

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119,
Port Charlotte, Florida
Minutes of Regular Meeting
January 11, 2016 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen
Ken Chandler
Stephen Vieira
Paul Bigness

ABSENT

ATTENDING

Joshua Moye, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of November 30, 2015 were approved as circulated.

ANNOUNCEMENTS

None. Upon the oath being administered, the hearing commenced.

PETITIONS:

PA-15-10-11

Legislative

Commission District II

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, amending Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Commercial (COM) to Medium Density Residential (MDR); for property located at 3426, 3430, 3432, 3434, and 3436 Taylor Road, in the Punta Gorda area, containing 6.27± acres; Commission District II; Petition No. PA-15-10-11; applicant: Newfoundland Five, Inc.; providing an effective date.

Z-15-10-12

Quasi-Judicial

Commission District II

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Estates 1 (RE-1) to Residential Multi-family 10 (RMF-10) for 6.27± acres and from RE-1 to Commercial General (CG) for 0.93± acres, for property located at 3426, 3430, 3432, 3434, and 3436 Taylor Road, in the Punta Gorda area, containing 7.20± acres; Commission District II; Petition No. Z-15-10-12; applicant: Newfoundland Five, Inc.; providing an effective date.

Matt Trepal, Principal Planner, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated November 4, 2015. He noted that there has been an inconsistency between the zoning and the existing further land use designation, and that these petitions will cure that inconsistency; he also pointed out that 62 density units will need to be transferred onto the property in order for the

residential development to occur, and that the applicant has submitted petition TDU-15-10-02, transferring the required density units to the site along with his contract to purchase the units.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, applicant's agent, appeared on behalf of the applicant and spoke briefly regarding the petitions, including the inconsistencies which needed to be cured. She described the allocation of building types which the applicant intended to create on the property. **Ms. Waksler** also noted the mixed-use intentions here, which are intended to provide both residence and employment opportunities in a walkable setting on the subject site.

Public Input

Ms. Deborah Highsmith, resident of Punta Gorda near the proposed development. She commented that she had been involved in planning for the multi-use trail along Taylor Rd., where there is substantial bike traffic but no shoulder or bike path at this point. She commented on the activity on this corridor, and emphasized that the bike trail is still in the Master Bicycle and Pedestrian Plan and this amenity will be very useful.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Chandler** with a unanimous vote.

Discussion

Chair Hess indicated that she agreed with staff that the mix-use designation would be appropriate for this area, while the current RE-1 is inconsistent with the Economic Center designation in the FLUM.

Recommendation

Mr. Gravesen moved that **PA-15-10-11** be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated November 4, 2015, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

Mr. Gravesen moved that **Z-15-10-12** be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated November 4, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

Chair Hess announced that the comments of the Friends of Cape Haze received prior to today's hearing would be made part of this record. Assistant County Attorney Josh Moyer concurred.

PA-15-10-10-LS

Legislative

Countywide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comment; this request is to amend the Potable Water and Sanitary Sewer (WSW) subelement of the Infrastructure Element to clarify County policy with regard to utility extensions through the Rural Service Area, the requirement to connect to existing or extended utility lines, and the expansion of the service

areas of utility companies regulated by the Florida Public Service Commission, and to correct certain terminology; specifically, to amend WSW Policy 2.1.4: Utility Extensions through the Urban Service Area, WSW Policy 3.1.1: Concurrency Utility Line Extensions, WSW Policy 3.1.2: Connection of Developed Property, WSW Policy 3.2.4: Certified Areas and the Urban Service Area, WSW Policy 3.3.1: New Platted Lots and On-site Septic Systems, WSW Policy 3.3.2: Community Utility Systems, WSW Policy 4.2.9: Recycled Water Systems, and WSW Policy 4.2.10: Appropriate Water Quality for Use; and to amend the title of WSW Policy 3.2.4 from Certified Areas and the Urban Service Area to Certified Utility Companies and the Urban Service Area, and the title of WSW Policy 4.2.9 from Recycled Water Systems to Reclaimed Water Systems; Petition No. PA-15-10-10-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Matt Trepal, Principal Planner, presented the findings and analysis of the petition with a recommendation of *transmittal to the Department of Economic Opportunity*, based on the reasons stated in the staff report dated December 2, 2015. The revisions consist primarily of clarifications and changes in terminology.

Questions for Staff

Chair Hess asked if, after these changes, the document does maintain the intent of discouraging extension of utility lines through the Rural Service Area; Mr. Trepal concurred, mentioning a few other details of the changes. He also noted that when the Plan was written, the County had assumed responsibility for regulating utilities from the Public Service Commission; after the adoption of the Plan, the County returned that authority to the PSC, and therefore no longer has the authority to prohibit extension of utility service areas into the Rural Service Area.

Public Input

None.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

Discussion

Chair Hess noted that the updated language reflects the County's changed authority with regard to these utilities location matters.

Recommendation

Mr. Gravesen moved that **PA-15-10-10-LS** be sent to the Board of County Commissioners with a recommendation of *transmittal to the Department of Economic Opportunity for review and comment*, based on the findings and analysis in the staff report dated December 2, 2015, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

PA-15-10-13-LS

Legislative

Countywide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comment; the two-part request is to amend several elements of the County's Comprehensive Plan. Part 2.1 is specifically to

amend Future Land Use (FLU) Policy 1.2.3 (The old number is FLU Policy 1.2.2): Service Area Delineation and FLU Policy 1.2.6 (The old number is FLU Policy 1.2.5): Expansion of the Urban Service Area; Petition No. PA-15-10-13-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Shaun Cullinan, Planning and Zoning Official, presented the findings and analysis of the petition with a recommendation of *transmittal to the Department of Economic Opportunity*, based on the reasons stated in the staff report dated December 21, 2015. He gave additional details about this petition which addresses expansion of the Urban Service Area, in order to be consistent with state requirements regarding urban sprawl, and to give property owners the right to apply for an adjustment of the Urban Service Area (USA) boundary. He noted that **there are no "automatic" grants of expansion**, this change merely provides for the ability to petition.

Questions for Staff

Chair Hess asked for clarification on the intent for this policy, in terms of citing the specific language set forth in the Florida Statutes; **Mr. Cullinan**, confirmed that was one of the changes, and also gives people the ability to apply for a change to the USA. **Chair Hess** asked if that was also consistent with state requirements; **Mr. Cullinan** responded that it was not something the state touches on.

Public Input

Ms. Percy Angelo, Charlotte County resident, speaking on behalf of herself and the Friends of Cape Haze (FOCH), handed out a document to the Board before commencing her comments. She began by commenting on the purpose of the Comprehensive Plan; per the statute, it is to establish meaningful and predictable standards for the use and development of land, and designate future general distribution, location and extent of the uses of land, for residential, commercial, industrial and other uses. Statute also requires that distribution, **location and extent must be shown on a "future land use map"**. **Ms. Angelo** said that her group believes and has argued that the present proposal must be considered in connection with the other plan amendment matters being heard today, and the others which were heard in November 2015, because they operate together. She asserted that when movement of a service area is allowed, or when a transfer of density units program is established, without a Comp Plan amendment for each change, **it's no longer possible to know in advance where the distribution, location and extent of land uses will be**. Previously, the TDU program was specifically designed to eliminate platted lots and to move density away from the coast and from environmentally sensitive areas; it was felt this was adequately predictable. She said that this predictability was negated when the TDU program with standards that allow density to be moved away and then moved back again, as in the present draft, that is no longer "meaningful and predictable."

Ms. Angelo went on to state that the County has far more residential lands platted than are needed; she referenced one of the handout pages from the Comp Plan which contains the underlying analysis (and which is attached hereto). If the County is interested in having more industrial lands near the airport, she said, FOCH would support that and could support the present recommendation of transmittal if it was for industrial only.

Ms. Waksler returned to the podium, on behalf of OB4, LLC, to comment on this amendment proposal; she emphasized that the petition is merely giving people the right to request the change; it does not guarantee granting of the request, which still must meet the standards for such a request, and those standards are not changing. **Ms. Waksler** also said that at the State level, "need" is no longer a requirement for such a change because the current styles of residential entitlement are not necessarily the best configuration for modern residential needs; large tracts are now "on the edges" of the USA, and owners of these properties should have the opportunity to request change. She said that her client strongly supports the recommendation for transmittal.

Ms. Julianne Thomas, Conservancy of Southwest Florida, asked for clarification that the transmittal is to the Department of Economic Opportunity (DEO) but presumably to all the other appropriate state agencies as well; this was confirmed by Assistant County Attorney Moye. She indicated that the Conservancy had objections to the way the staff report is phrased, which suggests that the current policy is not based on good data and analysis from the work in 2010; she disputed that, saying that the amendment request could be made without impugning the foundational work. **Ms. Thomas** also pointed out that the work done in 2010 would be updated during the next EAR cycle in 2017, which would reassess the USA and how much land was allocated for the County's needs; she suggested that would be the appropriate time to suggest changes to the USA. She emphasized that the Conservancy found the decision to provide property owners the opportunity to apply for USA changes to be completely valid; their concern is with the suggestion that the 2010 data and analysis was inadequate.

Chair Hess asked if Ms. Thomas was saying the proposed amendment was inconsistent with the EAR; **Ms. Thomas** responded that the EAR supports the current policy, it simply envisioned changes to the USA being entertained only every seven years as part of the EAR cycle. **Chair Hess** then asked Mr. Cullinan to respond to the objection to the staff reasoning, and he responded by saying that staff had reassessed and looked at other, new data, and felt this was a legitimate request, particularly in light of the fact that no approvals were guaranteed, only the right to submit the request.

Ms. Deborah Highsmith, resident of Charlotte County, and Conservation Chair of the Greater Charlotte Harbor Sierra Club, asked for her group to be on the record as incorporating the statements of Friends of Cape Haze and the Conservancy of Southwest Florida in opposition on this matter. She noted the group has a long history of being involved in the creation of the Comp Plan, including their opposition to the last proposed changes, which were then dropped.

Robert H. Berntsson, Esq., on behalf of several clients including Boca Norte LLC, Spanish Trail Land and Cattle Company, and Carribean Bay Mortgage Company, LLC, spoke in support of the County's proposal, concurring with points made by Ms. Waksler. He also reiterated that the request is just for the right to ask for a change to the USA, it isn't a guarantee the request will be granted. He also corrected Ms. Highsmith's suggestion that the Conservancy had objected to transmittal of the request; they objected to the reasoning.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

Discussion

Chair Hess stated that she agreed it is not appropriate to prohibit property owners from asking for a change in the USA; they should be allowed to ask. It otherwise seems, she noted, to be consistent with state requirements; she said that transmittal was appropriate. **Mr. Bigness** agreed, and also suggested that people opposed to this request get involved with setting the standards for approval of requests, that's a better way to manage the outcome.

Recommendation

Mr. Gravesen moved that **PA-15-10-13-LS** be sent to the Board of County Commissioners with a recommendation of *transmittal to the Department of Economic Opportunity for review and comment*, based on the findings and analysis in the staff report dated December 21, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

PA-15-10-14-LS

Legislative

Countywide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comment; the two-part request is to amend several elements of the County's Comprehensive Plan. Part 2.2 is specifically to amend Future Land Use (FLU) Policy 1.2.7 (The old number is FLU Policy 1.2.6): Transfer of Density Units (TDU) Program Intent, FLU Policy 1.2.8 (The old number is FLU Policy 1.2.7: TDU Applicability): TDU Program, FLU Policy 1.2.9 (The old number is FLU Policy 1.2.8): TDU Sending Zones, FLU Policy 1.2.10: TDU Receiving Zones, FLU Policy 1.2.11: Prohibited Receiving Zones, FLU Policy 1.2.14: TDU Waivers, and FLU Policy 1.2.15: Revitalizing Neighborhood Incentive Density; and delete old FLU Policy 1.2.9: Restrictions on Sending Zones; Petition No. PA-15-10-14-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Shaun Cullinan, Planning and Zoning Official, presented the findings and analysis of the petition with a recommendation of *transmittal to the Department of Economic Opportunity*, based on the reasons stated in the staff report dated December 21, 2015. The purpose of the amendment, he said, is to revise the policies to truly implement the overall vision and intent, which were established in the 2050 Comprehensive Plan and reflect the successful TDU program. The proposed revisions retain the intent and applicability, and do not amend the base density definition, how to calculate the base density; any increases in density through the TDU program must go through a rezoning and/or a plan amendment.

Questions for Staff

Chair Hess asked for confirmation of her understanding that the revised policies are consistent with the existing TDU program, and Mr. Cullinan responded affirmatively.

Public Input

Ms. Percy Angelo returned to the podium to address this issue; one issue from her written comments (attached) – first document is an excerpt from storm surge map for this highly vulnerable area, the second document regards evacuation times which **Ms. Angelo** noted are extremely long, longer than the state standard. She referenced the roads in Placida, which would likely be under water during a significant storm; she also provided a map with indications of bottleneck points for evacuating residents. Ms. Angelo indicated that she considered the proposed TDU changes would allow more people and more buildings within the

Coastal High Hazard Area (CHHA). She also referenced an ordinance (ORD 2009-002) granting 977 units of CHHA density in the West County, for a development that was never built; she referred to this as density available to be moved to a new project site under this proposed amendment. She also looked ahead to the next petition to be heard, in which developers of CMGU project will no longer be required to finance construction of shelters. She suggested this **is not because they shouldn't have to, but because the Cape Haze area is too much at risk of inundation** which means that Red Cross-certified shelters cannot be built there. Her conclusion was that if the area is too much at risk for shelters, the other building should be discouraged as well.

Chair Hess asked for clarification, whether there had been any changes to the TDU ordinance; Mr. Cullinan responded affirmatively, and also said that no new density is being created, merely reallocated, and that density still **can't** be moved into unlike areas. Therefore, density approved for the intersection of SR 771 and SR 776 (the 900 units) cannot be reallocated to an area such as the tip of Cape Haze.

Ms. Angelo requested the opportunity to respond; she acknowledged that the density was not of the same type and that the ordinance prevented that movement, but noted that with these changes, the Comp Plan does not prevent it. Therefore, she said, the result if adopted is that the County can then change the ordinance, which is much less protected than the Comp Plan.

Chair Hess responded that she understands the point, but that the objective was removing regulatory language from Comp Plan. **Ms. Angelo** urged that the language be reviewed again, stating that this is not regulatory language, and she suggested that **"regulatory" has become a go-to comment for deflecting criticism of change.**

Mr. Cullinan requested to respond, noting that there are policies prohibiting that in the Coastal Element; he also said there had been no questions from the state agencies when amendments with similar language were brought forward previously. In **staff's opinion**, this proposal meets the intent and requirements.

Ms. Thomas returned to the podium to address this issue. She expressed concern that regulatory language had been moved from the ordinance into the 2007 Comp Plan; thereafter (2008-2010) a great deal of data and analysis was done in support of the EAR, and that was also the support of the 2050 Comp Plan revision completed in 2010. During this time, a decision was made, she said, that the 2007 TDU ordinance no longer reflected the County vision and a new ordinance was needed that better-identified infill locations and refocused attention on environmental protections. She indicated that the policies now being changed back to 2007 would form the basis for a new ordinance and replace the 2007 ordinance which was considered outdated.

Ms. Thomas stated that what should be happening is creation of a new ordinance based on the Comp Plan language, based on data and analysis, to identify true infill locations and incentivizing population concentrations in the right places, while honoring environmental protections; that is not happening here. **Chair Hess** asked if, in summary, it would be correct to say Ms. Thomas believed a new ordinance was needed; **Ms. Thomas** concurred, since this is what staff themselves said in 2010. **Chair Hess** then asked Mr. Cullinan if the Planning staff was contemplating a new TDU ordinance; **Mr. Cullinan** responded that staff is always contemplating the Codes and ordinances to see what might be improved, but in the meantime,

under the current ordinance, there are many provisions which still have to be met – there are no automatic entitlements.

Ms. Waksler returned to the podium, speaking as a private citizen. She commented on the current TDU proposal which she said restores the language in the Comp Plan to what it should be: Visionary, not regulatory. The Comp Plan defines things, but leaves details of how that TDU ordinance is meant to regulate activity to the Land Development Regulations. She suggested that the underlying reason for opposition to removal of this language was that the language in the 2050 Plan took all the local governance away from Charlotte County and put it in the hands of the state. Ms. Waksler said that, to her knowledge, Charlotte is the only County that requires a transfer of density when density is increased on a property; she stated the County should have the power to refine that language, rather than the state, and noted that if at the local level it is not as easy for those who are on the losing end of change to challenge it, **that's the government works**. She urged that the matter be transmitted to DEO.

Ms. Highsmith returned to the podium, speaking on behalf of the Greater Charlotte Harbor Sierra Club, and incorporated by reference the comments from the Conservancy and the Friends of Cape Haze. She noted that she found the language of FLU 1.2.11 to be particularly troubling, and suggested that the amendments in subsection 3 should be deleted. Ms. Highsmith pointed out that Regulations, e.g., in the form of permits, provide a pinpoint point of view, rather than the broader view of the surrounding area.

Mr. Bertsson returned to the podium, on behalf of Boca Norte, LLC, Spanish Trail Land and Cattle Company, LLC, and Caribbean Bay Mortgage Company, LLC. He said that he agreed with **Ms. Waksler's comments**. **Mr. Bertsson took the position that Charlotte County's** TDU ordinance was unlike any other in Florida and characterized it as one of the worst planning decisions the County made, long ago, because we focus on density so strongly. **In the 1990's**, the TDU ordinance was considered a way to address the platted lands problem in this County, but it was not the best solution, because resulted in spotty distribution of platted lands. Mr. Bertsson suggested the County should simply do away with the TDU process and just make good land use decisions. **He also indicated he couldn't understand the position that** there should be no increase in density for the Coastal High Hazard Area under the TDU ordinance, since that would mean that any density removed could not be put back anywhere else in the CHHA. He indicated he supported staff's changes and transmittal of the amendment.

- **Mr. Gravesen moved to close the public hearing, second by Mr. Bigness with a unanimous vote.**

Discussion

Chair Hess stated that she sees the revisions as a continuation of the process of getting regulatory language out of the Comp Plan; she agreed with staff that the new language is consistent with the existing ordinance, and that there are more protections in the ordinance than in the Comp Plan. She supported transmittal of the amendment. **Mr. Gravesen** said that he also agreed with it.

Mr. Bigness asked about the recent purchase of Mercaibo site, noting that the residents on the peninsula would be interested to see that land turned into a nature preserve, and asked how this change would affect that. **Mr. Cullinan responded that staff doesn't** focus on just one piece of property when doing these revisions, but considers the impact on the whole County.

Mr. Bigness noted that as a resident of West County he is concerned about overgrowth there but he indicated he also **supports individual property owners' rights**. He was just pleased to see that staff was working to keep a balance in mind.

Recommendation

Mr. Gravesen moved that **PA-15-10-14-LS** be sent to the Board of County Commissioners with a recommendation of *transmittal to the Department of Economic Opportunity for review and comment*, based on the findings and analysis in the staff report dated December 21, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

PA-15-10-15-LS

Legislative

Countywide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comment; the two-part request is to amend several elements of the County's Comprehensive Plan. Part 2.3 is specifically to amend Future Land Use (FLU) Appendix 1: Land Use Guide by revising "Shelter Requirement" under the "Special Provisions" subsection of the Compact Growth Mixed Use (CGMU) Future Land Use Map (FLUM) category; Petition No. PA-15-10-15-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

Staff Presentation

Shaun Cullinan, Planning and Zoning Official, presented the findings and analysis of the petition with a recommendation of *transmittal to the Department of Economic Opportunity*, based on the reasons stated in the staff report dated December 2, 2015. The County does not have a shelter plan; we follow statutorily-required documents such as the Comprehensive Emergency Management Plan and the County's local mitigation strategy. This change reflects our current action documents.

Questions for Staff

None offered.

Public Input

Ms. Angelo returned to the podium; she stated her position that the changes are relaxing the standards for the Compact Growth Mixed Use (CGMU) **uses so they don't** have to spend the money to provide shelter, even when these uses are placed in the most vulnerable areas. These facilities are needed because the County is low-lying land, but in fact the Red Cross will not certify shelters in such a vulnerable area. Instead, **there's** something called refuges, rather than shelters, which she characterized as a cosmetic name change while pointing out that the refuges are paid for by the sales tax extension. In other words, consumers are subsidizing developers' profits if this change is adopted.

She continued, saying that these changes raise a larger issue, namely that the CGMU is a collection of density without a location, therefore moveable. She stated that other parts of these changes allow industrial or commercial lands to be converted to residential and density can be moved around without predictability. This part just ensures that a developer need not accommodate hurricane risk. She urged that this amendment be rejected and that CGMUs density be limited to no more than medium density in West County, and should not be moveable out of the area where they are initially approved.

Two additional points were raised by Ms. Angelo, the first concerning the deposition of Emergency Manager Wayne Sallade, who said it does matter where you move density; moving it from the north part of Gasparilla Rd. to the south part does make a difference in safety and evacuation times. She also referenced what she called an enormous change being made in the Comp Plan, noting that the County has had a density cap for decades, and that you are now being told it doesn't apply anymore.

Ms. Thomas returned to the podium; she indicated that she agreed with Ms. Angelo, and whether it is merely a language issue (refuge instead of shelter) **that shouldn't** change the fact that if there are going to be additional dwelling units, they need to be able to evacuate.

Ms. Highsmith returned to the podium, and said that she incorporated the comments and the written material submitted by the Friends of Cape Haze and the Conservancy of Southwest Florida.

Mr. Bertsson returned to the podium, to say that he supports the proposed changes. He also commented that a lot of mileage had been made over the 65 units of density but that he would be astounded if that ever were to happen; it **doesn't even** happen in major cities. He also noted that he was confused by **Ms. Angelo's** comments that the density cap has been removed; he said he believes that it's a bad idea, but that as far as he knows, **it's staying**. He ended by saying he supported the changes.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Chandler** with a unanimous vote.

Discussion

Chair Hess stated to Mr. Cullinan that while **there's been a lot of talk about density, this** amendment is about shelter requirements; she noted the language that was being deleted (all residents will be required to evacuate and the developer is required to provide monetary contributions), replacing it with the requirement that any CGMU project has to be in compliance with Emergency Mgmt documents and local mitigation strategy. She asked if her understanding was correct; **Mr. Cullinan** responded affirmatively. **Chair Hess** said that she **respected the staff's position that the shelter requirement is unattainable in practice**; Mr. Cullinan added that shelter in place might not be recommended, and evacuation might be appropriate, but essentially that is governed by the the controlling document, the Comprehensive Emergency Management Plan.

Mr. Gravesen had question for staff regarding a typo, which Mr. Cullinan said staff would correct.

Recommendation

Mr. Gravesen moved that **PA-15-10-15-LS** be sent to the Board of County Commissioners with a recommendation of **transmittal to the Department of Economic Opportunity for review and comment**, based on the findings and analysis in the staff report dated December 21, 2015, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

Assistant County Attorney Josh Moyer indicated it was now time for elections for the Board.

Mr. Moye opened the nominations: **Mr. Gravesen** moved that the current officers be retained in their current positions; **Mr. Moye** called the question, which was unanimously approved.

There being no further business to come before the Board, the meeting was adjourned at 2:46 p.m.

Attachment: Comments on the large-scale amendments submitted by the Friends of Cape Haze and the Conservancy of Southwest Florida

To: Charlotte County Planning and Zoning Board

From: Friends of Cape Haze, Inc. and Percy Angelo and Marvin Medintz

Re: Comments on Revisions to Comp Plan, Pt. II, Application PA-15-10-13-LS, Service Area; on PA-15-10-14-LS, TDU; and on PA-15-10-15-LS Shelter Requirements, for hearing January 11, 2016

Date: January 8, 2016

Friends of Cape Haze, Inc. (FOCH) is an organization dedicated to the preservation of the environment of the Cape Haze peninsula and these comments are submitted by Percy Angelo and Marvin Medintz on behalf of themselves and of FOCH.

We urge you not to approve these proposals which create new density, without limitation, and allows its movement throughout the County, including to the most vulnerable Coastal High Hazard Areas, without regard for resident safety or the most basic requirements of the Growth Management Act.

BACKGROUND

FOCH participated in the earlier adoption of comprehensive plan amendments in 2014 and filed an appeal of those amendments. That appeal went through the discovery process, had two intervenors, and was approaching trial at the end of July 2015 when the County entirely withdrew its 2014 comp plan adoption. Now it has essentially refiled the same amendments, starting the process all over again, but this time it does so in three parts, with multiple subparts. This is the second of those parts.

RELATED PROCEEDINGS

We have previously objected that the various parts of the comp plan are inextricably interrelated and that separating them into three and even more segments is improper and a burden on public participants and challengers such as the FOCH. We reiterate that objection and are filing our prior comments and exhibits in this proceeding.

SUMMARY OF OBJECTIONS

In multiple respects the current proposals represent an effort to avoid delineations of service areas and, specifically, to avoid designating where land uses and populations are desired. This is a violation of the Growth Management Act (Act) which requires that the County through its comp plan make these choices in advance, applying principles identified in the Act.

In addition, the proposed amendments violate two prior consent decrees. The first, in the early 1990s, grew out of a Department of Community Affairs (DCA) challenge to the first county comp plan for its failure, among other things, to respond to urban sprawl. The resulting settlement required the County to create a transfer of density units program to assist in the elimination of platted lots, with which the county was vastly oversupplied, and to protect the coastal high hazard area (CHHA). A coastal residential density level of no more than 3.5 units/acre was also required. To ensure that the

transfer of density units program was effective the county was subject to a density “cap”. This cap ensured that the incentive would be to buy and move density units to more appropriate areas, rather than to simply ask the county to create more.

On March 13, 2007, Bill Pable, a DCA representative, gave a presentation explaining the TDU program and the cap to County Board members. He stated, and the development community has concurred, that TDUs do not work “unless approval of new density is limited.” This presentation, and the 1990s settlement, have been supplied, again, to the County.

In 2010, the County adopted a broad amendment to its comp plan, after numerous public input meetings and hearings. The FOCH appealed that amendment because of its treatment of density on the Cape Haze peninsula and because it appeared to do away with the density cap. That appeal was resolved in a settlement with the County which dealt with the very provisions before you today. In essence the settlement made clear that the new over 13,000 units of RAPID density could not be used in the Placida Revitalizing area (at the intersection of 771 and 775, by the causeway to the Boca Grande bridge) and that language reflecting the density cap, the idea that additional density could not be created, would be preserved.

The 2014 comp plan adoption, and the 2015 proposals before you now, violate the prior settlements by removing language protecting the density cap, by adding provisions that in fact violate that cap and by removing protections for the CHHA.

In fact the proposals work so as to eliminate the original purpose of TDUs, to protect the CHHA and address urban sprawl, and instead use TDUs to move density and uses without meaningful and predictable standards for the use and development of land, in direct violation of the Growth Management Act.

IMPORTANCE OF PROTECTIONS FOR THE CHHA

The Act requires protections for coastal areas, including the CHHA, for numerous reasons, including public safety and protection of coastal resources.

The Southwest Florida Regional Planning Council has performed extensive modeling and other work to identify areas at risk and hurricane evacuation times. That work is available as follows and is incorporated by reference:

Southwest Florida Region Statewide Regional Evacuation Study Program, Executive Summary,

www.swfrpc.org/content/Emergency_Mgmt/sres2010/V1_ExecutiveSummary.pdf.

Volume 1-9, Southwest Florida Region, Technical Data Report, Chapter IV, Regional Vulnerability and Population Analysis,

www.swfrpc.org/content/Emergency/Mgmt/sres2010/C4_Vulnerability_Population_Analysis.pdf.

Volume 1-9, Southwest Florida Region Technical Data Report, Chapter VI, Regional Transportation Analysis,
www.swfrpc.org/content/Emergency_Mgmt/sres2010/VI_Transportation.pdf. On

Volume 4-9, Evacuation Transportation Analysis, Southwest Florida Region,
www.swfrpc.org/content/Emergency_Mgmt/sres2010/V4_Evacuation_Transportation-Analysis.pdf.

Evacuation Transportation Supplemental Data Report, Volume 5-9
www.swfrpc.org/content/Emergency_Mgmt/sres2010/V5_Transportation_Sup_Data_Report.pdf.

That work shows that the Cape Haze peninsula is, in large measure, a high risk storm surge zone and that County evacuation times vastly exceed the state mandated limits of 16 hours. For all but the least impactful storms evacuation times exceed 40 hours already.

Further, the County's emergency manager, Wayne Sallade, when deposed on April 29, 2015, stated that evacuating the Cape Haze peninsula would exceed 20 hours, Dep. 35-36, and further that evacuation out of West County would require 28 to 50 hours. Dep. 67-68. With the plan to add some 25,000 homes on the Taylor Ranch property "a bad problem is going to become a nightmare problem because that's our bottleneck." Dep. 78. With respect to Gasparilla Road, 771, in particular, he added that adding population further south is going to make evacuation times eventually longer for that area. Dep. 80.

Mr. Sallade stated again and again that the SWFRPC document should be used as a planning document. Yet Charlotte County does not consult it in its planning.

The County materials provided in the staff report do not challenge any of this data. Quite the contrary. The County in its staff report determines that the provision for shelter for CHHA residents is "unattainable," citing the risk of surge inundation, the SLOSH maps and the County's low elevation. But instead of addressing the risk of adding additional population the County deletes the requirement to provide monetary contributions to a shelter system!

In light of this data, the changes to the transfer of density unit provisions which would allow movement of density units within the CHHA in West County, including movement from a less to a more intensive flood zone (e.g. from north on 771 to the area around the 771/775 intersection and the Boca Grande Causeway) would exacerbate the already noncompliant evacuation scenario and run the risk of trapping residents on a barrier island or behind a flooded 771. (The road is subject to flooding and is labeled as such).

There are other reasons to protect the CHHA, but the immediate risk to human life is clearly a top priority.

County staff have stated that there isn't a large package of density that could be moved to the area around the 771/775 intersection. This is simply false. Data obtained from the County, and then supplied to the County in these proceedings, shows that there are over 1831 units of density, of which 977 are CHHA density in the approved Compact Growth Mixed Use (CGMU) property at the north end of 771 where it meets 776. Ord. 2009-002. This is part of a development which has not gone forward.

977 units moved further south on Gasparilla Road where they can exacerbate an evacuation bottleneck are a clear threat to public safety.

Note that these hundreds of units of CHHA density were created pursuant to a CGMU process which is supposed to be highly site specific. Transfer of CGMU density to another area, in particular a more vulnerable area, and use of conversion tables to convert commercial to residential or vice versa, is inconsistent with the Act.

In fact the County's creation of a CGMU land use category allowing up to 65 units/acre, and its proposal of a Planned Development zoning category allowing up to 65 units/acre create the threat of massive development at 771/775, the most vulnerable part of the County. This is unconscionable and also illegal under the Act.

SECTION BY SECTION COMMENTS (new numbering system is used)

FLU Policy 1.2.6: Expansion of the Urban Service Area

The County deletes the language that there are adequate development rights and forms under the plan and adds language questioning the adequacy of location of development rights.

The only data and analysis it cites for this change is a study from 2009 regarding the location of industrial land uses. Despite the limitation of this data and analysis to industrial land uses, the County amendments attempt to make an overall statement that land uses in general do not support adequate development opportunities. This is false and entirely unsupported.

The data and analysis from the 2010 plan, which is not challenged or amended, states that there are adequate residential rights through the end of the century. Smart Charlotte 2050 Future Land Use Data and Analysis, p. 17 (2050 population is only 46% of buildout potential. County will not achieve total buildout until after the year 2200).

The County also supplies the County's Strategic Plan. Nowhere does this document even suggest that the County does not have adequate development rights for commercial or residential uses.

FOCH does not object to an amendment tailored to the narrow problem actually identified, the possible lack of industrial land uses in the area near the airport. This narrow need could be addressed by retaining the existing language but adding the beginning language, "With the exception described below, the County finds..." At the end of that sentence the following language could be added, "An exception may exist for the adequacy of industrial development rights in the area of the Punta Gorda airport

and a request to expand the USA to accommodate this issue may be considered by the Board, consistent with Section 163.3177 F.S. (6)(a)(9).”

FLU Policy 1.2.7 Transfer of Density Units (TDU) Program Intent

The change to provision 6 would appear to allow the transfer of density within the CHHA in West County, including from less vulnerable areas, such as the area at the north end of 771 to the most vulnerable area at the intersection of 771/775. This is precisely the issue discussed above and that discussion is incorporated herein.

The amendment should not be made. Numerous suggestions have been made that transfers of density within the CHHA take place only if they are from a higher to lower risk flood zone, the approach taken by the TDU ordinance. The County has refused to put these protections in the Comp Plan where they are protective because they are more difficult to change. Comp plan protection, however, is what is required by the Act.

FLU Policy 1.2.8: TDU Program

The County’s change removed the language that states that the “TDU proram shall be used...for all plan amendments and rezonings that propose to increase the base density on land and street vacations ...allowing development of new units of density.” This change removes language guaranteeing the density cap as required by the two prior settlements entered into by the County in the 1990s and 2011.

The density cap is key to the County’s compliance with the Act. There is no dispute that the density cap should be in place. Indeed Rob Berntsson specifically commented in the 2014 adoption that the density cap agreement was part of the 1990s settlement in which he participated for the County.

Further, removal of language limiting fractional units is nonsensical. It suggests that the County is trying to use rounding off to allow units where none were available before, another violation of the density cap.

This change should not be made.

Further, in subsection 1, the County changes “shall” to “may”, creating the possibility that density in Revitalizing Neighborhoods may be increased by some mechanism other than the use of RAPID density units. But the whole purpose of RAPID density units was to use them in Revitalizing Neighborhoods pursuant to a plan. If the density is created out of thin air it is a violation of the density cap. If it is not used pursuant to a plan the whole purpose of Revitalizing Neighborhoods is abandoned. Either way the change abandons the obligation to provide meaningful and predictable standards for the use of density.

FLU Policy 1.2.9: TDU Sending Zones

In subsection 1 it is not clear whether the added language expands the provision so that any neighborhood, not just Managed Neighborhoods, may be a sending zone. This is inconsistent and does not provide meaningful and predictable standards.

Subsection 10 creates new density out of whole cloth by allowing schools, houses of worship, parks and any residential use at a density below base density to sell it. This is despite the fact that many of these uses, such as schools, may be more intense than residential use of the property. It is a vast scheme to allow double dipping and an invitation to developers to assemble additional density from these other uses. There is no data and analysis to demonstrate how much additional density is created by this provision, it violates the density cap, and evades all meaningful and predictable standards for the use of density.

FLU Policy 1.2.9 Restrictions on Sending Zones (old numbering)

Deletion of this section which sets standards for where density can be transferred entirely destroys the original purpose of TDUs. The concept that growth is to be transferred away from areas where it is not desirable, and such transfer confirmed with a conservation easement or other restriction on transfer back is entirely removed. This change is a fatal evasion of the requirement of the Act that land use be meaningful and predictable.

FLU Policy 1.2.11: Prohibited Receiving Zones

The amendment allows an area containing environmentally sensitive resources to be a receiving zone. This is upside down. Environmentally sensitive areas are supposed to be sending zones, not receiving zones.

The County justifies this change, including the elimination of a 100 foot buffer requirement, by assuming that impacts will have been approved through an environmental resource permit or applicable state or Federal permit. This misunderstands and misuses the federal and state permitting systems.

In the first 2014 adoption the County was told by the state environmental agencies that state permits were not based on and did not represent land use decisions. The fact that a permit may be obtained for a stormwater system, for example, does not mean that the site does not contain valuable resources or that it does not justify a buffer.

The amendments in subsection 3 should be deleted.

FLU Policy 1.2.14: TDU Waivers

This section allows one land use to be converted to another, e.g. commercial to residential, without comp plan amendment. This is a clear violation of the principle that decisions about land use locations and types must be meaningful and predictable.

A commercial use is not equivalent to a residential use. It will have very different impacts on a neighborhood. And conversely, a decision to allow commercial at a certain location to serve a neighborhood is not at all comparable, as far as the neighboring property owners are concerned, to putting another residential development there instead.

And note that the language of the section assumes that the residential may end up being in excess of the maximum approved by the Plan. This is not only not predictable, it is an infringement on the assumptions of all property owners.

Exacerbating the impact of this change, it refers to “development entitlement amendments pursuant to an adopted equivalency matrix or conversion table.” Lo and behold one of these matrixes appears in the CGMU definition in the FLU Appendix i: Land Use Guide, where it applies to densities of up to 65 units per acre. This is the highest density, by far, in the County and creates a massive loophole allowing the evasion of the requirement for predictable standards.

If the County is going to put 65 units per acre anywhere in the County that decision should be made in the Comp Plan where its impact can be predictable and where it can be supported by data and analysis

FLU Appendix I: Land Use Guide

The County deletes the requirement in the CGMU section that a developer constructing a CGMU in the CHHA must provide monetary contributions to the County’s shelter system. So not only does the developer build where it shouldn’t be building at all, it also avoids and evades all obligations for the safety of its residents. This is contrary to the intent of the Act and to all moral standards.

The County cites its Comprehensive Emergency Management Plan and Local Mitigation Strategy. Neither of these documents provides any sort of solution to this problem, though they are long and provide a lot of paper to the record.

The pretense that the Red Cross won’t certify shelter systems in Charlotte County and that this excuses the failure to consider CHHA risks is a straw man. Mr. Sallade made it clear that “refuges” in the County are not only possible but are in fact used. There is no excuse for the abdication of responsibility represented by this amendment.

Mr. Sallade made it clear that there is nowhere for an evacuating County resident to go. I-75, which actually turns back toward the coast, will be a parking lot. There is no way for County residents to reach an approved “shelter.” Only refuges will be available, but the development community need not contribute to refuge for its customers, and the County’s proposals allow it to continue to approve more and more housing for CHHA populations which it puts at risk. This is not acceptable. It is also not in compliance with the Act.

	Population	Population	Population	
2010	159,978	15,615	3,224	178,817
2015	168,000	16,081	3,338	187,419
2020	176,500	16,538	3,444	196,482
2025	184,701	16,943	3,558	205,202
2030	192,601	17,292	3,665	213,558
2040	206,701	17,776	3,885	228,362
2050	217,901	17,944	4,106	239,951

Source: Charlotte County Community Development Department, 2012

Based on these projections, the permanent population of Charlotte County at the long-range planning horizon of the year 2030 is projected to be 192,601 and at the vision horizon of the year 2050 it is projected to be 217,901. This 2050 build-out is about 46 percent of the capacity of the County's build-out potential shown in Table FLU-8, below. Given the growth rate and the adopted Future Land Use Map, the County is not projected to achieve total build out until after the year 2200. It is evident that the County meets, and extensively exceeds, the State requirement to provide future land uses for at least ten years of potential growth.

Seasonal Projections

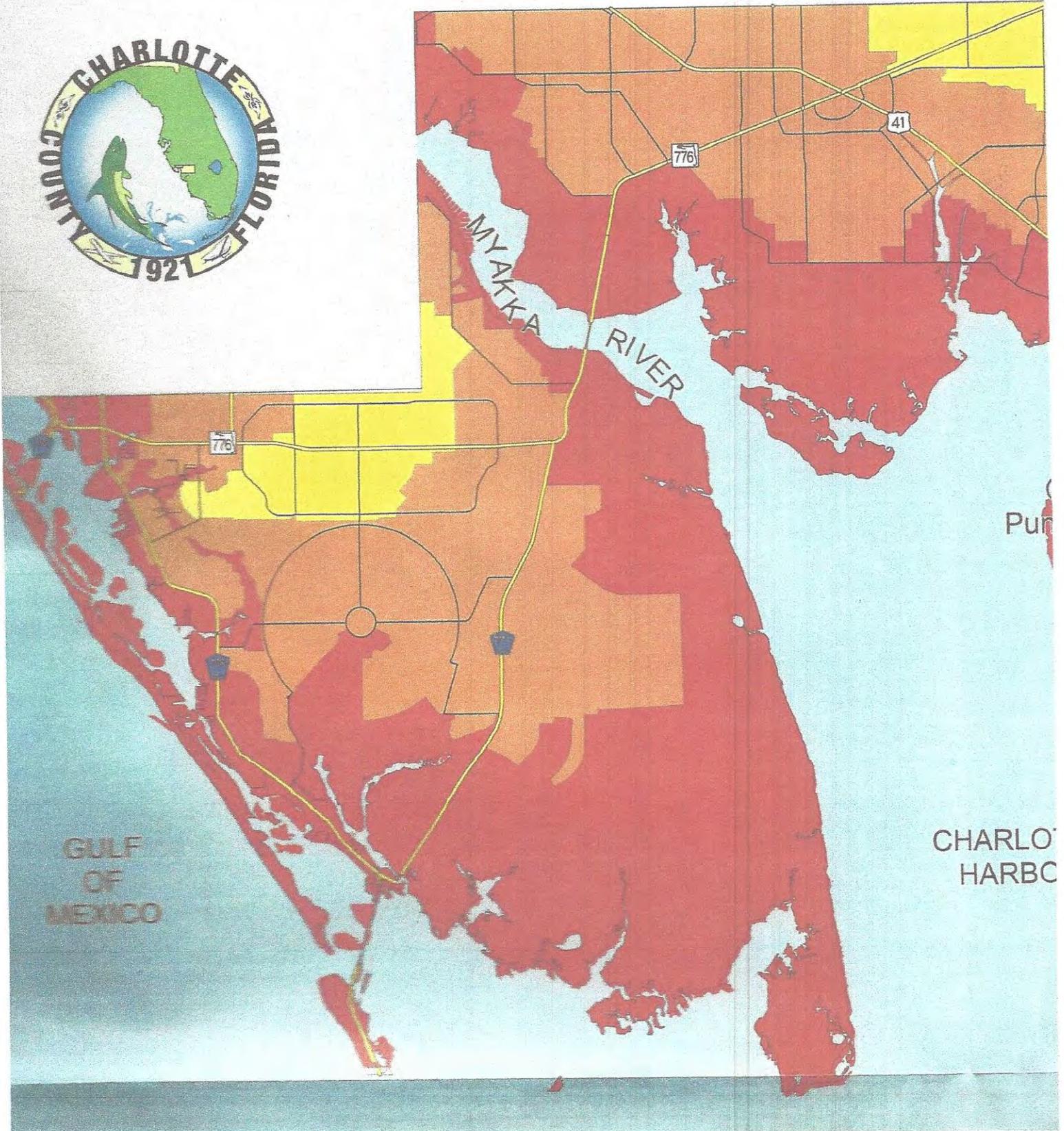
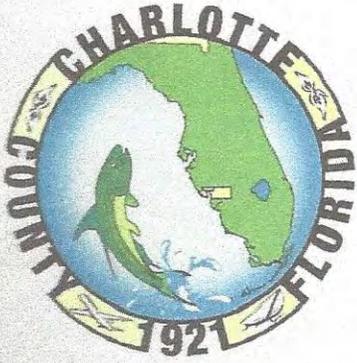
Florida counties also have substantial seasonal residency rates. While these residents are only in the County for part of the year they do place demands upon public infrastructure and other facilities, and must be taken into account for planning purposes in order to ensure that services and facilities are not overwhelmed. As shown in Table FLU-7, seasonal populations in the County are estimated to be between 12 percent of the permanent population in 2010 and ten percent at the vision horizon of the year 2050. These rates, along with projections for hotel and motel residents, were used to project total seasonal populations.

Conclusion

The previous adopted comprehensive plans and the single family lots created by General Development Corporation (GDC) have combined to allow an estimated ultimate build-out population of 470,923. Trending at the rate established by the population projections, the potential absorption of all the developable land in the County will occur just after the year 2200. Using the assumption that employment will develop at a consistent rate, the absorption of non-residential lands is projected to occur slightly sooner than that. With both the population and employment forecasts projected to occur well after the vision horizon of the year 2050, the Charlotte County Comprehensive Plan has identified more than enough land sufficient to accommodate the growth trend by the planning horizon of the year 2030.

CHARLOTTE COU

SARASOTA COUNTY



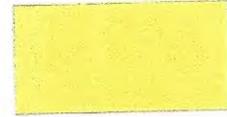
Map Projection
Datum: NAD83
Units: Meters

Source: CCGIS, Emergency Mngmt

Metadata available upon request



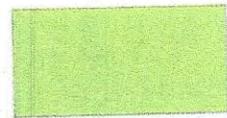
A



C



B



D

USING YOUR COUNTY MAP

Identify where you live and work on the map.

Determine whether you are in an evacuation area, and if so, what level (A, B, C, or D).

If you are in an evacuation area, or mobile home/RV, decide where you will go if ordered to evacuate. Your choices include:

Go to the home of a relative or friend outside the evacuation zone

Go to a hotel/motel outside the evacuation zone (make arrangements early)

Go to a public shelter

If all else fails, as a last resort leave the area entirely

If you must go to a public shelter, use your county map to decide which one is most convenient. Make sure you verify the shelter is open before you go.

HURRICANE

- ✓ The county map shows evacuation areas and is provided by the county to help you understand evacuation routes and winds.
- ✓ Storm surge is a major hazard. Know where you live and if you are in an evacuation area, or mobile home/RV, decide where you will go if ordered to evacuate. Your choices include:
 - ✓ Go to the home of a relative or friend outside the evacuation zone
 - ✓ Go to a hotel/motel outside the evacuation zone (make arrangements early)
 - ✓ Go to a public shelter
 - ✓ If all else fails, as a last resort leave the area entirely
- ✓ If you must go to a public shelter, use your county map to decide which one is most convenient. Make sure you verify the shelter is open before you go.

Note: All evacuation routes are subject to change.

Table VI-12: 2015 Clearance Times for Base Scenario

	Evacuation Level A Base Scenario	Evacuation Level B Base Scenario	Evacuation Level C Base Scenario	Evacuation Level D Base Scenario	Evacuation Level E Base Scenario
Clearance Time to Shelter					
Charlotte County	13.5	17.0	28.5	39.5	52.5
Collier County	13.0	18.0	37.0	45.5	55.0
Glades County	11.5	11.5	11.5	11.5	11.5
Hendry County	13.0	13.5	36.5	45.5	47.5
Lee County	13.0	17.0	36.5	45.5	74.5
Sarasota County	13.0	18.0	35.0	49.5	60.0
In-County Clearance Time					
Charlotte County	14.5	19.0	41.0	49.0	77.5
Collier County	14.0	18.0	37.0	46.5	68.0
Glades County	13.0	13.0	13.0	13.0	13.0
Hendry County	13.5	14.0	40.0	45.5	77.0
Lee County	14.0	18.5	40.5	49.5	77.0
Sarasota County	15.0	20.0	43.5	50.0	78.0
Out-of-County Clearance Time					
Charlotte County	15.0	19.5	41.0	49.0	77.5
Collier County	14.5	20.0	40.5	47.0	70.0
Glades County	15.0	23.5	41.5	62.5	89.0
Hendry County	14.5	21.5	41.0	53.0	77.5
Lee County	14.5	18.5	40.5	49.5	77.0
Sarasota County	15.5	20.5	43.5	50.5	79.0
Regional Clearance Time					
Southwest	15.5	23.5	43.5	62.5	89.0



CHARLOTTE COUNTY
Coastal High Hazard Areas (West County)



EXHIBIT
5
Date: _____ MJD
Page: _____ of _____

ORDINANCE
NUMBER 2009 - 002

1
2
3
4 AN ORDINANCE PURSUANT TO SECTION 163.3184,
5 FLORIDA STATUTES, ADOPTING A LARGE SCALE
6 FUTURE LAND USE MAP AMENDMENT TO THE
7 CHARLOTTE COUNTY COMPREHENSIVE PLAN FOR 1,187
8 ACRES MORE OR LESS OF PROPERTY LOCATED IN THE
9 ENGLEWOOD AREA, CHARLOTTE COUNTY, FLORIDA,
10 COMMISSION DISTRICT III; EXPANDING THE URBAN
11 SERVICE AREA TO INCLUDE 214.09 ACRES MORE OR
12 LESS INTO THE SUBURBAN AREA; REDUCING THE
13 URBAN SERVICE AREA BY 92.30 ACRES MORE OR LESS
14 ELSEWHERE ON THE SITE AND CHANGING THE FUTURE
15 LAND USE MAP FROM LOW DENSITY RESIDENTIAL TO
16 PRESERVATION ON 79.60 ACRES MORE OR LESS OF
17 THOSE 92.30 ACRES; CHANGING THE FUTURE LAND USE
18 MAP FROM PRESERVATION, PUBLIC LANDS &
19 FACILITIES, COMMERCIAL CENTER, COMMERCIAL
20 CORRIDOR, RECREATIONAL VEHICLE PARK, AND LOW
21 DENSITY RESIDENTIAL TO COMPACT GROWTH MIXED
22 USE TYPE 1 ON 1,094.70 ACRES MORE OR LESS; ADDING
23 AN APPENDIX TO THE FUTURE LAND USE ELEMENT TO
24 DECLARE SITE SPECIFIC DEVELOPMENT STANDARDS
25 AND LIMITATIONS; PETITION PA-08-05-29-LS, APPLICANT,
26 DENNIS J. FULLENKAMP; PROVIDING FOR TRANSMITTAL;
27 PROVIDING AN EFFECTIVE DATE.
28

29
30 RECITALS

31
32 WHEREAS, in a public hearing held on Tuesday, January 20, 2009, the
33 Board of County Commissioners of Charlotte County, Florida, reviewed land use
34 amendment Petition PA-08-05-29-LS, which is a large scale plan amendment to the Future
35 Land Use Map of the 1997-2010 Charlotte County Comprehensive Plan (such plan shall
36 herein be referred to as "the Charlotte County Comprehensive Plan"), and which includes
37 an appendix to the Future Land Use Element of the Charlotte County Comprehensive Plan
38

APPENDIX III

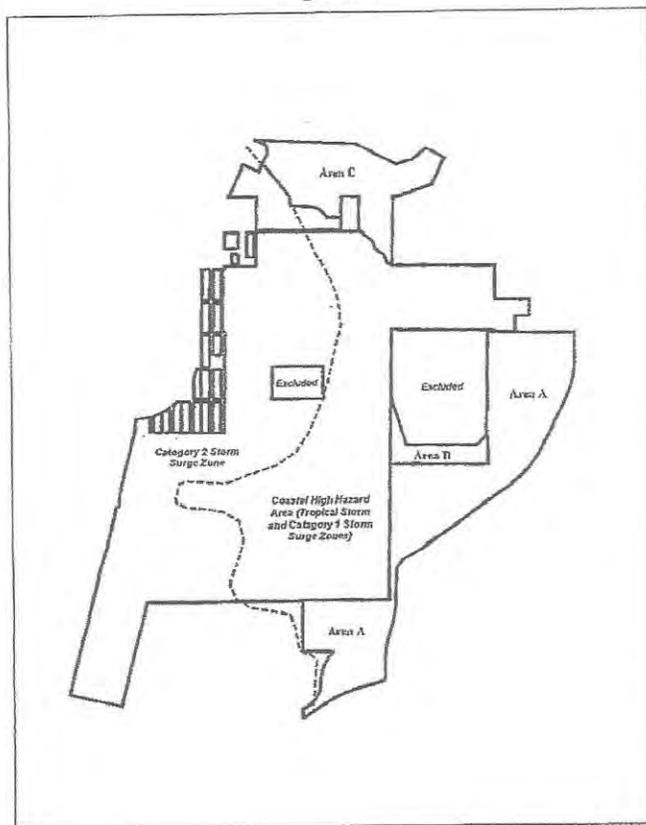
A. Site-specific standards for the subject site of PA-08-05-29-LS; 1,187± acres located east of South McCall Road (SR 776) and Gasparilla Road (CR 771), north of Delamere Boulevard and Marathon Boulevard, west of Butterford Waterway, and south of the Myakka River.

A.1: Base Residential Density

The site retains a base residential density of 1,831 units (inside the USA), of which 977 units are located in the Coastal High Hazard Area. Any increase to this base density shall require a transfer of density units as established in the Charlotte County Transfer of Density Units (TDU) ordinance. Additionally, areas A and B specified in the table below and outlined on the accompanying figure have their densities limited to those shown in the table. In conjunction with the Planned Development rezoning, the 149 units of CHHA density removed from Area C may be transferred to Areas A and B, any density beyond that amount shall come from property outside the subject site and be transferred to them in accordance with the TDU ordinance.

	Acreage	Density Units Permitted
Area A	214.09	5
Area B	20.80	0

Figure A

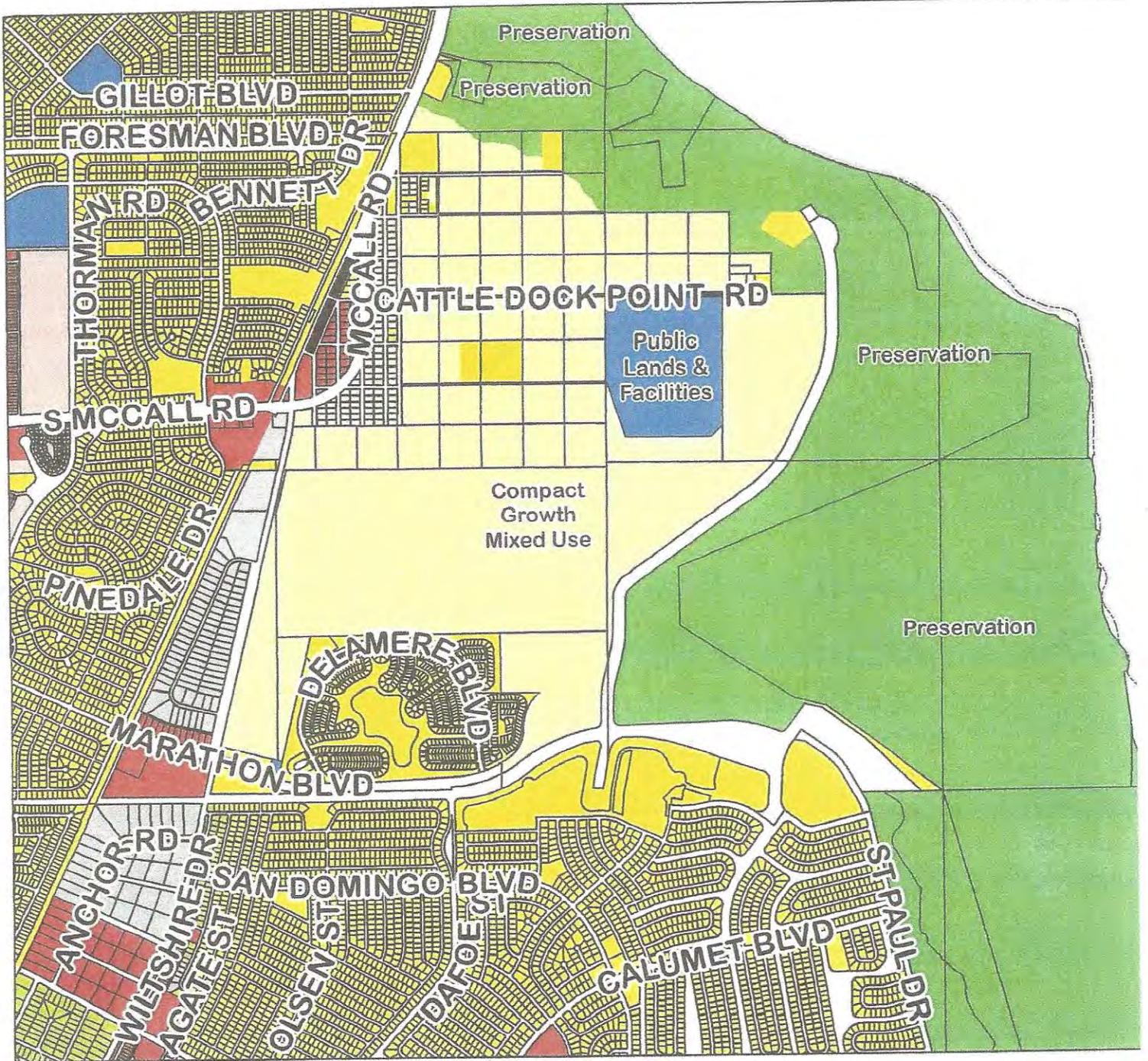


A.2: Maximum Residential Density

The site shall have a maximum residential density of 3,960 units.

EXHIBIT A

1 of 2



The property located at the east of 771/776 - FLUM De

FLORIDA DIVISION OF ADMINISTRATIVE HEARINGS

FRIENDS OF CAPE HAZE, INC., a
Florida not-for-profit
corporation,

Petitioner,

vs.

Case No. 14-4919GM

CHARLOTTE COUNTY, a political
subdivision of the State of
Florida,

Respondent.

_____ /

DEBRA HIGHSMITH and SIERRA
CLUB, INC.,

Petitioners,

vs.

Case No. 14-5035GM

CHARLOTTE COUNTY,

Respondent.

DEPOSITION OF: WAYNE P. SALLADE

DATE TAKEN: April 29, 2015

TIME: 10:00 a.m. to 12:41 p.m.

PLACE: Von Ahn Associates, Inc.
315 Olympia Avenue
Suite 221
Punta Gorda, FL 33950

BEHALF OF: Friends of Cape Haze

REPORTER: Michelle R. Hordinski, RMR, CRR

APPEARANCES:

For the Petitioner, Friends of Cape Haze:

KELSKY LAW
1250 S. Pine Island Road
Suite 250
Plantation, Florida 33324

By: Brad E. Kelsky, Esq.

For Charlotte County:

COUNTY ATTORNEY'S OFFICE
18500 Murdock Circle
Suite 573
Port Charlotte, Florida 33948

By: Joshua B. Moye, Assistant County Attorney
Cody B. Vaughan-Birch, Assistant County Attorney

For Caribbean Bay Mortgage Lender, LLC:

THE BIG W LAW FIRM
18401 Murdock Circle
Suite C
Port Charlotte, Florida 33948

By: Robert H. Berntsson, Esq.

For Boca Norte, LLC:

GRAY ROBINSON
8889 Pelican Bay Boulevard
Suite 400
Naples, Florida 34108

By: Derek P. Rooney, Esq.

ALSO PRESENT: Percy Angelo
Julianne Thomas
Ken Metcalf (by telephone)

I N D E X

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E X H I B I T S

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7	Southwest Florida Region Statewide Regional Evacuation Study Program	53

1 Thereupon,

2 WAYNE P. SALLADE

3 the witness, being first duly sworn for and in his own
4 behalf, was examined and testified upon his oath as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. KELSKY:

8 Q. Tell us your full name and home address,
9 please.

10 A. Wayne Paul Sallade. Home address, 345
11 Boundary Boulevard, Unit B, Rotonda West, Florida.

12 Q. The ZIP code, please?

13 A. 33947.

14 Q. What is your highest level of schooling?

15 A. I'm currently a graduate student through two
16 semesters at Lander University in South Carolina
17 studying for a master's degree in emergency management.

18 Q. When do you expect to get that degree?

19 A. Late 2016.

20 Q. It's a part-time program?

21 A. Currently it is a part-time program while I'm
22 still fully employed, correct.

23 Q. Who is your employer?

24 A. Charlotte County Board of County
25 Commissioners.

1 Q. What do you do for the county?

2 A. I am the Director of Emergency Management, 28
3 years.

4 Q. Do you recall me taking your deposition back
5 in 2011?

6 A. I do.

7 Q. Have you had an opportunity to review that
8 transcript?

9 A. No.

10 Q. Have you ever been provided with a copy of
11 that transcript?

12 A. I don't recall. I can't -- I couldn't put my
13 fingers on it if I did.

14 Q. Okay. Has anyone provided you with any of the
15 exhibits to that deposition transcript?

16 A. No.

17 Q. Is it fair to say that the last involvement
18 you had associated with your deposition was actually
19 sitting for it and having me take it?

20 A. That would be correct.

21 Q. Have you given deposition testimony since
22 then?

23 A. Relative to this, no.

24 Q. Have you given it in a different capacity?

25 A. I don't know what the timing was, to be honest

1 with you. I was deposed in a case of Charlotte County
2 versus Homeowners. That was probably before that along
3 Bayshore Road in which I was declared by the courts as a
4 hurricane history expert. I'm not sure on the timing on
5 that, though, when we did that. That was prior to that
6 time, so no.

7 Q. Okay. So how many times have you been
8 deposed?

9 A. Over 28 years, three, I believe.

10 Q. So let me just refresh your memory on the
11 process a little bit to make this simple.

12 I'm going to ask you a series of questions
13 today, and if you don't understand any of my questions,
14 please let me know, okay?

15 A. Uh-huh.

16 Q. You have to use words when you give a
17 response. You can't go uh-huh, uh-uh. You can't nod
18 your head or shake your head. Do you understand?

19 A. I can't say maybe?

20 Q. You can say maybe. You can say maybe. It
21 just has to be a word.

22 A. Okay.

23 Q. Okay?

24 A. Yes.

25 Q. If for any reason you need to take a break,

1 just let me know, and I'll be happy to accommodate you.

2 A. Okay.

3 Q. Please allow me to finish my question before
4 you answer, and I'll extend the same courtesy to you so
5 that we're not speaking over one another, which makes
6 the court reporter's job very difficult, okay?

7 A. Uh-huh, gotcha, yes.

8 Q. When you say uh-huh, I'm going to --

9 A. Yes.

10 Q. -- prompt you to say yes or no, okay?

11 A. Yes, yes, yes. Hit me. Tap my knee.

12 Whatever.

13 Q. You mentioned that you were designated as a
14 hurricane history expert by The Court.

15 A. Uh-huh.

16 Q. Which court did that?

17 A. I don't remember.

18 Q. Have you --

19 A. I don't know if it was -- I really don't
20 recall. It was in the case of a taking of properties
21 along Bayshore Road for the purposes of the Bayshore
22 Linear Park, and I was called by Charlotte County,
23 deposed by Charlotte County. And they, I believe, were
24 the ones that had me taking my curriculum vitae, and
25 others, to be determined that I was an expert in

1 hurricane history.

2 Q. Do you know whether that was in State Court or
3 Federal Court?

4 A. I do not know. I don't recall.

5 Q. Do you recall whether it was an administrative
6 hearing?

7 A. I think it might have been, but, again, I'm
8 not positive. But I think it might have been.

9 Q. Do you accept expert work in litigation
10 outside of doing work for Charlotte County?

11 A. For compensation?

12 Q. Yes.

13 A. No, I do not.

14 Q. Have the depositions that you've given been
15 associated with your work for Charlotte County?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes, it is. Yes, it is.

19 Q. Okay. Other than testifying as a hurricane
20 history expert, have you ever given expert testimony on
21 a different topic?

22 A. I don't believe so, no, no. It's been related
23 to hurricanes.

24 Q. Have you ever testified in a proceeding -- not
25 a deposition, but a proceeding with either a Judge or an

1 Administrative Law Judge other than the case where you
2 were a hurricane history expert?

3 A. No.

4 Q. You mentioned that you're the Director of
5 Emergency Management for Charlotte County.

6 What does that job entail?

7 A. The best way to describe it would be the way I
8 describe it to fourth graders when I've had the pleasure
9 of talking to 35,000 of them, and that is that the
10 emergency manager is like a football or basketball
11 coach. You are the individual in charge of the game, in
12 our case the game being whatever events befall our
13 county.

14 You are the coordinator. You are the
15 individual that others look to for leadership, look to
16 for decisionmaking. And, as I say, I took the job 28
17 years ago with that fully in mind, understanding that
18 was the responsibility.

19 So that's really the best way to describe the
20 emergency manager. We don't go on the field of play.
21 We don't fight fires. We don't chase bad people. We
22 don't pick up storm debris. But we are the people who
23 oversee the operation in an effort to maintain essential
24 services, essential functions, and to return the
25 community to a predisaster condition.

1 Now, that's the most important part. There
2 are many, and you don't have that much time for me to go
3 into Homeland Security, hazardous materials, and all the
4 other things that we do.

5 Q. Okay. Have you held any job positions aside
6 from being Director of Emergency Management for
7 Charlotte County within the county itself?

8 A. It wasn't county government. It was the
9 constitutional officer. I was the -- I was the deputy
10 property appraiser for seven-and-a-half years for Oliver
11 Lowe from 1980 to early '87.

12 Q. It looks like you brought a CV with you; is
13 that correct?

14 A. I did.

15 Q. Can I take a look at it, please?

16 A. Sure.

17 MR. KELSKY: Do you have exhibit stickers?

18 THE COURT REPORTER: Yes. Would you like me
19 to premark a few of them?

20 MR. KELSKY: Yes, if you don't mind. Let me
21 just go through this.

22 BY MR. KELSKY:

23 Q. Have you ever served on the Southwest Florida
24 Regional Planning Council?

25 A. No. You can't. That's for elected officials.

1 And I work with them, but you don't serve on
2 the Southwest Florida Regional Planning Council unless
3 you're -- I believe it's -- I don't even know who it is.
4 I know it's commissioners, council members, airport
5 authority. I think that's -- I think that's the three
6 groups that they pull from.

7 Q. Okay.

8 A. But it's elected officials.

9 Q. I'm going to mark and attach as Exhibit 1 the
10 CV for Mr. Sallade.

11 (Exhibit 1 was marked for identification.)

12 BY MR. KELSKY:

13 Q. So for purposes of this deposition today, I
14 did a notice designating certain topics for the county
15 to appoint somebody to give testimony on behalf of the
16 county to bind the county to a position.

17 Do you understand that?

18 A. I think I do, but I'm probably getting ahead
19 of myself or ourselves. Many of the things on the
20 schedule A I had absolutely no knowledge or
21 participation in, was asked to provide, and it just
22 was -- I mean, that's making a person chase their tail
23 for no good reason. And I don't appreciate it, for the
24 record.

25 Q. I'm sure most people don't appreciate it.

1 A. Well, it's a busy time of year. We are trying
2 to get ready for the hurricane season, and, quite
3 frankly, I don't have time for this, but --

4 Q. Well, I actually was only given your name by
5 the county. They designated you, not me.

6 A. Then I'll tell them. I don't have time for
7 it.

8 Q. You should tell them if that's how you feel
9 about it.

10 MR. MOYE: Objection. Form.

11 BY MR. KELSKY:

12 Q. Let's do this. I'll mark as Exhibit 2 the
13 deposition notice for today.

14 MR. KELSKY: You probably all have copies. If
15 you want to pass them down, we can do it that way.

16 (Exhibit 2 was marked for identification.)

17 BY MR. KELSKY:

18 Q. So if you look at the second page of this
19 deposition notice, there's three topic areas that I
20 asked the county to designate a representative to bind
21 the county by testimony to a legal position.

22 A. All right.

23 Q. The first one is Charlotte County's compliance
24 with statutory evacuation guidelines in the event of a
25 tropical event, including hurricanes.

1 Do you see that?

2 A. I do.

3 Q. And are you the person on behalf of the county
4 to give testimony on that topic area in order to bind
5 the county to a position?

6 A. I could tell you that we have not, more than
7 likely -- depending on what you call the statutory
8 evacuation guidelines as they are currently written,
9 because, you know, what people in Tallahassee put on
10 paper is not reality.

11 So for you to ask me compliance with statutory
12 guidelines, my answer would be, I have no earthly idea.
13 I don't know what those currently are. You tell me.

14 Q. Well, it doesn't work that way.

15 A. Oh, well, I'm just saying.

16 I was given this but nothing relative to the
17 statutory evacuation guidelines. I have a rough idea of
18 what you're talking about, but I will tell you that
19 there is no place in Florida, under the worst case -- if
20 you're talking about a worst case scenario --

21 Q. Right.

22 A. -- who meets any statutory guidelines.

23 Q. Okay. Well, let me flesh this out with you.

24 A. Can't happen.

25 Q. Okay. I'm going to talk about all of this

1 stuff. I'm just trying to get some general background
2 first, and then we will get into the meat and bones of
3 it, okay?

4 A. Okay. Fine.

5 Q. So the second one is the evacuation time from
6 West Charlotte County with respect to a tropical event.

7 Are you familiar with that?

8 A. Yeah. I mean, again, it depends on what
9 tropical event you're talking about.

10 Q. Okay.

11 A. What level of evacuation. It doesn't have to
12 do with a tropical event. It has to do with a level of
13 storm that we're facing. A tropical event doesn't
14 automatically trigger an evacuation.

15 Q. I know it doesn't.

16 A. Okay.

17 Q. But we're talking about when tropical events
18 do happen, there is decisionmaking that must occur --

19 A. Correct.

20 Q. -- to -- all right. I know you're
21 anticipating where I'm going --

22 A. We're in --

23 Q. -- but you have to let me finish the question
24 before you answer.

25 A. I thought you were done. Okay.

1 Q. No, I wasn't done. You may have anticipated
2 correctly. I'm just trying to make this process smooth
3 and easy for everybody, okay?

4 A. Okay.

5 Q. There's nothing tricky about what I'm asking.
6 The last topic area that I asked the county to
7 designate somebody on was the intercounty evacuation
8 times through West Charlotte County for evacuees from
9 Lee County and West Charlotte County.

10 Do you see that?

11 A. I do.

12 Q. And are you the person that's been designated
13 by the county to bind the county to a position on this
14 area?

15 A. Evidently, yes.

16 Q. Okay. Well, have you seen this deposition
17 notice before today?

18 A. This one (indicating)?

19 Q. Yes.

20 A. Yes. I had it. I brought -- I mean, I went
21 through it in great detail, talked to our attorneys
22 about it, told them what I did and didn't have.

23 Q. Just let me caution you. I don't want to know
24 what you discussed with your attorneys, okay?

25 A. Okay.

1 Q. That's a privilege that I'm not trying to
2 invade.

3 A. Fine.

4 Q. When did you review this deposition notice?

5 A. Over the course of the last ten days, I'd say,
6 roughly.

7 Q. All right.

8 And attached to the deposition notice was a
9 schedule A requesting that you bring documentation --

10 A. Right.

11 Q. -- with you to the deposition.

12 A. Right.

13 Q. So did you bring any documentation with you to
14 the deposition?

15 A. Well, the number one thing that we were able
16 to bring was copies of the regional evacuation study on
17 CD, which is the form we have.

18 Q. Okay. And that's the one from the Southwest
19 Florida --

20 A. Correct.

21 Q. -- Regional Planning Council?

22 A. That is correct.

23 Q. Okay. And the disks that you provided me here
24 today, is this strictly the Southwest Florida Regional
25 Planning Council evacuation study?

1 A. Yeah. It would have -- it would have only
2 relevance to us, to Southwest Florida.

3 Q. But other than these disks containing --

4 A. Right.

5 Q. -- the Southwest Florida Regional Planning
6 Council study, did you bring anything else with you to
7 the deposition?

8 A. The other thing that I'll leave with you --
9 and these are from my notes from today, but you can have
10 it when we're done -- is a discussion recently generated
11 by my staff, which is dealing with Charlotte County's
12 strategic focus areas, including evaluation of
13 evacuation routes throughout the county and out of
14 county, as well.

15 Q. Okay. Can I see that, please?

16 A. Sure.

17 MR. KELSKY: Let's mark this as Exhibit 3.

18 (Exhibit 3 was marked for identification.)

19 MR. KELSKY: This is a document entitled
20 strategic focus area for evacuation routes
21 throughout the county. I don't have any copies for
22 anybody, but I suppose we could make them on a
23 break.

24 MR. ROONEY: Yeah.

25 MR. VAUGHAN-BIRCH: Yeah.

1 MR. KELSKY: I don't know if there's a color
2 copier here, but the last page is a color copy.

3 The fourth thing I'm going to mark as an
4 exhibit, as a composite exhibit, are the one, two,
5 three, four disks that were provided by the witness
6 that have been identified as the Southwest Florida
7 Regional Planning Council evacuation study. And
8 I'm taking it.

9 And either Josh or Cody can verify for me that
10 that's exactly what the substance of these disks is
11 and that there's nothing else like emails or other
12 responsive documents.

13 MR. VAUGHAN-BIRCH: Could we go off the record
14 for a moment, please?

15 MR. KELSKY: Sure.

16 (Exhibit 4 was marked for identification.)

17 (A discussion was had off the record.)

18 BY MR. KELSKY:

19 Q. I'm going to go through the duces tecum with
20 you in just a minute. That's the document request
21 identified as schedule A. But I just want to confirm
22 that Exhibit 4 is solely and only the Southwest Florida
23 regional planning evacuation study and its various
24 chapters associated with it.

25 Is that correct?

1 A. Yes.

2 Q. All right.

3 (A short recess was taken.)

4 BY MR. KELSKY:

5 Q. I think we can save some time here, and let's
6 just go through schedule A, and tell me what exists and
7 doesn't exist, okay?

8 A. Sure.

9 Q. Number one, you brought your CV, so we have
10 that, correct?

11 A. Uh-huh, yes.

12 Q. All right.

13 Number two is all documents relied upon by the
14 deponent to establish the actual evacuation times from
15 Charlotte County in the event of a tropical event.

16 A. We do not establish the evacuation times.
17 Those are established by the Southwest Florida Regional
18 Planning Council through the evacuation study. We're
19 consulted about various aspects, but we -- we don't
20 establish those times.

21 Q. Okay. So just so we're clear, any documents
22 that would be responsive to this number two would be the
23 Southwest Florida Regional Planning Council evacuation
24 study?

25 A. That's their best guess, correct.

1 Q. That's what you produced today?

2 A. Correct.

3 Q. When you say it's their best guess, what do
4 you mean?

5 A. Just what I said. They take population, new
6 population figures, most recent studies of census, they
7 take projected population, they take highway capacities,
8 they take into account already established future road
9 projects, okay? Then they come up with how long it will
10 take during certain times under certain scenarios to
11 move X number of people so far in a certain amount of
12 time.

13 What does that mean? I don't know. I as the
14 emergency manager, I don't know. I have never used the
15 Southwest Florida regional evacuation study for anything
16 other than as a guide. I would never rely on it as a
17 life safety measure. That's not what it's for. That's
18 not its intended purpose.

19 Q. When you say you won't rely on it, what do you
20 mean?

21 A. When you're faced with an emergency, when
22 you're a firefighter, paramedic, policeman, or emergency
23 manager, you don't run and open a book. We just don't
24 do that.

25 Our decisionmaking on an evacuation is done --

1 number one, every hurricane that we would face, ever, is
2 different, completely different, and we rely on the
3 experts, the National Hurricane Center, the National
4 Weather Service, gut feeling, knowledge of population,
5 consultation with other officials.

6 And then when all is said and done,
7 essentially everybody looks at me and says, who and
8 when? And I'll make that -- I'll make that
9 recommendation.

10 But there's no book. There's no book. So if
11 the book says -- if you look here, if you look in the
12 document --

13 Q. That's Exhibit 3?

14 A. -- the focus area where we answered the
15 commissioner's questions -- because we understood that
16 they didn't realize what we were talking about -- we
17 give the evacuation times for Charlotte County with a
18 population projected for 2015, the times for a zone A, a
19 zone B, a zone E and a D/E.

20 And an E is included only because it's on the
21 map. Horses and cows live in E. Those are people up
22 32 feet and above.

23 But these are rough estimates, okay? And they
24 are obviously based on what are called pre-eye landfall
25 conditions. Let's say that we had weather -- sometimes

1 weather that will impede an evacuation will come ahead
2 of the storm itself, and that will also create issues
3 for the evacuation.

4 So all these factors have to be taken into
5 account. But, again, these are the times projected for
6 the evacuation of persons in level A, level B, level C,
7 and level D/E.

8 And, of course, West County -- you know, West
9 County has A, B, and C. They have no D or E.

10 Q. Okay. How do the evacuation zones A through E
11 relate to the Saffir-Simpson Scale?

12 A. They don't. They no longer do. The hurricane
13 center has decoupled the two. And beginning this
14 year -- beginning this year, in beta testing will be
15 separate hurricane and surge warnings. Those will not
16 be available to the public this year. I believe that
17 is -- this has been going on -- this has been in
18 practice now for about five years. Both Hurricanes
19 Charley here and Hurricane Ike in Texas were the final
20 blows that made them realize that storm surge was not
21 predicated simply on the Saffir-Simpson, the wind speed,
22 but on the overall aspects of the storm, the total size
23 of the storm, the forward speed of the storm, the
24 proximity to the coastline of the storm.

25 All those factors now are put in place to

1 generate, you know, what is looked at as the particular
2 hazard for an area.

3 So they will begin, as I said, issuing the
4 hurricane warnings and the surge warnings. Surge
5 warnings will be separate. Our job is going to be to
6 disseminate that to the public. And, fortunately, by
7 the time that rolls out, I'll be living in Colorado,
8 so --

9 Q. The document that you're talking about, this
10 Exhibit 3, you evaluate the evacuation routes throughout
11 the county document.

12 A. Uh-huh.

13 Q. Does it follow the model that was developed by
14 the Southwest Florida Regional Planning Council, or is
15 it a model that the county uses?

16 A. It -- no. It follows -- again, it is -- it is
17 the best estimate based on -- as you can -- it says in
18 the center of page two, evacuation times are based on an
19 operational scenario of normal fall resident and tourist
20 population and a medium response curve from Sarasota,
21 Charlotte, and Lee.

22 The other thing I want, for the record -- and
23 might as well here as anywhere -- is to put --
24 evacuation is not Charlotte County's problem. It is not
25 West Charlotte County's problem. It is a regional

1 problem and a state problem.

2 We have been identified in national
3 publications as the most difficult region in America to
4 evacuate. That was on the front page of -- I don't know
5 the date of it specifically, but it was on the front
6 page -- that study was on the front page of USA Today.
7 So we've been targeted as the most difficult place. And
8 that is -- that's taking into account things that the
9 Regional Planning Council never even bothers to address,
10 the demographic, for example, the age of the population,
11 where they came from, all these factors.

12 These are -- these are social -- you know,
13 societal factors, have nothing to do with roads and
14 numbers and storms. It has to do with the makeup of the
15 people. And then you can get into, you know, the
16 socioeconomic aspects. Will the people of Naples leave
17 as fast as the people of Charlotte? See, we don't know.

18 That's why I say, it all happens at the time
19 of a storm. It doesn't happen from a document or any
20 piece of paper. We don't look at that.

21 Q. Right. I'm familiar with the Regional
22 Planning Council study, and I know that they have a
23 section called behavioral observations.

24 You're familiar with that, right?

25 A. Yes. That comes from Dr. Jay Baker, Florida

1 State University.

2 Q. But the point I'm trying to make is, when they
3 talk about behavioral assumptions, they don't take into
4 consideration the factors like age or socioeconomic
5 status or --

6 A. Those are random questions asked of general
7 population, not targeted. In other words, they don't
8 call Joe Senior Citizen and say, what are you -- they
9 call -- that's random studies.

10 Q. Has the county conducted any of its own
11 studies independent of the Regional Planning Council
12 study?

13 A. The only thing I've ever done was an informal
14 study -- and I have no printed -- nothing to show you.
15 But it was an informal study where I personally traveled
16 to the larger manufactured home communities following
17 Charley to ascertain the compliance of their residents
18 who were there at the time, August 13th, 2004, to our
19 evacuation order relative to mobile homes, manufactured
20 homes, and travel trailers.

21 I wanted to get a feel for how people
22 responded, if indeed they listened to that order. And
23 through those discussions with the park managers and
24 people with knowledge of that information, we got a
25 90 percent compliance, thank God.

1 Q. Is that more --

2 A. Because only two people died in manufactured
3 housing, and they were not in a park. They were two
4 elderly folks in a zone -- area zoned for mobile homes,
5 but not in a community.

6 Q. And that was just an informal survey?

7 A. Informal survey of my own genesis, because I
8 wanted to know how we had done.

9 Q. And you generated no document of that study?

10 A. I did not. I did not.

11 Q. Getting back to the duces tecum, number three
12 says, all documents relied upon by the deponent to
13 establish how the 2014 large scale comprehensive plan
14 amendments comply with the Chapter -- with Chapter 163
15 Florida Statute, including the coastal planning element.

16 Do you have any documents --

17 A. I have none.

18 Q. -- responsive to that?

19 A. I do not.

20 Q. Were you involved at all in the large scale
21 plan amendment that was passed in 2014?

22 A. No.

23 Q. Were you consulted at all by the county for
24 any input as to how the large scale amendment may affect
25 your department?

1 A. In 2014?

2 Q. Yes.

3 A. No.

4 Q. Did you provide any data and analysis to the
5 county for purposes of any amendments to the comp plan
6 that were passed in 2014?

7 A. I did not. Staff may have. I did not.

8 Q. Do you know whether your staff --

9 A. I do not know.

10 Q. Okay. Are you aware of any data and analysis
11 that changed from 2010 to 2014 as it would impact any
12 amendment to the comp plan?

13 A. No.

14 Q. Have you reviewed the comprehensive plan since
15 its passage?

16 A. In toto?

17 Q. Yes.

18 A. No.

19 Q. Have you reviewed the future land use element
20 portion of the plan since it passed in 2014?

21 A. No. To me, it's irrelevant. It doesn't
22 matter. I deal with the hand I'm dealt. I don't -- I
23 have no comment or input or -- I --

24 Q. Are you familiar with any of the changes to
25 the TDU portion of the comp plan?

1 A. Just through some things I've read in the
2 newspaper and others.

3 Q. Okay.

4 A. Not -- I mean, there was, as memory serves
5 me -- and there's no -- I mean, I couldn't put my hands
6 on it. And TDU is transfer development units? Is that
7 what TDU is?

8 Q. You can't ask --

9 A. Oh, excuse me. I'm sorry. I'm just asking.
10 I'm asking you.

11 Q. Well, let me ask you -- you don't get to --

12 A. You're using an acronym.

13 Q. You don't get to ask me questions, either, but
14 let me try to rephrase it.

15 A. Okay.

16 Q. What is your understanding of what TDU means?

17 A. It means that you can trade from one place to
18 another to allow something -- development to occur.

19 Q. When you say trade one place to another, what
20 is it that's being traded?

21 A. Zoning -- I don't know if it's zoning
22 designation or capacity. I'm assuming it's capacity,
23 which, again, that's beyond my -- my scope.

24 Q. I understand.

25 A. So --

1 Q. I understand.

2 But are you familiar with the comp plan --
3 strike that.

4 Are you familiar with the 2014 revisions to
5 the comp plan as they affect TDUs?

6 A. No. Not specifically, no.

7 Q. Okay. Well, generally, what is your
8 understanding?

9 A. Again, just general understanding of what TDUs
10 can be used for. That's all. I don't know any of the
11 specifics of the current update.

12 Q. Do you know how TDUs can be used in the
13 coastal high hazard area?

14 A. Not totally, no.

15 Q. Okay. Do you feel comfortable giving
16 testimony on that topic?

17 A. I do not.

18 Q. What I'm getting from you in terms of a sense
19 of your feelings on this -- is it correct to say that
20 you're a boots-on-the-ground type person, as opposed to
21 the data that is generated by people who do studies?

22 MR. MOYE: Objection. Form. You can answer.

23 A. Yeah, absolutely. In fact, that's how I was
24 recruited in my master's program, because I've been
25 there, done that.

1 And books and studies are nice to look at,
2 nice tools, but they have little application to what we
3 do in the real world.

4 Q. Right.

5 Because, as a department -- as the head of the
6 Department of Emergency Management, you have to deal the
7 hand you're dealt with while it's happening, as opposed
8 to what a study might predict will happen?

9 MR. MOYE: Objection. Form.

10 BY MR. KELSKY:

11 Q. Is that fair?

12 A. Whatever that is. Whatever that is, yes.

13 Q. Was my statement a fair characterization?

14 A. Yes.

15 Q. Were you asked by the South Florida --
16 Southwest Florida Regional Planning Council to give any
17 input into the evacuation study?

18 A. Yeah.

19 Our biggest contribution this year with Tim,
20 who has taken over for -- when Dan left, was taking a
21 look at local issues, local roadways and other things
22 that we felt might be of concern. They might be
23 impediments based on water retention, should there be
24 heavy rains in the pre-eye landfall period, and things
25 such as that.

1 That was one of the primary things that we
2 were asked about. And, again, that's local knowledge.

3 Q. Did you identify any areas in the West County
4 area as being a concern at the time --

5 A. Not in Charlotte County.

6 Q. Okay. Now, I had understood -- again, I had
7 the benefit of taking your deposition several years
8 ago -- that one of the concerns that Charlotte County
9 has is evacuation from Lee County and Gasparilla, the
10 Gasparilla area, through the Charlotte County corridors;
11 is that correct?

12 MR. MOYE: Objection. Form.

13 A. Yes.

14 Q. Okay.

15 A. Yeah, the fact that they have no place else to
16 go.

17 Q. So do I understand that to mean that they have
18 to go north through Charlotte County to evacuate from
19 the western part of Lee County?

20 A. Yeah, uh-huh, yes.

21 Q. So when you said earlier that your regional --
22 you have an area of regional concern, not just Charlotte
23 County concern, you're necessarily going to be involved
24 with evacuation from other counties through Charlotte
25 County in the event of a storm?

1 MR. MOYE: Form. Form.

2 BY MR. KELSKY:

3 Q. Is that right?

4 A. Yes. Let me back up on my concern about Lee
5 County. It is being greatly alleviated as we complete
6 the Winchester extension into Grove City; however, both
7 that project and the 775 widening from East Rotonda
8 Boulevard North are simply moving the bottleneck further
9 north. They're moving the problem north.

10 I mean, it's not really solving a lot. It
11 will help us eventually in clearing whatever people are
12 on Gasparilla Island. But other than that, everything
13 stops with Sarasota County.

14 Q. Let me mark as Exhibit 5 -- this is the
15 Charlotte County coastal high hazard area West County
16 map.

17 (Exhibit 5 was marked for identification.)

18 MR. KELSKY: I'll give that to you, and I'll
19 pass one down.

20 MR. MOYE: Thank you.

21 BY MR. KELSKY:

22 Q. Have you seen this map before?

23 A. I have.

24 Q. Okay. Where is the project on 775 occurring
25 right now, if you can point it out to me on the map?

1 A. 775?

2 Q. Is it 771 or 775? I apologize.

3 A. Well, you've got -- I'm sorry. I apologize.

4 It is 771. It's from -- right here, East Rotonda
5 Boulevard up to here (indicating). That's being
6 widened.

7 Q. Okay.

8 A. Do you see where I'm at?

9 Q. Do I have it correct (indicating)?

10 A. And then the other is the --

11 Q. Is that right (indicating)?

12 A. Yes.

13 Q. Okay.

14 A. Yes.

15 Q. And that's going up to 776?

16 A. Correct, and then -- which is already
17 four-lane there. That is a four-laning of that
18 (indicating). And then the other, you'd have to just
19 interpolate it yourself, but it goes down into Grove
20 City.

21 Q. Okay. So there's a project going on right now
22 between Rotonda Boulevard and 776 on State Road -- on
23 County Road 771; is that correct?

24 A. Called Gasparilla Road normally, yes, uh-huh.

25 Q. Okay. Now, you mentioned that it was moving

1 the bottleneck. What do you mean by that?

2 A. Yes. It's going to move -- our problem has
3 always been things that would back up down here, and
4 with the other road, it was things that would back up
5 down, say, in Placida, okay? Those are now all going to
6 move much farther north (indicating).

7 That problem and the problem here are going to
8 be moving up into those areas (indicating) --

9 Q. So is it fair to say --

10 A. -- because of that construction.

11 Q. Is it fair to say it's not going to alleviate
12 the problem; it's just going to move the problem?

13 A. That's probably fair, yeah.

14 Q. Okay. Which would still leave the evacuation
15 problem in the coastal high hazard area; is that right?

16 A. I hesitate to say yes on that, because I --
17 quite frankly, I don't have a problem with the
18 evacuation of the coastal high hazard area. I never
19 have. Never has been a concern of mine, because, at the
20 time of year we're most likely to have to effect an
21 evacuation, the population is at a bare minimum there.
22 I don't have a lot of people to be concerned with.

23 I have far greater concern with getting people
24 out of Port Charlotte than I do Placida or Grove City
25 or -- especially the very few that you're talking about.

1 I mean, our year-round residents in many of
2 those highlighted areas are negligible.

3 Q. What is the evacuation time out of the coastal
4 high hazard area right now?

5 A. I don't know that we've broken it down into --
6 in fact, I'm pretty sure we haven't specifically from
7 the coastal high hazard area. I don't -- I don't know.
8 I wouldn't be able to tell you without doing some
9 research.

10 Q. Is it more than 20 hours?

11 A. Oh, I wouldn't think so, no, because if you
12 look -- look at page two of Exhibit 3, all right? The
13 areas you're referring to are all zone A, all right?
14 We're telling you we can clear that from those areas in
15 10.5 hours. I'm not telling you they're going to get
16 out of county. I'm telling you that roughly they should
17 be able to be taken -- moved from those areas in 10.5
18 hours (indicating).

19 Q. Have you ever testified that it's a
20 20-plus-hour evacuation time for Cape Haze?

21 A. For the entirety of Cape Haze, yes
22 (indicating).

23 Q. All right.

24 A. The Cape Haze peninsula, and that would be
25 because, if you look under zone C, much of the Cape Haze

1 peninsula is zone C. So 20 hours is a reasonable
2 scenario to -- actually, it would take me a little more,
3 I would think.

4 Q. Okay. A little more than 20 hours?

5 A. Yeah.

6 Q. And is there, to your knowledge, a state
7 guideline that says -- that sets a minimum standard for
8 the amount of evacuation time?

9 A. It doesn't matter.

10 Q. I understand it doesn't matter.

11 A. Am I to understand there is?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. What is your understanding of that
15 timeframe?

16 A. I really don't have any understanding of it.

17 Q. Can Charlotte County meet that timeline
18 promulgated by the state?

19 A. No, nor can anyone else.

20 Q. Have you or the people who hold your position
21 in other counties ever met with the legislature to try
22 to change the time to be more in line with what is
23 practicable from your standpoint?

24 A. No. We have discussed it with the State
25 Division of Emergency Management every year, probably,

1 during the -- what's called the Current Issues in
2 Emergency Management conference in Tallahassee, but we
3 don't -- we, the emergency managers -- some counties are
4 precluded from even -- the employees are not permitted
5 to even call legislatures, okay?

6 So the answer to that would be no. I mean,
7 there's -- not to my knowledge. Now, our state
8 association, the Florida Emergency Preparedness
9 Association, does have, you know, people that walk the
10 halls, so to speak, to address such issues. But I have
11 never been involved in any of that. I've tried to steer
12 clear of it, quite frankly.

13 Q. Have you ever given -- strike that.

14 Have you ever told the Regional Planning
15 Council that the minimum guidelines are not achievable?

16 A. I've never met with the Regional Planning
17 Council.

18 Q. So you've never given testimony at a hearing?

19 A. No.

20 Q. You've never participated in the public
21 hearings --

22 A. No.

23 Q. Let me finish.

24 A. Oh. I'm answering each section as you ask me.

25 Q. Let me finish the question, and then you can

1 answer.

2 A. Oh. I thought that was a question. Go ahead.

3 Q. It was, but you jumped in before I finished.

4 You may anticipate correctly exactly where I'm going
5 with it, but you may not. And I don't want there to be
6 any type of miscommunication, okay? Do you understand?

7 A. Yes.

8 Q. All right.

9 Have you ever been -- or strike that.

10 Have you ever met with any lobbyists on behalf
11 of your association to try to deal with the
12 legislature --

13 A. No.

14 Q. -- in terms of --

15 A. Oh, go ahead.

16 Q. -- in terms of changing the statutory minimums
17 necessary for evacuation purposes?

18 MR. MOYE: Objection. Form. You can answer.

19 A. That's good. I'll remember that.

20 No. No, I have not. I've never been asked.

21 Q. Do you know whether any lobbying has taken
22 place?

23 A. Not positively. I'm pretty sure that -- that
24 it has, but -- in fact, not myself, nor, I don't
25 believe, any of my Southwest Florida counterparts, to my

1 knowledge.

2 Q. Now, I understand that the Regional Planning
3 Council has done its own evacuation studies. Do you
4 know whether there have been any other organizations,
5 public or private, that have done similar studies that
6 deal with the Southwest Florida area?

7 A. I don't have possession of any, or knowledge,
8 firsthand knowledge of any.

9 Q. Have you heard of any?

10 A. For us, for this region? I have not.

11 Q. Do you know whether there's been any developer
12 or some entity that wants to go in and do construction
13 in this area, whether they've done any type of private
14 study that deals with evacuation?

15 MR. MOYE: Objection. Form.

16 A. No. Again, not to my knowledge.

17 Q. Are you concerned that the addition of people
18 into the Cape Haze area will impact evacuation times?

19 MR. MOYE: Objection. Form.

20 A. Yes and no.

21 Q. Okay.

22 A. You know, if it were up to me, as relates to
23 my job responsibility, I'd answer your question yes.
24 But, quite frankly, as I told staff before I left to
25 come over here this morning, we in the south say the

1 cow's out of the barn.

2 We're not going to stop what has been the
3 lifeblood of Florida. We're just not going to stop it.
4 And so all we can do is -- my phraseology of choice is
5 deal with the hand that we're dealt.

6 But the seasonal variations and the variables
7 that are involved that are not taken into consideration,
8 one of my -- and I'm going to get off your topic just a
9 hair. One of my mantras in my master's program is the
10 fact that we don't have longevity of service by
11 emergency managers in order to develop the relationship
12 with their citizenry like I have over 28 years.

13 Like I could go to communities within your
14 county and ask people in Cooper City and other places,
15 who's the emergency manager in Broward County? And
16 they'd go, what's emergency management? That's
17 ridiculous. It's asinine.

18 Go hit the streets and ask them who the
19 emergency manager is here. Most people have an idea.
20 And that has been my goal, my focus. Not numbers. Not
21 studies. Relationships. Relationships with people, the
22 media, politicians, special interest groups, but not
23 studies or journals or, you know -- so anyway.

24 Q. I don't -- I appreciate your answer, but I
25 don't think it necessarily went to the heart of my

1 question.

2 A. Okay.

3 Q. Are you concerned that the bringing in of
4 additional people into the West County area specifically
5 would affect evacuation in terms of time or ability in
6 the event of a storm?

7 MR. MOYE: Object to form.

8 A. Will it affect evacuation times?

9 Q. Yes.

10 A. Ultimately, yes.

11 Q. Okay.

12 A. Of course. That's what it is -- evacuation
13 times are based on population, again, versus road
14 capacities. We in Southwest Florida are not keeping up,
15 from an infrastructure perspective, with our population.
16 That's why you're seeing them play catchup on I-75 now.
17 You know, we've seen nothing done on River Road.

18 You know, my -- I have the same problem to the
19 south. Charlotte County is doing their due diligence on
20 Burnt Store Road, but Lee County has done bupkis.

21 So, you know, it's -- like I said, it's a
22 regional problem, not Charlotte County's problem.

23 Q. You had mentioned earlier that Southwest
24 Florida is the most difficult -- I think you said -- I
25 don't want to mince your words.

1 A. Of the top ten places in America to evacuate,
2 the Southwest Florida region has been rated number one
3 ahead of New York, New Jersey, believe it or not.

4 Q. What is unique to Charlotte -- strike that.

5 What is unique to Southwest Florida that makes
6 it the most difficult place to evacuate?

7 A. What I talked about before, the combination of
8 limited roadway capacities, where those roads are
9 located, and the population demographic, a preponderance
10 of people here from the midwestern United States in so
11 many cases who just don't get it.

12 Q. Well, when you say they don't get it, what do
13 you mean?

14 A. They don't understand, first and foremost,
15 what storm surge means. You have one of your items on
16 here that was roughly similar to what I deal with with
17 people about FEMA flood zone. There's no relationship
18 whatsoever. These are two entirely different things,
19 but not to John Q. Public. Joe Sixpack thinks that, if
20 he's in a flood zone, oh, my God. Well, that's not
21 necessarily the case, Joe.

22 You can be flooded out of your home without a
23 hurricane.

24 Q. Right. I understand that.

25 A. I mean, but I'm telling you that, you know,

1 these are the things that -- you know, these are the
2 things we deal with that -- the Southwest Florida
3 Regional Planning Council doesn't say, well, you know,
4 you've got a preponderance of people here that came down
5 I-75 from Michigan, Indiana, Ohio, Illinois where
6 they've lived 50, 60 years of their life, and hurricane
7 wasn't even in their lexicon.

8 So all of a sudden I and my counterparts have
9 the duty of going out and educating these people as to
10 the fact that, oh, yeah, you've moved into a high
11 hazard, you know, coastal environment where storm surge
12 is a very real concern. And they're like, what is storm
13 surge? That wasn't in any of the brochures. And it
14 happens all the time.

15 And our population, according to the Regional
16 Planning Council, churns over -- churns about 50 percent
17 every eight years (indicating). You know, so you're
18 constantly dealing with a new audience, a new group of
19 people.

20 Q. Are you critical of the methodology used by
21 the Regional Planning Council?

22 A. Not really. It's all they've got. They use
23 what they've got. It just -- I think it's -- I don't
24 know what purpose it serves anymore, to be frank with
25 you.

1 Q. Why is that?

2 A. We use it for -- we use it for our own
3 edification and educational purposes, but it's -- it's
4 just -- it's a number up here, okay (indicating)? It's
5 a best guess, as I said, based on the highway capacities
6 and the people there and the number of people you can
7 move in different -- at different times of year when our
8 population fluctuates greatly.

9 By the grace of God, hurricane season is not
10 January to April. I mean, it -- you know, we'd have to
11 stop tourist season if we --

12 Q. Have you studied the methodology used by the
13 Regional Planning Council?

14 A. In-depth, no. I mean, I've read in their
15 study, you know, the methodology and the fact that they
16 do use data, as I indicated, from Jay at Florida State,
17 which is survey data taken -- random survey data, not
18 specifically targeted to demographics.

19 Q. Is the Regional Planning Council study too
20 general to be -- too general for purposes of being able
21 to accurately measure the things that someone like you
22 in your position would want measured?

23 MR. MOYE: Objection. Form.

24 A. I don't know how to answer -- I don't know
25 what to say, because I -- like I said, I don't care that

1 much about what they've come up with, because it's
2 irrelevant when the storm threatens. It's not something
3 that we use as a response tool. I mean, it's not a
4 response document. It's a planning document.

5 Q. With the understanding that it's a planning
6 document, does it have any relevance to what you do as
7 the head of emergency management?

8 A. Only from an informational perspective as one
9 source of information.

10 Q. What do you mean?

11 A. Well, I'm interested in seeing from one study
12 to the next, for example -- I think this is my -- I
13 think this is my fourth alliteration since they started
14 to see how their take on the numbers has changed over
15 the years with the population growth.

16 It's not any revelation. It's not like, holy
17 cow, look what they've come up with now. I mean,
18 it's -- it's expected. It was expected when the
19 population of this state has gone from -- what is it, 10
20 to 19? -- almost doubled since I've been in this
21 position. But that doesn't change the fact that, when
22 something happens, we have to deal with it.

23 Q. So is it fair to say that, from your
24 perspective, the infrastructure hasn't kept up with the
25 population boom?

1 A. Yes.

2 Q. Is that the key factor, in your mind, that is
3 necessary -- strike that.

4 Would the increase in infrastructure make your
5 job easier in the event of a storm?

6 A. Yes.

7 Q. Are you involved in infrastructure planning
8 for purposes of dealing with emergency management
9 issues?

10 A. Only as an advisory capacity as a member of
11 the MPO, Metropolitan Planning Organization. I'll give
12 that to you, since -- I know you know what it is,
13 Technical Advisory Committee for over 20 years -- 25
14 years.

15 Q. When development occurs in the county itself,
16 are you consulted to determine how that may impact
17 emergency management issues?

18 A. Not so much as we once were. With the demise
19 of the DRI process, we're out of the loop. And when we
20 had the DRI process, I worked hand in glove with Dan
21 Trescott on many large-scale projects up here to get
22 mitigation from those projects.

23 So that's been a significant disappointment,
24 that we don't have that participation.

25 Q. Have you talked with the county about trying

1 to implement a similar type DRI process into their land
2 development regulations so that you could be consulted
3 for purposes of improving infrastructure or making sure
4 that, you know, density isn't moved into an area that
5 may slow down or impact evacuation routes and times?

6 MR. MOYE: Objection. Form.

7 A. No. It's -- it's, again, development beyond
8 the county's capabilities. I'm not talking about things
9 that Charlotte County has done.

10 For example, I've been an advocate for over 25
11 years of the development of a West Florida Turnpike
12 inland utilizing State Road 39. It's been looked at,
13 kicked around, chewed on, you know.

14 As you're aware, I was part of the River Road
15 Task Force, another one of your items down here. The
16 gentleman who started that and was the driving force
17 behind it passed away, and that effort basically died
18 with him.

19 So you can go down to that one. I have no
20 documents or anything else relative to the River Road
21 Task Force. I was a participating, interested member,
22 obviously, because that's our bottleneck for the Cape
23 Haze peninsula.

24 Q. As a proponent of a West Florida Turnpike, do
25 I understand that to mean that you would be adding

1 infrastructure that would allow you to move populations
2 in the event of an emergency?

3 MR. MOYE: Objection. Form.

4 A. Away from the coast in a much more efficient
5 manner.

6 For example, when I-75 -- you've traveled
7 north on I-75 past Charlotte County.

8 Q. I was in Sarasota last week.

9 A. Okay. When you pass out of Charlotte County,
10 you go through 300 yards of DeSoto County.

11 Q. Right.

12 A. Okay? You then turn west, straight west back
13 towards the coast. I-75 is not an evacuation route and
14 is not designated as an evacuation route, but it will
15 some day be the world's largest parking lot.

16 Q. Why is that?

17 A. Because the population of Charlotte, Lee, and
18 Collier Counties will be told to evacuate the coastal
19 areas. And even with a level A evacuation, the road
20 capacity will not -- will not handle it.

21 This is why in Charlotte County, knowing our
22 shortcomings, about five years ago we developed the
23 strategy of the evacuation zone markers.

24 We were the first in the nation to do that,
25 for which we've received two national awards, in which

1 we encourage our residents who are in the red and orange
2 zones to seek refuge in the yellow and green areas with
3 friends, family, coworkers, church members, whatever, so
4 as not to have any impact on the roadway capacity.

5 Q. That's the banding on the --

6 A. The banding on the -- right.

7 Q. -- on the traffic control devices or stop
8 signs?

9 A. Well, stop signs and street signs, yeah.

10 Q. That's designed to let people know which
11 evacuation zone you're in --

12 A. Correct.

13 Q. -- so you can go to a different evacuation
14 zone?

15 A. There are 9,500 of those marked the surge
16 zones as such (indicating).

17 Q. Okay. Can I see that document, please?

18 A. You can have it. You can have it.

19 Q. Great.

20 A. You can enter it. That's why I brought it,
21 for you.

22 MR. MOYE: I'd like to take a break. I don't
23 know if you have a couple more questions you want
24 to go through first or if you want to take a break
25 now.

1 MR. KELSKY: No. We can take a break. It's
2 fine.

3 MR. ROONEY: Really quick, one other thing.

4 MR. MOYE: Are we on or off?

5 THE COURT REPORTER: I'm on still.

6 MR. ROONEY: I want this to be on the record.

7 THE COURT REPORTER: Okay.

8 MR. KELSKY: You want this to be on the
9 record?

10 MR. ROONEY: Yes.

11 You said State Road 39. Did you mean 29?

12 THE WITNESS: No. 39. Toledo Blade, Toledo
13 Blade Boulevard that goes north out of Port
14 Charlotte through North Port terminates just at 75,
15 okay? Because the landowner north of there, the
16 late Mabry Carlton, refused to even talk about
17 allowing that road.

18 State Road 39 beyond his -- beyond the Mabry
19 Preserve continues into Central Florida up through
20 Manatee, Hillsborough, up to Zephyrhills, and has
21 always been looked at as an ideal corridor for a
22 West Florida Turnpike.

23 MR. ROONEY: Thanks.

24 THE WITNESS: Thirty-nine.

25 MR. KELSKY: We can take a break.

1 MR. MOYE: We can take a break. Off the
2 record. Thank you.

3 (A short recess was taken.)

4 MR. KELSKY: I appreciate you bringing this
5 disaster planning guide, but I'm going to mark that
6 as Exhibit 6.

7 (Exhibit 6 was marked for identification.)

8 BY MR. KELSKY:

9 Q. Let's go talk -- could we turn back to
10 Exhibit 3, which is the document you have in your hand?

11 A. Uh-huh.

12 Q. That's the strategic focus area document.
13 When was this document prepared?

14 A. This particular document?

15 Q. Yes.

16 A. About -- about two months ago at the request
17 of the Public Safety Director under direction of the
18 County Commission for their current budget process.

19 Q. And --

20 A. And these were all identified by them as their
21 strategic focus areas, sheltering, evacuation, and was
22 there a third? Anyway, yeah, whatever.

23 Q. Was the data that is contained in this
24 document generated all from the Regional Planning
25 Council document?

1 A. Not all.

2 Q. For example, I brought with me today --

3 A. For instance, if you go back and look -- go
4 back into the document, page three.

5 Q. Yes.

6 A. Current Planning Efforts, that's based on the
7 current series of monthly meetings that we, the regional
8 counties -- not the Regional Planning Council -- the
9 region -- six counties of the division of emergency
10 management are having relative to planning for a mass
11 evacuation.

12 This is a new initiative involving emergency
13 management, Florida Highway Patrol, and the Department
14 of Transportation. So there's a tremendous amount of
15 work being done on planning for a regional evacuation.

16 Q. Okay. In terms of this document, though, did
17 it rely upon data from the Regional Planning Council?

18 A. Some. Not all.

19 Q. I brought with me the executive summary. Let
20 me find it.

21 A. It's not untenable or anything. Flip that
22 baby over.

23 MR. KELSKY: I'll hand it to you. Take one
24 and pass it down.

25 MR. MOYE: Thank you.

1 MR. KELSKY: I'm going to mark it as
2 Exhibit 7.

3 (Exhibit 7 was marked for identification.)

4 BY MR. KELSKY:

5 Q. You've seen this document before, correct?

6 A. (Witness indicating.)

7 Q. Yes?

8 A. Yes, yes.

9 Q. Okay. If you'd look at page two of Exhibit 3,
10 which is the strategic focus area document, it gives you
11 some times where it says zone A evacuation, zone B, C,
12 and then D and E?

13 A. Uh-huh.

14 Q. Do you see where I'm looking at?

15 A. Yes, uh-huh.

16 Q. How do these times compare with the times in
17 the Regional Planning Council --

18 A. I think they're taken -- these are taken from
19 the Regional Planning -- from the study, from some point
20 in the study.

21 Q. Do you --

22 A. Again, those are -- it explains with a
23 projected 2015 population, road improvements to Burnt
24 Store and 41. So they -- these -- I'm pretty sure --
25 this was prepared, by the way, by my coordinator for

1 dissemination by the board, but I'm -- you know, I'm
2 certain he used the evacuation study for those -- for
3 those particular numbers.

4 Q. Okay.

5 A. Now, again, those are just Charlotte County
6 numbers.

7 Q. I understand that.

8 A. When you add up the region, you don't even
9 want to know what the numbers are.

10 Q. Sure I do. What are the numbers? When you
11 add up --

12 A. For the entire region?

13 Q. Yes.

14 A. Over 100 hours.

15 Q. Okay.

16 A. Which is impractical, because we don't have
17 that much warning.

18 Q. I've looked through the executive summary, and
19 I've looked at your document, and I -- from my review,
20 the numbers are different.

21 Can you tell me where the numbers you got on
22 Exhibit 3 correlate to that in the --

23 A. I'd have to ask Jerry Mallett, my coordinator,
24 where he -- where he pulled those.

25 Q. Okay.

1 A. Because he did the document for us.

2 Q. So in terms of creating the document and doing
3 the methodology and coming up with the conclusions,
4 that's your colleague as opposed to you?

5 A. Correct, yeah. I did not write the document.

6 Q. And so then you didn't -- I'm not questioning
7 the accuracy, but you don't know whether the data
8 contained herein is accurate based upon the Regional
9 Planning Council study; is that fair?

10 MR. MOYE: Objection. Form.

11 A. Yes. Again, it's somebody's best guess.

12 Q. Okay.

13 A. Because those are moving -- those times are
14 movable, moving, as I call them.

15 Q. What do you mean by that?

16 A. They change. They're just -- again, they're
17 never static. They're never the same. You will never
18 effect an evacuation where you could say that we've
19 cleared zone A in ten point -- you never -- I mean, it
20 could be faster. It could be slower.

21 If it hit 10.5 hours, it would be like a
22 miracle. It just -- you know, there is no hard and fast
23 science that says that that's what it'll take. It's a
24 guess based on population, road capacities, time of
25 year, and so forth, and ongoing projects, current

1 projects.

2 Q. You say that 10.5 hours would be a miracle.
3 Do you have a sense for what you think the real time is?

4 A. No, no. A miracle if you hit it directly on
5 10.5. I might be able to do it faster, depending on
6 time of day.

7 All these factors go into an evacuation. You
8 know, do we do the evacuation at noon? Do we do it at
9 8:00 a.m.? What time is sun up tomorrow? Let's do it
10 then.

11 It all depends on a whole bunch of variables,
12 you know, when you do it. Time of the week? Huge
13 difference on the barrier islands on a weekend as
14 opposed to a weekday. For example, get to Labor Day
15 weekend. Little Gasparilla, Palm Island, my un -- my
16 bridgeless barrier islands are packed with holiday
17 tourists. Entirely different scenario.

18 That has to be understood by the emergency
19 manager, to know that, you know, we have to take special
20 actions to get the warning and notifications out to a
21 larger group of people than you otherwise would. I
22 mean, it -- and that's all local knowledge. It's all
23 part of what we do in feeling the pulse of a situation,
24 and so --

25 Q. So what good are these guidelines that are

1 prepared by the Regional Planning Council if they don't
2 include all the variables that you've just described?

3 MR. MOYE: Objection. Form.

4 A. I've never seen great value in them, again, as
5 a response tool.

6 They're interesting for -- they are much like
7 the preseason predictions of hurricane activity. I
8 don't care. You know, I take the storm on its
9 parameters and what the current situation is, and we
10 will fashion -- and our evacuation is contingent upon
11 our neighbor's evacuation. That's why we have to have
12 constant communications with those folks south and north
13 of us, so that we're conscious that we're not moving
14 people too quickly, for example.

15 If one county overwhelms another and comes --
16 I mean, you can't tell people they can't come into -- I
17 don't have shelters, so I won't say shelters -- refuge
18 sites because, oh, you're from Lee County? No, you
19 can't do that.

20 So you're very conscious of communications and
21 coordination between entities.

22 Q. So if someone like Lee County got a late start
23 on evacuation, that would have a significant impact on
24 Charlotte County in terms of being able to move
25 population away from the coast?

1 MR. MOYE: Objection. Form.

2 A. No.

3 If they got a late start, that would probably
4 help us. We'd be able to get a lot of people out.

5 But if they jumped the gun -- in other words,
6 if they panicked and made the call -- say their County
7 Commission ordered their emergency managers to evacuate
8 right now, and the consultation with the region was
9 nonexistent, we've got a problem.

10 Q. It could overwhelm the area?

11 A. Because now we've gotta play catchup, right.
12 We've gotta play catchup.

13 Likewise, if we make the decision to move --
14 oh, and imagine this: We share barrier islands. Boca
15 Grande is in Lee County. The northern end of Gasparilla
16 Island is in Charlotte County, okay? Manasota Key,
17 south end is in Charlotte County. The north end is in
18 Sarasota County.

19 So if you don't coordinate an evacuation
20 order, you could conceivably have people next door to
21 each other going, wait a minute, what are we, chopped
22 liver? What do you mean they're evacuated? Oh, yeah,
23 they're evacuated.

24 So we coordinate between the county offices to
25 make sure that no one is left, you know, wondering, you

1 know, what do we do.

2 You know, we coordinate the evacuation of
3 those -- for example, a lot of times the National
4 Hurricane Center will say that an evacuation goes to
5 Englewood, Florida. Well, what does that mean, okay?
6 It goes to Englewood. That's in Sarasota County, all
7 right?

8 Yet I have people on Manasota Key that are in
9 Charlotte County that we will then evacuate because
10 Sarasota is evacuating. And the same thing with
11 Gasparilla, Boca Grande into Charlotte.

12 Q. Is infrastructure really the key issue for
13 evacuation?

14 A. One of the key issues.

15 Q. So what are the other key issues?

16 A. Communications, confidence in your
17 leadership's ability to make that decision, public
18 education in making sure people understand the need to
19 respond.

20 I ask the kids when we're at school, if the
21 bell rang at 11:00, and the fire alarm went off, what do
22 you do? And they all go, oh, we evacuate. I said,
23 would any of you look at the teacher and go, yeah, I
24 think I'm going to stay here and read? And they're
25 like, well, no. I said, then why do your parents and

1 grandparents think it's okay for them to do it if we
2 tell them to evacuate? And they do.

3 Just ask the people in Hurricane Sandy who
4 refused to respond when they were told to. It's -- it's
5 very frustrating for the emergency manager.

6 Q. One of the things that the study did, the
7 Regional Planning Council study, was they used something
8 called a time -- T-I-M-E -- user interface.

9 Do you know what that is?

10 A. Roughly, yeah. Yes.

11 Q. Is there a generic model?

12 A. Yes.

13 Q. Can it be practically applied to the work that
14 you do?

15 A. Loosely.

16 Not -- again, this is a planning tool and not
17 a response document (indicating). It is not used -- you
18 know, no more so than the comprehensive emergency
19 management plan, okay, is something I run and flip open
20 when we have a hazardous materials spill. I mean, it
21 just -- it's just not the way it works.

22 It's -- the value of this is in pulling all
23 the information together, okay? Not the fact that you
24 have a tidy little document that you can then look at
25 and say, oh, you know -- no different -- quite frankly,

1 no different than the storm surge model, because the
2 storm surge model, the SLOSH model, is not a constant.
3 There's just too many variables in that.

4 Q. Right. It depends what time of day tide hits
5 and --

6 A. Everything, all those factors.

7 Q. Do you know the company that created it? What
8 are they called? Wilbur Smith Associates, do you know
9 who they are?

10 A. Oh, I know who -- yeah, I know who Wilbur is,
11 the former mayor of Fort Myers and his group, yeah.

12 Q. Okay. Did you provide them --

13 A. No.

14 Q. -- with any information?

15 A. I did not.

16 Q. Did they request any information from you?

17 A. Not that I recall, no.

18 Q. When I took your deposition back in 2011, one
19 of the things that you talked about at that time was
20 that there was a study that had just come out or was on
21 its way to being released.

22 Is that the Regional Planning Council study
23 that you were referring to?

24 A. The next alliteration of it, yeah.

25 Q. The one that we're looking at today?

1 A. The one that was underway, yeah.

2 Q. Okay. Has the study been updated or in the
3 process of being updated?

4 A. Not to my knowledge. Not now, no. I think
5 it's due to be if the funding is forthcoming, but --

6 Q. One of the definitions that was used by the
7 Southwest Regional Planning Council study was the
8 identification of the coastal high hazard area as being,
9 quote, the area defined by the SLOSH model to be
10 inundated from a Category 1 hurricane.

11 A. Not relevant anymore.

12 Q. Why is that?

13 A. Because they don't use storm -- Saffir-Simpson
14 scale to determine storm surge. So just because it's a
15 Category 1 hurricane doesn't mean that it will bring
16 surge that would flood these areas (indicating).

17 Q. I'm not arguing the point with you. What I'm
18 saying to you is that's the definition from the study
19 itself.

20 A. Understood.

21 Q. Okay.

22 A. That's what it was at the time they did the
23 study.

24 Q. Okay.

25 A. This has all changed.

1 Q. All right.

2 A. This is fast-changing information. And, as I
3 said earlier, we're in the beta year of testing the
4 surge warnings, which will become -- I mean, we've gone
5 through with the sociologists on the nomenclature and
6 how to make them understood by the public and accepted
7 by the public, and then they're going to roll it out.
8 And it's going to be the lay of the land.

9 Q. The study itself has clearance times for 2010
10 and 2015.

11 Are you aware of that?

12 A. Yes.

13 Q. When you look at the 2015 times, is it fair to
14 say that that is a generalization that is not
15 storm-specific?

16 A. Yes.

17 Q. Okay. So --

18 A. The population figures did not keep up with
19 their -- population in Southwest Florida has -- and
20 particularly in Charlotte County -- has not grown. If
21 you go back and look at studies of what they projected
22 for us by this time, we're not there. And they've
23 greatly reduced our future population totals over what
24 they were at one time.

25 Q. So do you know whether the times that they

1 actually reported are accurate?

2 A. I don't.

3 Q. Okay.

4 A. No.

5 Q. I'm getting the sense from you it really
6 wouldn't matter what they reported anyway, because it's
7 going to be a storm-specific event, time of year event,
8 population controlled issues, all these variables that
9 are not identified in the study; is that right?

10 MR. MOYE: Object to the form.

11 A. Current projects ongoing.

12 I didn't know -- here's one for you. I didn't
13 know until the 11th hour that they were closing
14 Edgewater Drive through Port Charlotte for two years.
15 And when I called and asked about it, they went, oh, our
16 bad.

17 Not that it's -- and, again, it doesn't change
18 anything I do, because I have to deal with it, but it
19 would have been nice to know in advance so that I could
20 have had a little more warning. Because I want to
21 change -- I want to put up some additional evacuation
22 corridor signs on other local streets that have
23 henceforth not been evacuation routes.

24 Q. I see.

25 A. But there's an example of a project that had

1 no notice that it was going to be done in something like
2 this, which can greatly inhibit the movement of traffic
3 within the county. It has no bearing on Lee or -- but
4 within the county, because it's a -- it's a secondary
5 evacuation corridor.

6 Q. So your job requires you to be reactive, but
7 it would have been nice to know about it so you could
8 react sooner? Is that what I'm understanding?

9 MR. MOYE: Object to the form.

10 A. Yes.

11 Q. And it's these types of factors that you just
12 mentioned, this Edgewater Road, that are not included
13 within the study; is that right?

14 A. Yes.

15 Q. And I guess that would be true for any type of
16 roadway construction that wasn't planned at the time the
17 study was done; is that correct?

18 A. Yes.

19 Q. Okay.

20 A. Our motto in emergency management is Semper
21 Gumby. Always flexible. True fact.

22 Q. I like the Gumby reference. I think of
23 Saturday Night Live immediately.

24 A. Gumby, dammit.

25 Q. Does the model take into consideration how

1 storm surge may inundate roadways to the point that it
2 would cause you to change evacuation routes and
3 therefore slow the time it would take to effectuate an
4 evacuation?

5 A. Yes. That's what -- I'm sorry. That's what
6 we talked to -- she asked me a question about pre-eye
7 landfall hazard conditions.

8 Q. Uh-huh.

9 A. That's the rising tide ahead of the storm's
10 arrival, because we've so long predicated our thinking
11 on where's the eye, okay?

12 Well, now we know that, because of the size of
13 the storm -- all right, relative Charley that came right
14 over here that had an eight-mile radius of maximum wind,
15 Ike that hit the Texas coast a few years ago had a
16 hundred mile radius of maximum wind and as a Category 2
17 Saffir-Simpson produced a four level storm surge of
18 25 feet, but it was only a 2. Charley's winds here were
19 150 miles an hour, and the storm surge at Fort Myers
20 Beach was barely a tropical storm level.

21 So that's when they finally said -- the light
22 came on, and they went, hey, wait a minute; this
23 blanket storm surge on a Saffir-Simpson storm is
24 bologna.

25 So that threw all these studies into a tizzy,

1 into a quandary, because now none of them are -- when
2 they mention storm category, they're not relevant.
3 They're not valid, quite frankly.

4 Q. Have the evacuation times for the Placida area
5 increased over the last 20 years?

6 A. I'd have to go back and look. I would say yes
7 off the top of my head. Incrementally, yes. I don't
8 think markedly, but I think -- I think somewhat, yes.

9 Q. Back in 2011 when I took your deposition, you
10 made reference to a new study, which we've identified as
11 the Regional Planning Council study, that said that
12 there was a range of 28 to 50 hours of evacuation time
13 out of West County.

14 Is that still true?

15 MR. MOYE: Objection. Form.

16 A. I think under all the different scenarios it
17 probably is still -- is probably still included in
18 there, yeah. And that's full clearance of the peninsula
19 under the worst case scenario, which would be -- and,
20 again, I'm just throwing one out for you -- a hurricane
21 Kate type scenario, which was a November -- late
22 November, a Thanksgiving -- which hit Tallahassee, by
23 the way -- storm that, had it come to Florida's west
24 coast, would have been a nightmare because of our
25 population. The population is vastly different from the

1 end of June to the first of November, a lot more people.
2 So that's what would have dragged that time out for
3 clearing the entire Cape Haze peninsula.

4 Q. But when you do planning, is it fair to say
5 you plan for the worst case scenario?

6 A. Absolutely.

7 Q. That's why they look at things like the
8 100-year floodplain and the 500-year floodplain,
9 correct?

10 A. Those are benchmarks, but yeah. I mean, but
11 they're benchmarks to show the relative frequency of
12 return.

13 To show you the fallacy of that, in 1995 I had
14 two, 500-year rainfall events in a four-day period in
15 Port Charlotte. You know, what are the odds? But --

16 Q. One in 500.

17 A. Well, no, because they were -- you know, you
18 take each day, you know, as an individual entity, as a
19 24-hour block, and -- but for that to happen twice in
20 that relatively short timeframe of a similar event was,
21 you know --

22 Q. Statistically improbable?

23 A. Yeah, like Florida having four hurricanes make
24 landfall in six weeks.

25 Q. Do you know whether the comp plan -- the name

1 of the comp plan has changed?

2 A. I don't follow that. I don't -- I don't know.
3 I don't know.

4 Q. In terms of this Exhibit 3, the strategic
5 focus area, one of the things it talked about -- oh,
6 right below where it says zone A through zone D/E on
7 page two it says, evacuation times are based on an
8 operational scenario of normal fall resident and tourist
9 population and a medium response curve with Sarasota,
10 Charlotte, and Lee evacuating.

11 If I break that down, if we could, when you
12 talk about -- well, when the document talks about an
13 operational scenario, what is that referring to?

14 MR. MOYE: Object to the form.

15 A. Those would be nominal numbers or, you know,
16 not specific to any particular event or historical
17 occurrence, but just an average. You know, like I said,
18 normal. That's why it says normal resident tourist
19 population. No -- what would be a good special event
20 weekend? Like if the air show -- if Charlotte County
21 holds the air show in the fall, you know, or something
22 like that. So there's nothing to spike the population,
23 either touristwise or -- you know, and medium response
24 curve would mean likewise for the surrounding counties,
25 the impact counties that would have bearing on our

1 evacuation.

2 Q. When you talk about response curve, is that
3 from some type of model, or is that just an estimate?

4 A. It's just an estimate.

5 Q. And what is the factual basis to support or to
6 identify what the response curve is?

7 A. It's going to be the evacuation study. That's
8 why I think those numbers are slightly -- they're sort,
9 of a blend of the two extremes, the two extreme
10 scenarios. And that's why you wouldn't find those
11 specific numbers.

12 Q. I'm not sure I understand that answer.

13 A. Well, the extremes, as I said, are summer,
14 okay, and the dearth of population and the fall just
15 preholiday period when the population begins to spike as
16 people return here for their winter visits. Those are
17 two entirely different scenarios.

18 This would be probably, you know, October-ish
19 before we get into the holiday season when we can still
20 see a major hurricane, not as likely in November and
21 December, but September, October, absolutely.

22 Q. Do you have access in your department to the
23 time user interface?

24 A. No.

25 Q. Let's go back --

1 A. Not to my knowledge.

2 Q. Not to your -- okay.

3 A. We might.

4 Q. Is it something that you use?

5 A. Nope.

6 Q. If we could turn back to Exhibit 2, which is
7 the duces tecum, let's just go through the -- we
8 finished the first three, but let's ask number four.

9 Do you have any documents that you relied upon
10 to establish that the infrastructure in West Charlotte
11 County is insufficient to evacuate people quickly and
12 reasonably from the area in the event of a tropical
13 event?

14 A. No, I have no documents.

15 Q. Did you look for any documents, or do no
16 documents exist?

17 A. There are no documents specific -- that exist
18 that specifically address that question.

19 Q. Okay. What about item number five, copies of
20 all evacuation studies completed in late 2010 to early
21 2011 relied upon by the deponent that discuss roadway
22 capacities of West Charlotte County?

23 A. You have it (indicating).

24 Q. That's the Regional Planning Council study?

25 A. Uh-huh.

1 Q. Yes?

2 A. Yes.

3 Q. Copies of all documents prepared by you
4 directed to Charlotte County personnel at any time
5 discussing infrastructure in the Placida area?

6 A. Never specifically discussed infrastructure,
7 to my knowledge, that would have been in a -- in a
8 memorandum that I can recall. Now, there may have been.

9 Part of the problem is that people change so
10 frequently in our planning department, I wouldn't have
11 even known who to -- you know, where to go back and look
12 to see what was sent to who when, because I've talked to
13 so many people.

14 You know, I've never met most of these people.
15 We're located in South County. I go to Murdock once in
16 a blue moon, you know? So, I mean, I just -- I don't
17 know, nor, as I say, have I had, to my knowledge, any
18 documents specific to infrastructure in West County.

19 Q. I'm going to represent to you that the county
20 produced to me somewhere on the order of 40,000 emails
21 related to some of the topics that are at issue in this
22 case, and there wasn't one single email to or from you
23 in that entire production.

24 A. I feel better.

25 Q. Does that surprise you?

1 A. No.

2 Q. Why not?

3 A. Because I just never got -- I never had
4 occasion to write on that subject to them. I've
5 discussed it but never wrote it, because I didn't -- I
6 didn't think that it was relevant.

7 Q. But --

8 A. I mean, you go down and ask about memos to
9 County Commissioners. I don't communicate with County
10 Commissioners other than at cocktail parties. I don't.
11 I communicate to the county administration, who then, in
12 turn, would communicate to the commissioners.

13 I do -- one time -- there's an exception to
14 that, and that is during their orientation when they
15 come to the EOC and are -- you know, it's basically, in
16 all sincerity, it's a come to Jesus meeting. Look what
17 you've got yourself into, and here's what -- you know,
18 here's the situation.

19 And that's when I give them the down and
20 dirty, not only about that, but about discussions
21 relative to the Regional Domestic Security Task Force,
22 which is Homeland Security. There's no memos about
23 that, but it -- I mean, there are discussions.

24 Q. But if infrastructure is a concern to you for
25 purposes of being able to move population, do you make

1 requests of the county to approve funding, to develop
2 plans, to do the things that are necessary for you to
3 make your job easier?

4 MR. MOYE: Objection. Form.

5 A. I've made suggestions over the years at public
6 forums and others.

7 I mean, we used to have a thing in West
8 County. I don't even know if they had it when Percy was
9 running for commission where they had candidates -- an
10 informal candidates' night of all the people running for
11 the various public offices in Sarasota and Charlotte
12 County. And it was with the Chamber of Commerce and
13 whatever.

14 I mean, I'd get people that were running for
15 office, the candidates. I'd introduce myself and say,
16 let me ask you a question, you know? Do you understand
17 that, you know, we need to really -- this was back in
18 the days when we were looking at Winchester, the first
19 Winchester from 776 to River Road, okay?

20 Do you understand the importance of us getting
21 that roadway, you know, completed? That would be an
22 example of the kind of thing that I would do. But I
23 never -- I never would have put that under my signature
24 in writing to the commissioners, per se.

25 Q. Okay. So you don't generate a lot of email

1 about this stuff, or any email?

2 A. No. I got a chuckle out of the fact that you
3 wanted all of them. When I started, there was no such
4 thing as email, so that sort of threw that out.

5 Q. That's true of when I started law, so --

6 A. I didn't even have a computer.

7 Q. I think you told me earlier that the River
8 Road Task Force died out; is that correct?

9 A. To my knowledge, yes. I've not had any
10 involvement since the organizer and coordinator passed
11 away.

12 Q. So you don't have any documents concerning
13 that project?

14 A. I -- other than maybe an invitation to those
15 meetings, I never did.

16 For example, I never had, you know, minutes or
17 any of the other things that, you know, went with that.

18 Q. Do any documents exist, whether they're
19 correspondence, emails, memos, that you prepared and
20 transmitted to any County Commissioner or employee
21 regarding evacuation times?

22 A. Possibly. I don't know who -- they wouldn't
23 have gone to commissioners. Again, I don't write
24 directly to commissioners relative operational issues
25 like that. That's not their concern.

1 Q. But what about employees, county employees?

2 A. Possibly.

3 Q. Okay.

4 A. I don't know. Possibly people in the planning
5 department when I knew who was in the planning
6 department. But I don't recall ever -- and it might be
7 found. I don't know.

8 But I don't -- I don't recall writing anything
9 relative -- the one place I might have written things
10 would have been in a newspaper column, but not
11 specifically to an employee exhorting them to do
12 something.

13 Q. Did you look through your emails to see if
14 there was anything responsive to any of these requests?

15 A. I've tried to find -- yeah. I couldn't
16 pull -- everything now is archived. Our email system is
17 nuts. It's into an archive thing, and you play hell
18 even trying to get back more than two years into email.

19 And I don't write a lot of email, quite
20 frankly. I don't -- I don't send a lot of memos. I
21 don't write a lot of email. I make a lot of phone
22 calls, and I make a lot of visits to people.

23 Q. So if you look at items 10, 11, and 12 --
24 well, let's just say 10 through 15 --

25 A. Can you explain a third party? I don't

1 understand.

2 Q. Anyone outside of the county, citizen,
3 resident, different county, governmental official
4 outside of the county.

5 Do you have any documents responsive to items
6 10 through 15?

7 A. I went over these. Nothing specific to just
8 West County, because it's an all-county problem.

9 Q. Well, 14, for example, regards evacuation
10 times in Charlotte County. It's not limited -- I know
11 some of them say West, but some of them are not specific
12 to --

13 A. Right. Do I have any copies of those? No, I
14 don't. But I have written over the years numerous
15 articles for newspapers and other publications, and the
16 predecessor of this, which was called the All Hazards
17 Guide, in which I'm sure there were repeatedly
18 references to the untenable evacuation times that we as
19 a region faced, always, always dealt with from a
20 regional perspective, because it's not Charlotte
21 County's problem. We're part of the problem.

22 Q. Would you characterize them still as
23 untenable?

24 A. For the region?

25 Q. Yes.

1 A. Yes.

2 Q. What about for the county?

3 A. Yes.

4 Q. Okay.

5 A. Let me -- let me -- just, for example, when
6 I'm asked my primary job, it's to cut the losses.
7 That's harsh, but that's the answer. It's to cut the
8 losses, to reduce property loss, reduce loss of life,
9 acknowledging that under the worst case scenario there's
10 only so much you can do.

11 Q. Well, what things would you like to see happen
12 to assist you to cut the losses?

13 A. I'd like to see more money from the state and
14 federal government for roadway projects here in the
15 region. Something has got to be done with River Road in
16 Sarasota County. If they're going to build 25,000 new
17 homes on the Thomas Ranch property over the next couple
18 decades, a bad problem is going to become a nightmare
19 problem, because that's our bottleneck.

20 We've moved it within the county by these
21 projects that are soon to come to fruition, but that
22 doesn't get us out of here to someplace else.

23 And, you know, furthermore, even River Road,
24 even allowing for the completion of River Road to I-75
25 doesn't solve the problem, because the Highway Patrol

1 has told us that they'll have no option but to begin
2 offloading people from 75 onto 72, 70, 64, and moving
3 those people into Central Florida, because Tampa Bay is
4 a -- is a major nightmare.

5 Q. Right.

6 A. I mean, 4 million people and no storm since
7 1921.

8 Q. You raised an interesting point. I don't want
9 to touch your hat.

10 A. That's okay. Go ahead.

11 Q. In the area that you X'd off on Exhibit 5 --

12 A. Uh-huh.

13 Q. -- what road is that?

14 A. That is Rotonda Boulevard East.

15 Q. Rotonda Boulevard?

16 A. Which clears a large section of people out of
17 here, out of this area (indicating) and Gulf Cove.

18 Q. And if you add --

19 A. This area here (indicating). I'm sorry. Gulf
20 Cove is up here, South Gulf Cove, and the Village of
21 Holiday Lakes, which is one of my larger manufactured
22 home communities (indicating).

23 Q. Okay. If you start adding population to the
24 area between the Xs -- just this is a hypothetical --
25 what happens to evacuation times?

1 MR. MOYE: Objection. Form.

2 A. They would have to go up, ultimately. They'll
3 be offset initially by having a four-lane roadway
4 conducting them to another four-lane roadway with
5 appropriate signalization, which will be added there, as
6 well, which we currently don't have.

7 Can't help it. Can't help it.

8 Q. So any addition of population is going to
9 stress the ability to move that population --

10 A. Eventually.

11 Q. -- away?

12 MR. MOYE: Objection to form.

13 A. Eventually.

14 Q. And the road south of where the X is, is that
15 a two-lane road?

16 A. Yes.

17 Q. All right.

18 And if you add population south of the X on
19 this Exhibit 5, what does that do to evacuation times?

20 MR. MOYE: Objection. Objection. Form.

21 A. Likewise, it's going to make evacuation times
22 eventually longer for that area.

23 Q. Just to cut it short, between items 16 through
24 23, are there any responsive documents that exist that
25 you haven't brought with you today, or do no documents

1 exist?

2 A. Oh, I'm sure things exist, but I'm trying
3 to -- I was trying to make sense out of some of these
4 copies of written studies concerning infrastructure.
5 I'm not familiar with any such document.

6 Q. Take item --

7 A. And isn't 16 the Southwest Florida evacuation
8 study, again?

9 Q. So here's how this works. So I send out a
10 deposition notice, and I identify documents --

11 A. Right.

12 Q. -- that I want brought with you.

13 A. Right.

14 Q. Documents can either exist or not exist.

15 A. Right.

16 Q. And if they don't exist, that's fine. But if
17 they do exist, do you have them? And if you don't have
18 them, where can I get them?

19 A. Right. I don't have them. If -- if there are
20 any, if they do exist, they're in the archives of
21 Charlotte County email where they, you know, might be
22 found.

23 Q. What about item number 20, do you have any
24 emails or communications between you and Dan Trescott?

25 A. Dan and I rarely communicated other than in

1 person.

2 Q. Or by the telephone?

3 A. No. More often than not, we'd have lunch.

4 I'd go down to his office, his numerous offices over the
5 years, or he would come up. He came up to our office on
6 many occasions. And, no, almost all of our stuff with
7 Dan was face-to-face.

8 Q. How about item 22, have you ever issued any
9 evacuation orders for the Cape Haze peninsula?

10 A. The attorney's office would have any of those
11 that were relevant to barrier islands. For example,
12 I'll give you -- I think my best recollection --
13 remember, we're talking 28 years.

14 My best recollection is that we've done seven
15 evacuations that included the barrier islands, which was
16 the case in Hurricane Charley, only the barrier islands,
17 not the mainland hazard areas like -- well, like Percy's
18 neighborhood, Cape Haze or Windward or none of those,
19 but the barrier islands, because of the fact that we
20 have people that have to come off by boat.

21 So that's the primary reason, because we don't
22 want them isolated. Because if their land-based areas
23 are subject to inundation, then their vehicles are gone.
24 They've got no place to go.

25 So that would be the last one, would be

1 August 12th, 2004. But the copies of those are
2 generated by the County Attorney's Office. I never see
3 them, quite frankly. They're -- they've been done --
4 Dan has done those over the years for me. He has a --
5 he has it, and he's like rubber -- what do I say on this
6 one (indicating)? And then he sends it to the
7 commission.

8 And I don't even go to the commission meetings
9 anymore. We do it by webcam so that I can be down here,
10 and they're up there (indicating).

11 Q. And then you have the Pirates game on?

12 A. Right, and then I have the Pirates game on the
13 television.

14 Q. All right.

15 Now, the last issue --

16 A. Wise guy. Can that be in there? It can't be
17 in there. It's in there.

18 Q. The last item talks about the Coral Creek
19 Bridge as a two-lane road.

20 A. Oh, yeah. That one was -- I had no -- the
21 first time I realized it was a two-lane bridge was when
22 I rode over it the first time. I honestly had no
23 involvement in that whatsoever, that they were doing
24 that.

25 Q. Should it have been wider?

1 MR. MOYE: Objection. Form.

2 A. Should it have been wider?

3 Q. Yeah.

4 A. Yeah, yeah, it should have been wider. If
5 you're going to do that project, yeah. It's a beautiful
6 project.

7 Q. Were you consulted on the project?

8 A. No. No, I was not.

9 MR. KELSKY: Let's take a five-minute break.

10 MR. MOYE: Okay.

11 (A short recess was taken.)

12 BY MR. KELSKY:

13 Q. I only have a few more questions.

14 A. Okie dokie.

15 MR. MOYE: Best thing I've heard all day.

16 MR. KELSKY: Yeah.

17 (A discussion was had off the record.)

18 BY MR. KELSKY:

19 Q. We were just talking about Coral Creek Bridge
20 before we took a break. I was curious, did you ever ask
21 anybody why they made it a two-lane road?

22 A. No.

23 Q. All right.

24 A. Never -- never really -- it never really came
25 up. Plus, once it was there, asking wasn't going to --

1 you know, wasn't going to fix that issue. I don't know.
2 It does beg the question.

3 Q. In terms of development in the Cape Haze area
4 or the West County area, do you know whether there are
5 any requirements that developers build shelters, and do
6 you think shelters will be useful over there?

7 A. You can't build a shelter there.

8 Q. Why is that?

9 A. Elevation.

10 Q. It's too low?

11 A. It's too low. Shelters are run -- other than
12 run by the county where we have what we call refuge
13 sites, the mass care of the American people is under the
14 auspices of the American Red Cross. And due to events
15 relative to Hurricane Hugo in 1989 in South Carolina,
16 they enacted what is known as ARC 4496, which says that
17 a shelter cannot be established in a Category 3 -- this
18 is category, again, because this was 1989 --

19 Q. Right.

20 A. -- or below area. Well, I had no
21 infrastructure. Even my highest school, which is what
22 we use primarily for shelters, is only 23 feet. The
23 highest spot in the Cape Haze peninsula is about 17.

24 Q. Okay.

25 A. And that's not a -- that's not a

1 shelter-worthy structure. It's the West County
2 government annex there.

3 Q. That actually raises -- you touched on the
4 next question, and that is, is storm surge greater an
5 area than -- well, strike that.

6 Evacuation used to be based upon the
7 Saffir-Simpson scale, correct?

8 A. Yes.

9 Q. Is storm surge in terms of geography broader
10 an area than evacuation was based on the Saffir-Simpson
11 scale?

12 A. No, because the Saffir-Simpson scale, taking
13 into account all of the factors, all of the hazards
14 relative to a hurricane, included wind and surge. And
15 wind hazards cover a much broader area. So no. Surge
16 will be much less of an area specific to the parameters
17 of an approaching storm.

18 Q. The last thing I wanted to ask you was on this
19 Exhibit 5. You said that they were moving the
20 bottleneck. Those were your terms.

21 A. That's what we've started calling it, yes.

22 Q. Where is it being moved to?

23 A. Again, the -- what would have been a
24 bottleneck here because it's all two-lane road, okay,
25 this is now going to be a four-lane road with

1 significantly greater capacity, larger shoulders,
2 probably even allowing for moving as much as maybe five
3 lanes of traffic under a one-way scenario, okay? You
4 didn't have that option at all down here. You would
5 have had two, at most (indicating).

6 Likewise, over here, with the -- with the
7 Winchester extension, which is basically coming down
8 like that, okay, likewise you're going to have four
9 lanes taking all the heat off of here, off of 771 -- or
10 775. I'm sorry. That's 775 -- taking all the heat off
11 of that, off of Grove City and whatnot, but you're going
12 to move all the evacuation out of here. And Percy's
13 going to be stuck right about there (indicating).

14 You're going to move that all up even beyond
15 here, okay, up to about there (indicating).

16 Q. So --

17 A. So we're just -- we're incrementally moving --
18 these two projects are laudable, and they're great, but
19 they're taking the issue and moving it north.

20 We do out here what's called a directed
21 evacuation. Now, what do I mean by that? Under the
22 storm scenario, depending on where it's coming in and
23 what the hurricane center tells us the surge might be
24 and what we are observing trafficwise, we very likely
25 will barricade 776 at Sunnybrook Boulevard and do what

1 is called a directed evacuation, meaning that you come
2 up here. You will be sent either this way or this way
3 based on the volume of traffic at that particular time
4 (indicating).

5 And that will depend, like I said, on what
6 we're observing, just to try and keep the traffic
7 moving. If we get a backup at one particular place and
8 there's not so much going over the Elgin B. Bridge, then
9 we'll start moving people in that direction.

10 Q. All right.

11 A. But you have to do -- again, the whole
12 flexible thing. You have to be flexible.

13 Q. Now that you've drawn on the exhibit and we've
14 talked about it using pronouns, I need to kind of
15 describe it for the record.

16 A. Okay.

17 Q. The X that is around the circle over here,
18 that's where you're saying the bottleneck is?

19 A. That's Rotonda.

20 Q. Rotonda?

21 A. Uh-huh.

22 Q. I'm going to put a blue circle around it for
23 bottleneck, correct? That's what you referred to as the
24 bottleneck area?

25 A. Well, originally out there the bottleneck

1 would have been -- actually, it would have been down
2 further, because you couldn't -- you had no place to go
3 but up along the coastal -- just inland of the coastal
4 high hazard there through Grove City on 771 and then up
5 this way (indicating).

6 Now you'll have that option, and you'll be
7 able to down there get on this Winchester extension, as
8 it's called, and move all the way up to here
9 (indicating).

10 So instead of having everything back up down
11 here, right there in Grove City, it'll start to back up
12 from here on up to here where it (indicating) --

13 Q. The "here" that you're referring to is --

14 A. River Road.

15 Q. In Sarasota County?

16 A. Yes. That's that gray area.

17 Q. But the one you said Percy will be stuck in --

18 A. Yeah, yeah. I'm saying that's -- that's --
19 when you come up there eventually, as things, you know,
20 begin to ramp up, the traffic will back up from River
21 Road, and then it'll back up down there.

22 Whereas before they would have been -- you
23 know, there would have been people coming off of
24 Gasparilla Island or the Lee County portion, which is
25 the beige. This is Charlotte here (indicating).

1 Q. So it'll back up from River Road --

2 A. Yeah.

3 Q. -- to Rotonda?

4 A. Oh, at least.

5 Q. Okay.

6 A. I would think at least, again, based on time
7 of year and number of people and all that fun stuff.

8 Q. All right.

9 So the blue circles are the areas where you
10 referred to as the --

11 A. Bottlenecks.

12 Q. -- bottlenecks, okay.

13 A. And here, as well. Here and -- that was
14 previous. This is where it'll all (indicating) --

15 Q. Where I'm circling now, what bottleneck --
16 what would you call that area?

17 A. That is going to be -- I think they're calling
18 that West Charlotte Center -- West -- West Charlotte
19 Town Center, I believe.

20 Q. Okay.

21 A. And that's another -- they're going to -- this
22 is all going to be developed right here (indicating).

23 Q. That's all going to be developed?

24 A. Yeah. West Charlotte --

25 Q. Why are you laughing about that?

1 A. West Charlotte -- because it -- it's just the
2 more challenge to the emergency manager.

3 Q. Okay.

4 A. Every -- everybody out there makes it an
5 additional challenge (indicating).

6 Q. Every additional body?

7 A. Yeah. That's without question, yeah.

8 Q. Just for purposes -- because we've marked all
9 over the exhibit, you mentioned that in this -- you
10 wrote a -- I guess this would be a vertical line.
11 That's what you say would be a barricade (indicating)?

12 A. That could be -- under our directed evacuation
13 scenario, yeah, it could be in order to facilitate a
14 quicker evacuation of the peninsula.

15 Q. And then that would generate people either
16 going to River Road --

17 A. Right, or --

18 Q. -- or to this Charlotte Town Center?

19 A. Yeah, or to the west -- to the -- this is
20 generally called the Gardens, Gardens of Gulf Cove area,
21 which is what's right in there (indicating).

22 Q. Okay.

23 A. But this is going to be the West Charlotte
24 Town Center.

25 Q. That's just south of the Myakka River?

1 A. There's going to be commercial and residential
2 in there and all kind of stuff long after I'm gone from
3 here.

4 Q. And that's just south of the Myakka River?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes, yes.

8 MR. KELSKY: All right, sir. Thank you. I
9 don't have any other questions. Anything?

10 MR. MOYE: We don't have any questions.

11 MR. KELSKY: Derek?

12 MR. ROONEY: None.

13 MR. KELSKY: Do you want to read or waive?

14 MR. MOYE: We'll read.

15 MR. KELSKY: I will order the transcript,
16 please.

17 THE COURT REPORTER: Do you want a copy, Josh?

18 MR. MOYE: Sure.

19 MR. ROONEY: I'll have a copy, too, please.

20

21 (Deposition concluded at 12:41 p.m.)

22

23

24

25

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF CHARLOTTE)

I, the undersigned authority, certify that
WAYNE P. SALLADE personally appeared before me on
April 29, 2015, and was duly sworn.
WITNESS my hand and official seal April 30, 2015.

(This transcript has been digitally signed.)

Michelle R. Hordinski, RMR, CRR
Notary Public, State of Florida
Commission #FF 108932

* * * * *
STATE OF FLORIDA)
COUNTY OF CHARLOTTE)

I, Michelle R. Hordinski, Registered Merit Reporter and
Certified Realtime Reporter, do hereby certify that
WAYNE P. SALLADE was notified via U.S. Mail and/or
telephone that the transcript of the deposition was
available for reading and signing; that as of this date
the deponent has not read and signed the transcript for
the following reason:

_____.

Dated this _____ day of _____, 2015.

Michelle R. Hordinski, RMR, CRR

REPORTER'S CERTIFICATE

STATE OF FLORIDA)

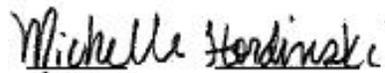
COUNTY OF CHARLOTTE)

I, Michelle R. Hordinski, Registered Merit Reporter and Certified Realtime Reporter, do hereby certify that I was authorized to and did stenographically report and electronically record the foregoing deposition of WAYNE P. SALLADE; that a review of the transcript was requested; and that the foregoing transcript consisting of pages 1 to 95 inclusive, is a true record of the testimony given by the witness.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in this action.

Dated April 30, 2015.

(This transcript has been digitally signed.)



Michelle R. Hordinski, RMR, CRR