



APPROVED 7/18/2024

# MINUTES

## City Commission Workshop: Live Local Act

5:30 PM – Thursday, June 13, 2024 – City Hall

**CALL TO ORDER: 5:31 P.M.**

### **ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE**

**PRESENT:** Commissioner Gary Ashcraft, Commissioner Willie Hawkins, Vice Mayor Emily Lee and Mayor Michael Holland

Mayor Holland noted the absence of Commissioner Nan Cobb. He explained that Ms. Cobb had filed for a State House seat and had, therefore, tendered her resignation as a City Commissioner. He noted that later in the meeting the Commission would discuss the process for moving forward.

### **1. WORKSHOP ITEM WITH DISCUSSION AND DIRECTION**

Sasha Garcia, City Attorney, provided a presentation on the Live Local Act and recent additional legislation regarding land use standards. She stated the Act allows municipalities to approve affordable housing developments, including mixed-use residential developments (MU), on any land zoned for commercial or industrial use so long as at least 10% of the units are affordable. She added that the law requires municipalities to allow multifamily (MF) and mixed-use residential developments (MU) as allowable uses in any area zoned for commercial, industrial, or Mixed Use Residential (MU) if at least 40% of the units are affordable for at least 30 years. For MU projects, at least 65% of the total square footage must be for residential purposes. The local government may not require the project to obtain a zoning or land use change, variance, or comprehensive plan amendment for zoning, height, or density.

Attorney Garcia explained that the City must identify what categories would fall under the multi-family mixed use, commercial, industrial and those properties that would be suitable for those projects.

The Commission asked if they can designate which areas they would like the development with Attorney Garcia explaining the sites must be suitable and buildable and meet the other criteria.

Tom Carrino, City Manager, stated that the Act would compel the City to allow those projects in commercial, industrial and mixed-use categories. The City can highlight what it believes to be are commercial, industrial and mixed-uses within the City; however, the projects must be allowed within those future land use categories.

Attorney Garcia explained the creation of the map is to make it easier for a potential investor or buyer. She cited if there is City-owned property that may be suitable for an affordable housing project it should be linked to the map. She stated the City is required to make a list available of City-owned property.

Attorney Garcia explained it provides information regarding what property is available to be developed for affordable housing. She added that the City is required to keep a list of City-owned properties on the website so it is accessible to the public. The list must be updated every 3 years.



Mr. Carrino questioned if the City is also compelled to offer those properties for sale with Attorney Garcia stating the City does not have to sell the property but if it is available for sale and is suitable for affordable housing then the City would have to open it up for sale through normal procedures.

Mr. Carrino confirmed that if someone comes to the City with a privately owned property then the City is compelled to facilitate the project. However, if it is City-owned property then the City is not compelled to sell the property if it is not for sale.

Attorney Garcia continued her review of the updates to the Act. She stated it now prohibits the local government from restricting the density below the highest currently allowed density in any land where residential development is allowed under the local government's land development regulations. She explained the highest currently allowed density does not include the density of a development that received an administrative approval under the LLA, or that received a bonus, variance, or special exception for density or floor area ratio provided as an incentive for development.

Attorney Garcia reviewed the height criteria included in the 2023 and 2024 legislation. She explained that for projects adjacent, on two or more sides, to a parcel zoned for single-family residential within a single-family residential development with at least 25 contiguous single-family homes, the allowed height is 150% of the tallest building on property within 1/4 mile of the development or three stories. She indicated the City would have to look at each application individually to determine the allowed height. She stated it also clarifies that the highest currently allowed height does not include the height of any building approved through the administrative approval process or any bonus, variance or other special exception provided as an incentive for development.

Attorney Garcia then reviewed the addition of floor area ratio (FAR) in 2024. She stated it prohibits local governments from restricting the FAR below 150% of the highest currently allowed FAR. Like the density and height, it does not include the FAR for projects using the administrative approval process or any bonus, variance or other special exception provided as an incentive for development.

Attorney Garcia then explained that the 2024 amendment does allow local governments to provide a negotiated bonus opportunity but it is not obligatory.

Attorney Garcia reviewed the parking requirements in the 2024 LLA legislation. She stated it requires local governments to consider a parking reduction of 20% depending on where the project is located in relation to transit stops. She indicated that normal parking restrictions would not apply if the project qualifies for affordable housing.

Attorney Garcia stated that the local government is required to treat developments authorized under this administrative approval process as a conforming use until after 2033. She then reviewed the definitions of affordability and low income under the Act. She explained the "cure period" which imposes a reasonable cure period to cure violations of the 30-year affordability period. If the violation is not cured within a reasonable time, the development must be treated as a nonconforming use. Written notice must be provided and a reasonable time provided to comply. She added that the City would have to determine what department would be tasked with monitoring that and sending out violation notices.

The Commission questioned what determines affordability with Attorney Garcia explaining that is set statutorily and there would be a process to determine that a project is considered affordable housing.

Mr. Carrino noted that another municipality is instituting reporting agreements with the developments. He added that a private development is not currently required to report their rate structures to the City. The other city's contract requires the developments to provide a report annually to the City by a certain date. He confirmed that it would be legal for the City to require a development to sign such an agreement.



Attorney Garcia reviewed various other criteria of the Act as follows: 1) Local governments with less than 20% of its land designated for commercial or industrial uses is required to approve a multi-family project as a multi-use project; 2) Prohibits local governments from imposing rent controls; and 3) Requires 40% of the residential units must be affordable rental units but the remainder of the units can be for sale or rental market rate units.

Other criteria cited included the following: 1) Eliminating the administrative process for military installations; 2) Specific criteria for airports; and 3) Projects within transit-oriented areas.

Attorney Garcia explained the requirements specifically pertaining to the City as follows: 1) By October 1, 2023 and every three years thereafter the City must keep an inventory of all lands it owns that are "appropriate for use as affordable housing" and it must be displayed on its website. 2) An explanation of the Administrative Approval Procedure must be maintained on the City's website. 3) The City must enact an ordinance adopting the Live Local Act and amend the City's LDR's and other governing documents as applicable to ensure conformity. The ordinance shall also provide for the appeal process. 4) Adopt by resolution a procedure for the Live Local applications which should be displayed on the website along with related forms and materials.

Attorney Garcia reviewed the various forms and information that should be included on the website including links to related programs such as Florida Housing and Finance Corporation, the Hometown Hero program, tax incentives available and the forms required to apply for those.

Attorney Garcia explained that when a developer comes in with an affordable housing project the City would have a Live Local Act verification form and fee. That form would be primarily a checklist. She indicated that the City can set a fee for the review and for monitoring along with any penalties. She added that the City can set the fees and cited some fees levied by other cities. She then cited the "land use restriction agreement" which would need to be signed before their application came before development review. She explained how that would apply to the subject property and be recorded so the property could not be subdivided and sold off.

Attorney Garcia then reviewed information that the development would have to sign a monitoring agreement which would guarantee they would submit information to the City including copies of leases, annual tenant income certification, monitoring frequency and fee, penalties for non-compliance, fines and a process for refunds to tenants for overcharging.

The Commission questioned what would happen if the owner refuses to pay the fines with Attorney Garcia responding that the City can lien the property. She added that they would be required to have any financiers or owner sign a subordination agreement, that will ensure that the City's liens would never be extinguished through foreclosure.

Attorney Garcia further explained what would occur if the development went through bankruptcy. She stated that anyone that purchases the property would have to adhere to the criteria as well. She indicated the property would have to already be annexed. She confirmed that counties also have to adhere to the Act.

Discussion was held regarding whether or not there were any assurances regarding quality with Attorney Garcia responding they would still be required to meet all of the City's building and design standards.

Mr. Carrino noted that the Commission previously approved an ordinance regarding developing a program since the City was not ready for the Live Local Act. He asked if the City could extend the time period.

Attorney Garcia stated it was a resolution that was previously passed. She indicated the City is closer to understanding what is expected. She stated the City could extend the waiting period and



indicated she would help develop the required documents and process. She added that the City still needs to designate who will be required to handle the process and monitor any developments.

The Commission asked if an already existing rental community would be able to go to the Live Local Act program with Attorney Garcia stating that is not currently allowed under the statute.

Attorney Garcia then stated the next step pertains to property taxes. She indicated that some of the amendments give a nice tax break. She stated they are optional and, if the City wants to enact them, it would require a resolution. She reviewed the possible exemptions and requirements for those. She explained that the City could opt out of the property tax exemption under certain conditions. She stated the County is looking at that but they believe each City would have to opt out individually. She added that the "opting out" resolution would have to be renewed annually by January 1st.

The Commission discussed how Home Rule has been circumvented by the Act and how much staff time will be required. It was noted that opting out of the tax exemptions could discourage developers from applying. It was also noted that there are municipalities that may file suit against the State of Florida.

It was a consensus of the Commission to ask the City Attorney to bring back what documents the City could enact to try and block the program.

Attorney Garcia responded she would put together a packet that would show everything that an applicant would be required to put together as well as the fees that the City could enact.

Mr. Carrino confirmed that the City could enact another resolution that would postpone enactment of the program to allow time to develop the necessary fees and processes. He asked if that could be ready for the June 20th agenda.

Attorney Garcia asked about the timeframe with the Commission supporting one year.

## **2. VACANCY DISCUSSION**

Attorney Garcia noted the resignation of Commissioner Nan Cobb. She commented on the limited number of meetings leading up to the candidate qualification period in August. She stated there is no set procedure in place other than the requirement that the Commission shall appoint an interim commissioner to serve until the next general election. She noted that any candidates would have to meet the same qualifications as someone qualifying for the election. She suggested waiting until the first meeting in September which would meet the requirements of the charter.

Mr. Carrino explained that the elected person from the November election would be sworn in at the first meeting in January and the interim commissioner would serve until the end of the year.

Attorney Garcia noted that the qualifying period is in August so the Commission would know after that who has qualified for the election.

Discussion was held regarding when an appointment could be made and about the process used in the past. It was noted how short the interim commissioner's term would be.

Mayor Holland reviewed the various ways the appointment could be completed. He noted that previously the Commission insured that the person selected did not intend to run at the next election.

It was suggested that the Commission look at who qualifies for the seat. Discussion was held regarding what is required for vetting the applicants. It was noted that one person had already qualified for the seat and, if no one else qualifies, it would make it easy to decide who to appoint.

Mayor Holland suggested waiting until qualifying closes and then schedule a special meeting to review those people who have qualified for the seat. He also recommended formalizing a procedure to address future vacancies.

Discussion was held regarding when new commissioners are sworn in.

It was agreed that further discussion to determine the process would be held at the June 20th meeting.

Commissioner Hawkins announced that a banquet would be held on August 31st in honor of Carla Miller Mitchell.


Mayor Holland indicated he would have a proclamation done honoring her as well.

Mr. Carrino reminded the Commission about the dates for the budget workshops to be July 8th, 9th, 10th and 11th. He noted they also discussed the need for a workshop to review the utility rate study. He confirmed that July 15th will work best for the consultants.

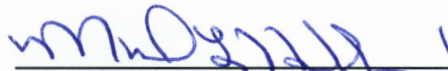
The Commission confirmed that Commissioner Ashcraft was good with the dates since he was not present for that discussion. He confirmed he could make the July 15<sup>th</sup> workshop and would see what he could do to attend the budget workshops.

**3. ADJOURNMENT: 6:37 P.M.**

*\*These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, go to [www.eustis.org](http://www.eustis.org) and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording of the meeting can be obtained from the office of the City Clerk for a fee.*



CHRISTINE HALLORAN  
City Clerk



MICHAEL L. HOLLAND  
Mayor/Commissioner