

Summary Minutes
City of Sedona
Planning & Zoning Commission Meeting
City Council Chambers, 102 Roadrunner Drive, Sedona, AZ
Tuesday, February 16, 2016 - 5:30 p.m.

1. VERIFICATION OF NOTICE

Chair Losoff verified the meeting had been properly noticed.

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL

The Chair called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and requested roll call.

Roll Call:

Planning & Zoning Commissioners Present: Chair Marty Losoff, Vice Chair Kathy Levin and Commissioners Randy Barcus, Eric Brandt, Avrum Cohen, Larry Klein and Gerhard Mayer

Staff Present: Audree Juhlin, Cynthia Lovely, Cari Meyer, Robert Pickels, Donna Puckett, Mike Raber and Ron Ramsey

Council Liaison(s) Present: Mayor Sandy Moriarty and Councilor Jessica Williamson

3. ANNOUNCEMENTS & SUMMARY OF CURRENT EVENTS BY COMMISSIONERS & STAFF

Audree Juhlin announced that Dianne Springfield from the City Manager's Office would be contacting the Commissioners, because Justin Clifton would like to meet with staff, Commissioners, volunteers, etc., so we will be scheduling one-on-one meetings for you to meet with her and Justin in the near future.

Commissioner Mayer indicated that there is a global conference in Austria called "Urban Future", and he wishes some of the staff could go there and participate. He could see staff getting a little more impact, like when he reads all of the newspapers, etc., to look beyond our continent.

4. APPROVAL OF THE FOLLOWING MINUTES:

- a. **January 19, 2016 (R)**
- b. **January 28, 2016 (WS)**
- c. **February 2, 2016 (R)**

The Chair asked for a motion to approve the minutes of January 19, 2016.

MOTION: Commissioner Klein so moved. Commissioner Cohen seconded the motion. VOTE: Motion carried six (6) for, zero (0) opposed and one (1) abstention. Vice Chair Levin abstained, because she was not present for the meeting.

The Chair asked for a motion to approve the minutes of January 28, 2016.

MOTION: Commissioner Cohen moved for approval. Vice Chair Levin seconded the motion. VOTE: Motion carried five (5) for, zero (0) opposed and two (2) abstentions. Commissioners Brandt and Mayer abstained, because they were not present for the meeting.

The Chair asked for a motion to approve the minutes of February 2, 2016.

MOTION: Commissioner Cohen moved for approval. Vice Chair Levin seconded the motion. VOTE: Motion carried five (5) for, zero (0) opposed and two (2) abstentions. Commissioners Klein and Mayer abstained, because they were not present for the meeting.

5. **PUBLIC FORUM:** (This is the time for the public to comment on matters not listed on the agenda. The Commission may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.)

The Chair opened the public forum and, having no requests to speak, closed the public forum.

6. **Discussion/possible direction regarding the CFA planning process**

The Chair noted that the Commission had approved the CFAs for Soldiers Pass and Western Gateway and made a recommendation to the Council, so this is an open discussion on how we can improve the process.

Audree explained that both of the CFAs mentioned were kicked off in the spring of 2014. The Soldiers Pass CFA took just under a year from the start to the Commission's recommendation, and about eight months of that time was spent with the Commission. The Western Gateway was about 19 months to get it to a recommendation and about nine months of that time was with the Commission, so staff wanted to get your general thoughts and ideas, and then get into specifics of what you would do differently, and then we want to talk about when we encountered no consensus among the Commissioners, plus any final thoughts you may have in assessing the process. Staff has their own perspective, but would like to know the Commission's thoughts.

Commission's Discussion:

Vice Chair Levin indicated that she didn't think the Commission was prepared for this agenda item. At least having a memo indicating the direction we were to go in; she would have liked to be on notice, so she could have given it some thought rather than shooting from the hip now, because you want a thoughtful discussion. Audree agreed, but added that staff also wanted thoughts just off the top of their heads as to what worked and what didn't, but if you want it on a future agenda, we could do that.

Chair Losoff stated that he would like to go forward, and Commissioner Cohen stated that he was prepared to discuss it. He had some problems with the planning process. First, what are we planning toward? What do we want the City to look like? The definition of "sustainability" is not very specific, so he would like to know what we want the City to look like, and only the City Council can tell us that. He has a need for more data; we need to know more about traffic, Tlaquepaque and Uptown. The City Council changed the paradigm for Uptown traffic. The meters are going to affect some things, plus no left-turn on Jordan has changed traffic patterns. As one who lives above Uptown, it is getting more difficult to get there. He is now a permanent resident in the Hyatt parking lot. He also would like to know how much infrastructure we have to sustain more residents and tourism, because that would be helpful in how we look at some of the limitations and increases in development, and we know we need that, because the City has a need for more revenue.

Chair Losoff indicated that the Western Gateway was extremely frustrating; he felt that things got out of hand for a couple of sessions, and to go forward and avoid, like the Community Plan that took three years, as one person mentioned if we weren't careful, it might take as long to get this accomplished before the next community Plan comes out. The CFA process should have a start and ending time of maybe two, three or five months. We start and have focus and community meetings and we keep getting issues coming in; it doesn't stop. We want to hear from the public, but if we allow enough time and stop at some point in time, then we go from there. If some people straggle in that is okay, but we would have the bulk of the issues. He was very frustrated when we started getting handouts as the meetings started, so he would set a specific time, because enough is enough at some point in time.

The Chair added that we don't come to a conclusion, and part of that is when staff doesn't agree with the Commission or we don't agree with staff and it keeps coming back. He thought the

Commission had made a decision with the Western Gateway and there were two or three contentious issues, but an agreement was reached, yet staff disagreed and it kept coming back, and that caused confusion. It was awkward, because he thought we were moving on, and he didn't want to embarrass staff by stopping the discussion, so it was awkward. We have to somehow work that through, and if the Commission agrees and staff disagrees, we have to have some procedure or dialogue to get it done in a reasonable way. We could agree to disagree, but not to have it keep coming back week to week or month to month. He also thinks that it is difficult to talk about 12 CFAs, but take each one in a vacuum. He finds that hard, especially with the Western Gateway, because the infrastructure is going to be impacted in the whole City, so it would be nice to have a perspective for the whole City, not just on traffic, but on all of the other issues related to infrastructure, because one begets another. If we just decide on one, maybe Soldiers Pass should be all residential and the next be all commercial, but we don't know that. We are taking each one like mirror images, so each one has to be the same to an extent, and that is awkward.

Commissioner Barcus stated that it was complicated, because of what the Chair and Commissioner Cohen already discussed. It seemed like we were setting ourselves up for a lot of unintended consequences. A couple of times, he said if you put caps or limits on things, then that will cause a first in line, first in time issue, and that is kind of synthesizing what was said into how do we do this as a whole, but keep it small enough to have each specific area with its own special characteristics handled and managed. He is reading a book titled "*Master Algorithm*", which is a philosophical book, and if we are going to make a decision at the gateway that might have an impact somewhere else, but we don't have a mathematical or an algorithm model that tells what impact that will have in Uptown, those things pop up, like what impact will a new restaurant have on existing restaurants or if a new hotel opens, what impact will that have on occupancy rates. We don't know, but we are struggling with all of those nebulous concepts without this holistic picture, so that is kind of the big picture stuff.

Commissioner Barcus added that what he found hard was that he wants to have that traffic study done; everybody wants that traffic study done. He is not sure if that is going to make it easier or not, but it seems like once it is done, it will eliminate the excuse that we could make a better decision if we had a traffic study. He doesn't think we should do a moratorium on CFA development; we need to continue to move forward, but it seems to be lacking. Chair Losoff noted that it came up several times as to the impact on the whole City. We never got a number of the people who would be going to the Western Gateway area, but it would be a tremendous amount. No matter what project is discussed, that will be an element so the sooner the better.

The Chair stated that staff did a great job on the reports; the CFA for the Western Gateway was extremely well done, and this isn't meant to be a criticism of what staff did. It was a good report and it gave the Commission a good opening for all of those discussions, so we aren't saying that wasn't done well, it is just going forward, we are seeing these issues. Staff can't do the traffic report or the infrastructure stuff and that is the kind of stuff we are talking about.

Commissioner Mayer indicated he shared the frustration, because of the length of the process, but he could also see the gateway as very complex and the biggest CFA of all of them. Soldiers Pass was fairly simple in comparison, but the CFAs were created as community focus areas and a community development plan, and each one stands by itself, but also has to be considered with all of the others so it is not disconnected. His frustration is towards the continuous upcoming issues within the Commission, which we have gone through over and over again. It can't be an ongoing thing, and he can see the frustration of the developer and of the staff in having to provide more information. His outlook is the benefit for the community – it is not only the citizens, it's economic benefit which is a big part of any CFA, and traffic is just unfortunately something that comes with it and can't be eliminated. We have talked about a transit system, parking garages and many other issues that are of great concern to everyone, and he can see the benefits, and staff has been providing more information, and maybe the Commission has been frustrating the staff, so it goes both ways. The biggest thing has been done finally, and that is what he sees. That CFA is a great

thing, and we allowed the developer the flexibility, which is a great thing for the developer and as an economic driver of the City, so in the end, it was all good.

Commissioner Brandt stated that planning is a messy business; first, you have to herd the cats, get the public involvement and get all of the information from the general public, because that is who we are working for – the people of Sedona. There is one opinion per person and 10,000 people, so 10,000 opinions, but there is some organization and elements that will be copied from person to person. Then you have to take that and make sausage out of it and that is what staff has to do, so acknowledge that it is a messy business and you can't put a big bow around it and say it is going to be great. When we talk about traffic, we are talking about the symptom of the problem, and the problem is really difficult to get around. One is the geographical layout of the City with a big mesa in the middle where the airport is, and a National Forest canyon across from Cook's Hill that divides the City. You also have Oak Creek itself coupled with the way the City developed, which was completely suburban. There is a small area in Uptown that is a regular traditional town, but the rest is suburban, so with all of that in place, it is hard to work around that suburbanization and the combination of the two means that you are going to have traffic. There is no way around that, but future planning can provide for places that we know will be developed, so why not plan for those places to be the best they can be to provide an alternative to the suburbanization, so people don't have to always jump in their car to experience Sedona. Why not create places within each CFA that give people the village that Commissioner Mayer talked about? Why not create villages in neighborhoods? People are going to go see what the rest of the City is like anyway, but they don't have to; not everything is suburbanized. That is the big picture for him.

Commissioner Brandt added that regarding the process, the Gateway CFA was 18 months, but when did P&Z see a complete draft of what was proposed? We can talk about wanting this and that, but until we see what all of the people -- neighborhoods, landowners and players have to say and that is compiled, when did we see that? Mike Raber indicated that the first draft was distributed the middle of March and the Commission started looking at that in April and did a site visit. Then, over the course of several months, we came back with a much more detailed draft partly in response to knowing more about some of the Commission's direction, and we spent October looking at that. Commissioner Brandt then stated that really in his view, in June or July, we had a work session with SATHCUPA and Mike Bower gave a fantastic presentation on how to integrate transit and the string of pearls, etc., so in reality, they were still talking big picture and we weren't talking about any picture. We were still getting information, and it wasn't until the draft in October that we really said now is the time to talk about what we had in front of us and everything had been compiled. Then, it was December when we started talking about specifics, because Mike had said not to talk about specifics and to talk about the big picture. We talked about the Vision Statement for one-half hour or an hour and how to shorten that or lengthen it, and then we found out that it was alright, so finally we started to talk about the specifics in the plan. Then gee, we had been talking about this for 19 months, so can we finally get this done? It was like wait, wait, wait, wait – hurry up, and that was frustrating. That coupled with the fact that the planning we seem to be doing is funny in that we call it Vision 2020 when the things in the plan are what was new planning 20 years ago, like trying to create a transit-oriented development, villages, and get away from suburbanization. We are talking about doing that now, but not really incorporating it, it is just more of the same. For the first CFA, he thought maybe we could create a heart there or a nice pearl, but it ended up being more suburbanization. It started great; we talked about distances for walking and things like that, but in reality no, we couldn't upset the Elks, so that is frustrating to him. We can do better for the City of Sedona. The City needs to not just be sustainable; that just means that you can continue with the resources you have, but we see with traffic that is not really the word we want to use. The word is "resilient", and when new challenges come; we need to be ready for those challenges and that is beyond sustainability.

Vice Chair Levin indicated that focusing on the Western Gateway, she thinks we need to step back a little and appreciate all of the exhaustive outreach the City undertook, the thorough research, the analysis that they did, and the drafts that they brought to this Commission, while working with a very large land mass, diverse property owners and adjacent neighborhoods that had their own

special concerns -- and specific planning is just that. If indeed it took nine months to come to the Commission, but we had it for nine months, doesn't that take the place of an exhaustive Development Review that is going to follow, because all of the specific planning is in place for the Commission, so when one of the other property owners comes through, she is hoping that we will be able to move very quickly, because we have the specific plan that has been adopted to use as the backdrop for our decisions. You know that some of these large property holdings of 40 acres or more can typically take 1½ years to get through P&Z and Council, especially if there is a rezoning involved, so you could look at the nine months we spent on a very large area of the community to develop specific planning as really time well spent, because she is hoping it will be the Commission's blueprint when developers come through.

Vice Chair Levin added that we got derailed or distracted somewhat by the involvement of the large property owner, and she doesn't know that staff or the City could have taken any other position than to permit them to discuss their proposed plans for that area. They tried very professionally to enable the Commission to see the difference between the Commission's work and the property owner with prospective plans, but it took time and in some way derailed the process. If she could make any suggestion at all, it would be to have more direct alternatives to react to after the initial draft has been refined. She has no problem getting a staff recommendation, because we get them on our Development Review projects, proposals for community benefits policies and all of those that have bubbled up through Citizen Engagement, so don't be afraid to make a recommendation.

The Vice Chair then indicated that since she thought this was going to be a discussion on what is next rather than what was, she would like to know if Schnebly is going to come forward next. Audree stated that staff is in the process of determining which one will be next. Commissioner Mayer then asked if the Commission has a choice, and Audree explained that staff takes direction from the City Council, and Schnebly is nearing completion. We have been working with the property owners for about a year, and we have the Ranger Road CFA, which is basically Brewer Road, and that would come on the heels of the Brewer Road Master Plan, so that would tie in nicely. Then, we have the Uptown area that we want to look at in relationship to the traffic study.

Chair Losoff asked if there had been discussion among staff or others about whether or not 12 CFAs are enough. The Western Gateway had three major areas, and we talked about extending the boundaries of the Soldiers Pass CFA. He isn't asking for an answer; it is just a rhetorical question. While not in policy, we seem to almost have an informally adopted string of pearls concept, but it hasn't come out in the planning directly, so he doesn't know if that is something we should revisit, because that would give each CFA a specific characteristic.

Commissioner Klein stated that staff did an excellent job on the Western Gateway CFA; the paperwork was very impressive, thorough and very effective, as was the whole process even though it was lengthy. He agrees that we were talking about a pretty unique situation between the Cultural Park and the medical center. One thing he really liked about the CFA process for the Western Gateway was the fact that early on we had a big packet from the citizens as to their comments on what should be done there, and that was very helpful.

The Commissioner then explained that the thing he found to be most confusing, and it was probably a unique situation, because one person owns 40 acres of the Cultural Park, but he was never clear as to how much we should be listening to the developer's proposals. It seemed that sometimes we were catering more to what the developer wanted than maybe what is in the Community Plan, and he is not saying that is wrong, but for example, if you look at the Community Plan for the Cultural Park, it talks about preserving natural open space on ridgelines and along the highway. Then, the developer submitted that letter objecting to a bunch of stuff, one of which was open space, and on the next draft, staff had changed the draft to conform to what the developer wanted. He never had a clear understanding. He realizes that if the developer doesn't want to develop it, then it is not going to be developed, but at the same time, it wasn't clear as to how much we should be taking that into account and how much we should be tailoring it to the Community Plan or to what the developer wanted.

Chair Losoff stated that many times issues come up and we don't come up with a consensus. He then asked how we should deal with that as a seven-member Commission; should he be autocratic and just say done or should we come up with a couple of specifics, whether we have a consensus or not? We do come to a consensus periodically, but more often than not, we kind of avoid it. Commissioner Klein stated that it was a good thing when the Chair said, "Let's get it done"; otherwise, we might still be talking about it.

Audree suggested that when there are areas that we can't reach agreement on, we just forward that to the City Council and state that this was an area where the Commission was unable to reach consensus, and then give the reasons why to the Council and let them make the decision. Commissioner Mayer asked if the Commission always has to have a consensus, and Audree stated no, we can forward something to the Council. Chair Losoff noted that we try to avoid one member saying something and staff going back and changing it; it shouldn't be that way. Commissioner Mayer then stated that is why there are seven Commissioners, and the Chair added that if it is three or four, yes, but if it is one or two, no – we play it by ear. Commissioner Mayer then indicated that if it comes to the nitty-gritty, we should put it to a vote.

Audree stated that if we had a really exhaustive discussion about an item and can't come to a conclusion, we can make that presentation to the City Council; that would be her recommendation to keep it moving forward. Commissioner Mayer asked if we are out of the Commission then basically, and Audree stated no. If three think one thing, two another and two another; those opinions would be relayed to the City Council, so they could make the decision. The Commissioner then indicated that if it is put to a vote and it is 4-3 or whatever that would be conveyed to the City Council, and Audree stated yes. Half of you want housing and some of you don't, and the others are undecided, we can let the City Council know that. Commissioner Mayer then indicated that was hypothetical; he is hoping for consensus.

Chair Losoff noted that there is a joint meeting next month with the City Council and we can probably get a flavor for their thoughts on what they want to see from the Commission. The one thing that sticks out in his mind was that overall it is a very tedious job, but if there can be some time limit put on the Commission's discussions, because we have a tendency to talk about the same thing every time we meet, and we go around in circles. We have to somehow condense the time; the more it is spread out, the more the issues keep coming up. Commissioner Brandt disagreed and stated that if it keeps coming up, it needs to be discussed more.

Commissioner Barcus asked what constitutes a minority opinion on a vote and who would write that, like if there was a split vote of 5-2. Audree explained that staff would basically summarize the discussion in the meeting, based on the minutes, and forward that to the City Council. Chair Losoff added that we have to ask ourselves if we want to change, modify or improve our process and get into minority reports. Commissioner Barcus explained that he wasn't thinking of a minority report, just who and how regarding the various opinions and that has been answered.

Commissioner Cohen stated that one of the documents provided when applying for the Commission was how we are supposed to work with the group, and when the group makes the decision, even if we don't agree with it, a minority report is not necessary, because the majority is supposed to rule. Staff hears what we have to say and at least one member of the City Council is always here, so what we say gets forwarded. Like in the last CFA, he voted no, because he didn't like one thing about it and he said what he didn't like and why he voted no, because he wanted it publicly stated, but the Commission spoke and he supports what the Commission said, and that is the right way to go. He would be very concerned about a minority report; it would confuse staff and the City Council.

Chair Losoff indicated that the Commission is responsible for making intelligent decisions, and we have had people vote no. Sometimes when it goes to the City Council they will possibly talk to the Commissioner or staff and ask why that person voted no, to get the information. Commissioner Mayer pointed out it is in the minutes, and Chair Losoff then stated that there shouldn't be a

secondary or dissenting report. Commissioner Mayer added that he had been on a board where there was a minority report, and it was dysfunctional and destructive, and it was a city-related issue on the Dells.

Chair Losoff then indicated that if there is a discussion where the Commission can't agree, that then could be presented to the City Council, and they could ask one or some of us to attend and explain some of our concerns. Commissioner Mayer then asked how complex the future CFAs would be, and Audree indicated that the most complex one had been tackled, next to the Uptown CFA and the Dells. Commissioner Mayer then asked if the Uptown CFA includes Lomacasi, and Audree stated that staff could look at that, just like with the Western Gateway where staff felt it would be better to do them in tandem. The Commissioner then asked if Brewer Road is some priority, because that has a very community-oriented set-up with the Ranger Station . . . Chair Losoff pointed out that staff and Council would prioritize them, although we can give some input on that.

The Chair then asked about a specific beginning and ending time, and Audree stated that from staff's perspective, we would like that – give us a deadline and we are going to do what we can to make it work. The Chair stated that if the Commission has to meet more often or have special meetings, that is the Commission's responsibility to do so; otherwise, it just goes on. We do need community input, but at some point in time . . . , Mike Raber stated that having a timeline is a reasonable thing, because when do you stop that and start the plan?

Commissioner Mayer questioned putting a timeline to every one of the CFAs like one month for each one; they are all different, and Mike agreed we would have to assess each one. The Commissioner then commented that he would assume that with all of the issues related to that CFA, staff could determine if it is going to be lengthy or easier to go through – it won't be one size fits all. The Chair then asked if from a legal point-of-view, we could put a time element on public comments like it stops today, and anything after that we don't have to consider.

Ron Ramsey indicated that he is not sure that there is any specific statutory requirement as far as limiting public input – certainly, there is a need to have public input and probably the public input could be framed around what you normally would solicit for public input for a major development project or maybe even the Community Plan as a model, but as long as the public is aware and you have made adequate notification, maybe publishing and contacting the associated property owners in a timely manner, he would think 60 days would be plenty of time.

Vice Chair Levin asked if staff is in a position to share any suggestions to improve the process or if it is too premature, and Audree stated that it is a little premature at this time, because we are still gathering what we have heard from the Commission and the property owners, and staff has not collectively met yet.

Chair Losoff repeated that planning is a very tedious process and this CFA was huge, so we appreciate the time that staff put into it. We probably could do this more often to discuss what we could do to improve, etc. He then asked when this will go to the City Council, and Audree indicated that their first work session is next Wednesday at 3:00 p.m. The Chair stated that Mike had sent the Commission an email about that work session, and asked if staff wanted the Commission there. Vice Chair Levin noted that it is open to the public.

Commissioner Cohen stated that it would help to know what the Commissioners' role might be, and the Chair indicated that in the past they had been discouraged from attending Council meetings, and in orientations, our attorneys always said to be aware of that. If you speak, you speak as an individual, so that is why you have to be careful. Commissioner Cohen noted that the Commission has spoken on the issue and made the recommendation, so he is not sure what the Commissioners' role might be. If we speak as an individual, we speak against what the Commission said, and if we speak to what the Commission said, staff could do it better.

Commissioner Brandt indicated that he wanted to hear what staff had to say about the Commissioners' role, and Audree indicated that your role is here as the Planning & Zoning Commission, and once you are done with your recommendation, your part is complete. Staff takes that forward to the City Council, and they take the next phase in the evaluation of projects, so your role is pretty much done and staff will represent you and provide the Council with the Commission comments, community comments and staff comments, then City Council has the final decision-making authority.

Commissioner Brandt then asked if a Commissioner chose to speak, you would have to disclose that you are speaking on your own behalf as a citizen of Sedona and comments are not reflective of the Board necessarily, etc. Audree indicated yes, because it would be difficult to speak on behalf of the Commission, since you have not been delegated that authority. Chair Losoff noted that it would be difficult to say he is not speaking on behalf of the Commission, but here is what he thinks.

Commissioner Klein indicated that if any Commissioner goes to that meeting, we should not speak, and Commissioner Barcus indicated that is what he thought Commissioner Cohen was saying in that if we want to attend, we should attend, but not speak, because the Commission has spoken and we can't separate ourselves as Commissioners in a public forum, and we can't speak as a citizen because of our Commission duty, and he agreed with Commissioner Cohen. That was one thing we agreed on, which is different than what Commissioner Brandt stated, so he would like to have a consensus from the group that if we attend, no one will speak, even if asked by the City Council.

Commissioner Cohen stated that if the Mayor asks the Commissioners to speak . . . , the Chair interjected a personal experience from several years ago when he was asked to speak, and he indicated that it was awkward.

Ron Ramsey pointed out that the Commission is getting a little off target; we're still talking about the CFA process and the final step in that process, but it is not the Commission's process, it is the Council's process. As far as the idea of showing up at a meeting, and hopefully not even commenting, by statute you are an independent body and are supposed to make independent recommendations, and it is not unheard of for the Council to look at the CFA and say they want more information from the Commission, so they send it back. Now, you've made some presentation or personal comments at the Council meeting and you are now being asked to review some component. It is best if you simply did not attend; people in the past ask how they are going to know what happened – wait until the minutes come out. You want to know, read the minutes. It is a lot easier than trying to go through the gyrations of saying that you aren't really here as a Commissioner, you are here as an interested citizen. Ask yourself if you would be there on that agenda item that night if you had never been on the Commission, and the answer is probably not. His recommendation is to always keep the bodies separate. The Chair then stated that might be something to talk about in the joint meeting, so we are all on the same page.

7. Discussion/possible direction regarding draft Community Benefits Policy

Cari Meyer presented an overview of the history, explaining that this issue came up a couple of years ago when there was confusion about what staff's role versus the Commission's versus the Council's was as far as reviewing zone changes and community benefits. A Citizen Engagement group was formed with a couple of Commissioners, a couple of Councilors, a couple of staff members and a couple of citizens. The group was to look for a way to get everyone on the same page, and the outcome was to have some main goals. One was to make sure that zone changes were doing more than implementing the Land Use Element of the Community Plan, because there are all of the other elements that the community spent over three years looking at. What do we want to look like for housing, transportation, community spaces, etc.? We didn't want those elements to get lost when a zone change comes forward. We wanted to ask what they were doing besides the Land Use Element. There was discussion of what a community benefit is, and they decided to use the goals, policies and objectives of the Community Plan as a guide to talk about

what the community wants. The last thing was that there should be some sliding scale; we shouldn't expect a half-acre project to do the same amount of community benefits as a 10-acre project.

Cari indicated that with those goals, they came up with the first draft and went through a couple of drafts with the work group. Then, it came to the Commission for a few drafts, and we got to the point of asking what this would look like in actually reviewing a project by using it from beginning to end. The last direction from the Commission was to try it out, which was a great idea, but then we didn't get any zone change applications, so we weren't able to try it. We went backwards, but we still don't know how it would work in initial discussions with an applicant, but we did look at how some projects would have scored. There were some things that need to be addressed going forward, and the three main ones were outlined in the memo.

Cari stated that there is the assigning of points based on acreage, what counts as acreage and should lodging be looked at with the number of rooms rather than the number of acres, since that is how the zoning works for lodging, and we kind of knew that would happen. Every project is a little different, and a lot of people want to go toward a Planned Development zoning, because it gives them a little more flexibility, but what does that mean when they are incorporating different open space elements, like CVS went from Commercial and Residential to essentially a Commercial and Open Space PD, so one question was what that would look like and how we would assign points. Another one was that all of the major projects did something that wasn't necessarily something on the list, which was anticipated, but how do we assign points and who decides how much, etc., so there was a value judgement on her part in going through the evaluation. The last one was the impact of the neighboring community response to a project. Initially, all of the projects were close to where we thought they would be, but the projects that had a more negative community reaction had more points, because they were doing more things to try to get the community to support the project. Their initial proposal might have been in line with the policy, but the end result made them look like they went far above and beyond what the policy would have asked, mainly in response to the neighbors' comments.

Cari indicated those were the three things she saw and the first two were anticipated, and then keeping in mind that the community response is going to have a big impact on what the project ends up looking like. We still don't know how it will work in the initial stages, because we still are waiting for a project to come through.

Commission's Discussion:

Chair Losoff commented about past discussions on what a benefit is, including some saying they were going to create more bed tax and employment, but if they were opening a hotel and taking business away from another place is it really a benefit? The Chair then asked Cari what she thought in working with it, and Cari stated that it worked as a good baseline starting point, but if it were to be adopted as a strict rule, it would become more problematic. If it begins as here is what you need to think about in these areas and certain things will have more value than others as a starting point, that is where there is value.

The Chair then asked if there is a floor and Cari stated 10 for small projects, but the way she sees it possibly working is making people think about something more than land use, and that was one of the goals of the group. When they say their project is compliant with the Community Plan, because they are proposing a commercial use and the Community Plan says it is a Commercial property; they are ignoring a big chunk of the Community Plan, so what does Community Plan compliant mean? The goal of the group was to say it means you are looking at housing, etc.

Commissioner Mayer asked what the exchange for a point would be and Cari explained that it wasn't like something that is worth a dollar. Commissioner Brandt asked if he meant something that is not on the list would be exchanged, and Commissioner Mayer stated yes, he would want to get something for his 20 points, because he is making an investment in improving something, so there has to be some give and take. Chair Losoff indicated that is exactly why they wanted to come up with a formula to avoid any extortion. Commissioner Mayer stated there is no envelope under

the table, but when they get points, there has to be something in exchange for those points. Cari pointed out the zoning; this is used in rezoning cases. Commissioner Mayer then indicated he would like to hear more, like height or whatever. Cari explained that the current Land Development Code would allow for some changes to heights in association with a zone change, and that is where they can look at different planned developments, etc., but this not something where if you do this, you get to have additional lot coverage, etc. It is focused on zone change applications like from Commercial to Lodging or Residential to Commercial.

Commissioner Mayer then asked if the Green Building Code would get some points, and Cari explained that if they are doing something that they don't have to do, and right now green building is not a requirement, so if they voluntarily choose to do that, we would want to acknowledge it, but in the future if the City adopts a Green Building Code, they would no longer get points for that, because it would be a requirement. Commissioner Mayer indicated that he understood and he hoped it would be implemented soon, because that is one of his pet projects – green building code and water conservation for commercial developments. Little things make an impact too. Chair Losoff noted that falls into #2, benefits not listed, so we would accommodate that in the points.

Commissioner Barcus asked if the points are expected to be site specific or if a developer doesn't want to make an improvement on his property, could he pay for an improvement down the street or across the road. Cari indicated that as staff talks to developers, we discuss things in the area, but it has to be something that becomes project specific, because it is going to change depending on the area of the project and what is around there.

Chair Losoff referenced the option that developers have with affordable housing and Commissioner Barcus noted that would be offsite, although Commissioner Mayer indicated that it could be onsite. Cari explained that it is hard to answer that question without a specific example, and this would need to remain flexible, because you might have something where an improvement is needed in the area and would benefit the community, but you wouldn't want to say there is a vacant property and when they develop, they will have to build a sidewalk, so do it now and you will get credit for it.

Ron Ramsey pointed out that there are some legal requirements before you can impose offsite improvements as a benefit. You can reach an agreement with a developer and it would probably be in a Development Agreement that they will do some offsite improvements, and you could talk about whether that will offset any points required for the community benefit or perhaps it would be an offset to some of their Development Impact Fees. Those are commonly wrapped up in Development Agreements. The legal problem is that whenever you are making these requests, two things have to be met. First, this community benefit has to somehow be related to the impact that project is having in that immediate area. Secondly, what you are asking them to come up with in terms of cost has to be proportionate to that impact. You can't have them rebuild an intersection two blocks away that you wanted, just because they are going to put another Wal-Mart store in. There is a case in Tucson directly on point that says that. You have to be careful, sometimes developers are willing to do immediate offsite improvements like sidewalks, turn lanes, etc., and they benefit the City and traffic they will generate in that area, but to have them do a major improvement that you should do through a condemnation process and funding through City sources is where you would have to stop.

Commissioner Barcus stated that he was thinking of a park improvement that would be in the neighborhood, and Ron explained that it is very site specific. You would have to see what the impact is and what they are asking for, and then . . . , the Commissioner interjected that Cari had said that there is some flexibility and common sense, but we also have to follow the law and make sure we don't step on the statutes, which is great.

Commissioner Klein indicated that staff pointed out a good potential issue as to if you are going to determine the number of points by acres. You can look at the CVS project to see what number you are using. CVS was 5.27 acres total, but the former zoning was 1.03 acres already zoned Commercial, so they want a zone change for 4.24 acres, but then they are doing 3.18 acres of open

space and only developing 2.09 acres, so which one are you going to use? He then asked if CVS were coming before the Commission now and you were going to apply this draft, which acreage you would use. Cari explained that is a discussion that we would have, but her inclination would be to give them some credit for the Commercial they already have; the open space is trickier, because they were using it as a main benefit originally, but it changed over time based on the neighbors' input, so it would have been an interesting conversation.

Chair Losoff indicated that staff would prepare the matrix and the Commission would discuss it to see what we felt would be best. Commissioner Klein then stated that things would be decided on a case-by-case basis as opposed to having a formula as to how you would assign points, and Cari explained that she doesn't know that more formulas would be the answer. The further you get into more formulas and more regulations, the more you get into them thinking that is all they have to do. There needs to be some flexibility on the part of staff to be able to work with the applicant and the more you get into formulas, etc., and specific numbers, you lose some of that.

The Chair stated that the Citizen Engagement group felt strongly that one shoe doesn't fit all, so it would have to be site specific. It couldn't be a standard for every project; each one would be site specific. Audree Juhlin added that we would look at it on a case-by-case basis in relationship to the Community Plan, so if they are coming forward with a community benefit that wasn't directly related to the Community Plan's identified benefits for that area, we would make a recommendation based on that. In the CVS case, that area really focused on open space, so our recommendation to the Commission would have been a heavier emphasis on the open space component, because it was more in alignment with the Community Plan.

Commissioner Klein then referenced the thought that it might be better to look at the number of units for lodging and asked if there had been any thought as to how many points would be needed based on the number of units. Cari indicated that we might look at some past projects to determine an average density of units per acre; Marriott was about 28, but we could look at other hotels as well to possibly translate that into acres; however, if the Marriott wanted to add one room in an extra little space, they would have to go through a zone change and would you want to look at the whole four acres? We would probably try to do something where average density is in acres, but a renovation or the addition of a few rooms would still have to go through a zone change.

Commissioner Brandt stated that as to what portion of a site, it makes sense to give them the benefit of having a portion already be commercially-zoned, and the open space should be included in the acreage, but then they used it as a benefit to counteract their numbers, so that worked out great. The categories totaled 73 and the portion of the site not currently zoned Commercial, including the open space was 75, so the numbers seem to be working. Beyond the 73 total, there were other non-categorized benefits and that was probably because the neighbors had more comments and it needed more benefits. It is not like we are going to cut them off and say they can't provide any more benefits at that number, so it seems to be working. The Commissioner then asked if there were any changes to the draft proposal from the last time.

Cari explained that there were a couple of small ones and probably the biggest one was under the zone change applications exempt from the policy. Originally, we thought the CFA Plans would speak more specifically to benefits and zone changes, etc.; however, they didn't go quite that way, and we originally had an exemption for zone changes that were in a CFA and being developed in full conformance with the CFA Plan, so we removed that exemption. A lot of the benefits would be in developing in conformance with the CFA Plan, but without that blanket exemption. Other than that, there might have been a few tweaks to change some verb tenses, like now talking about the Citizen Engagement group in more of a past tense.

Commissioner Brandt noted that he didn't remember the City Council priorities; however, Cari indicated that they were there. It was originally put in, because one of the impetuses for this whole thing was that the City Councilors felt they were getting things at the very end, so to have a little more influence at the beginning, they could set certain priorities for benefits that they wanted to be

met. The Commissioner commented that makes perfect sense and is great, but it says to apply a multiplier to benefits provided in that category, so would that suggest that they ultimately would have less benefits because they are addressing something that the Council finds to be a priority? Cari indicated yes, and Commissioner Brandt expressed that he didn't think that was right. It seems like they could adjust so there are limits to each category and you could only provide a certain number of points in each category. Cari then asked if it would be placing a limit on the category, and the Commission indicated yes, but not reducing the total amount required. Vice Chair Levin agreed and stated that the priorities would be added.

Cari then asked if the Commissioners were saying that, for example, if the City Council decided that housing was a priority, instead of capping that category at 20, it would be capped at 30 or 40, and Commissioner Brandt stated yes, they could make it as much as they want, but it is not to reduce the total amount required. Cari indicated that staff would work on some wording for that.

Chair Losoff asked if going forward those three things – acreage, benefits not listed, and neighborhood community response would be incorporated, and Cari indicated that staff will tweak the language, but for the first two, we will probably add something about lodging in units, and the benefits not listed was anticipated, but we can look at that language too. Most of it would probably be added to the first half with a more narrative. The Chair stated that the other thing the Commission struggles with is like CVS scored 85 for the entire site, but what does that mean? Should somebody score a 50 or 70 or what is the goal on something of this nature?

Cari explained that the goal is more easily seen when you look at multiple zone changes, because it is to try to put them on a more even playing field, so someone doesn't present a project that meets everything the first time around, and then you say that you want more, and then the next project presents nothing and you again say that you want more. It is to at least start each project with a similar baseline. The Chair indicated that it should work to put us on the same page with the City Council, because on a couple of occasions a rezoning came in and the Commission went through the benefits and thought they were sufficient to approve it. It went to the City Council and they wanted more, so a benefit is in the eye of the beholder and, hopefully, this will put us on the same page, although we could say X and the City Council could say it should be X plus 5. We will have to work it through; it is new and we haven't used it thoroughly yet.

Cari pointed out that it says in the opening paragraph that this should not be seen as a guarantee that a rezoning will be approved. Commissioner Mayer asked if the legal staff had looked at it, and Ron Ramsey stated yes, we have looked at it multiple times. Some of his earlier comments were one of the concerns. He has been involved with the Commission for over 10 years and he kept hearing rumors early on that we had to have a community benefit, and there was no defined policy, so several times he had to caution Commissioners that you were asking for something that was not directly related to the impact of the project, and we have to say that although you may make these concessions and cooperate with the neighbors, it is not contract zoning or a guaranteed rezoning if you do this, so we looked at different variations of this several times.

Commissioner Mayer asked about somebody saying that another guy got 40 points for something, but he did the same thing and didn't get any, why? Ron stated that we haven't used this system that much, but this is a good model to come up with a matrix. He suggested coming up with a matrix, but any kind of model that would remove the personal whims and subjective opinions of people about a project is a good model.

Commissioner Brandt asked about the schedule for moving forward, because it seems that it is working, with little tweaks as far as lodging. Cari indicated that hopefully we will get some zone change applications, and Audree Juhlin added that once we get a zone change application, we will take it through this Community Benefits Policy to see how it works, and then put it on a future agenda for the Commission to discuss, and if the Commission is comfortable with it, we will forward it to the City Council.

Vice Chair Levin indicated that what wasn't in the memo, but what she heard tonight that really resonated with her was that you are looking at this as a guide and starting point, because when we were first presented with a more complex version, she was concerned about applying it to the letter of the law, and the fact that it can be expanded to include those benefits that the developer brings forward that are very site specific and address neighborhood concerns tells her that they are guidelines and there is flexibility, and that is what we are looking for. Even though the Community Plan and community expectations that are spelled out in the Plan are good, she likes the direction that this is going in as it was redefined tonight, and we should get this moving as soon as you get a rezoning application. Commissioner Brandt agreed, and Cari commented that perhaps we should go back even further. Vice Chair Levin agreed that might be an alternative, because staff might have to decide how long we are going to wait for a rezoning application. When you could look at prior projects, all of that history enables you to do the same exercise.

Audree Juhlin stated that staff could move this forward to the City Council now with that caveat that we may adjust it as real applications come forward and we see how it works. Vice Chair Levin indicated that she would love for staff to do that and put it on as an action item to move it along.

The Chair asked how the other Commissioners felt about that, and Commissioner Klein pointed out that staff had stated that there was a general consensus that the policy should remain in draft form and used with actual applications. He then asked if it is better to wait to use it as a draft with a couple of applications or put some time limit to say that if we don't get an application in a certain period of time, we can move it forward, or are we comfortable saying that since you have applied it to past projects, it works?

Vice Chair Levin stated that she is ready to move it along. The Chair asked if anyone wanted to make a motion; however, the Vice Chair pointed out it wasn't agendaized as an action item. The Chair then stated that we should go back at least a couple more to see how it works.

Commissioner Cohen indicated that he was intrigued by what was said about a matrix. He then asked if we need a matrix, as the attorney suggested. Ron Ramsey clarified that he mentioned a matrix, because that was one of the suggestions, but he also said that any model that could be used effectively would be good – anything that would remove the very subjective feelings we had in the past without any guidance; this policy is fine. Chair Losoff added that the group looked at a matrix and it was really confusing.

Vice Chair Levin indicated that staff has already taken six projects and we are making more work for them to say go back and do a few more. We have six here and we should ask for this to be placed on the agenda for action. Commissioner Brandt agreed with the acknowledgement that lodging needs to be looked at. Commissioner Mayer stated that he also agreed, and no opposition was expressed by other Commissioners. Chair Losoff then indicated it would be put on as an action item in an upcoming meeting.

8. Discussion regarding the 2015 Annual Community Report

Audree Juhlin explained that this item was requested by the Chair for informational purposes, and the Chair indicated that he thought it would be FYI unless there were questions. Vice Chair Levin noted that there were a lot of things she didn't know until she read it, and Chair Losoff commented that he thought the Commission needed to see the big picture.

Commissioner Klein noted that the fiscal year ends on June 30, 2016 and the objective is to complete the comprehensive traffic study, and that is four months away. He then asked when the traffic study would be done. Audree Juhlin explained that the RFP (Request for Proposal) is out now and that should go before the City Council in the next month or two for final action. We hope to have a final study completed by the end of 2016.

Commissioner Cohen asked if the City Engineers would be involved, and Audree stated that Engineering, Community Development and the City Manager's Office would all participate with the consultants in this study. The Chair commented that if the consultant is good, he would assume they would also talk to the Commission.

Vice Chair Levin expressed an interest in seeing the analysis of resident versus visitor spending that Finance completed, and Audree indicated that the Commission could see that. The Vice Chair then asked about the Communications objective to act as a liaison to the 2016 Verde Valley SciTech Festival, and Audree indicated that she didn't know what that was.

The Vice Chair referenced major accomplishments for Wastewater and indicated that they presented the citizens committee report to the City Manager for the land use concept, and confirmed with Audree that the Commission would probably see that when the CFA comes to the Commission. The Vice Chair then asked Ron Ramsey if it would be true that he could not discuss the litigation to recover damages related to construction of the solar generation infrastructure at the wastewater treatment plant. Ron stated that is absolutely true; it is ongoing litigation and there is information that you can glean from the various motions and briefs and pleadings that are public record, but he doesn't have that file immediately available.

Vice Chair Levin then indicated that she was asked if the Arts & Culture Division is preparing an art plan, but she didn't see that in the overview in this report. Audree stated that she thinks that they have just completed that Art Master Plan, so that should be going to the City Manager for review, and then to the City Council. The Vice Chair then confirmed with Audree that the Commission wouldn't be seeing that and asked if the draft is on the website. Audree stated that she doesn't think it is yet. The Vice Chair then asked when it is scheduled to go and Audree indicated she didn't know; the problem with some of these projects is getting on the City Council's agenda.

9. FUTURE MEETING DATES AND AGENDA ITEMS

- a. Thursday, February 25, 2016; 3:30 pm (Work Session)**
- b. Tuesday, March 1, 2016; 5:30 pm (Public Hearing)**
- c. Thursday, March 10, 2016; 3:30 pm (Work Session)**
- d. Tuesday, March 15, 2016; 5:30 pm (Public Hearing)**

Commissioner Mayer asked if the Green Building Code that he requested for three previous meetings was discussed when he wasn't here, because he was unable to attend the last two meetings. Audree indicated that she thought it was discussed at the last meeting under the Land Development Code update, but she can talk with him after the meeting.

Audree stated that there are no items to bring forward on the next four meetings listed, but we could bring back the community benefits discussion for action on one of the dates. The next meeting that we do have something confirmed for is the joint meeting with the City Council on March 31st beginning at 2:00 p.m., which is your regular work session date.

Commissioner Cohen asked what we are doing about the four dates listed, and Audree indicated that we didn't want to cancel them yet, in case something comes up. Commissioner Barcus then noted that he will not be available on March 1st, and Chair Losoff asked that if the Commissioners had something that they would like to have put on the agenda for the joint meeting to let us know.

10. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Planning and Zoning Commission may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**

b. Return to open session. Discussion/possible action on executive session items.

No Executive Session was held.

11. ADJOURNMENT

Chair Losoff called for adjournment at 7:14 p.m., without objection.

I certify that the above is a true and correct summary of the meeting of the Planning & Zoning Commission held on February 16, 2016.

Donna A. S. Puckett, *Administrative Assistant*

Date