



# Lien Reduction Process

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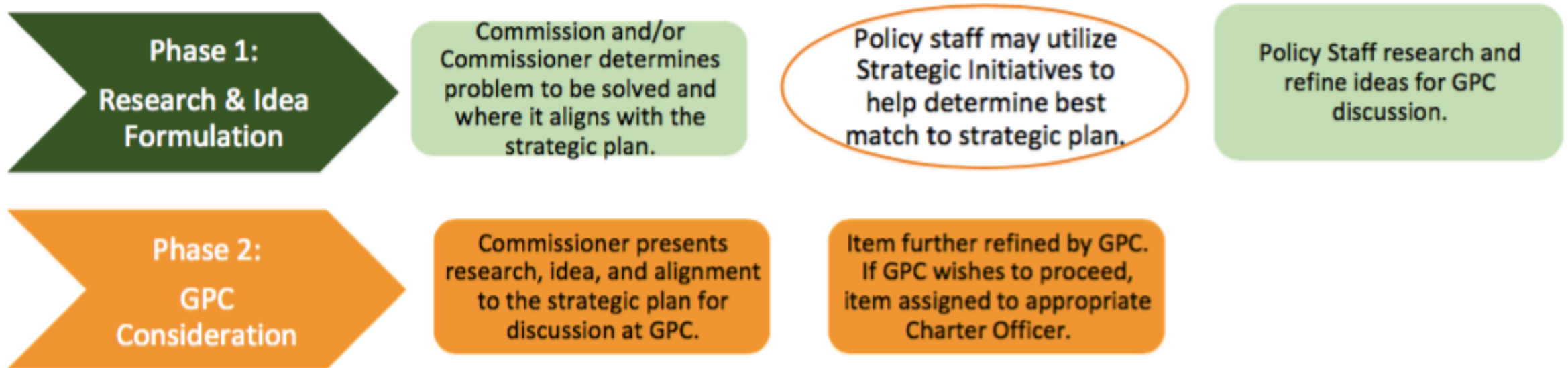
Interim Policy Oversight Administrator

Office of the City Clerk

General Policy Committee, May 26<sup>th</sup>, 2022

Item # 211212

# Policy Research Process



# Overview of the Presentation

- Gainesville's Current Lien Reduction Process
- Legal Considerations
- Advantages and Disadvantages to the Current System
- Case Studies
- Options Moving Forward

# Current Gainesville Process

- When a property with a lien assessed against it comes into compliance with the city code, the property owner can request a reduction in the lien.
- After completing the the request, the property owner meets with the city staff to discuss the amount of the lien and attempt to reach a negotiated agreement on the amount to be paid to the City.
- After the meeting, a hearing is held by the Special Magistrate, who makes a decision on whether to keep the lien as is, reduce the lien, or rescind the lien entirely.
- The Magistrate's recommendation is placed on a City Commission agenda, typically a consent agenda, for final approval.

# Legal Considerations

- Florida Statutes Section 162 governs the ability for municipalities to create code enforcement boards.
- Florida Statute Section 162.09(2)(c) gives code enforcement boards the authority to reduce fines they imposed pursuant to code violations.
- Florida Statute Section 162.09(3) states that “...the local governing body may execute a satisfaction or release of lien entered pursuant to this section”.
- This portion of the statute has been interpreted to mean that the City Commission must authorize the release of liens, either by an agenda item or by ordinance authorizing the City Manager to release the liens.

# Advantages and Disadvantages to Current System

## Advantages

- Ensures legal compliance with State Statute
- Ensures that the City Commission has a method of intervening in the reduction or rescission of a lien if there is disagreement with the Special Magistrate's recommendation.

## Disadvantages

- The current process can be slow and complicated for neighbors attempting to get a lien reduced or rescinded.
- Increased staff time spent getting the Magistrate's recommendations placed on Commission agendas.
- Increased Commission Consent Agenda items.

# Case Studies

- Coral Springs, Florida
- Miramar, Florida
- Tallahassee, Florida
- St. Petersburg, Florida
- West Palm Beach, Florida
- Fort Pierce, Florida

# Case Studies

## Coral Springs, Florida

- The Special Magistrate is delegated the authority to hear requests for reductions of fines and make the final decision on behalf of the city, per the Code of Ordinances.

## Miramar, Florida

- The Special Magistrate has the authority to reduce or mitigate property liens for code compliance violations so long as the property is in compliance and does not have any current violations. If the property owner requests a further reduction, there are conversations with the Code Compliance Manager and Police Chief before an agreement is reached.

## Tallahassee, Florida

- Per the Code of Ordinances, the Code Magistrate and Enforcement Board are entitled to hold hearings and assess fines against violators of city codes. Rulings on complied cases with liens are final and do not go before the commission for approval.



# Case Studies

## St. Petersburg, Florida

- The Special Magistrate has the authority to reduce fines against violators of the codes and ordinances of the City in whole or in part.

## West Palm Beach, Florida

- Per the Code of Ordinances, the Special Magistrate is given the authority to hold a hearing regarding the reduction of liens, during which time the Magistrate will consider several factors outlined in the ordinance as to whether the lien will be reduced. The Magistrate is given final decision making authority on this, and the Commission is not involved in the process. This is due to the fact that the decision is administrative, not quasi-judicial, per the Code of Ordinances.

# Case Studies

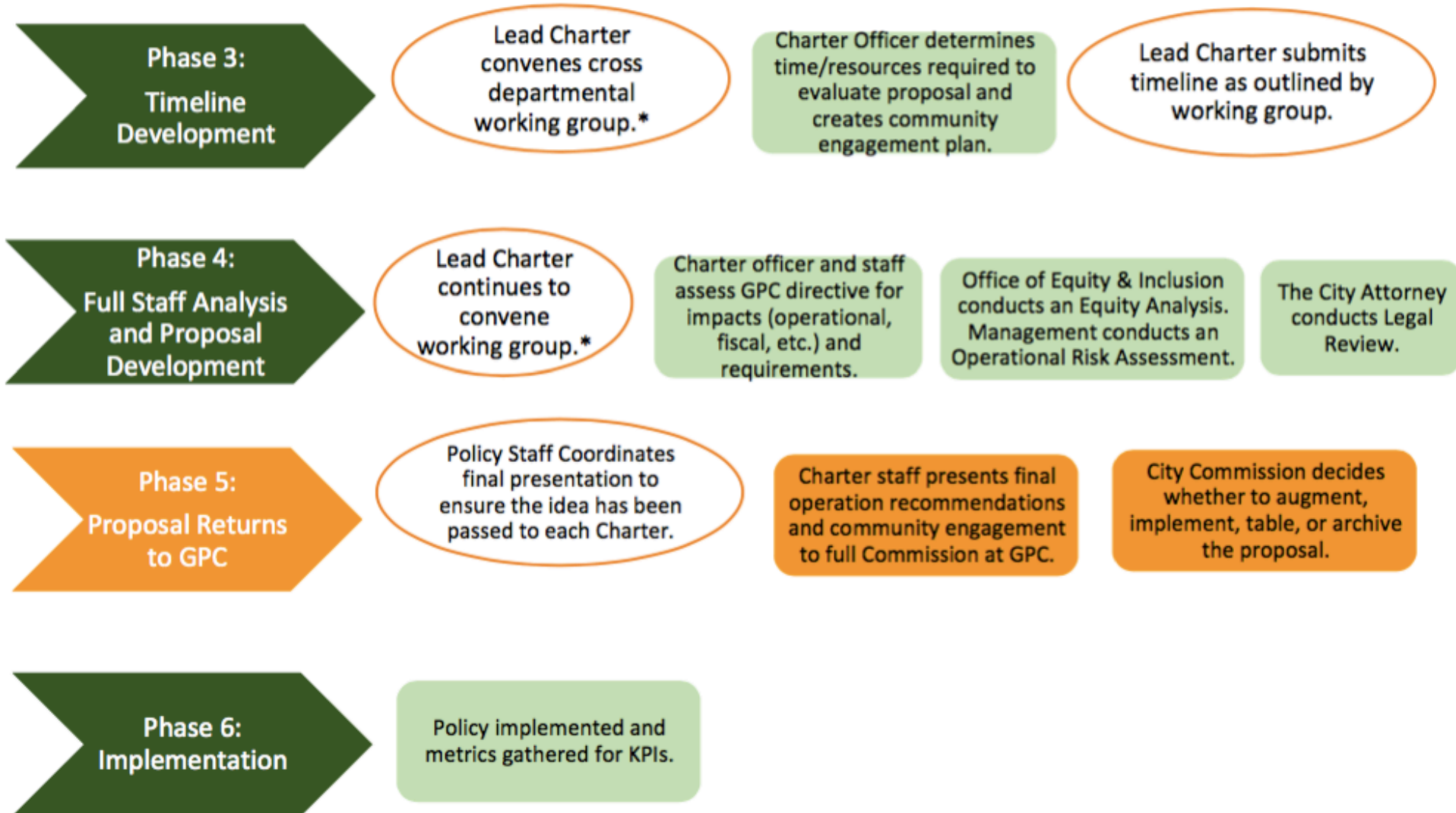
## Fort Pierce, Florida

- Requests to reduce construction and lot liens are heard and determined by the City Commission.
- Code enforcement lien reductions are heard by the Special Magistrate through a “fast track” program. If the city and property owner agree to reduce the lien to \$5,000, no hearing is needed and the lien is automatically reduced after Magistrate approval. If the city and property owner agree to reduce the lien to \$3,000, one hearing is needed. If the Magistrate recommends the reduction, that reduction is final.
- If the property owner seeks to have the lien reduced below \$3,000 or entirely or if staff and the property owner cannot come to an agreement regarding the lien reduction, then the Magistrate’s recommendation must go before the City Commission for final approval.

# Primary Options Moving Forward

- Continue as is, where all lien reductions and rescissions must be approved by the City Commission.
- Allow the Special Magistrate to be the final decision maker on lien reductions, but continue with the City Commission as the final decision maker on releases of liens.
- Allow the Special Magistrate to be the final decision maker on lien reductions, and authorize the City Manager, by ordinance, to execute releases of liens where the fines have been reduced by final action of the Special Magistrate.

# Policy Research Process



# Discussion?