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M E M O R A N D U M

DATE: August 31, 2023
TO: Mayor Pachota and City Council Members
CC: Ed Lavallee, City Manager
Kelly Michaels, City Clerk
FROM: Kelly M. Fernandez, City Attorney
SUBJECT: Quasi-Judicial Procedures

Due to the recent multi-day public hearing that occurred before City Council, I have re-examined the City's quasi-judicial procedures and those of other jurisdictions to prepare a list of possible revisions to the City Code for Council's consideration. At its most basic level, procedural due process is afforded in a quasi-judicial proceeding when notice and an opportunity to be heard has been provided, along with, in certain cases, the right to cross-examine witnesses. There is no right by any party to all the hallmarks of a traditional judicial proceeding. While I typically advise public bodies to err on the side of providing more due process than may be required, a multi-day quasi-judicial hearing does not equate to a better proceeding for anyone involved.

The City's quasi-judicial procedures are contained in Section 2-53. They were substantially updated in 2014 after another lengthy public hearing. I have attached the City's current relevant Code

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

Venice
236 Pedro Street
Venice, Florida 34285

provisions for Council's reference in considering whether any of the following options would assist in producing a more efficient proceeding. For any items that Council is interested in pursuing further, I will bring back proposed language for additional consideration before drafting an ordinance.

Options:

1. Place time limitations on cross-examination by parties.
2. Eliminate the opportunity to do re-direct, meaning a party would have the opportunity to present witnesses, another party would have the opportunity to cross-examine those witnesses, but then the original party would not be able to re-question the witness.
3. Reduce public comment time to 3 minutes instead of 5 minutes each. The City could also establish a set time limit for designated representatives no matter the number of persons represented.
4. Remove the opportunity for a party to do rebuttal. Rebuttal occurs when a party, after their original presentation and after public comment, is allowed to present additional testimony and exhibits in theory to counter anything said during public comment or by another party during that party's original presentation.
5. Reduce the time for parties' initial presentations. Currently 30 minutes per party is provided.
6. Reduce the amount of time each affected party has to present its case if there are multiple affected parties, and/or allow a unified presentation by multiple affected parties.
7. Reduce closing argument/rebuttal time, which is currently 15 minutes per party.
8. Restrict the allowance of any additional time beyond the time limits stated in City Code.
9. Establish and/or increase pre-hearing submittal requirements for witness and exhibit identification. Presently, any written material the applicant and any affected party wishes to have considered by city council should be submitted at least three business days prior to the hearing. There is no requirement for witnesses to be pre-identified.
10. Clarify how evidentiary and procedural objections will be handled.

Requested Action: Direct the City Attorney to draft proposed language for further discussion addressing recommendation numbers _____.