in residential density that has a comp plan and even some that don't, the bar has been raised in terms of the expectation of delivery of affordable workforce housing.
- Bank financing terms are problematic, and developers now have to go to private equity, which is at 10-12% interest.
- Insurance rates also are up 15-20% and construction costs are up 20% so a project is 30-40% more expensive than two years ago.
- A lot of projects have been approved. The one on Airport Road in which the developer let the contract expire probably due to costs.
- Close to 3,000 units are coming out of the ground in three to five years.
- Developers are going to be paying a higher margin now. The county understands that and is working with developers.
- Staff tends to be greedy in terms of the percentage of affordable housing we're asking for and it's the industry's task to bring in the knowledge and financials to push back.
- There's going to be a glitch bill with the Live Local Act. It's uncertain yet what will change. The bill says 65% of square footage must be allocated to residential use, so if you want mixed-use, it becomes a problem. It probably would work well on parcels that are 10 acres or larger.
- Those are the types of parcels the county has seen that indicate they'll move forward with the SDP. With the standards we're seeing, you have to utilize the RMF-16 (residential multifamily district) to have the ability and it starts to become cumbersome, especially when you're trying to fit everything on a site that might satisfy all the requirements.
- There's not that much commercial in the Rural Fringe Mixed-Use District and there's a 200-foot setback requirement. Development standards cause problems.
- On the BCC's February or March agenda, Noel Davies (of the Urban Land Institute) has challenged county staff's interpretation of a mixed-use project. Staff says only the commercially designated portion of a mixed-use project is available for Live Local. Davies says it's a mixed-use PUD so everything within it is eligible. The BCC can provide arbitration on that.
- An amendment to reduce the minimum unit size will go before the BCC on December 12 and involves the Golden Gate Inn conversion. The county has a minimum housing standard for two people, 450 square feet for an efficiency unit. We have a provision that would modify that standard that says if you're in the process of an adaptive reuse of the existing building and it has at least 20% affordable housing, you can qualify for a 250-

square-foot efficiency, recognizing that sometimes creative solutions require it. That could drive the Live Local Act.

- A lot of people go to the Planning Commission and BCC meetings and speak against that because they can't envision how their family could fit within a 250-square-foot dwelling unit. Staff's response is it's not for a family of four, it's for one or two people, a couple or someone downsizing.
- Flexibility and making sure that we provide a variety of housing choices is what we're always trying to promote.

6. New Business

a. DSAC Position vacancy Review and Vote (four-year seats)

i. Blair Foley – Civil Engineer

Mr. Mulhere made a motion to nominate Blair Foley to the civil engineer seat on the DSAC. Mr. Curl seconded it. The motion passed unanimously, 12-0.

ii. John English – Civil Engineer

Mr. Brooker made a motion to nominate John English to the civil engineer seat on the DSAC. Mr. Mulhere seconded it. The motion passed unanimously, 11-0.

iii. Marco Espinar – Environmental Consultant/Biologist

Mr. Curl made a motion to nominate Marco Espinar to the environmental consultant/biologist seat on the DSAC. Mr. Valle seconded it. The motion passed unanimously, 11-0.

iv. Norman Gentry – General Contractor

Mr. Valle made a motion to nominate Norm Gentry to the general contractor seat on the DSAC. Vice Chair Foley seconded it. The motion passed unanimously, 11-0.

v. Laura DeJohn – Land Planner

Mr. Mulhere made a motion to nominate Laura DeJohn to the land planner seat on the DSAC. Mr. Curl seconded it. The motion passed unanimously, 11-0.

vi. Mario Valle – Residential/Commercial Construction

Mr. Mulhere made a motion to nominate Mario Valle to the residential/commercial construction seat on the DSAC. Mr. English seconded it. The motion passed unanimously, 11-0.

b. PL20220005067 – Scrivener's Errors

Ms. Fewell introduced herself as a new LDC team planner and asked about her background, she said she's new to Collier County and came from Inglewood, a city in California. Before that she was a planner in Lee County and before that, she was a planner in Dallas, Texas. She grew up in Cleveland.

Ms. Fewell told the DSAC:

- The first item involves a Scrivener's errors amendment. This amendment corrects errors and updates various citations and references throughout the code.

- A previous version of this amendment was brought to staff on November 2, 2022, where it was given a recommendation of approval.
- Since then, additional items have been added and are highlighted in yellow.
- The DSAC subcommittee recommended approval of this amendment last month.
- We are requesting a recommendation of approval.

Mr. Brooker made a motion to approve PL20220005067 – Scrivener’s Errors. Second by Mr. Curl. The motion passed unanimously, 12-0.

c. PL20220006373 – Mobile Food Dispensing Vehicles and Food Truck Parks

Mr. Henderlong outlined a PowerPoint presentation and told the subcommittee:

- This amendment was directed by the Board of Zoning Appeals in October 2021. It is a new LDC section 5.05.16, Mobile Food Dispensing Vehicles and Food Truck Parks.
- An Administrative Code amendment also goes with the new section of code, Chapter 4 R.
- This overview covers the amendment’s history; current statutory regulations; procedures relating to licensing for mobile food dispensing vehicles, operations and food permits, including definitions; staff research and findings on other community standards; details of the proposed amendment, and textual changes added since the last initial packet.
- In October of 2021, the Board of Zoning Appeals prohibited mobile food truck applications permanently located with other entertaining activities, such as a bar, dance pavilion, or music and outdoor seating.
- The BZA directed staff to bring back an amendment to allow for the conditional use of mobile food trucks within base-zoning districts on a specific parcel of land. They also directed staff to look at the use so it would not require a Zoning Verification Letter of Approval by the Board or a Comparable-Use Determination.
- Concerns expressed that would affect the surrounding neighborhood were noise, glare, odor, traffic and setback requirements. Staff were tasked with identifying similar characteristics with other permitted uses within the base-zoning districts and looking at hours of operation, traffic volume, number of vehicles, types of parking spaces and other best practice activities.
- Florida Statutes, Chapter 509.102 is the driving force for mobile food dispensing vehicles and their preemption. There are three significant subsections. The first defines what a mobile food dispensing vehicle (MFDV) is – any vehicle that’s a public service food establishment. The key is public-service establishment, self-propelled, or otherwise moveable from place to place, and it includes self-contained utilities, including, but not limited to, gas, water, electric, or liquid-waste disposal.
- Subsection 2 specifically says the regulations preempted to the state are limited to licensing, registrations, permits and fees. Local governments cannot prohibit mobile food dispensing vehicles from operating within the entirety of a county or other local governmental jurisdictions. Some jurisdictions do prohibit them.

- The last section of the statute states the statute may not affect the local government jurisdiction's authority to regulate the operation of the vehicles, other than the regulations in Subsection 2. These are the guiding principles to follow.
- A second provision relates to the food product regulations of what is being sold. Pursuant to Food Product-Statutory Regulations, Chapter 500.12, all mobile food trucks, food establishments and retail food stores must apply for and receive a food permit. It is no different for a mobile food dispensing vehicle-truck. By this chapter, the food permit is subject to a "mobile food establishment" as defined by statute.
- The Florida administrative code gives a definition for mobile food establishments – "food establishments that are self-propelled or otherwise moving from place to place, such as a truck, trailer or similar self-propelled conveyance or a non-permanent kiosk or a table where prepackaged food products are sold". An indication is a watercraft that on waterways has to have a food permit from the Florida Department of Agriculture and Consumer Services.
- The Florida Department of Agriculture and Consumer Services is the agency that issues the permit before any operation can begin. The food permit must be pulled first and it may be associated or operating in conjunction with another permitted food establishment, such as a common restaurant.
- The last primary permitting agency for licensing is the Florida Department of Business & Professional Regulations, which is responsible for issuing a mobile food dispensing license. It licenses and regulates all businesses, including all types of public food establishments. The license is issued under the department's Division of Hotels and Restaurants. There are seven different types of food establishments and we're focusing on mobile food dispensing vehicle licenses.
- Other common code elements were studied in 20 Florida communities, of which five were Florida counties and five were out-of-state, and also current permitted and licensed establishments within Collier County.
- Last week, Lee County opened "Backyard Social" food truck park located in Trade Port Center off of Ben Hill Griffin and Alico Road. The project has eight food trucks, on 1.93 acres, under an 8,500 square foot roof, with a bar, outdoor entertainment and games. The operating hours are seven days a week compared with Celebration Park's six days a week.
- Staff looked at definitions and in what type of zoning district mobile food dispensing vehicles would be allowed, either, by right, special exception or conditional use. Typically, they are located in Commercial, Business or Industrial zoning districts.
- Also, staff looked at the minimum parcel and lot area, maximum number of mobile food dispensing vehicles related to a park, parking spaces on private property, generator noise and odor, stabilized surfaces, and minimum number of MFDVs. Staff is recommending five food trucks per one acre for a food truck park's density.
- Because of the Live Local Act, other criteria considered were not included as it would be more burdensome or restrictive. Setbacks to property lines would remain the same as for the base-zoning districts, fire hydrants, schools, separation distance between vehicles. The fire code requires 10 feet between

vehicles and the same for fire hydrants. Most research supports a 15 foot distance separation from fire hydrants.

- Other criteria are access to restrooms and outdoor seating. When a mobile food truck's operational hours are four hours or more, patrons and the operator employees should have access to an existing public restroom or Port-a-John with a sink and toilet. If not, then an access agreement to another retailer's restroom within a strip center should be obtained.
- Duration of hours of operation of food trucks were studied. They recognized there had to be a limit for transient sales hours. Those are trucks that stay four hours or less in duration.
- They studied time periods and the number of days allowed during the calendar year under a temporary-use permit or by special events as a sales and promotional event. Event sales are limited to 28 days in a calendar year, unless there is an extension. Staff determined anything after 28 days would be considered a permanent use.
- Daily removal of a mobile-food dispensing vehicle. Mobile food trucks are typically moved off-site within 24 hours, by statute, unless it is a self-sufficient mobile food truck or they have onsite access to a hookup to utilities and a sanitary waste facility.
- There are no alcohol or drive-through sales and restrictions on amplified sound and outdoor entertainment with an exception for a special event.
- There are parking, sign and lighting requirements.
- MFDVs will be allowed as an accessory use or permanently when located in a park.
- MFDV will be a permanent use in a food truck park only by conditional use when associated with the sale of alcohol or amplified sound that provides outdoor entertainment. The zoning districts include: C-3, C-4, C-5, Commercial, Business Parks, Industrial, Public-Use areas, and all PUDs, such as Community Facilities, Commercial, Industrial, and Mixed-Use districts will be allowed to have MFDVs by right or conditional use.
- Generators are limited to operating no closer than 20 feet to a property line unless there is an intervening six-foot high wall.
- Trash receptacles and access to restrooms for the operator and patrons are required.
- Operations are limited on a temporary basis for no longer than 28 days in a calendar year for special events and temporary use permits. Trucks that are transient and do not stop for longer than 4 hours are exempt. The four hours include one hour for setup and one hour for breakdown.
- Prohibitions:
 - No placement of food truck on a vacant or unimproved lot unless associated with a food truck park.
 - No placement in required setbacks or parking spaces, open space, preserves, landscape buffers, conservation and drainage easement, public or private road right-of-way or access easements.

They cannot operate in a manner that block access ways, walkways, driveways, loading zones, or interfere with vehicular or pedestrian circulation. I

- Alcohol sales and amplified sound are prohibited unless approved or associated with a special event or temporary use permit. The state Division of Alcohol, Beverages & Tobacco issues for governmental entities or non-profit groups, a three-day license for consumption on-premises for special events.
- Operating longer hours than the primary business hours, unless approved for a permanent location or by special event.

A brief overview of design standards was provided:

- SDP approval and permanently stabilized base were mentioned earlier.
- One change replaces the term of a “pad” with a “designated area”. A pad tends to suggest a dimensional standard that staff found on average would be 535 square feet and because trucks vary in size, a designated area would be required rather than a dimensional average size.
- Fire officials, if an optional central propane tank is proposed, want the tank to be installed underground and not aboveground.
- The parking space standard is three per MFDV and one space per four outdoor seats and two bicycle parking for each MFDV pad.
- Light fixtures are to be shielded and directed away from neighboring properties. No flashing or strobe lights would be allowed.
- The last criterion is light fixtures shall be directed away from neighboring properties or shall be fully shielded, and that no nuisance lights, such as flashing or strobe lights, will be allowed.
- He asked if there were any recommendations and comments.

A discussion ensued and the following points were made:

- Mr. Mulhere noted that he had to leave the subcommittee meeting early, but on page 11, d.2, which discusses reducing the potential impact, it should say “unless there is a concrete or masonry wall of at least 6 feet in height”. Mr. Henderlong said that’s fine.
- Mr. Mulhere wanted the section about amplified sound and live entertainment next to residential clarified because it seems like an overkill. The way it’s worded is that the conditional use is applied when food truck parks serve alcohol. That should probably be for on-premises consumption. That’s how we worded the code everywhere else, serving alcohol for on-premises consumption with alcohol.
- Where it says outdoor amplified sound providing outdoor entertainment, amplified sound by itself does not generate a conditional use. Mr. Henderlong said the amplified sound was reviewed by the County Attorney’s Office, which added “with outdoor entertainment.” It’s all three independent conditions.
- Mr. Mulhere noted that you can crank up speakers to the allowed decibel level. Mr. Henderlong said that was correct. Staff had proposed a more restrictive measurement from generators and outdoor sound than the current ordinance, based on Code

Enforcement complaints received at Celebration Place. Because of Live Local Act, it would be more restrictive.

- Ms. DeJohn stated she read it to say “ amplified sound that is providing entertainment”, so if outdoor she is entertained as distinguished from amplified sound that might be projected when calling out a customer’s name. If you are being entertained then it would require a conditional use.
- Mr. Curl noted that the subcommittee approved some adjustments to the language, but they don’t appear to be here. Mr. Henderlong said they were incorporated as mentioned in the narrative. Different wording was used for full shielded lighting, and replaced by your wording for full cut-off lighting. The subcommittee recommendations were incorporated after their vote and staff have a few additional changes highlighted in yellow.
- Mr. Mitchell said he’s not a fan of having to get a temporary use permit extension because time is limited and you have to renew it for a fee like a right-of-way permit. It seems onerous.
- Mr. Mitchell noted it says a food truck can’t be on a private road or right-of-way, so how does that affect food trucks that deliver food at construction sites? Mr. Henderlong said they have to comply with the statute for the Code of Laws and Ordinances that regulate roadside sales.
- Committee members discussed slight changes and word deletions, as well as clarifications to ensure there are no other interpretations of language.
- Mr. Booker mentioned the slide presentation said mobile food trucks would be permitted in PUDs. However, the amendment does not expressly allow them in a PUD. He said it may not be necessary to allow them in PUDs and if so, would they be allowed by conditional use in a PUD?
- Mr. Henderlong said it would be administratively reviewed by staff and allowed by right as a comparable use.
- Up to two MFDV will be allowed in the base zoning districts: commercial, business park, etc.
- Does anything in this amendment render Celebration Park non-conforming? This food truck park was approved through a conditional-use approval. If the use stopped, they would lose their rights and become nonconforming. They will remain conforming based on the current rules. In terms of the proposed standards, there are some elements that would not conform but we are not able to retroactively go back to make them conforming.
- Mr. Brooker suggested the amendment should be applicable only to food truck parks that don’t exist today. Mr. Henderlong said it would affective for new food truck parks after the effective date of adoption of the ordinance.
- Using a food truck for catering at a private home or venue involves a separate license/permit from the DBPR’s Division of Hotels and food trucks can qualify.
- For amplified sound, they can get a temporary use permit, no more than 28 days throughout the whole year.
- Ms. DeJohn sought clarification to the question what happens in PUDs.
- Mr. Henderlong said staff will look to compare it with similar uses within the PUD, such as a restaurant, and allow it by right. Otherwise it would be by conditional use.

- Ms. DeJohn suggested considering code section 2.03.06 specific to PUDs that says “the following commercial uses are allowed in PUD districts”. It might help.
- Mr. Henderlong said he’d like to review that with the County Attorney’s Office. Mr. Mulhere suggested cross-referencing the code section.
- Mr. Henderlong said an answer to the question will go to the Planning Commission.

Mr. Mulhere made a motion to recommend approval subject to staff agreeing to look at Section 2.03.06 to see if there’s an opportunity to add language that would cross-reference whether this would be allowed in a PUD and to insert this is only effective for food truck parks approved after the adoption date of this ordinance. Second by Mr. Valle. The motion passed unanimously, 12-0.

d. PL20230013966 – Wireless Communication Facilities

Ms. Fewell detailed a PowerPoint presentation and told the DSAC:

- The first regulations for communication powers were adopted by the Board of County Commissioners in 1992.
- On January 24, 2023, the board directed staff to develop amendments to the current LDC regulations to promote a stronger wireless communication network countywide.
- Staff contracted with Agnoli, Barber & Brundage (ABB) to assist with the updated provisions. Margaret Emblidge, ABB’s planning director, is here to help answer questions.
- Since receiving board direction in January, staff and the consultant reviewed current regulations and best practices statewide and engaged with industry experts, including a wireless service provider and a tower company.
- The research helped staff determine that the current LDC provisions are outdated compared with current industry practices.
- This amendment modernizes the text and simplifies the application and review processes. Most of the current LDC provisions would be deleted and replaced with new text.
- Elements of some existing regulations are in the draft, including design requirements, bird and wildlife considerations, and some existing landscaping and inspection requirements.
- Corresponding cross-references were added to maintain consistency throughout the code.
- Substantive changes to the amendment include updating the nomenclature of “communication towers” to “wireless communication facilities” to include all facility types.
- It also provides definitions and establishes regulations for various facility types; updates the use and conditional-use list for zoning districts to allow new facilities countywide; removes shared tower requirements to instead encourage co-location by allowing an increase in tower height; and entirely reorganizes the section to provide an easier interpretation of the regulations.
- The DSAC-LDR subcommittee reviewed the amendment two weeks ago and recommended approval, subject to three minor revisions that are in yellow highlighted text.
- Staff is working with the County Attorney’s Office to finalize some text and formatting.
- We’re asking for a recommendation of approval.

A discussion ensued and the following points were made:

- The email with suggestions from an attorney who specializes in wireless communications was not incorporated into the amendments. She represents SBA Tower Co.

- The subcommittee didn't have time to review that last-minute email but heard from a Verizon representative.
- Verizon was the principal carrier that helped county staff.
- Staff felt some of the SBA attorney's suggestions were too restrictive and we're trying to be more permissive. No one had the ability to say no to telephone poles years ago.
- In 1996, the federal government, through the Federal Communications Act, privatized the deployment of the wireless facilities and now 91% of all communications are through cellphones, so this is a health, safety and welfare issue.
- Some of the changes requested by Katie Berkey, for SBA Communications, were more restrictive. They're free to come to the Planning Commission, here or the BCC to advocate for that, but we tried to balance it. We felt we've got to work with them.
- P. 32 is missing the word "except." These rules apply to the following within the county, "except" for the following. Staff agreed to add that.
- Ms. DeJohn said it's cool how you added a table because it summarizes for each zoning district what's permitted, conditional and not permitted. But there could be confusion. If you look at the RMF-12 zoning district, it says wireless facilities permitted subject to this section, but then you learn that in RMF-12, the only thing permitted is a rooftop mounted antenna, so should it say that.
- Ms. DeJohn said the table is clear, but they have that dilemma that this whole other section of the code lists what is permitted and what's conditional.
- The very heavy separation requirements in Golden Gate Estates have changed.
- Ms. DeJohn said when it talks about separations, it talks about separating from a use, and she's worried that it will cause struggles because if the tower is coming in and there's separation from the residential use, does that mean you're separating from that residence, the building, or the property line? Ms. Fewell said they're working on that with the County Attorney's Office. It's separating from the property line, not the structure.
- Mr. Bosi said we're adding a provision for Estates lots because 2½ times separation requires conditional use. We've reduced that separation requirement but recognize there will still be occasions when a variance would be needed, so we have incorporated the conditional use to allow for variance considerations so they don't have to file two separate petitions for one tower. It will be more straightforward in that the compatibility analysis of the conditional-use process can help alleviate any separation and setback issues.
- Mr. English said he has a client with a lot of agricultural property and he's been approached to allow cellphone tower. How would the county be applying this to a 500-acre farm field that's allowed by right. Mr. Bosi said the tower company is going to lease a 100-by-100 space on that land and the buffering and wall would be around the compound itself, so it doesn't have to be on a property line. You will have the luxury of identifying a project area associated with the equipment shelter and everything on the ground level. It details that in the LDC section 5.05.09 F.2.g.iii-b.
- We don't think that landscaping in the compound on a utility site has any real value that could be displaced to a further buffer.
- The buffer and screening does not have to occur in the property boundary.
- Mr. Johnson said the definition for "wireless communication facility site" means tracts of real property, either owned or leased, on which the wireless communication facility, support facility and related improvements are located.

- The buffer could go away based on the designee saying there's enough at the periphery that screens it.
- The attorney representing SBA Communications wanted extra clarification about the requirement for generators. One of her concerns was that the way it's written indicated to her that a generator would be required for each carrier. The wording is now clear that it's per site. We said we'd clarify it at the meeting.

Vice Chairman Foley made a motion to recommend approval of PL20230013966 – Wireless Communication Facilities, with the three items the DSAC-LDR subcommittee added; add a correction at the top of page 32 to add the word “except” prior to listing the five elements; review the zoning district language that allows these facilities versus the table that's been provided on p. 34 for clarification; and confirm that the separation requirement is not to the building of the surrounding use, but the property line. Second by Mr. Curl. The motion passed unanimously, 12-0.

7. Old Business

Mr. French told the DSAC:

- This may be a topic of discussion at our county commissioners meeting. We've discussed this here before.
- There was a public petition that represents over two years of emails.
- We talked about efficiency and probably well over 1,000-man hours over two years were spent on one person who has provided blatantly false testimony and opinions on other engineers' work, inspectors and others out in the field.
- There is an ordinance, 2009-42, that says if you blatantly call in a false complaint, you're subject to a \$500 fine. He spoke to Blair earlier about this, saying there must be something in their code of ethics that says when you're providing false testimony, especially in a public fashion, or provide false testimony to a public agency about blatantly false information or your opinions on how the water management district should work, that is a violation of the state's code of ethics of engineers.
- If you want more productivity, this happens every day. (He pointed to the white binders). Every one of those represents a separate email that came to his office.
- We do not interact with this person, but he is complaining. He's complaining about your jobs. Thank God for John DeAngelis (co-founder of DeAngelis Diamond). He's been a wonderful partner and really helped us. He spoke to every commissioner. He told me the Jewish Federation has restraining orders for cyberstalking that were issued against this man by Mark Saperstein, of the Jewish Federation.

A discussion ensued and the following points were made:

- There should be a point where this is all handed over to the County Attorney's Office.
- Staff was told by email by the prior county manager to ignore this, but it becomes a 119 public records request.
- This man buried someone with public records requests. Poor Alex is the only one who talks to him. He's identified me, Jamie Cook and several lawsuits have been thrown out. There have been at least two.
- Somebody had to go out there several times for environmental complaints. That's just the county and that doesn't involve all the regulatory agencies.

- One email says Marco Espinar is deceased.
- When will this be resolved?
- The man came in and provided testimony and now he's complaining that he wants 2-by-4s versus 1-by-2s or 1-by-1s, although the DOT manual clearly points out that 1-by-1s and 1-by-2s are fine.
- Randy Johns at Phoenix is doing a job on Santa Barbara behind CVS. The man has called three times on that one, and we haven't been able to find anything wrong. The contractor is fed up. This is just one job and he's had multiple jobs.
- Mr. French just wanted the DSAC to know where 1,000 hours of your money has been spent.

8. Committee Member Comments

(None)

9. Adjourn

Future Meeting Dates:

3 p.m. Dec. 6, 2023

3 p.m. Jan. 4, 2024

3 p.m. Feb. 7, 2024

Mr. Curl made a motion to adjourn. Second by Mr. Espinar. The motion passed unanimously, 12-0.

There being no further business for the good of the County, the meeting was adjourned by the order of the chairman at 5 p.m.

**COLLIER COUNTY
DEVELOPMENT SERVICES ADVISORY COMMITTEE**

William Varian, Chairman

These minutes were approved by the Committee/Chairman on 12/6/23, as presented (choose one) , or as amended ____.