

## LEGISLATIVE REVIEW COMMITTEE

Thursday, March 4, 2021

### Committee Members Present:

Commissioner Ovita Thornton  
Commissioner Jesse Houle  
Commissioner Carol Myers  
Commissioner Mariah Parker

### Committee Members Absent:

Commissioner Allison Wright

### Staff:

Blaine Williams, Manager  
Sherrie Hines, Chief Assistant Attorney  
Steve Decker, Transportation & Public Works  
Stephen Bailey, Transportation & Public Works  
Tim Griffeth, Transportation & Public Works

Krystle Cobran, Inclusion Office  
Jeff Montgomery, Public Information Office  
Andrew Saunders, Central Services  
Mike Wharton, Sustainability Office  
Sarah George, Recorder

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In the absence of Chair Wright, Commissioner Thornton presided as Chair. Commissioner Thornton called the meeting to order at 1:03 p.m.

#### A. **Approval of Minutes:**

Commissioner Myers requested to amend the February 4, 2021 minutes by changing the wording on page 4 from word “several” to “many” when describing the number of long-term renters.

Commissioner Houle made a motion to approve the February 4, 2021 minutes with the amendment requested by Commissioner Myers. Commissioner Myers seconded. The motion passed unanimously.

#### **Commission Identified Items of Interest:**

#### B. **Review of LEED Certification Program (Mayor Girtz assigned to LRC on January 8, 2019). Discuss public input.**

Manager Blaine Williams introduced this agenda item by providing the Committee with updates concerning the LEED Certification Program. This item came back to committee after the latest M&C meeting. Manager Williams noted a package of information had been sent to Committee members and included the changes requested by Commissioner Myers and redlined by Andrew Saunders. Since those changes were made, Saunders has had an additional conversation with Mike Wharton and may have more ideas. Further, Saunders may want to discuss the larger goals and timelines surrounding the 100 Percent Energy Plan.

Commissioner Myers explained the changes to the policy she submitted included adding the following:

- A phrase in the introduction that “projects should be conceived of and designed with these priorities in mind”;
- An increase in the number of charging stations, up to 20%;
- A reporting requirement at different phases to ensure clear communication as projects are being conceived and move through the construction phase, including a follow-through report 18 months later; and

- A revision process, starting with the passage of the Clean and Renewable Energy Action Plan or in two years, whichever comes first.

Commissioner Myers also noted that Commissioner Link had suggested reviewing it at regular intervals, every three to five years, but this could be discussed further.

Andrew Saunders explained that he and Mike Wharton want to understand the intent of the LRC concerning this topic before getting into the specific language, so they can create drafts to be approved by everyone at the next meeting. Saunders explained the changes he and Mike Wharton had added to the redlined document, which included:

- Strengthening the language surrounding the 100 Percent Plan;
- Changing the wording concerning the minimum standards to simply reference ASHRAE codes; and
- Modifying the section on EV readiness to increase the percentage required.

Andrew Saunders explained that it was originally proposed to be 5% based off the LEED requirement; however, this may be too low, as the need may be much higher in the future. He noted the City of Atlanta goes as high as 20%, but he suggested the Committee tier the EV readiness requirement – small projects around 10% and larger projects, such as SPLOST projects, at 20%.

Commissioner Houle agreed with Saunders' suggestion for the tiered approach. They noted they appreciated setting a high bar by including the 20%. Commissioner Houle expressed an interest in adding language that the policy would be reviewed every five years thereafter to the end of J3 in the policy management section. They expressed the desire to get as much of the policy worked out and in action now, because there will be time to review and perfect it as it is revisited every few years. Commissioner Myers suggested the policy be reviewed every three years rather than every five. Commissioner Houle agreed.

Andrew Saunders summarized his changes concerning solar readiness and explained the policy previously described a desire to preserve roof space on southern and western exposures, and it had been suggested that this language be strengthened. Saunders suggested focusing on the certified projects and, if they do not have solar at the time of construction, having an engineer state on a separate plan sheet what weight a building roof can hold and what areas are reserved for future solar to make the later engineering projects quicker and easier. This additional tiered policy would be a new letter under the certified projects list section. Commissioner Houle agreed with this suggested and inquired as to why this should not apply to smaller constructions as well. Andrew Saunders explained that, in small construction projects, there may not be a full architectural plan completed which include these types of plan sheets.

Andrew Saunders explained the language about reporting shared with the Committee prior to this meeting described three levels of assessment/reporting: conceptual design, schematic design, and post-construction. He further noted the existing drafted language surrounding conceptual design is not feasible; he suggested including for the conceptual design what third-party certification is going to be used, if there is going to be renewable energy incorporated at time of construction, and what energy sources are going to be used total. In the area concerning schematic design, the practice of creating energy models for every building designed would need to be universal in order to get the information surrounding energy and greenhouse gas emissions. Commissioner Houle explained they supported making it universal. Commissioner Parker and Commissioner Myers agreed.

Andrew Saunders also explained there were discussions about setting a minimum efficiency standard and possibly referencing building electrification. Saunders and Wharton believe both of these are good policy objectives and can be applied in specific scenarios, but, at this point, they would not recommend incorporating them as a minimum standard into the policy. Their recommendation is to let the 100 Percent Plan determine the impact.

Andrew Saunders also noted there had been some question about whether or not this policy would work for the private sector as well. He advised that it may be; however, this document is a specific policy built for the ACCGov, and it does not transfer well into an ordinance. When private sector enforcement is being considered, there are many more factors involved, and the development of such an ordinance would be a separate document altogether. The City of Decatur, GA was noted as a good example. Commissioner Houle agreed and asked if there were elements of this policy that Saunders thought could be used in the meantime as a reference point in negotiations with developers when they are looking for a variance. Andrew Saunders explained that there was nothing preventing this body from extending similar negotiations being made inside government operations to discussions about the private sector, but it would be useful to speak first with Mike Wharton in the Sustainability Office ahead of time.

Mike Wharton noted that the Sustainability Office has been doing listening sessions with businesses, and there has been an interest in recommendations and suggestions on combining a potential regulation with incentives, like receiving an expedited plan review in exchange for certain energy conservation measures. He believes there are a lot of recommendations that will come out of the business community, which may partnerships to be built with that process in the negotiation.

Andrew Saunders suggested that he and Mike Wharton add the changes discussed in the meeting to the draft for review at the next meeting. Commissioner Houle asked Andrew Saunders if he felt the revisions could be ready by the next Agenda Setting Session and allow the Committee to receive the revisions at that meeting. Manager Williams noted that it would be important to have a specific recommendation to direct staff.

Commissioner Houle made a motion to direct staff to add these revisions and send it to the full Mayor and Commission for consideration in the April voting cycle. Commissioner Myers seconded the motion.

Commissioner Thornton requested Andrew Saunders provide a summary of the revisions. Andrew Saunders summarized what was discussed and should be included in revisions, including:

- Support for increased EV readiness, tiered by type;
- Strengthening solar readiness for certified projects;
- Continuing support for environment impact assessments and post-construction reporting while giving staff the ability to recommend some metrics;
- Desire to systematically revisit the policy;
- Adding language around, where possible, goal for lighting color to be added to minimum standards; and
- Strengthening bike language to say “at a minimum” and add language to list the types of scenarios where minimums would be considered to be exceeded.

The motion passed unanimously.

Commissioner Houle agreed with the list of revisions and suggested every three years the policy be considered for revision.

Commissioner Myers explained she would also like to forward Commissioner Melissa Link's suggestions to Andrew Saunders for possible inclusion. She noted there was a section about lighting that could possibly be added, and there is a suggestion for a Mayor-appointed committee to be included for the revision process. Commissioner Thornton explained more time is likely needed to review Commissioner Link's suggestions to make sure everyone is on the same page.

Commissioner Myers summarized suggestions from Commissioner Link. The first point Commissioner Link made was regarding to exemption, and she inquired as to whether or not this policy should be applied to projects benefitting from TAD funds. Commissioner Myers noted the Committee had previously discussed this point, and Andrew Saunders had addressed this in the description about which buildings should be included based on the percentage of funding.

Commissioner Myers noted another suggestion Commissioner Link had made concerned qualified standards of the color of interior LED bulbs – warm white versus cool white depending on the activity. She inquired as to whether or not this could be addressed in the policy. Andrew Saunders noted that the evidence suggests outdoor lighting color matters more from an environmental perspective, because it affects wildlife and our circadian rhythm. There is also some evidence that suggests that you should avoid cooler light colors for indoor lighting. He explained this is a practice that is already occurring to some degree, and he worries about standardizing it, because it would not work for all situations and may need to change based on the facility. Commissioner Houle inquired as to whether having a loose reference could be included to note that the Sustainability Office would be consulted, given the policy would be revisited again in a few years. Andrew Saunders agreed and noted he could add wording to describe that, where possible, interior lighting should be between a specified range. This would provide some flexibility for design staff to provide an exception for certain rooms when that color range is not appropriate. Commissioner Houle agreed. Andrew Saunders agreed to put it in with the other existing edits.

Commissioner Myers noted there was a missing hyphen in item EE under item 6.

Commissioner Myers explained Commissioner Link also suggested that bike rack requirements should be increased for projects in the downtown core and entertainment/recreational field facilities that host large gatherings with some regularity in walkable/bikeable areas and on corridor streets that are designed for future bike infrastructure in the Athens in Motion Plan.

Andrew Saunders explained that what is proposed in the policy currently for bike infrastructure is that we apply our current ordinance, which is a five percent minimum threshold, to all projects regardless of whether or not they would trigger that ordinance. He explained this is a minimum standard, and there are places where they are exceeding the ordinance. He suggested the best place to get this information may be the Transportation & Public Works department and Athens in Motion. Commissioner Myers inquired if it would make sense to say it is designed to meet the minimum requirements. Andrew Saunders agreed that the word minimum could be added.

Lastly, Commissioner Myers explained Commissioner Link had also suggested to include a qualified Mayor-appointed committee, including staff, elected officials, and private citizens from the Green Village Building and Sustainability Advocacy Community, for regular policy review. Andrew Saunders expressed concern with including committee composition within a policy, as it is his understanding that is an authority that rests with the Mayor. Commissioner Thornton asked Commissioner Myers if she would be able to follow up with Commissioner Link about what had been discussed surrounding those suggestions. Commissioner Myers agreed to do so.

Andrew Saunders summarized the additional revisions to be included based on Commissioner Link's suggestions, including:

- Correcting the typo;
- Crafting language around a "where possible" goal for lighting color that will be added to the minimum standards; and
- Strengthening bike language to note it is a minimum standard and list the types of scenarios where minimums would be considered to be exceeded (parks, corridors, etc.).

Commissioner Houle made a motion to accept the additional recommendations that Andrew Saunders summarized. Commissioner Myers seconded. The motion passed unanimously.

C. **Traffic calming/neighborhood traffic management for sub-standard streets, examine sliding-scale metrics regarding speed & frequency of vehicles vs. current requirements (Mayor Girtz assigned to LRC on January 8, 2019)**

Blaine Williams introduced the topic, and Steve Decker requested Sherrie Hines to provide an overview of the research she had done since the last meeting. Sherrie Hines noted the information she had shared was in a confidential memo, as it was legal advice, and she would like to honor that, but she would be happy to address any questions the Committee might have or want to discuss further.

Commissioner Houle noted that many of the findings in the memo seem to apply to scenarios that would matter for a tenant neighborhood or a homeowner neighborhood. For example, emergency vehicles may struggle to have access. Commissioner Houle explained this did not seem like a reason to not include tenants specifically, and they inquired if there was any reason why that would make a difference in a rental neighborhood compared to a homeowner neighborhood. Sherrie Hines explained that tenants would have just as much interest in this as homeowners would in terms of how it would affect them. The difference is that they do not have a property right interest in it; therefore, they do not have any legal interest in which they could bring a lawsuit.

Commissioner Parker inquired as to whether or not a tenant would have recourse to sue if the homeowner desired and installed traffic calming devices despite tenant opposition, and the devices potentially negatively impact their health by delaying EMS response times. Sherrie Hines explained that her best guess is that it would not, because it is not something that is the vested right of the tenant. She explained that this would be fairly tenuous. Instead, she would refer back to the portion of the memo that discusses if this would potentially affect property values, and, if that is the case, if that would give the property owner a potential right of action against the government. Commissioner Parker explained that she believes it is really important to consider ways to be maximally inclusive of tenants in this policy. Sherrie Hines explained that the problem is that tenants have more ability to move. She further noted that she recognizes that there is a level of movement that may be more available to people of means that is not available to those who are not; however, she believes the law would focus on that tenants are renting the property for a finite period of time compared to the property owner.

Commissioner Myers noted that the analysis shared in the memo regarding the potential effect of speed management devices on property values, the references provided are to professional journals. Commissioner Myers inquired as to whether there have been legal cases where that has been enacted, and counties and towns have had to pay. Sherrie Hines explained she had not found any examples of a property owner suing because a speed bump or related device reduced their home value, and every place she looked at required between 60 and 75 percent of property owners to agree. She also noted that it is entirely possible that challenges have been

brought and have been handled at the local superior court level and did not make it to the Court of Appeals.

Commissioner Houle explained that over half of the people that live in the county are renters, and they are affected by speeding just as much as anyone else. They noted they want to ensure that this policy is building in their involvement in the process insofar as this is sort of a petition to the government. Commissioner Houle explained, if this needs to be rethought as to how this is built in to satisfy this concern, they are open to that; however, they are cautious of moving forward with something that includes proposed section E, which notes the Neighborhood Traffic Management Plan does not include commercial property which typically includes apartments. They further explained that, ultimately, this is about publicly-owned rights-of-way and public streets, and they want to ensure that renters have an avenue to pursue this, especially in the neighborhoods where they comprise a hundred percent. Commissioner Parker explained that she thought Commissioner Houle brought up good points, and she would like to see what options we have to maximize the opportunity for renter involvement in the process, even if ultimately the final decision-making power is not granted to them. Commissioner Myers echoed Commissioner Houle's and Commissioner Parker's concerns, and she noted that she would like to make it as inclusive as possible.

Commissioner Thornton agreed with the importance of addressing these concerns, but she believes that commissioners who feel strongly about this should try to work with residents to help them understand this policy, get organized, feel empowered, and work with their management company. Commissioner Thornton further explained she believes this is the role of the commissioners as elected officials to empower constituents on how to not only understand policies but how to impact the changes. She noted she does not want the Committee to miss out on the opportunity to work with constituents.

Commissioner Parker suggested that it is important to have the most transparent and inclusive policy as possible on the books as a standard rather than having it fall upon the quality of engagement someone gets from their commissioners. Commissioner Thornton explained she was under the impression that the most inclusive policy had already been created with the option of renters being able to be designated by owners as decision makers in these processes. She also noted that, if there are other ideas that the Committee would like explored, it would be helpful to share those for the Attorney's Office to consider. Commissioner Parker inquired as to whether it was sufficient direction to request staff to bring policy suggestions that are maximally inclusive or if more direction is needed.

Sherrie Hines provided some historical background to this topic that she has been gathering from Stephen Bailey. In conducting her research, Hines found that a lot of counties require approval of homeowners, because they require homeowners to pay a portion of it through, possibly, a property tax bill. It may be a situation where we do need a policy where homeowners may be obligated to pay maybe after the 12 or so projects which are going to be covered by the funding. If that is the case, that also raises concerns that are different for owners than for renters.

Commissioner Houle expressed the thought that one of the ways to empower residents is to codify their empowerment in the policies that are passed. They offered to share some specific language edits before the next meeting, but one of the sections that specifically stick out is section 4c, which says renters may obtain written authority from the homeowner to participate in the meeting. Commissioner Houle believes this implies the renter needs permission from the homeowner to even participate, and the renters should be invited to have open dialogue in these meetings as part of the community. They noted that, if there is a way to rethink this policy where there is an avenue when we are leveraging public money to include renters, they believe that is

the direction the Committee should explore. Commissioner Thornton requested Commissioner Houle to write down the things mentioned and send them to the Committee members and to Sherrie Hines for consideration.

Commissioner Houle agreed and summarized that to clear up some of this policy they would like to see that language about who can participate in meetings edited. Further, Commissioner Houle inquired about adding a section that would distinguish between funding mechanisms where projects that are funded using neighborhood dollars shall be constrained to a vote of owner-occupied and absentee homeowners and projects that are funded using public monies will be funded with consideration of all residents and homeowners. Steve Decker said it would be easy to put something like that in the policy. Sherrie Hines expressed the concern that it would not address the legal issues being discussed previously, but it can be added.

Manager Blaine Williams summarized the discussion by saying the group had reached a near consensus about the changes to the policy. Commissioner Parker, Commissioner Houle and Commissioner Myers expressed the desire for some form of equity to be baked into the policy. Manager Williams also noted that Steve Decker suggested giving the Road Safety Audit Team some flexibility to look at conditions and guidelines. He further explained that today's conversation centered around renters versus property owners and their engagement. Sherrie Hines has been consistent with her concerns. Commissioner Houle has asked if there is another mechanism to increase equity between these two parties if possible. Steve Decker will send out in advance the older policy, and the Committee can discuss it and the relative pros and cons of that at the next meeting.

D. **Schedule/Agenda Changes**

The next LRC meeting is scheduled for April 1, 2021 at 1:00 p.m. and will be held remotely via WebEx.

Commissioner Houle made a motion to adjourn. Commissioner Myers seconded the motion. The motion passed by unanimous vote. The meeting adjourned at 2:34 p.m.