CITY OF ST. AUGUSTINE

Planning and Zoning Board Special Meeting
January 27, 2022

The Planning and Zoning Board met in special session Tuesday, January 27, 2022, at 9:00 a.m. in the Alcazar Room at City Hall. The meeting was called to order by Grant Misterly, Chairperson and the following were present:

1. Roll Call:	Grant Misterly, Chairperson Jon DePreter Sarah Ryan Carl Blow Charles Pappas Christina Griggs
Absent:	Mike Davis, Vice- Chairperson
City Staff:	Amy Skinner, Director, Planning & Building Isabelle Lopez, City Attorney Reuben Franklin, Director, Public Works Laura Morse, Recording Secretary Elyse Wiemann, Recording Secretary

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2. General Public hearings for Items Not on the Agenda

- B.J. Kalaidi

3. Discussion and Recommendation Related to Mobility Planning in the City of St. Augustine

Amy Skinner, Director, Planning and Building, thanked everyone for their participation, and introduced the topic.

Jonathan Paul, Nue Urban Concepts, introduced the Mobility Plan as outlined in his presentation. He reviewed the steps, focus, projected growth of the County. He noted the Mobility Plan consisted of four separate plans. He noted the changes based on the Board's recommendations, which included updates and clarifications for the City of St. Augustine, additions and deletions required to fully revise Chapter 21 of the Land Development Code, the recommended single mobility zone for the entire City, an updated and streamlined mobility fee schedule, clarification related to administration and implementation of the fee, and an appeals process. He reviewed the assessment fees which included items such as home size, vacation rentals, civic use, recreation, retail (local, multiple, and standalone). He noted the entire schedule had been updated and there were around twenty uses total.

Mr. Paul said this was comparable to what St. Johns County had; however, the County could assess for county wide travel whereas the City could only assess for travel within the City limits. He reviewed the comparison of the City to the County with respect to impact fees and trip generation and cautioned the methodology was different when comparing them. He pointed out most of the County fees were higher than the City fees.

Mr. Misterly thanked Mr. Paul and City staff and noted the presentation was tailored to the previous discussions and questions.

Mr. Blow asked about food trucks being absent from the fee schedule and felt there should be an impact fee for food trucks since it was unfair to the restaurants who were compliant in all required aspects.

Ms. Lopez said they were preempted by State Law and could not be charged an impact fee until they pulled a building permit, and it could only be generated at that time. She noted that perhaps some food trucks could require connection at some point.

Ms. Skinner said there was a definition of food truck listed under quick service restaurant drive through in the draft ordinance, which would be discussed during the next meeting.

Mr. Paul discussed special events and suggested that perhaps they establish a special use permit or special exception process where they could establish a fee since they did cause an impact.

Ms. Ryan asked for clarification about how square footage was defined.

Mr. Paul said it was inhabitable conditioned living space, which was consistent with Florida Building Code. He said for commercial, it was the areas of the business that carried out the functions.

Ms. Ryan asked about overnight accommodations for short-term rentals (STR), and did this apply to the existing STR.

Mr. Paul said to the extent the City could and it applied to the Statute, the fees were not retroactive. He said they tried to set this up for statute changes.

Ms. Lopez said this circled back to building permits, and there were pre-statutory, pre-existing regulations of some short-term rentals and the City could enforce what was not preempted; however, if a building permit was not pulled, no fee could be applied.

Ms. Ryan asked about the private education.

Mr. Paul said universities and colleges were considered office.

Mr. Misterly used Madeira and Antigua where the neighborhoods were platted but not developed. He said if a house were to be built within the platted development would they pay the mobility fee.

Mr. Paul said if they needed a building permit they would because the fee was tied to the building permit application and not the development of the land.

Mr. DePreter thanked City staff for their efforts. He agreed with the single fee, he was glad for the streamlined fee schedule. He asked about the inflation factor and noted this was where preemption surfaced a lot.

Mr. Paul said St. Johns County had existing fee and statutory provisions. He said they proposed to include an inflation index factor. He said the Department of Transportation (DOT) provided an annual report and rates were adjusted. He noted the inflation rate and said the structure of the Ordinance was on September 30, 2022, the City would account for inflation and adjust accordingly and in January 2023 the fee would increase.

Mr. DePreter discussed the City being built out significantly and most likely it would apply to the adapted use of building. He used the example if a restaurant wanting to add tables, would part of that be grandfathered in?

Mr. Paul said the charge would be for the increased difference. He said the inflation rate would be the dollar amount. He said the existing use was not the fee today and then in the future a different rate, but they would both track in tandem.

Mr. Franklin said a building permit would need to be issued, and theoretically they could do changes without a fee.

Mr. Pappas looked at the unintentional consequences. He wanted to promote the workforce housing and he assumed the calculations of the trip fees would be less since they would essentially work in town. He asked if there was a possibility to separate retail from workforce housing.

Mr. Pappas asked about motor vehicles in reference the combined fee for charging stations and fueling stations, right now trip charges were not an issue, but could be in the future.

Mr. Pappas noted the food canteen trucks should be looked at, and there may be a creative way to figure out how to make these restaurants

Ms. Lopez said it was in the ordinance; however, it had to be tied to a building permit.

Mr. Blow said Mr. Pappas point was excellent and used a County project where there was a food truck depot. He said perhaps they could look at RV parks fee per parking space and thought it could treat this the same way.

Ms. Lopez asked Mr. Paul how from a scientific math problem, would they assess a mobility fee.

Mr. Paul said based on how many food trucks could be accommodated, measure the square footage of area, look at common structural space, which would trigger a building permit, and take the footprint of the food truck and charge the restaurant rate to each food truck accordingly. He said through development review, it could limit the amount of food trucks allowed to quantify it, and if modifications were made to add another food truck, the fee could be captured for the increase.

Mr. Paul continued the recommendation for the square footage rate was in strong correlation of the unit, number of vehicles going to it, and overall trips. He said workforce housing would be smaller homes for affordability. He said this was the best way to capture the workforce housing and obtainable housing by calculating the square footage instead of per dwelling. He said many cities were changing their Land Development Codes to accommodate smaller housing.

Ms. Lopez said around three years prior the statute had been changed to not charge for affordable housing impact fees. She said before that Local Governments would have to pay on behalf of the affordable development with no option to waive the fee; however, the City Commission directed City staff to look into this issue regarding the workforce affordable housing regulations. She said they could charge by square footage but could have a separate policy for affordable housing to assist with those fees.

Mr. Paul said that the City would create a separate program as a part of the affordability housing program, and it would be per statue to be exempt from the fees.

Mr. Pappas liked the square foot and asked about separating the fuel and charging stations.

Mr. Paul said the ordinance was written for commercial charging. He said there may be some trip differential but as technology improves it would be the super chargers, and overall trying to predict what the future would bring in the next few years.

Ms. Griggs said many of her questions were answered. She said it was good to have a local retail use as that would encourage more local businesses. She asked in regard to existing residential, if someone were to add onto the home, the only time the fee would be triggered would be if they were expanding or adding an addition.

Mr. Paul provided example of what triggered an impact, it could be challenged, and the

City needed to decide if certain situations would trigger an impact. He said if adding a bedroom or another room that would impact that, could cause a fee.

Mr. Misterly asked if the City was exempt from this. He looked at exemptions from fee and City was not listed, and it made sense that the City be listed.

Mr. Paul said the State exempted themselves, generally public facilities do not pay the fee; however, some do. He said the taxpayers paid for the services; government use was ancillary.

Ms. Lopez said there was a definition for institutional uses which stated: *those public or quasi-public uses that serve one or more community's social, educational, health, cultural, and religious needs*, and said that could be where it could be inserted.

a. Discussion Related to the Draft Ordinance and associated documentation for the Mobility Plan and Mobility Fee for Recommendation to the City Commission

Mr. Paul noted much of this had been covered. He reviewed the Ordinance updates and highlighted what was changed as follows:

- Purpose- Amend Concurrency added and appeals process
- Whereas Clauses- "new development activity"
- Intent and purpose- "new development activity"
- Definitions- updated mobility fee schedule
- Technical Report Date- update with new schedule, if concur
- Imposition- new development activity, building permit application trigger, payment, refund, and shell permits
- Mobility Fee Schedule
- Mobility Fee Determination (moved from schedule), mixed-use (fee per use), outdoor storage (useable area), additive fee (building and high impact feature), and City initiated
- Refunds- added section for prepayment or shell permits
- Review and updates- January 1st increase based on FDOT inflation
- Appeals process
- Penalty

Mr. Paul said the definitions in the ordinance were reflected in the updated schedule. He said if this were adopted, it would not be effective until the 90-day implementation period was completed.

Mr. Paul reviewed the Administrative Procedures and noted there would always be special issues that surfaced that had not been addressed. He said the two thing that should be asked were: 1) does it create an impact, 2) does it require a building permit, and if unsure about these things, best thing to do was not assess a fee. He said the burden of proof shifted from applicant to government in 2009. He said some local governments had elected to have one, but others have not, and it was ultimately the City's decision.

Mr. Paul reviewed the next steps. He said they could revise any other requested changes, then it would be advertised, and the City Commission would have the first reading of the Ordinance. He stated the City Commission could make amendments, then a second reading with the Commissions amendments and then adopted. He questioned when they wanted to start the 90-day notice, and this needed to be discussed legally. He said some have started it at first reading others at date of adoption, but Florida Statue was written when notice had been provided, and legislation had not clarified when that time was.

b. Planning and Zoning Board discussion and recommendation

Ms. Ryan asked him to run through the example when projects phased out over five to ten years, and then a light was needed, what was the bigger picture.

Mr. Paul said for mobility it would be tied to the building permit, if a development made an improvement, the City could provide a credit if the developer to build a sidewalk, or light, for example. He said this would take place between an agreement with the City and the developer. He reviewed examples of provisions that could be placed in the rules that allowed for credits.

Ms. Lopez said the City had provisions like those for PUDs.

Ms. Ryan asked about the accountability and enforcement on a large project.

Ms. Lopez said 'traffic access" was listed in a PUD ordinance.

Ms. Skinner noted the site assessment, and facilities assessment requirement which was what would be used. In her opinion, a smart developer would propose a mixed-use project, she suggested an overall calculation of the impact uses. She said they could provide an overall impact analysis and a breakdown of the types of uses as proposed to get an idea of the types of improvements they wanted as they set up the work. She said once they adopted the ordinance, the due diligence would be on the developer to plan all the roads, etc. mobility would be another component. She said they would encourage the developer to look at the overall picture no matter if it were a PUD or not.

Ms. Ryan said with County pressure, what was their responsibility with this.

Mr. Paul said it could be captured through parking; however, it could not be captured through the mobility fee. He said this was a big discussion in the legislature currently regarding City versus County and in Florida some required the City to collect the County fee and give the fee to the County.

Ms. Ryan asked on page 25 under letter "K" it stated, *"the fee shall be based on the underlying land use for the building".* She said there were several categories in land use, and would it be the least fee.

Mr. Paul said if land use were for office, you would not pay a shell permit. He said a shell building had multiple tenants which would be under the multi-tenant category, and there you could have a shell building that was office or commercial.

Ms. Ryan asked who would be responsible for the fee.

Mr. Paul stated it would be the owner of the building unless disclosed at the time of lease that it would be the tenant's responsibility, and if not, it would revert to the owner.

Mr. Misterly asked to add the definition of a shell building. He noted they were changing the level of service for sewer.

Ms. Skinner said this amended the Chapter Twenty-One, which was the overall Concurrency Ordinance, and she took opportunity to change anything adopted in the Comprehensive Plan and bring everything up to date in the ordinance.

Mr. Misterly said as long as it was consistent. Mr. DePreter wanted to clarify some of credit used for onsite development that would be establish through the process with City staff.

Mr. Paul said most local governments considered onsite improvements to be a requirement; however, there were some instances where a developer could 'up size', for example a utility or if a six foot sidewalk was required and instead a twelve foot sidewalk was built, some credit could be established if it were in the mobility plan as an improvement.

Mr. DePreter said he was pleased with the affordable housing component and the language for incentives for affordable housing fees being dismissed. He noted the charging stations would take care of themselves between the market and the American consumer. He thanked Mr. Paul for his work.

Mr. Pappas said the building department was short staffed, and asked what staff was needed.

Ms. Skinner said that needed to be sorted out through staff and City Commission. She said they were currently at a minimum and technology was being upgraded, they requested patience, and noted there would be builder's access to the system in the future. She said they do permit calculations currently and this would just be another calculation added onto the process. She was unsure if additional staff would be needed.

Mr. Paul said statue allowed for the City to levy a service charge or a fee for applications, and if someone wanted to request a credit, the City could add a two percent administrative charge to off-set the work by staff.

Ms. Griggs asked about the refunds and if the monies were not spent within the seven years what would happen.
Mr. Paul said he was unaware of any local government not being able to use the monies but typically refunds took place if the project did not happen or they did not build what was expected. He said that prevision was added because it was legally required.

Mr. Blow asked for focus on Section 21-65, he pointed out that his question had no reflection on any staff or Commission, but he said when the mobility fee determination was looked at, the Mobility Fee Administrator had a lot of power, and with a City of 14,000 people, this was a transparent government. He said Mr. Paul did a fantastic job and was an expert, but he wanted to see more transparency in the process. He said if the fees were questioned, or someone wanted to propose an in kind contribution, a negotiation ensued, and a staff person would have ability to determine or negotiate a deal that would not be exposed to a public hearing. He wanted to see a process so if there was a dispute on the mobility fee amount, it should go to a board, public hearing would take place and would allow the process to be more transparent.

Ms. Lopez asked if Section 21-78 would address his concerns.

Mr. Blow felt the City had credibility with the citizens; however, the process should be looked at with more of a public hearing process.

Ms. Lopez said the process would be as proposed with the Mobility Fee Administrator to do the initial fee assessment and asked if the suggestion was instead of the Mobility Fee Administrator decision being appealed to the City Manager and then a public hearing with the City Commission or should an appeal be heard by the PZB and then the City Commission to with a public hearing.

Mr. Blow asked for input from his fellow Board members. He said part of it was the dollar amount and if the applicant felt a fee was excessive, the Mobility Manager had the option to assess. The section where up to $1 million could be determined by staff and if over that amount then it would be determined by the Commission but thought $1 million was a lot of money in St. Augustine. He said he wanted transparency.

Mr. DePreter suggested it should go to the City Manager, then Planning Board, then City Commission for transparency purposes; however, if it did not come before the Planning Board, there was still an appeal process.

Ms. Lopez noted the transparent part was the ultimate hearing with the City Commission.

Mr. Blow said this went down to the dollar amount. He said the only public hearing that would take place was if there was a dispute or over $1 million. He said this was about the public's perception.

Mr. Paul said in a day-to-day operation decisions were made and this process provided the Mobility Administrator flexibility. He said if a credit were to be given it could be reviewed by someone in order for it not to be determined by one person. He said thresholds were able to be established.

Ms. Lopez said if it was bundled in a statutory agreement, it had to go to City Commission. She asked how much of the process should be administrative for the public and the applicant and how much needed to be a public hearing.

Mr. DePreter asked about how the appeal process was prompted.

Ms. Lopez said a development agreement would be public.

Mr. Blow said the dollar amount should be reviewed.

Mr. Pappas asked how much of a burden was it to be reviewed by the administrator and then reviewed by the Board. He said it seemed to be similar to demolitions as those were heard and normally did not take an extensive amount of time but if there were questions, those could be answered.

Mr. Misterly said the Mobility Fee Administration was for situations not clearly identified. He agreed with Mr. Blow, that this placed a lot of responsibility on one person that was outside of public view, perhaps the lower threshold could be lowered to $10–$15,000 and have it come before the Board.

Mr. Paul said he most credit agreements seen a threshold upwards to 250,000 or 500,000 but agreed that $1million was high. He suggested if more than a 25% reduction it would go before the Board, and a provision could be placed.

Ms. Lopez suggested this could be discussed during the Development Review Committee, as it was a public meeting, on Fridays instead of the PZB.

Mr. Misterly said he did not feel there would be many applications for the PZB to review.

Mr. Blow said when an applicant felt the fees were not accurate, or a negotiation was to take place, the process needed public review. He said if someone did not object, the Board would never see it, but would if a situation occurred where it was questioned.

4. Public Comment and Discussion Related to the Mobility Plan and potential Mobility Fee in the City of St. Augustine

Public comment was opened:

Len Weeks stated he was concerned as a developer and questioned how much money the fees would generate and what would it be used for. He expressed concern with parking, and said the Ordinance dealt with collecting the money, and there was not a plan on how the monies would be used, which should be developed before charging the public. He questioned the difference in local and free-standing retail.

Ms. Skinner said local retail was defined in as not a chain and unable to have no more than five locations.

Mr. Misterly stated if he had a meeting with Mr. Franklin then he would be able to have his questions answered.

Mr. Weeks said he knew the Board was asking when to put the Ordinance in to affect. He asked when the 90-day period began.

Ms. Skinner said the 90 days was from the first reading of the ordinance for the public to know. She said once the application was submitted, a fee would be calculated, and the permit would not be issued until the fees were paid.

B.J. Kalaidi said rarely did anyone showed up at the Friday Development Reviews unless they were the developers and their attorneys. She said as residents, this should be implemented as soon as possible, and the 90-day period should start after the first reading. She said as a citizen, she knew there was a parking issue and hopefully this would improve the congestion downtown. She was opposed to the $1 million and thought that needed to be lowered.

Public comment was closed.

Mr. Misterly asked for guidance from City staff, and said there were some topics discussed; however, were unable to come up with a resolution.

Ms. Skinner said there was a plan and a list of projects which had been approved by other transportation agencies in the region. She said they would like a recommendation to the City Commission in order to move forward. She stated they understood the $1 million threshold was high.

Mr. Misterly asked the Board if they wanted to see the Ordinance once more or could it move to the City Commission if the following were addressed:

- Addressing Flagler dormitories being treated as commercial or residential
- City Exemption
- Treating Food trucks as RV location
- Definition of shell building
- Concern regarding the transparency of the process

Mr. Blow suggested adding an amount but since the Board wanted to move this forward to the City Commission, the Board could stipulate 15,000.

Mr. DePreter suggested a percentage, as he felt that was more appropriate.

Mr. Misterly said it could be passed on with either a dollar amount or a percentage.

Ms. Skinner said 15,000 was a good threshold and then a companion to add 25%.

Mr. Misterly said that did not need to be answered other than it needed to be a public review process. He said he thought the public that express concerned needed to have their questions answered.

Mr. Blow said Mr. Weeks made an excellent point by asking what the fees would be paying for and suggested providing an attachment to show the list of projects.

Mr. Franklin said they planned to meet with the business community to review.

Mr. Misterly asked when this would be presented to the City Commission.

Ms. Skinner said they would review the advertising requirements but planned to submit it to the Commission for first reading on February 14th.

MOTION

Mr. Misterly MOVED to move the Ordinance to the City Commission for review with the following updated in the plan as it continued to move through the process as follows: how to address any college buildings such as dorms, Food trucks to be treated like RV spots, was the City exempt, adding a definition of a shell building, increase the transparency of the Mobility fee administrator such that a percentage or a threshold of $15,000 would trigger an open review to the public through a Board, answer questions from the public , and linking the project list of the mobility fee would fund to the document. The MOTION was SECONDED by Mr. DePreter.

VOTE ON MOTION:
AYES: Misterly, DePreter, Ryan, Griggs, Blow, Pappas
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

5. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 11:18 A.M.[1]

Grant Misterly, Chairperson

[1] Transcribed by Elyse Wiemann