

January 6, 2011

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, January, 6, 2011

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 8:30 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

CHAIRMAN: Mark P. Strain  
Melissa Ahern  
Brad Schiffer  
Paul Midney  
Donna Reed Caron  
Diane Ebert  
Barry Klein  
ABSENT: Karen Homiak  
Bob Murray

ALSO PRESENT:

Jamie French, growth Management Division  
Raymond V. Bellows, Planning Manager, Zoning  
Jeff Klatzkow, County Attorney's Office  
Tom Eastman, School Board Member

CHAIRMAN STRAIN: Good morning, everybody. Welcome to the January 6th meeting of the Collier County Planning Commission.

If everyone will please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you. And roll call by the secretary, who's not here. She's usually very much on time, so we'll just give her a few minutes.

But in the meantime, Ms. Caron, would you mind?

COMMISSIONER CARON: Sure.

Mr. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER CARON: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER CARON: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER CARON: Ms. Caron is here.

Your name again, Mr. Strain?

CHAIRMAN STRAIN: Paul, yeah.

COMMISSIONER CARON: Ms. Homiak and Mr. Murray are not here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER CARON: And Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN STRAIN: Okay, thank you.

A couple issues. If you think of a couple letters of the alphabet, M and T -- well, C and T actually, C stands for Cherie, T stands for Terri, there's not much difference, but we now have a new court reporter off and on in the month, and Terri will be joining us. Cherie is alternating between our board, apparently, and the BCC. So you'll have them pretty close in name but difference in appearance.

Now with that, addenda to the agenda. There is some changes that we've got to deal with today, and I think we'll take them right now instead of waiting to the actual hearing.

There were two boat docks scheduled, 9A and 9B.

The first one was a 105-foot boat dock extension, Petition BD-2008-AR-13142. That was at 39 West Pelican Street. That's been continued to January 20th. The second one was another boat dock petition of actually a variance at that same location, VA-PL2010-739. That variance for that one has also been continued until January 20th.

Anybody have any concerns, objections? Okay.

And the next item was Petition CP-2006-11. That was an amendment to the Conservation and Coastal Management Element, Future Land Use Element, and Future Land Use Map and Map Series for a project at the corner of Rattlesnake Hammock Road and Collier Boulevard.

This weekend when I was reading the documentation, it occurred to me that this Planning Commission had not received the benefit of the documents that staff had received. To that extent, they had simultaneously submitted a PUD and a DRI application.

And I can tell you from testifying at the arbitration hearing recently that the intent of what people mean when they submit the GMP language is extremely important for all of us to understand when we vote on this stuff from now on, and we need to ferret out all the concerns of intent. And it sure would have helped this board to know the intent of the GMP language for this application by having a copy of the PUD.

The fact that we didn't get it supplied to us and that part of the staff's analysis was based on the PUD and DRI to me is a grave omission or error on the part of staff in not distributing at least the PUD to this board.

So on the record today I want to make it clear I expect staff to send to this commission a hard copy of the PUD to this board so we can review it in conjunction with this item.

I also met with the applicant and asked them to consider continuing this for a couple of reasons. Number one, we need more time to read that PUD document and, number two, the County Attorney's Office had not finished their review of this document as well because of other events in December.

The applicant has agreed, if they could have -- if we could hear the transmittal and consent on the same day. Now, you've got to remember, this is a transmittal for GMP amendment. That's the first step. We have to go through an adoption of a GMP amendment. That's the second step; the same thing all over again. Plus they have to come in for a PUD rezone, which will be a third bite of the apple.

So I didn't think the request to hear consent at the same time that we heard transmittal was something that would be problematic for us, but I told them I couldn't agree to that. It would be up to this entire board; however, I would urge us all to consider it in the fact that we're going to gain a lot more information by having the additional time to review the PUD document, and I think we can do a much better review, and we could very carefully handle the consent item at that meeting and also make sure staff, through discussion, understands exactly what we said.

Ms. Caron?

COMMISSIONER CARON: Yeah. In my discussions with the petitioners, we talked about having the transmittal happen early in our next meeting.

CHAIRMAN STRAIN: Good.

COMMISSIONER CARON: And then if there are any issues, they can work them out and come back, and then we can have the consent. And it seemed to be a logical --

CHAIRMAN STRAIN: Yeah. I have no problem with that. Does staff -- I forgot which staff member's in charge of this. And who was the planner; Nancy, was it you or Kay. Oh, I'm sorry this is Comp. Planning. Corby? Mike?

MR. BOSI: Mike Bosi with Comprehensive Planning. The assigned comprehensive -- comprehensive planner is Corby Schmidt. So whatever commitments that are made, we will make sure that we can accom- -- I'll speak for Corby that we can make sure that we can accommodate whatever the direction is that the Planning Commission would like to see.

If it is the desire to push this to the 20th, provide you that application with the DRI and the PUD application so you could have the benefit of those understandings, and then have consent later on in the meeting on the 20th, if there's other information that's required, you know, staff is agreeable to whatever the direction of the CCPC would ask us to do.

CHAIRMAN STRAIN: Well, unless -- well, as far as the documents go, the PUD is critical. That's the local zoning document that we really can sink our teeth into to understand what you're trying to say in your GMP amendment language or what they're trying to say.

As far as the DRI goes, a lot of the important studies and aspects of that were included in the packet that was received from your office.

Unless an individual board member requests the DRI, to duplicate that and kill millions more trees, I'm not sure we need to go that far, but that's up to each individual member to contact you on the DRI if they want to see that. I would think that would be an acceptable practice.

But the PUD, Mike -- and you know, if this happens again in the future -- those documents help you guys understand what someone's trying to say; they'd be invaluable to this board to see at the same time.

Anybody else have any comments?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Commissioner Strain, I'm glad that you asked because -- because of the holidays and everything and Collier County was not open Monday, on Tuesday morning I burst down to the center and I said, I don't have this information. I feel like I'm voting on the healthcare bill. You have to vote for it before you can see what's in it. And that's exactly what I told him when I was there --

CHAIRMAN STRAIN: Yep.

COMMISSIONER EBERT: -- and got some of the questions answered. But I still have a lot of questions that remain unanswered. And you're right, I -- and I wanted to see the comments from the DRI. We have nothing. And you're right, nothing on the PUD, so I was upset with that.

CHAIRMAN STRAIN: Well, I'm glad to see that the board as a whole seemed to take that position, because maybe it won't happen again so easily.

So if nobody else has any questions or concerns, I would like to ask the applicant if they still are willing to work with us on this issue until the next meeting date. We'll hear you first up, and before the day's over, we'll hear

you at the end to make sure the consent is -- not hear you, but hear staff's analysis to make sure everybody's on the same page.

MR. YOVANOVICH: Right. Good morning. For the record, Rich Yovanovich on behalf of the applicant.

We understand the comments and concerns about how, in fact, the changes will be applied to a specific project. We don't have an objection to continuing the hearing for the Comp. Plan -- the transmittal hearing for the Comp. Plan amendments to the 20th of January.

Hopefully, as we discussed, we would be first up, and then any changes that we would need to make to the proposed amendments we can make while you're hearing the other items on your agenda, and then we can come back and do the consent agenda the same date. That would keep us on the schedule we had established with staff.

And you're correct, you'll see it again at adoption, and you'll see it again together with both the PUD and DRI documents at the adoption hearing, because you'll have that as one package again. So you will have other opportunities to review what you're seeing in two weeks.

CHAIRMAN STRAIN: Okay. Well, I appreciate that. I'd like to make a comment to the board, too, that when you get the PUD, we're not reviewing the PUD. The PUD is just to tell us where they're conceptually going. The PUD is not up for review. So we won't be entertaining questions necessarily from the PUD. But if something that you see in the PUD is not following the language in the GMP that we're presented with, that certainly is what we ought to be questioning and making sure the GMP is as tight as it needs to be to give us the product that they're perceiving they want.

So anybody else?

COMMISSIONER SCHIFFER: I just have a question.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: And, Rich, you can answer this. This is a 2006 request, correct?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER SCHIFFER: Why does it take four years?

MR. YOVANOVICH: Well, there were some economic changes along the way, and ownership of the property changed hands between then and about a year or so ago. So, you know, we're picking up where a previous property owner left off, so it's -- that's why we are an '06 petition being heard in early '11.

COMMISSIONER SCHIFFER: Okay. All right. Thank you.

CHAIRMAN STRAIN: Okay. And before we ask for a vote to continue, are there any members of the public who came here for this issue that cannot be here on the 20th who would like to speak on record now?

(No response.)

CHAIRMAN STRAIN: Okay. Is there a motion to continue this item until January 20th, first up in the morning?

COMMISSIONER KLEIN: So moved.

CHAIRMAN STRAIN: Motion made by Barry Klein.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Seconded by Diane Ebert.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries. What is it -- 7-0.

Okay, thank you.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: We appreciate it. We'll see you back on the 20th.

Mike, I expect that they'll be sent out hard copy for the PUD, and if you -- any of the commissioners would like the DRI or portions of it, just email or call Mike, and I'm sure he'll get you that as well.

MR. BOSI: I will gather the PUD documents up today, and we'll FedEx them out to all the Planning Commission members by the end of the day.

CHAIRMAN STRAIN: Okay.

MR. BOSI: And as you said, if I receive any emails for any DRI information -- which I'm not quite sure the project coordinator for the DRI PUD -- Kay Deselem has been on medical leave for the past month, so I'll have to try to find out where they're at in the status of the review for those individual documents. But I'll get you whatever is the most current applications.

CHAIRMAN STRAIN: The most current application in the form of our standard PUD document, is there a -- is what we're basically looking for.

MR. BOSI: Yes.

CHAIRMAN STRAIN: I mean, all the staff write-ups from this point, I know it can't be completed, so they're probably not going to be as relevant.

Jamie, did you have something you wanted to throw in, or Ray?

MR. FRENCH: Ray did, sir.

MR. BELLOWS: Yeah. For the record, Ray Bellows.

I have been working with Corby when this issue came up yesterday, and I was able to track down those copies. So we can surely get them to you in time.

MR. FRENCH: And then rather than FedEx'ing them, I'll make sure they get hand delivered like we've done in the past.

CHAIRMAN STRAIN: Either way. As long as we get them, that's what counts.

MR. FRENCH: Yes, sir.

CHAIRMAN STRAIN: Thank you.

MR. BOSI: Thank you.

COMMISSIONER CARON: Jamie, I'm happy to come and pick mine up here. You don't have to deliver it. I'm going to be -- I'm not too far, so --

MR. FRENCH: Okay.

COMMISSIONER CARON: So if you just let me know when they're ready.

MR. FRENCH: I'll let Judy know to just reach directly out to you, ma'am.

COMMISSIONER AHERN: And she can hold mine. I'll be there for BZA tomorrow, so I can pick it up.

CHAIRMAN STRAIN: And I've already told Corby I'll pick mine up as well.

MR. FRENCH: Okay.

CHAIRMAN STRAIN: So that's three. So that reduces the list a bit.

When you distribute these to other planning commissioners, especially the two that aren't here today, you might want to make note to them that this is for background information, and we're not going to be entertaining critique of those documents at our GMP hearing.

MR. FRENCH: I'll make sure that message is clear from staff, sir.

CHAIRMAN STRAIN: Okay. And that brings us to the only remaining thing on our agenda. Oh, no. I saw Fred in the audience for some reason. We could skip over that and forget about it today and have him and Tim go crazy.

But let's move on down through the agenda, because we're really on addenda to the agenda on that point. Planning Commission absences. Our next meeting, I believe, is the 20th.

Ray, do we have anything in between?

MR. BELLOWS: No other meetings in between.

CHAIRMAN STRAIN: Anybody know if they're not going to be here on the 20th?

(No response.)

CHAIRMAN STRAIN: Okay. We'll have a quorum then.

Approval of minutes from December 2, 2010, EAR adoption; is there a motion to either change or approve?

COMMISSIONER AHERN: Motion to approve.

CHAIRMAN STRAIN: Thank you, Melissa.

COMMISSIONER SCHIFFER: I'll second.

CHAIRMAN STRAIN: Second by Brad.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: 7-0. We're good to go.

BCC reports and recaps, Ray?

MR. BELLOWS: There are no recaps from the last Planning Commission meeting. There wasn't any land use items presented to the board in that in-between time.

CHAIRMAN STRAIN: Okay. Chairman's report? The only item I just want to comment on is, we had an arbitration, as you-all probably know about. The findings came back on that at the end of December. They weren't necessarily in -- along the lines that the county had anticipated, nor I, and I was one of the people who had participated in the RLSA language originally.

I'm not sure what the board's going to do next week. But if they uphold the finding of the arbitrator, I think it does have a major impact on much of the way the RLSA would be thought of.

And my concern is that, not having thought out the RLSA in regards to the -- to a possible result that the arbitrator had come up with, there still may be then needed changes in the RLSA that should apply.

If we don't need a four-fifths vote and it's considered zoning in place, as he seemed to indicate, I'm real concerned that there could be a lot of things done in 195,000 acres that weren't anticipated under that premise when the language was voted in.

I'm not sure how to approach it yet, but I kind of wanted to make the board aware that the RLSA is going to -- may be problematic still in the way we interpret the language in the future. I'm not sure what the solution is. I'm -- and depending on what the board does next week, we may have to ask staff to look into a solution.

If that's zoning for 195,000 acres, that's a huge chunk of zoning, and I didn't anticipate in my review of that RLSA language that that would be the zoning. I anticipated submittals being submitted and processes gone through like we do with every PUD and SRA as it was compared to at the time.

So anyway, it's definitely confusing, and I think it's going to throw a monkey wrench into a lot of issues if it goes forward like it has been suggested. But we'll have to wait and see.

\*\*\*And with that, we'll move on to the consent-agenda item. The first one up, and the only one on consent, is 8A. PUDZ-2007-AR-11381. Marsilea Villas, LLC. It's on the west of Livingston Road surrounded by the Royal Palm International Academy and just north of Imperial Golf Estates.

Anybody have any questions or concerns with the consent package that we received?

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: There's one thing in here, and it was brought up, whether that concern I had that required a 20-foot setback from the property lines would apply to principal and accessory, and it would be only principal.

But the way it's worded, they wrote it to be only the south property line when, I mean, I think it would be nice if it just said from the property lines.

CHAIRMAN STRAIN: Which -- do you have a specific page or reference?

COMMISSIONER SCHIFFER: Yeah. It would be on 2 of 7.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Right above accessory structures. The minimum setback should be from -- cross out the word south and make property lines plural, and I'd be happy. There is two other property lines where they could pull a building up close, so --

COMMISSIONER CARON: Well --

CHAIRMAN STRAIN: Go ahead; Ms. Caron?

COMMISSIONER CARON: But along the -- I don't know which is north/south in here -- along the north edge, that's all preserve, right? And don't you have to be 25?

COMMISSIONER SCHIFFER: Well, I'm not worried about the property line there, because they would be well into the preserve, so that wouldn't be allowed.

COMMISSIONER CARON: Okay.

COMMISSIONER SCHIFFER: It's the other three that --

COMMISSIONER CARON: Yeah.

CHAIRMAN STRAIN: Okay?

COMMISSIONER CARON: Yeah, no. I think that's what we had talked about, but --

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: Anybody have any concerns over that?

MR. HOOD: Good morning. Fred Hood with Davidson Engineering, for the record.

If I'm understanding you correctly, Commissioner, you're talking about the east and the west side? And you're asking if we can make 20 feet from the property line. On the east side there's a minimum of a 20-foot setback for the rear yard, so that would take care of that -- that eastern edge of the PUD.

COMMISSIONER SCHIFFER: I mean, if it's the rear yard of a unit.

MR. HOOD: Correct.

COMMISSIONER SCHIFFER: It could be a side yard.

CHAIRMAN STRAIN: But, Fred, if it's already taken care of, what then would it matter if this is included?

MR. HOOD: It doesn't. I'm just trying to avoid some redundancy, I guess.

CHAIRMAN STRAIN: Well, I think where Brad's going is, you could make a -- the configuration of lots could be such that you might call one a side yard and then have a reduced setback when you never intended that, or at least it wasn't clear to us the intention was that way.

MR. HOOD: Okay. I understand that.

CHAIRMAN STRAIN: It's like the belt and the suspenders, I think, for the issue.

MR. HOOD: We can make that change.

COMMISSIONER SCHIFFER: And I can -- the geometry I'm afraid of is, it is common on some projects to put a small access road and then put units facing opposite of what you guys are really planning to use.

MR. HOOD: Right.

COMMISSIONER SCHIFFER: So that's the condition I'm protecting.

MR. HOOD: Okay.

CHAIRMAN STRAIN: Okay?

MR. HOOD: So just strike the word south?

CHAIRMAN STRAIN: Right, and add the pluralization to the word line.

MR. HOOD: Okay.

CHAIRMAN STRAIN: Anybody else have any questions or concerns?

COMMISSIONER SCHIFFER: Then I'll move to approve it.

CHAIRMAN STRAIN: Okay. Motion made by Commissioner Schiffer to approve it --

COMMISSIONER CARON: Second.

CHAIRMAN STRAIN: -- subject to the changes discussed here today, and seconded by Ms. Caron. All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 7-0.

MR. HOOD: Thank you.

CHAIRMAN STRAIN: Thank you, Fred. Appreciate it.

That takes care of our new business.

Consent-agenda items, advertised public hearings have all been continued.

\*\*\*And now we're into old business. It's kind of like the Scotch tape that gets stuck to your finger you can't just flick away.

And, Robert, you're finally here again concerning the continuation of the flood damage prevention ordinance review and recommendation for approval.

And I want to make sure we're on the same page. This is a document that we've seen before that's been vetted by a separate committee, that has also been reviewed by the other boards in the levels of the county required. We're the final and last board in which it now has come to.

And from here we will be, I guess, approving it with all the changes that we would come up with today, and then we'll get a final draft on consent to make sure it reflects what we've said, then on it goes from there.

Is that our understanding of what's going on, Robert?

MR. WILEY: I didn't know about the final draft on consent, but if that's what you want -- I thought I went with your-all's vote of approval. With changes made, I would go to the Board of County Commissioners, but -- well, for the record, Robert Wiley with the Land Development Services Department.

I mean, if you want it on consent, it's easy to do, but I was heading straight to the board if I got a vote of approval today, which I'll accept a motion right now, and we'll just get out of here real quick. How's that sound?

CHAIRMAN STRAIN: No, we have some -- I have questions. I imagine others do, too.

MR. WILEY: I tried. Okay.

CHAIRMAN STRAIN: But what I want to make sure of -- you've got a lot of strikethroughs on this. If we can -- if it seems clean enough, I don't have a problem letting it go and be finished here today. But we'll just have to see where the board goes with it when we finish discussing it.

The only -- when would this go before the Board of County Commissioners?

MR. WILEY: Right now I'm anticipating going before them the first meeting in February.

CHAIRMAN STRAIN: Okay.

MR. WILEY: So that's the 8th, I think it is.

CHAIRMAN STRAIN: And there will be no other changes other than what the Planning Commission reviews today?

MR. WILEY: I hate saying yes, because every time I do I have to eat my words. But I don't anticipate anybody else reviewing it before it would go to the Board of County Commissioners.

CHAIRMAN STRAIN: Okay. I want to make sure, because I hate to have something go past us, get changed, and then go to the board and then have to respond to questions because of something we didn't --

MR. WILEY: I agree. I don't anticipate changes but, you know, best made plans don't always work out that way, so --

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: If changes were made, it needs to come back here. We can't have something with our name on it saying that we agree with it if there have been changes after the fact.

MR. KLATZKOW: Once you guys recommend it, we're done. It goes to the board as recommended by the Planning Commission.

CHAIRMAN STRAIN: That's what I needed to hear.

MR. KLATZKOW: And that's for everything.

CHAIRMAN STRAIN: Okay. That's what I needed to hear. Thank you.



Okay. And just so we set the understanding -- because we have new board members who didn't get the benefit of sitting through this before, this is a document that we more or less are forced to implement to be more consistent with state standards versus the older ordinance that we currently have on our books. Is that a fair statement?

MR. WILEY: Federal standards.

CHAIRMAN STRAIN: Okay. But is that an accurate statement?

MR. WILEY: Yes, sir. We are updating it at the direction of FEMA. Our ordinance was back in 1986. They consider it outdated, so we are updating it to be in compliance with the format of the State of Florida model ordinance, which was developed by the State of Florida and FEMA.

CHAIRMAN STRAIN: And the objective, I think, was that we would try to keep the maximum flexibility in this document for Collier County, but at the same time meet the intentions of FEMA so that we could then have the flexibility we need in our rules and regulations to the benefit of this community the best we can see it.

MR. WILEY: That's one way of looking at it. The way I was given direction is to make it to the minimum standards.

CHAIRMAN STRAIN: Well, that's the most flexible. Then we would then implement standards to tighten

--

MR. WILEY: If that's what you meant by it, but I was told, go for the minimum.

CHAIRMAN STRAIN: Okay. With that in mind then, we can start -- it's about a 35-page document. Let's start working our way through it a few pages at a time.

MR. WILEY: Okay. As we start, let me just, if I can, go through a little bit of an introduction here for some things you're going to be wanting to look at.

When we came to the board two times ago and then the time we came to you also, there were some questions we want to make sure we go over today when we get into discussions on floodproofing a building, and that is building the building to keep water out of it or actually letting water come in but building it in such a way that it doesn't do damage.

There's another question that has come up, and I was given direction only as recently as yesterday. So I have some revised definitions to hand out to you today.

On the 12-month cumulative period to consider when you make improvements to a building as to when it becomes substantial improvements or repair of substantial damage -- and that substantial number is that 50 percent of the value of the structure threshold.

We were going under the impression that I had from training I've been through from Jim Turner, with the training he's been through, that the default mechanism is a 12-month period. If you pull a building permit, oh, for the next 12 months, the value of that permit is considered in for all subsequent permits, and you put those together -- when you have a structure in the special flood hazard area, and that's the flood hazard area as defined as flood zones that start with the letters A or V -- so we thought you had a 12-month default period.

And I don't know who it was, but somebody asked Jim Turner just to show them where it was. So we started looking. No problem. We'll find it. Well, as it turns out, it technically is not there. It was recommended direction.

So we've done the 12-month period as policy internally for years. That's just what everybody's been doing in the Building Department.

So what I was given direction for as of yesterday is to actually put that language of a 12-month period within our ordinance so we codify it, not just do it via policy.

So I want to give you those definitions today. It doesn't change what we're currently doing, but it does officially document it so everyone knows where to go find that 12-month period now.

CHAIRMAN STRAIN: Can you pass those out to us?

MR. WILEY: I will do so right now.

CHAIRMAN STRAIN: Thank you. And while he's doing that, has the County Attorney's Office reviewed this final draft? I know you had input into it because I saw the notations, but have you basically gotten through it?

MR. KLATZKOW: Yes.

CHAIRMAN STRAIN: Okay. Well, at least it's only one sheet, Robert.

MR. WILEY: What you have on this page is a draft set of definitions for substantial damage, substantial improvement, and substantially improved existing manufactured home parks or subdivisions. And what we've done,

we've added the same sentence at the end of all three definitions which say, cost consideration for substantial damage shall be calculated cumulatively for all work for improvement or repair requiring a permit and shall be for a 12-month period of time from the date of Certificate of Occupation or Certificate of Completion from a previous permit to date of approval of the most-recent permit application.

And we're just simply putting into the ordinance now the 12-month period that we've used for a long time.

CHAIRMAN STRAIN: Okay. Brad?

COMMISSIONER SCHIFFER: Yeah. Bob, did you look in the existing building code for this? Because I do know it's in there for certain things like roofs and stuff, and repairs and stuff has --

MR. WILEY: It's really hard to hear you, sir.

COMMISSIONER SCHIFFER: Did you look in the --

CHAIRMAN STRAIN: Yeah.

COMMISSIONER SCHIFFER: Did you look in the existing building code?

MR. WILEY: The existing Florida Building Code we use?

COMMISSIONER SCHIFFER: And there's -- because I do know, for example, roofing repair, stuff like that, it's pretty clear that it's 12 months. I don't know if it's generic. But --

MS. GUST: For the record, I'm Tatiana Gust, manager of Planning Review and Inspections.

CHAIRMAN STRAIN: Can you spell your last name?

MS. GUST: G-U-S-T.

CHAIRMAN STRAIN: Thank you.

MS. GUST: The Florida Building Code has 12-month periods referenced for replacement over a certain percentage for windows and roof replacement, that's correct, but it's not related to FEMA or the National Flood Insurance Program.

COMMISSIONER SCHIFFER: Okay.

MS. GUST: I don't know if you have another question.

COMMISSIONER SCHIFFER: No, that's good, because I do know 50 percent comes up. And a lot of the levels of construction, I would imagine, would be defined there, but --

MS. GUST: Not for FEMA. It is for certain -- over a certain percentage of roof replacement, the entire roof has to be replaced.

COMMISSIONER SCHIFFER: Right.

MS. GUST: Same thing for windows in single-family home; over 25 percent, all the windows have to meet current code. But their percentage to meet current building code's not FEMA-related --

COMMISSIONER SCHIFFER: Okay.

MS. GUST: -- requirements.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Okay. Robert, do you have anything else before we go into the changes in the text?

MR. WILEY: No, unless you just want to go over the issue of the floodproofing. I was asked to come up with some cost implications for it, but we can do that at the time we address it in the ordinance, if you wish to wait till that point.

CHAIRMAN STRAIN: Let's wait till we get to that page.

MR. WILEY: Okay.

CHAIRMAN STRAIN: We've got --

COMMISSIONER SCHIFFER: And, Mark, comments on these also, when we get to that page.

CHAIRMAN STRAIN: Sure.

MR. WILEY: When you look at the document that you have before you, it's -- the document, the header says, it's 9/1/10 DSAC approval draft; 10/7/10 and 10/21/10, CCPC direction; and 11/15/10 and 12/21/10, CAO direction. Hopefully that's a document everyone's looking at. That's the header on it.

Then over in the right-hand margin, you'll see the different comments that are used from Word. And what I've done is, the comments that have been added in here and text changes made since the Planning Commission saw this on the 7th and the 21st, I took your comments and I put those in. They are highlighted in yellow for you to help you see the changes that you have really never seen before up to this point reflecting direction you gave, as well as some directions, as I said, that have been made.

Now, the definition that we just talked about that I handed to you is not in this document. When we get to these definitions, they would be inserted in there.

CHAIRMAN STRAIN: While we're on those comments, FMPC; that is what organiz- -- what group?

MR. WILEY: That is the Floodplain Management Planning Committee. That is a 23-member committee that was appointed by the county manager at the resolution of the Board of County Commissioners. There's ten citizen positions.

CHAIRMAN STRAIN: I notice that they have comments in the right-hand column periodically throughout this document, too. Where on the top designations, between 9/1/10 and 12/21/10, did they see this after we had seen it or --

MR. WILEY: They actually see it before DSAC. So this starts with their document. But what I'm showing you is comments they had put in that relate to this document versus the model ordinance. So you're starting to see from the model ordinance document changes that have been made by the various entities that have reviewed this.

So I started with the floodplain committee's basic revisions, took that to DSAC, and then have started going forward from there.

CHAIRMAN STRAIN: Okay. But what I'm getting at is, since these comments aren't dated, the dating -- every reference to the FMPC was prior to us hearing it as we started hearing it; is that correct?

MR. WILEY: That is correct.

CHAIRMAN STRAIN: Okay. Because I don't want to have changes by a subcommittee popping up again after we review it, and that's what my concern was.

MR. WILEY: No. This is -- you're the end of the road for review before going to the board.

CHAIRMAN STRAIN: Okay. Well, let's get through some of these pages, and we'll go through -- let's go through five pages at a time.

Anybody have questions on Pages 1 through 5? Mr. Schiffer, then Ms. Caron.

COMMISSIONER SCHIFFER: Bob, just to make sure, the area of special flood hazard does not include D and does not include X?

MR. WILEY: It does not include D and does not include X, that's correct. It starts only with the letter A or V, as in velocity.

COMMISSIONER SCHIFFER: Which is what it says, but we're going to discuss that later. Thank you.

MR. WILEY: Okay.

CHAIRMAN STRAIN: Ms. Caron.

COMMISSIONER CARON: Yeah. There are a couple of definitions, one for accessory structure, one for coastal high hazard area -- and I guess that's all in the first five pages -- where the definition here is different from our code. I'm not sure -- and I'll ask the county attorney to weigh in on this. Is it good for us to have conflicting language? Shouldn't we use the same, especially if ours is stricter to begin with? Why would we indicate to somebody that they could do something less than we're actually going to require them to do?

MR. KLATZKOW: Well, you try to be consistent throughout your codes. Sometimes, however, when you're dealing with an outside agency like the states or feds, you've got to conform your definitions to what they want to do.

COMMISSIONER CARON: But I think that -- and we sort of had this discussion the last time -- that it -- throughout the document, it had seemed pretty convenient that when we wanted to follow FEMA's definition, we said, oh, FEMA's making us do this. And when we wanted to have different language in here because it suited us, we put it in here.

So I just think that we should be consistent and not have various things for people to look at. So if somebody only looks at this for some reason, you know, and then we turn around and say, well, I'm sorry, but in the LDC our code is actually stricter and you need to follow that stricter standard, why don't you just put it in here?

CHAIRMAN STRAIN: Well, I think that FEMA is more concerned about structures and buildings that are habitable, that qualified for having electricity at a certain level, having air-conditioning, and things like that, and so -- and I had the same concern, if you recall, at the last meeting, that under accessory structure we don't include a guesthouse.

Well, if you read the -- as you read the FEMA document, you realize that guesthouses are all part of their habitable structures, and accessories in their eyes are non-habitable, items that are like -- a cover over a well or a well

head or something like that. I believe --

MR. WILEY: They are considered of nominal value, generally speaking.

COMMISSIONER KLEIN: Right. And if you -- a guesthouse then would be considered a principal structure?

MR. WILEY: That is considered as a structure, not as an accessory structure.

CHAIRMAN STRAIN: Okay.

MR. WILEY: So at that point it must meet FEMA requirements for construction as its own separate structure, although it -- they're not regarding main versus accessory. Yes.

COMMISSIONER CARON: Because in that case FEMA has the stricter standard, so that's fine to use -- always use the strictest standard. All I'm -- but, for example, when we get to coastal high hazard, we have a more restrictive definition in our code. And all I'm trying to do is make sure that we're not putting a less restrictive one here, somebody looks at it, thinks they can do something, and then we turn around and tell them, I'm sorry, but if you read our code, it says you can't do that. I just want to make sure that that's not happening anywhere.

I understand if FEMA has a stricter code, which they do on accessory structures, we need to use the strictest code, because this is a FEMA document and theirs is going to be stricter. But if we have a stricter one for something else, I don't want there to be any conflict for people reading it and trying to adapt to it.

MR. WILEY: Let's talk about your coastal high hazard definition. The definition that we're using meets minimum for FEMA. Now, the issue that comes up in the coastal high hazard is the type of construction that is allowed within the FEMA program, an area you identify as coastal high hazard.

If we expand our FEMA ordinance definition out to meet our other definitions that we have for the same terms, then you have to go to coastal high-hazard-type construction, and essentially that is elevated houses up on piers, pilings, or stilts.

So I don't think that we really want to be requiring velocity-zone-type constructions all the way back to U.S. 41, which is some of the areas where -- and even further inland than that for the other definition that we have for the coastal high hazard area.

So even our existing ordinance that we have, the 1986 ordinance, is more stringent than draft ordinance. In it we also include all lands seaward of the coastal construction control line. This minimum definition does not even extend that far inland. It only extends to the landward extent of the VE zone. And I was directed to go with the absolute minimum.

COMMISSIONER SCHIFFER: And, Bob, the issue isn't really that definition. The issue is when a section of a code has a definition different than another part of our code.

In building codes, it's pretty common, even within the building code itself, certain sections redefine certain meanings. Now, the reason they do that, it's only for that section. So for Donna, if somebody took any of these definitions outside of this ordinance, it's a mistake. They can't do that. And if they're bringing the definition from outside the ordinance in this ordinance, it's changed once it goes through the definition filter here.

So in reading codes, it's not uncommon -- and I can give you a lot of examples within the building code document itself -- to have different sections have different definitions solely to apply to that section. And, you know, that shouldn't cause a confusion.

COMMISSIONER CARON: And -- no, I get that.

COMMISSIONER SCHIFFER: And so, for example, when you go into this code, you carry everything that we've defined in Collier County unless it's redefined in this code, and you go forward.

CHAIRMAN STRAIN: And if it is redefined in this code but our code is stricter in regards to items outside this code, then the strictness applies to those items outside this code.

COMMISSIONER SCHIFFER: I would say this could be less restrictive than an outside definition, and that would be appropriate, because it's saying it for a different reason.

CHAIRMAN STRAIN: Okay. You okay, Donna?

COMMISSIONER CARON: Yeah. I'm just trying to make sure that there's not any confusion here. Because we do this all the time, and then we -- and then an actual instant comes up and everybody goes, oh, well, we didn't know that was going to happen, we didn't know that was going to -- you know, we didn't really mean that.

COMMISSIONER SCHIFFER: I think, Donna, the confusi- --

COMMISSIONER CARON: So I'm just --

COMMISSIONER SCHIFFER: Sometimes you'll find in arguments on code, people playing code chess, that somebody will take a definition from an inappropriate section and try to use it where it doesn't belong. That's going to happen, and that's really what staff is smart enough to prevent, but the point is --

COMMISSIONER CARON: Sometimes.

MR. BELLOWS: I think Commissioner Schiffer has a good point, and I think maybe one solution would be to, on section two -- and I put it up on the visualizer -- is to add a caveat to that introductory statement, all definitions used in this provision/ordinance are only applicable to this ordinance and do not supersede any other Land Development Code definition.

COMMISSIONER CARON: I think that would be appropriate.

MR. BELLOWS: Okay.

CHAIRMAN STRAIN: Okay. That works. Everybody okay with that, needs further clarification?

(No response.)

CHAIRMAN STRAIN: Good. Pages 1 through 5, any other issues on 1 through 5?

(No response.)

CHAIRMAN STRAIN: I have one, Robert, on Page 3, area of shallow flooding. This was our discussion -- we had this discussion before.

We changed it from one -- it used to say with base flood depths from 1 to 3 feet, and now it just says, anything less than 3 feet. So if there was a 2-inch area of standing water, they would then become an area of shallow flooding?

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: Why is that better than leaving it from 1 to 3 feet? I mean, if it's a small pond -- puddling of water, a couple inches of water, I don't know how it has a negative effect as far as flooding goes.

MR. WILEY: Collier County's topography, as you know, is very flat. We're going through the issue of developing new maps with FEMA right now to delineate the extent of flood zones.

One of the issues that came up in that is this very discussion for an AH zone, area of holding. That is a zone that FEMA has recommended and is going to go into effect on the new DFIRM, digital flood insurance rate map.

So I argued the point with them that by their very definition, area of shallow flooding where it is from -- and it says it has base flood depths of -- from 1 to 3 feet, I said, so for all those areas of AH flooding that you've identified that are less than 1 foot in depth, they should become Zone X.

I was adamant. I said, that's what your very definition out of your books, out of your web page, everything says. You go to definition for Zone X, it says, even within the special flood hazard areas, depths of less than 1 foot can also be zoned X. I lost.

As they come back, their answer was, they have to take the flood elevation contour landward until it touches ground, no matter what the depth is. They don't go to 1 foot below flood elevation where it touches ground to give you that 1-foot difference.

When we went through that, they even wrote me a letter. I won't say it's a nice letter, but they wrote me a letter verifying their position is that they will take the base flood elevation to the point at which it touches ground even though it may be less than 1 foot. That's why I changed the definition, so that we don't have a lot of the confusion that we create within our county where the AH flooding from sheet flow is going to be less than 1 foot in depth.

Their explanation goes from the background that they take into considerations the extent of the upstream watershed, the whole area that's under consideration for flooding evaluation, a lot of factors that go into it, to clarify it and make it easier to understand within our county. That's why I changed the definition to comply with that clarification letter that I got from FEMA.

If you want, I can go back and change it to their precise definition. But when I do, I'm very suspicious that someone will take that definition then and hold it up to us and say, well, my flooding is projected to be less than 1 foot. I have to be in Zone X. And we don't really want to keep fighting that battle every day over in the permit application process with someone.

CHAIRMAN STRAIN: Well, unlike you, I'd rather fight that every day, every night, every hour, every minute until we beat the federal government.

MR. WILEY: But it wouldn't --

CHAIRMAN STRAIN: This idea of taking all the Zone Xs out across the board in Collier County and

marking everybody into an A zone so we generate more insurance revenue for the federal government to play with is wrong.

And I would rather see it left as 1 to 3 feet, especially if it's supported by their own definitions in Flood Zone X, and let them come back and try to fight us on it and give us at least an edge if we want to take it further.

Now, others may not agree, the board may not agree, but that certainly is going to be the position I take. I don't want to set us up for failure. I want to set us up for any kind of success we can have, no matter how small, and let the federal government come back and try to change it, put the onus on them instead of us.

I understand you may have had conversations, but if they've got documentation that already supports the 1 to 3 feet, let's just continue using it. And if someone wants to come in and file a suit to fight for it and if they win, bravo, they've won for the entire people of Collier County, because in my area there's no reason to have a flood zone out where I am at, out in Immokalee, out in those areas to the east, but yet they've now changed the rules so we all have to pay flood insurance, and I think that is absolutely wrong for this community.

Anyway, I'm going to suggest that we leave it 1 to 3 feet. I don't know if that will carry with the board, but that will be my suggestion.

Anybody on this board have any issues that they would want to see it either way?

COMMISSIONER SCHIFFER: No.

COMMISSIONER AHERN: I would tend to agree with you.

COMMISSIONER CARON: Yes.

COMMISSIONER KLEIN: Agree with you.

CHAIRMAN STRAIN: Okay. Robert, let's put that one back to 1 to 3 feet as a recommendation to the Board of County Commissioners, and if they want to deal with it politically in a different manner, they obviously can.

MR. WILEY: Okay.

CHAIRMAN STRAIN: Okay. We're on Pages 6 through 10. Does anybody have any questions on Pages 6 through 10?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Go ahead. Mr. Schiffer?

COMMISSIONER SCHIFFER: Bob, on Page 7 in floodproofing, Number 9's definition, you use the wording, construction materials in the -- could not we replace that with the definition that we have on the prior page for flood damage/resistive, because we define that, rather than leave it vague with construction materials? Aren't you trying to achieve the same thing?

Let me say it again. In other words, we give a really good definition of what flood damage resistant material is, and it's a paragraph, then over here in 9 you do wet floodproofing utilizing construction materials and techniques to withstand prolong -- so essentially, can't we just refer back to that other definition, instead of using the word construction materials, which leaves it up to grabs what that means?

CHAIRMAN STRAIN: Brad, can you kind of give us where you're going? We can't follow you.

COMMISSIONER SCHIFFER: On Page 7.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Under floodproofing, under 9.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Come in about four words. He uses the word construction materials. And what -- the reason -- the words in that say that these are materials that won't get damaged by being in water.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: If you go back on the other page, we have flood damage/resistant material, and give a more defined definition of what those materials are. And that's exactly what they're used for, to be in water, as Number 9.

So my suggestion is, cross out construction materials and replace it with flood damage/resistant material.

CHAIRMAN STRAIN: And where are you getting the definition of flood damage/resistant material? From Page --

COMMISSIONER SCHIFFER: On Page 6.

CHAIRMAN STRAIN: Page 6.

COMMISSIONER SCHIFFER: Up towards the top.

MR. WILEY: I'm good with that.

COMMISSIONER SCHIFFER: Okay. And the reason is, that way it's clear that's what you mean by construction materials, and you do a nice job of defining that in the definition.

MR. WILEY: So is that the direction to go?

CHAIRMAN STRAIN: Anybody -- from the board, anybody have any concerns?

(No response.)

CHAIRMAN STRAIN: Nope. The consensus is okay, use it.

COMMISSIONER SCHIFFER: Then the only question I have on 10 is, what does SFHA mean? I never could figure that out. South Florida Housing Authority?

MR. WILEY: SFHA is a special flood hazard area.

COMMISSIONER SCHIFFER: Okay.

MR. WILEY: You can find it under the definitions of area of special flood hazard. Don't laugh. FEMA defines it as area of special flood hazard then uses the acronym special flood hazard area.

COMMISSIONER SCHIFFER: But do we --

MR. WILEY: I can't explain why. I just follow their acronyms.

COMMISSIONER SCHIFFER: Right. But do we -- maybe we should put a parentheses after that and explain that out.

MR. WILEY: What we do is in the definition for area of special flood hazard, if you go to special flood hazard area, it has its own separate definition under the S's. It refers you back to area of special flood hazard. So we sort of get to act like a ping-pong ball here back and forth between definitions --

CHAIRMAN STRAIN: But you don't put the acronym in parentheticals after anywhere where it's referenced, at least in the document I found. Could you do that under the definition of special flood hazard, put a parenthetical that references the acronym you're talking about?

MR. WILEY: Well, that's one thing I want to talk to you about is what I hope to do after we get all the way through your-all's comments today is then go back through, as one of the floodplain committee members asked me to do, and just put in a whole section of acronyms so we can clearly see what they mean. They won't be adding anything, just as we go through -- that way you've got one place to go look them all up. I mean, I can add them to the definitions, but they asked me to just create a section on acronyms.

I'm waiting till we get everything done before I do that. If that gets the direction of the board, we'll go forward. If you don't want it -- I mean, I can put them with the definitions, but that was just their thought.

COMMISSIONER SCHIFFER: Well, Bob, let me say, there was no way anybody would know what SFHA means. So the answer is, of course you have to do that. I mean, how would I know what SFHA is? Is it that I didn't read the document thoroughly enough, or there's no way I would know what that meant? There is no way I would know what that meant, is there? So that's not good.

So of course you have to do that, or do what Mark said, when you use the term, put the parentheses and show us that the acronym is going to be that, like you do with, you know, NAVD, stuff like that.

MR. WILEY: Okay.

COMMISSIONER SCHIFFER: You can't leave us lost.

MR. WILEY: Okay.

CHAIRMAN STRAIN: Okay. So we're going to end up adding a table of acronyms to the beginning of this document?

COMMISSIONER SCHIFFER: And wouldn't that have been nice?

CHAIRMAN STRAIN: But it goes back to us having the -- everything in front of us that is going to go to the board. We're now going to have everything in front of us with the exception of the table of acronyms.

The least you could do, when you get the table created, which you need to do fairly quickly to schedule it before the board, is email us a copy of those acronyms so we can at least have that. And if there's concerns, we can individually give you a call.

MR. WILEY: Well, what I would like to do is email you-all the completed document that's going to the Board of County Commissioners.

CHAIRMAN STRAIN: That's fine, too.

MR. WILEY: But I didn't want to have to actually come back and present to you, but I can if you direct.

CHAIRMAN STRAIN: No, that's fine. We're making notes, and we just want to make sure that our document that we receive is the final document; it's going nowhere else but to the board.

Okay. That takes us through Page 10. Page 11 through 15, does anybody have any questions?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Okay. On Page 12, we get into temporary housing. And what it says, that this will work everything's okay up to 18 months. What happens after 18 months? From my experience in --

CHAIRMAN STRAIN: I was wondering the same thing.

COMMISSIONER SCHIFFER: -- temporary housing, especially after a storm, 18 months is maybe half the time that's it's going to be up.

MR. WILEY: Okay. The 18-month provision in there is coming from FEMA. In their programs, as you get into the emergency temporary housing, they have an 18-month period. Now, if it needs extended, you address extension at that point.

So this language was put together between people from FEMA and Dan Summers with the Emergency Management Department.

COMMISSIONER SCHIFFER: Okay. But here's --

MR. WILEY: It just got stuck in. I have no authorship on any of that paragraph, so --

COMMISSIONER SCHIFFER: Here's the problem, FEMA says, we realize we need it longer than 18 months, and all of a sudden we have a local ordinance that says you can't do it, because you -- there's no provision in this thing for an extension, which I believe there should be.

CHAIRMAN STRAIN: Brad, I had made a note after the sentence that discusses the 18 months, just put a continuation, which may be extended by the floodplain administrator as needed.

MR. FRENCH: Or potentially the Board of County Commissioners. That has been the pattern or practice in the past after an event. For instance, after Hurricane Wilma we did bring a housing issue back to the Board of County Commissioners, and essentially what happened was that the board had given us direction to just work directly with FEMA and follow their extension and guidelines so that people weren't rushed to move out of trailers and those things, and it worked quite well.

What my suggestion might be is that either the floodplain administrator or potentially bring it back to the board for direction for approval.

CHAIRMAN STRAIN: Well, in times of emergency, which this would be still, and we'd still be under some form of emergency if we've got temporary housing from a disaster --

MR. FRENCH: Yes, sir.

CHAIRMAN STRAIN: -- I don't know if you'd really want to burden the board with nonessential issues like this that could be made logically by staff under -- and the FEMA. I mean, so -- I mean, I would suggest keeping it simpler, not trying to have a lot of public meetings and processes under emergency criteria.

MR. KLATZKOW: It's a consent item. I mean, if staff thinks -- it's 18 months. The staff will have plenty of time to get back with the board, they'll throw it on consent in a request to extend it by nine months. If anybody wants a public discussion, they can pull it from the agenda, but otherwise it goes right to the board.

MR. WILEY: So we're asking that -- in the middle of the definition where it says, not exceeding 18 months, just simply say, unless extended by the Board of County Commissioners.

CHAIRMAN STRAIN: Yes.

MR. WILEY: Okay.

CHAIRMAN STRAIN: Consensus; everyone okay?

COMMISSIONER SCHIFFER: I like.

CHAIRMAN STRAIN: Okay. Go ahead, Brad.

COMMISSIONER SCHIFFER: I'll wait till Bob's -- he's writing, so I'll give him courtesy.

MR. WILEY: Okay.

COMMISSIONER SCHIFFER: Bob, in that same sentence -- that last sentence says, emergency notification, it says, plan will be approved by -- I mean, are you forcing them to approve it or is that an -- I mean, normally people review things, but you're saying, this is going to be approved in 30 days.

MR. WILEY: Essentially what happens is the Emergency Management Department has to be the local



organization that goes through the approval process to make the request even to FEMA to bring the housing in. That's my understanding of the situation. So we have to approve this, and we have to actually request the housing before it comes in. So this is just standard process it would actually go through.

COMMISSIONER SCHIFFER: Okay. Then since this page also has the substantial-damage definitions that you add, can we look at those now?

MR. WILEY: Yeah.

COMMISSIONER SCHIFFER: And essentially what you're saying there is that at the end of certificate of occupancy, or CO, and that's a construction project that has a value and everybody knows what everything's worth at that point in time, after 12 months, do you -- the meter goes back to zero, and then 13 months from now if I want to do something, I place value, and then again when that's done -- you know, so nowhere in there can, within a 12-month span that's going from the value from the CC to zero, can I spend more than 50 percent of the value of the unit; is that right? I mean --

MR. WILEY: That is correct. And remember, this is applicable only to those structures which are within the special flood hazard area and their floor elevation does not meet the current minimum base flood elevation. So if you are in a house that is -- with the floor elevation higher than the base flood elevation, you're really not even at issue here for substantial improvements because there's nothing to modify about the house.

COMMISSIONER SCHIFFER: All right. I just want to understand, because this is a number and a time, so let's just stay in there.

MR. WILEY: But you are correct on that. It's -- the 50 percent value would be the total constructions dollars within a 12-month window of time.

COMMISSIONER SCHIFFER: So if I did a repair to my building and a storm occurred within 12 months of that, I've got a problem based on my neighbor who didn't do a repair to his building and a storm occurred, because he's sitting there with a balance at zero; I'm sitting there with a balance of my last permit being completed, you know, and then we're going to also discuss what happens if it's not completed.

But some -- is that the case that -- in other words, two houses, one the guy put a 49 percent lanai on. He'll only be able to have 1 percent damage before he kicks in, where the neighbor who didn't do anything to his house, he can spend up to 50 percent to repair his damage; is that right?

MR. WILEY: Well, again, you can go ahead and do the repair to the damage; you just would have to, in the first instance where the individual has already encroached to within the improvement value allowed, they would hit the threshold where it would require them to mitigate the entire house at that point, which basically means elevate the house is --

COMMISSIONER SCHIFFER: Well, I don't want to get into what it means. I just --

MR. WILEY: Just to give you an example. So you're right, once you start down the path of making improvements or repair of damage to a house that has the floor elevation lower than the flood elevation for that property, you do run the risk of coming up against an increased dollar value from a storm or something that could force you to mitigate the house, that's correct.

COMMISSIONER SCHIFFER: Okay. And does that seem fair?

MR. WILEY: That's what we're doing right now, sir.

COMMISSIONER SCHIFFER: Okay. So again --

MR. WILEY: We're just putting it into the ordinance, the actual 12 month that we've been holding by policy for years.

COMMISSIONER SCHIFFER: One guy remodels his house, spends up to 49, so he didn't kick off the 50 percent when he did his remodeling. No storm related, then the neighbor does nothing. A storm comes, there's 25 percent damage to both houses. One guy has to remedy; the other guy doesn't.

MR. WILEY: One guy would have to mitigate the house, that is correct. And it wouldn't have to be a storm. It could be a fire, any damage.

COMMISSIONER SCHIFFER: I've got more on other pages, but we can stop here if anybody has --

CHAIRMAN STRAIN: Well, I've got an issue with that, too, but I'll wait for Ms. Caron.

COMMISSIONER CARON: Well, I was just going to say, because the goal in the county is that when you start doing improvements, you should be getting these houses up out of the flood zone; otherwise, we're just in a constant state here. So that -- I mean, that's why that's always been that way.

COMMISSIONER SCHIFFER: Yeah. I mean, the thing that bothers me is that -- it's kind of two unfair situations and the luck of the storm with one neighbor versus the other. I think it should be equal somehow, but enough said.

MR. WILEY: Well, you can make it a lot more strict. You can say, if -- if you want to go that route and make it even, anytime you do improvements to your structure, you're required to mitigate. I don't think you want to go that way.

COMMISSIONER SCHIFFER: I don't think I want to do that.

MR. WILEY: But you can really get strict with this thing.

CHAIRMAN STRAIN: Before we --

MR. WILEY: But I'm not going to recommend that.

CHAIRMAN STRAIN: Before we go too far, the language in the added sentence says, if cost consideration or substantial damage shall be calculated cumulatively for all work for improvements or repair requiring a permit.

The way I would suggest that reads is that it's cost consideration for substantial damage, which means any work or improvements or repair as a result of substantial damage.

We're looking at it like any improvement the guy comes in to improve his property, regardless of whether it's a result of substantial damage or just a betterment for his lifestyle, he is now penalized in the manner that Brad was speaking.

And, you know, I didn't see it that way when I read it, and I didn't read it the way he did, but I understand now how specialists and your reactions could be taken. So we might want to solve this by saying the cost consideration for substantial damage shall be calculated cumulatively for all work for storm-related or damage-related improvements or repair requiring a permit, and then you've got items isolated versus home improvements that people may want to make for non-damage -- non-damageable items. That might be a solution?

Melissa or Brad?

COMMISSIONER AHERN: Well, if you don't go that way, then some of these improvements I think people will probably try to do without pulling a permit because then it's not going to be record.

CHAIRMAN STRAIN: Well, that's a whole 'nother issue, yeah.

COMMISSIONER SCHIFFER: I mean, maybe we have to look at it a little more careful, Bob. I mean, because it is an unfair situation for somebody.

Now, in the building code, it's in there for a logical -- let's take roofing, which is easy. I go up on my roof and I start fixing my roof. Once I fix more than 25 percent of my roof, hey, fellow, fix the whole roof. You know, don't -- you know, I can patch 25 percent of my roof once a year, and that's what the code allows us to do, and it kind of makes sense there.

Here I'm not sure why we bring in this -- you know, if the house is damaged 50 percent, it's 50 percent. Why you bring in all this other time frame, I don't know, because the storm is a random event, and that's what we're talking about, a flood. We're not -- remember, we're in one area of the code that's only defined with flood damage -- is that, if your home is damaged, that 50 percent should just be -- try to calculate 50 percent whether the damage is beyond that or not? Bringing in CO's and time frames and all that, I'm not sure that makes any sense in this case. It does make sense in other cases.

MR. WILEY: If you do not wish to have a 12-month period cumulative, then you simply strike the last sentence, and then it's permit to permit. That is less than what we are currently doing.

COMMISSIONER SCHIFFER: But why bring --

MR. WILEY: This just shows you what we are currently doing.

COMMISSIONER SCHIFFER: Why bring up permits at all? What's the need for that?

MR. WILEY: Why you need a permit?

COMMISSIONER SCHIFFER: No. I know why you need a permit.

MR. WILEY: Okay.

COMMISSIONER SCHIFFER: Why bring up permits in this definition?

MR. WILEY: The way FEMA institutes the program is, concerning the structure, is for permitted work. That is their methodology for establishing you bringing a building into compliance or leaving it out of compliance.

Work that does not require a permit does not fall within their requirements for consideration. We have to operate the flood insurance program in accordance with their regulations, so that's why we have to use a permit as the

basis.

COMMISSIONER SCHIFFER: I think maybe where I'm having trouble is, it makes sense in the definition of substantial improvement. That means that if I'm a guy fixing my house as -- you know, I can nibble away year by year and not have to bring the whole house up, but if I do a major thing, I'm going to rip off 60 percent of my house and rebuild it, I've got to fix the whole house and bring it all.

So maybe the answer is, take it out of substantial damage, which is where that level playing field is lost, keep it in substantial improvement, and then, I guess, keep it in substantial improvement for a manufactured.

It's probably in the damage that I have the problem, and only there.

CHAIRMAN STRAIN: Go ahead, Ms. Caron.

COMMISSIONER CARON: Well, I just wanted to ask. Does anybody on staff have a problem with the language that Commissioner Strain put forward? It seems to change it to level the playing field without upsetting really what's been happening.

MR. WILEY: If you change the language as per Commissioner Strain or as per Commissioner -- Schiffer --

COMMISSIONER CARON: Two different things.

MR. WILEY: But either way, you negate the value of having cumulative and it becomes worthless as far as us able to enforce it to meet the requirements of FEMA; so, therefore, we simply would go back to the permit-by-permit issuance, because we have no uniformity program upon which to justify the applications coming in. You either have cumulative or you don't. Cumulative has to address damage as well as improvements. It's -- you can't have one without the other.

COMMISSIONER CARON: Well, what if we get more than one storm in a year? You'll have cumulative.

MR. WILEY: That is the very issue you brought up of then mitigating structures to bring them up out of the floodplain areas. That's where that comes in.

COMMISSIONER CARON: Damage.

CHAIRMAN STRAIN: Why did we not just leave the definitions as they are in this document and put in -- repetitive loss back in. What was the purpose now of changing that again?

MR. WILEY: Okay. Repetitive loss is a different concept. We can also talk about that.

CHAIRMAN STRAIN: But this is -- but we're talking about a concept just for this ordinance, right?

MR. WILEY: And we are talking about for our ordinance, that is correct.

CHAIRMAN STRAIN: Okay. So if we're looking as a minimum standard in which we can embellish greater in our own ordinances locally, why wouldn't we want to leave it? Because the repetitive-loss statement in here seems to be a more flexible standard to work with this ordinance for, and then we use our other standards to work with the other avenues and ordinances and building-permit regulations that we have. Why would we want to mix the two when we didn't do that, for example, under definitions for accessory structures?

We didn't mix and match there. We stayed strictly with FEMA for FEMA. Wouldn't we be better off strictly -- staying strictly with their definition of substantial damage referring to repetitive loss versus trying to institute a policy change in this document to accommodate our -- some other ordinance we have?

MR. WILEY: When we came before this board previously, that's when I was given direction coming from the County Attorney's Office to remove the definition for repetitive loss. You-all had expressed very serious concern about the definition. He could not find it in the model ordinance, which was an earlier draft, that he had not seen the most-revised draft. It was in there. It's in the model ordinance as an optional definition for repetitive loss.

So the direction I got from the attorney's office is to strike it. It is stricken in this document.

CHAIRMAN STRAIN: But what we got, I think, is worse. So I'm not sure we wanted to go to a worse situation.

MR. WILEY: Again, if you do not wish to have 12-month cumulative in the ordinance, you strike it. This simply is put it there to show you what we are doing by policy. It is not codified.

The direction I was given is to put it within the ordinance so we can codify it so it's a clear point of reference everyone can go to.

CHAIRMAN STRAIN: So you've, by -- staff has established a policy that -- apparently then the policies don't go through the Board of County Commissioners or --

MR. WILEY: We were going by our understanding of what the program required.

CHAIRMAN STRAIN: Okay.

MR. WILEY: When called to the question to show me specifically, I went as far as even talking to FEMA directly via telephone, and they said, it's not there. It is advisory only.

CHAIRMAN STRAIN: But let's go back to what you just said. We're doing something by policy, and that something is the last sentence you added to these changes; is that right or wrong?

MR. WILEY: That is what we have been doing as our understanding of what we were required to do.

CHAIRMAN STRAIN: Okay. But the policy, that is internal to the Building Department, CDES, somewhere like that?

MR. WILEY: It's administratively enforced.

CHAIRMAN STRAIN: We don't have an ordinance passed by the Board of County Commissioners to support that policy, or do we?

MR. FRENCH: We do not.

MR. WILEY: We do not have the 12-month in our current ordinance, that is correct. It was our understanding of operating the program through FEMA's direction that we had to do the 12-month consideration.

Upon very serious clarification of that within the past month, we realized that is not what FEMA's program verbatim says, so we're bringing to you to show you what we would like to have now put in the ordinance to follow existing things that have been going on for years. If you don't want it, we strike it and we go permit to permit.

CHAIRMAN STRAIN: Well, you've just raised another issue I'm concerned about. How does staff implement a policy of this gravity without approval from the Board of County Commissioners?

COMMISSIONER SCHIFFER: Bingo.

CHAIRMAN STRAIN: I mean, where does that come from, Jeff?

COMMISSIONER SCHIFFER: It's the stealth code.

CHAIRMAN STRAIN: That isn't -- that's not what -- that's what everybody in this county has hinted and feared at is things like that. Now you're telling us it exists. Now I'm a little shocked by that whole scenario.

So we have a set of policies out there that are instituted by staff that really have a pretty grave impact on homeowners. We're talking major impact in dollars if this were to be actually instituted, not approved by the Board of County Commissioners but just as a staff policy.

How many of these do we have? Do you have a list of those? Do you have a book of these staff policies so we know?

COMMISSIONER SCHIFFER: It's hard to count invisible things.

MR. FRENCH: No, Commissioner. Out of -- just out of fairness to the Building Department, let me give you some history as I know it.

The policy that we knew that was set by FEMA was -- and up until about a week ago, we recognized that this was a recommendation by FEMA and not a minimum standard.

FEMA has strongly recommended that you establish at least a 12-month interval of time for improvement, not necessarily for damage, but for improvement, and that's what had been instituted at the direction of the former administrator. But prior to that legacy, we were at five years because that's your minimum amount of time that you would receive credit within your community rating system that FEMA recognizes.

Once we realized that we did not have to be at the five years, we did lower that at the direction of that administrator to that 12-month period of time that we thought was the minimum policy that FEMA had established. And it turns out from the latest data that has been provided to us through our floodplain manager that that is simply a recommendation, which is the reason why we're bringing that here today to you, sir, simply because we do want to codify that if that is the direction of this board as well as the Board of County Commissioners versus leaving that on staff.

CHAIRMAN STRAIN: Okay. But now you're branching out from a floodplain ordinance into a facet of it that really is a major vetting issue involving stakeholders, architects, builders, developers, everybody. In fact, property owners that live west of U.S. 41 will be gravely impacted by this. And it turns out it was never vetted out as an ordinance in this county but instituted by staff as a policy, and I don't -- I'm real uncomfortable with that, Jamie.

MR. FRENCH: I don't disagree with you, sir. That's why we're here today.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: And I think the reason you should be uncomfortable is that a lot of the county is being brought into this conversation that was never in it before.

CHAIRMAN STRAIN: I agree.

COMMISSIONER SCHIFFER: But let me just talk to Tatiana a second, because, you know, this is something in the building permit we deal with. In other words, we're going to remodel a home that does have some flood-elevation problems.

It has been -- and maybe it's just been, you know, legacy, Jamie. I mean, the 12-month surprises me that that's not locked in somewhere. But it has been that if we're doing remodelings on a home and we are going to exceed half its value, which we -- the big argument has always been how to prove that -- we do have to bring the whole home into compliance.

MR. FRENCH: Yes, sir.

COMMISSIONER SCHIFFER: So that's an improvement. There's no storms in the wind, there's nothing happening. That's decisions of people who are upgrading to what we know now is a better way to go.

I think that should still exist. I think we should have some conversations about 12 months, if that's up for grabs. Maybe it's 18 months, maybe 6 months. But whatever it is, that should still exist that over time we will bring the community into better compliance.

I don't like that insubstantial damage; in other words, you get nailed with a storm, and the reason I don't like it is the explanation I gave, is the guy next door could have done 49 percent and he has a disadvantage to the other people.

Tatiana, do you want to say something?

MS. GUST: I would like to bring something to your attention. If you have the definition in there of substantial damage -- and that refers to when the damage -- means damage of any origin sustaining by structure where the cost of restoring the structure to its before-damage condition will equal or exceed 50 percent of the market value of the structure before the damage occurred.

So that includes that improvement value. So that house value will be higher than the neighbor because of that improvement for that damage consideration.

COMMISSIONER SCHIFFER: Right. And the problem we always get into is -- and you're right. In my story what I didn't say is the guy who fixed his house up is probably worth more than the guy who didn't. Not necessarily. I mean, he could have done improvements that don't really improve the value of the house. We're assuming dollar-to-dollar that it works.

But, you know -- and normally, Tatiana, the conversation you must be having is, how do you figure the 50 percent? When a building looks like it's -- half of it's going to be remodeled, you start to wonder whether this should kick in. And, you know, what kind of data do people present to you to determine the value?

MS. GUST: Currently we're -- they're providing us the proper appraiser value, and we compare that value with the cost of construction for the improvement.

COMMISSIONER SCHIFFER: Okay.

MS. GUST: And we determine -- I mean -- and that way we determine the 50 percent, if you exceed or not, the 50 percent value of the appraised value of the structure.

COMMISSIONER SCHIFFER: Which should generate arguments because of the appraised value. But the -- but anyway --

MR. FRENCH: There's also an inflator that we use as well, that FEMA allows us. We apply a 20 percent inflator. So whatever the property appraiser would come in and say, here's what the appraised value is of that structure, what we would then do is we'd apply the 20 percent improvement. And what I spoke to -- about Tatiana is -- so if you came in with a -- let's say a \$100,000 improvement, you've got a construction value sheet that you've done your certificate on that you based your building permit on. So we would also apply that \$100,000.

And, again, the -- so at that point the neighbor's -- the neighbor's home would be substantially less than the home that was just improved.

COMMISSIONER SCHIFFER: But I do think we're better off not considering any permits -- if the house is damaged, that would be the person who's going to be claiming the 50 percent. He will have that data. So I don't know why we need the 12 -- the time frame in the damaged home. I know why we need it in the improvement home.

MR. FRENCH: And the one thing that I've not included is that FEMA -- the recommendation is 12 months, but they did say, you will define a time, and how we defined that time is between building permit.

So as Robert said, we can do this at -- permit to permit. Now, what that does from just simply what -- Nick

and I have sat down and spoke about this. What this does from staff's perspective is that it raises your level of liability, so to speak. So if you've taken a \$100,000 home and you've improved it by \$49,000, you've now raised the lia- -- and you allowed them to come right back in as soon as that CO was granted and do another -- let's say now it's 75- or \$74,000 worth, they still haven't exceeded that 50 percent threshold ever, but essentially what you have done is that you've increased the level of liability, especially if it's within these special flood hazard areas.

That's the only thing that we looked at from staff and said, hold up. This is not something -- and, Mr. Strain, you're absolutely right, once we realized, between the holidays, this was a recommendation by FEMA and certainly not a requirement by FEMA, that's why, just up until a couple days ago, we said, this needs to come and be vetted because it should not be left with staff, and if, in fact, an applicant were to disagree and wanted to enter into the variance process with the Board of County Commissioners or with this board, they could certainly do so.

CHAIRMAN STRAIN: The problem is, the vetting now is -- since the holidays -- it was discovered over the holidays. The vetting is right here today, and the roomful of people, I'm sure, are participating with us on this. And it's disturbing that it even continued on.

What does FEMA do -- or how does FEMA look at this? If this is a recommendation and not a requirement, what is the FEMA requirement in regards to this issue?

Robert, do you know?

MR. WILEY: FEMA leaves the requirement up to the local ordinance, whatever it says. We can set permit to permit, we cannot have cumulative. It's whatever you set. If you do not wish to enforce cumulative, you do not have to.

CHAIRMAN STRAIN: Okay. So for this document --

MR. WILEY: We do know that we have the ability to go, as I said, permit to permit, as Jamie just described. You -- once you hit 50 percent threshold, that does trigger mitigating the house.

CHAIRMAN STRAIN: Okay. But to get past this document, we don't have to have any of the time frames in here. We could drop repetitive and we could drop the sentences you added and deal with it separately after the document.

COMMISSIONER SCHIFFER: And let me make sure the answer's -- and it would not affect our community rating?

MR. WILEY: We are not receiving credit right now for cumulative substantial or cumulative damage. We do not -- the minimum for you to receive credit with them is a five-year window.

COMMISSIONER SCHIFFER: Which is a lot.

MR. WILEY: They have a five-year window, a ten-year window, and life-of-structure window.

COMMISSIONER SCHIFFER: And we don't have that --

MR. WILEY: If you wish to receive CRS credits for cumulative, you must hit one of those three windows; otherwise, any value less than that gives you no credit for the CRS. It does, though, give you a threshold for local regulations to help avoid the snowball effect of increasing the value of a structure and never correcting the flooding-risk situation.

COMMISSIONER SCHIFFER: Okay. And these corrections, by the way, are extremely difficult on the owner of the home. I mean, just because it's geometry. I mean, you're lifting buildings in some cases.

So Bob, right now, what buildings, when a permit is being reviewed for a remodeling, are you looking at? And I guess the question really is, before the new FEMA maps and after the new FEMA maps. Because I have the impression that -- and almost the fear -- that this is going to open it up pretty much countywide where it wasn't before. Is that a good fear?

MR. WILEY: Well, this only applies to within the special flood hazard area, flood zones that start with the letter A or V.

COMMISSIONER SCHIFFER: V and A.

CHAIRMAN STRAIN: The whole county.

COMMISSIONER SCHIFFER: Which is now the whole county. Before we were X and D.

MR. WILEY: It's supposed to be basically everything to the west of State Route 29 with the exception of the Zone X islands that will be created. That will go into effect, if we stay on schedule, probably towards the end of this calendar year or early 2012, for flood insurance purposes. For permitting it will be six months earlier than that.

COMMISSIONER SCHIFFER: And these are people that never dealt with this conversation before. Where

did -- who dealt with it before? When you were applying for a permit on a house in the coastal high hazard were you doing it, or when did you start to look at the 50 percent? Where -- currently?

MR. WILEY: Anywhere you are within an A or a VE flood zone and your floor elevation does not meet the flood elevation.

CHAIRMAN STRAIN: Generally west of 41.

COMMISSIONER CARON: West of 41.

COMMISSIONER SCHIFFER: So this is a --

MR. WILEY: That's a general way to say it, right, west or south.

COMMISSIONER SCHIFFER: This clause is going to open up a huge amount of the county that never even thought about this.

MR. WILEY: Just the ordinance itself --

COMMISSIONER SCHIFFER: Tatianna's statement has --

MR. WILEY: -- will begin to impact more people.

COMMISSIONER SCHIFFER: Explain why you're shaking your head, Tatiana.

MS. GUST: Because our -- currently as we have done it, we review 50 percent of FEMA for any improvement in an AE or VE zoning. Currently we do.

COMMISSIONER SCHIFFER: But the concern we have is we have new flood maps that -- most of the county was in X and D. X is still fine, although X changed. So there's some people that thought they were in X and are no longer in X, and then most of the county was in D, which would not be something you would look at. Now, most of that is all in some sort of an A zone.

So the point is that -- the reality here we have is that a huge amount of county will now be subject to this review that wasn't in the past. And like, for example, if a home -- we have requirements for height above the crown of the road. Were homes being reviewed for improvements according to that, or they just weren't even looked at, Bob?

MR. WILEY: You're talking about in Golden Gate Estates where we have the ordinance requirement 18 inches above crown of road, which is also contained within this ordinance as we get to that particular section.

COMMISSIONER SCHIFFER: Right.

MR. WILEY: And that will continue to still be one review criteria. So you will meet the higher of elevation. And whether it be the FEMA base flood elevation or the 18-inch in those platted subdivisions.

COMMISSIONER SCHIFFER: Well, currently do you do that? I mean, when I come in and I'm remodeling a home out in the Estates that was built in the '70s, I'm adding an addition on the back. Do you check the crown -- I mean, are you doing the 50 percent check now?

MS. GUST: If it's currently located in an AE or VE zoning, yes, we do.

CHAIRMAN STRAIN: Your question (sic) is not responding as he says currently. Currently, Golden Gate Estates is an X or a D. For example, Immokalee. When Immokalee comes in, do you apply that 12-month rule to Immokalee improvements?

MS. GUST: No.

CHAIRMAN STRAIN: No. After this new map goes in, you will most likely have to, and that's what we're trying to say.

MS. GUST: Okay. And I would like to also mention that the purpose of all this is to protect -- basically to reduce the risk of damage for the local community.

Now, when the community is in a flood zone and there are improvements made to the community in general, the risks increase. So the insurance -- the National Flood Insurance Program may increase the insurance rate in the future because of -- the improvement that is in a flood-hazard area is increased as well.

CHAIRMAN STRAIN: But see, you're under the premise that the federal government is right in declaring most of Collier County a flood-hazard area. I think there's a lot of people that would disagree with that.

MS. GUST: And I'm with you. But that's the map that is coming, and I cannot --

CHAIRMAN STRAIN: I know, but the --

MR. WILEY: I just have to go by what is coming.

CHAIRMAN STRAIN: But the reasoning between the -- is flawed, not in you from what you said, but behind the government. Go ahead.

COMMISSIONER SCHIFFER: But the intent of her comment is the insurance rate. Bob's saying that we

don't get any prize until we hit five years. So, you know -- and that's -- the community rating system, Tatiana, is how the insurance rate comes.

So would the insurance rates in the county be affected at all by this 12 differently than if we set it to five, 12-month versus five? Would the insurance system be equal?

MR. WILEY: Twelve-month versus five-year window for cumulative?

COMMISSIONER SCHIFFER: Yeah.

MR. WILEY: You would be able to affect your CRS score. Now, we can go down that path again; it's another side trail. But you don't affect the discount on your flood insurance until you hit variance steps within the CRS program, and there are 500-point increments to go from classification to classification.

COMMISSIONER SCHIFFER: We can't --

MR. WILEY: Currently the classification as a 6, which gives us a 20 percent discount.

COMMISSIONER SCHIFFER: Okay. So in other words, I think the big concern -- there's a big concern that Mark has, and I agree with, that -- do we put a time frame in this, and what is the benefit from it? If the benefit is the insurance rate, I'm in favor of that, especially on the improvement side. The damage side, you know, there's no way you're ever going to get me convinced that that makes any sense in that paragraph.

CHAIRMAN STRAIN: But the benefit to the insurance rate is only if we get to change one of the larger numbers as a whole.

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: Not a piecemeal change, like we go from a 6 to a 7 or vice versa. This isn't going to do that either way. We have to go through another application for a -- like we did before for those floodplain changes to physically change from one level to another within that -- I think you call it a CRSA or something like that.

MR. WILEY: It's a community rating system, what CRS stands for, and it is a part of the flood insurance program. You are correct, sir. And one little point here in this ordinance will not bring us a classification jump, that is correct.

CHAIRMAN STRAIN: And when we want to make another classification jump, we can look at all these issues as a package like we did before to decide which ones are the way to get there instead of throwing something in here that has untold consequences to the public.

So my suggestion is, we drop that last sentence, we drop the repetitive loss and just leave it substantial damage, substantial improvement, et cetera, without all the additional time frames in there and deal with that in the future when we want to go in for another CRS change.

COMMISSIONER SCHIFFER: I agree. I mean -- or move it to a point where we get to the prize.

Remember, people can decide on their own. Everybody has the freedom of deciding that I don't want my house flooded. I know more about risk. I want to raise my house.

This is mandatory raising. And it's -- you know, it's okay when we play with these mansions in the water, but it's not going to be okay when we're out and -- somebody who really can't afford to do something, and they may be a couple inches below the crown of the road or something, or whatever they're at.

So anyway, I'm worried about it, just like Mark.

COMMISSIONER CARON: Well, not everybody who lives in a flood zone is a mansion, so --

COMMISSIONER SCHIFFER: No, especially now.

CHAIRMAN STRAIN: Well, I'd like to follow -- we need to wrap this one up before we break.

Ms. Caron?

COMMISSIONER CARON: Let's -- I think the big issue here is in the first paragraph under the substantial damage. Everybody seems to be fine with it for improvements. If you're just making improvements on your own, on your own nickel, on your own thought, then having some -- the time frames in here doesn't seem to hurt anything. I mean, I'm just reiterating what Brad said to begin with. So -- and same for substantially improving manufactured homes.

But when we get into damage that's caused by something that's totally out of your control; that's where we need to figure out whether that just should come out altogether, and do we or do we not put in -- back in repetitive loss, or do we just leave everything out?

CHAIRMAN STRAIN: Well, here's -- and, Donna, I think what Robert had said early, you know, we have this CRS rating, and each time that comes in for a change, we look at a package of issues. And we can change those



issues when we come in with a package.

My tendency is to drop it on all three paragraphs, leave the repetitive out, and just leave it there so that we can decide as a package later on if we want to do enough to drop us a whole number in the CRS level rather than throw things in here that have not -- and my big concern with this, even in the substantial-improvement paragraph and the last paragraph, is that this was just thought of during the holiday season. It has not been vetted publicly. That's a real concern. I'd rather have the stakeholders, the builders, the contractors, the developers, everybody chiming in on this. Because I'll tell you what, if this is a trigger to someone's mindset and how they're going to make improvements on their home, they may not make improvements on their home. So there's going to be a lot of people that could be impacted by this.

COMMISSIONER SCHIFFER: I agree, Mark.

CHAIRMAN STRAIN: So why delve into this now in such an unvetted forum when we could better later on?

And, Jeff, you seem anxious to say something.

MR. KLATZKOW: Yeah. You've got an interesting policy discussion going on here, and we're just in the definitional section.

COMMISSIONER CARON: Right, exactly.

MR. KLATZKOW: No, no. But this is what I'm getting at. If what I'm hearing from you is that we're not get any benefits under the way FEMA scores things anyway, since we're not going to five years or ten years, so why even have this? All right. And if that's the policy, your focus on the definitions, they're only in here because this concept is embedded within the ordinance itself. And if the policy is not to have this, we've got to remove that concept from the ordinance. I mean -- which is going to take more than just doing it on the fly here, I'm going to tell you. This is going to have to come back.

CHAIRMAN STRAIN: Well, I mean, if it comes back, it has -- boy, this piece of Scotch tape is really sticking. But if it has to come back -- it might have to, Jeff. I'm not -- I am certainly not comfortable with it. I think the builders -- CBA is not as active as they used to be. But, my God, they ought to be participating in this knowing that -- and if I was a home remodeler and I knew my business was part of people out there having their additions to their home and this was going to impact that, I'd certainly want to be here, because it goes across the county now.

MR. KLATZKOW: What I'm getting at, this is a significant policy recommendation that you're heading towards. And what I'm saying is, if that's the recommendation --

CHAIRMAN STRAIN: We're getting away from it, by the way.

COMMISSIONER SCHIFFER: Yeah.

MR. KLATZKOW: If that's the recommendation, we've got to redo this entire ordinance to get that issue out of the ordinance.

CHAIRMAN STRAIN: Well -- and I -- I think we're heading away from establishing a policy that has not been acknowledged by the board and part of an ordinance and that's been properly vetted in public. So I don't think we're heading towards it. I think we're heading away from it. Now, how we get it out of here would -- I guess is a concern that -- why don't we take a break, and maybe we can discuss on where to go from here. And during the break I'd like to ask you that.

Because I'm real concerned we're getting areas that the public is not fully aware of, especially the business community, and that -- and in the times when we're short on labor -- short on employment and everything else, this will only hurt.

Go ahead, Melissa.

COMMISSIONER AHERN: If, God forbid, there is a storm, we're going to create conditions where more people are just going to walk away from their houses.

CHAIRMAN STRAIN: They won't be able to afford to rebuild, I agree, I agree. And now that the entire county is, unfortunately, falsely under this floodplain stuff, we're going to have a real problem.

So -- well, okay. Let's take a 15-minute break, come back at 10:15, and we'll go from there.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Let's get back to our meeting.

First of all, during the break, Corby had -- was nice enough to bring in the PUDs for the Hacienda Lakes project. So we now have that. I believe everybody has gotten one. The two commissioners that are absent will

certainly have theirs delivered to them.

MR. SCHMIDT: Four members received them, Mr. Chairman, and I'm trying to take a note so I don't double deliver. Who received them?

CHAIRMAN STRAIN: Okay. Well, I think all of us just received Hacienda Lakes --

COMMISSIONER AHERN: No.

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: Oh. I did, Paul did, Diane did. So you're missing --

MR. SCHMIDT: Very good. Thank you.

CHAIRMAN STRAIN: Barry's got one. Okay. So you've still got Brad, Melissa, and the other two. And we're all --

COMMISSIONER MIDNEY: Mine's the one you want to get, because that's more driving.

CHAIRMAN STRAIN: Right. And you've got --

COMMISSIONER SCHIFFER: We're going to pick up, so they don't have to deliver to us.

CHAIRMAN STRAIN: You guys are going to pick up.

Did you receive your Hacienda Lakes PUD?

COMMISSIONER CARON: No. It's coming later.

CHAIRMAN STRAIN: Donna's going to pick up. So okay. The three that are here are going to pick up. The two that aren't you're going to have to deliver anyway.

MR. SCHMIDT: Very good.

CHAIRMAN STRAIN: So you're in good shape. And you're talking off record, but that's okay.

MR. SCHMIDT: For the record, Corby Schmidt.

CHAIRMAN STRAIN: No. I mean, the mike is the record, too, you know.

MR. SCHMIDT: Okay. Thank you.

CHAIRMAN STRAIN: I had a conversation with our county attorney during break about where he thought we saw this going. It definitely needs to be rereviewed by their department in light of some of the discussions we've had. This will have to come back to us again, which may defer the BCC date even further.

Jeff, did you want to add anything to that?

MR. KLATZKOW: No. I'd rather get it right before the board sees it.

CHAIRMAN STRAIN: So I think -- so that the County Attorney's Office, in light of what we discussed as far as policy and the discovery staff had over the holidays, needs to rereview this document in that light as well.

So we'll still go through it, we'll share any comments we have today, and hopefully the next time it comes, we'll have the county attorney's positions on any issues, our cleanup, and maybe it will be done then. We'll certainly try.

And where we left off was the discussion of what to do with the added sentence or the time frames in regards to substantial damage improvements and -- et cetera. I had expressed a concern that we just not include those, they're not required, and deal with them during a future CRS consideration.

And part of my reasoning there is really the way I wish the Building Department -- and the Building Department maybe has looked at it this way, and Robert I know has, this floodplain ordinance no longer applies to just the area of primarily west of U.S. 41. And the easiest way to understand what it applies to is, always think of Immokalee. Immokalee is so far inland and so far remote that you would never think they have a flood issue. But if -- everything in here applies to the simplest home, the oldest or newest trailer, whatever -- or mobile home, whatever is in Immokalee, the downtown area, the area along the main corridor where all your buildings are pretty level, pretty flat, all that will now come into play with this ordinance, and that's different than what we had in an ordinance prior to this, because FEMA had not weighed in on Immokalee being mostly a floodplain and Golden Gate Estates and the rest of the eastern part of the county.

So all I'm thinking -- and Brad had said it earlier, this is a much, much more wider application than ever, ever was thought of before. And I think, thinking of it in those terms, it does bring into issue on how it does apply once you get past the coastal area.

So, Robert, I appreciate all your efforts to date, and we just have more to go. So I think we need to -- if everybody's on the same page with this at this point, I'd like us to keep moving through it, and basically we're going to drop the references to time frames concerning substantial damage from this document and handle it separately in the

future under a CRS change if it's so desired at that point.

COMMISSIONER SCHIFFER: Which means essentially ignore the handout?

CHAIRMAN STRAIN: Yeah.

MR. WILEY: You'd ignore the handout, yes, sir.

CHAIRMAN STRAIN: Okay. And we had -- we were trying to get through Pages 10 through 15.

COMMISSIONER SCHIFFER: I have a 13.

CHAIRMAN STRAIN: Go ahead, Brad. You might pull that mike closer. There you go.

COMMISSIONER SCHIFFER: Bob, we're referring to the wet season, so what somebody has to do is come in and provide you with the wet season water table elevation, okay, which essentially -- isn't that -- to do it properly, wouldn't somebody build a test hole and test it for a whole bunch -- a year and then say, this is the wet season elevation, or do you have a month? Other communities have a month, and the test has to be done during that month. So what do we have?

MR. WILEY: As we have discussed before, the issue is the same process you would go through with any developer who goes to the Water Management District. You can use the geo-tech, drill the bore hole, they'll come up with -- out of the samples they pull up, they'll identify what they think is a water-season table elevation. You go to the site, you'll look at your hydrology from the visible eyeball, you'll look at the plant species that are there, do you find high waterlines for water table elevation, do you find seasonal high, do you find lows -- it's the very same criteria we're using should you be a developer. It's nothing new.

This just simply brings into consideration the huge area that's up around Immokalee and down State Route 29 and even to the east of that, which was placed into an approximate Zone A back in 2005 that -- it requires you to have some idea upon how you're going to set your floor elevation, because each application you have to establish what's a flood-zone elevation out through there.

We know that there are certain situations to where we can't simply measure from ground, because ground is below wet season and water table. And so to keep the same level of risk, we're simply saying where the water table is above ground, you would measure from that. That's where this definition comes into play is when you get into the section of the approximate Zone A.

COMMISSIONER SCHIFFER: And you would measure the highest water table? Remember, that all of those things you describe are changing throughout the year.

MR. WILEY: You measure your wet-season water table is what we're saying, which is a line. I'm not the environmentalist who does it, but I've seen people do it, and they can go there and they can look at -- particularly in cypress head, they'll look at various lines, and they'll tell you what the lines mean.

COMMISSIONER SCHIFFER: Okay.

MR. WILEY: I don't do that.

COMMISSIONER SCHIFFER: So I want to, on my plan, show this number. Where do I get it, and how -- is a land surveyor the one who gives me this number? Because even -- there's a line on a tree. That's not -- I'm not going to --

MR. WILEY: He would come -- you would have to have a surveyor establish the actual elevation for you once someone else had identified where was the location for the line.

COMMISSIONER SCHIFFER: So the point of my question is, that I think this ordinance should tell people clearly what it is that has to be submitted to the Building Department for the plan.

So should we not in here note that the land -- it should come from somebody. You don't want an architect measuring trees. You don't want people looking at, you know, water throughout the year, or -- you know, and when is the wet season? You know, I mean, is it October, like most communities have? When is it? When is the highest water table in Collier County? Does anybody know that? So how would the poor guy trying to do a plan know that?

CHAIRMAN STRAIN: Well, in the past -- and I've had to do this on projects -- we would have an environmentalist come out and identify a ring on a tree or lichen signs on a plant species or something of that nature. There'd be signs in the environment that would tell where the water would generally stay at at a normally high level, and then the surveyors would come out and benchmark it.

COMMISSIONER SCHIFFER: Now, you're the little guy putting an addition on his house.

CHAIRMAN STRAIN: I would suggest that --

COMMISSIONER SCHIFFER: What's he going to do? Is he going to -- I mean, that's a great description of

how to do it. And I don't know -- don't doubt you can do it. You could put a monitoring well with an electronic device that sends you a signal every half hour.

The point is, how does a little guy get that data and get it in a way that he can submit it to the Building Department where they'll trust it?

CHAIRMAN STRAIN: Well, if you look at the -- that definition, you go to the fourth line down, which ends that sentence, and in the middle of it says, can normally be expected to be at its highest level. Maybe we could add language that says, as certified by registered engineer.

COMMISSIONER SCHIFFER: I think the land surveyor is who I would like the data from.

CHAIRMAN STRAIN: Well, the -- but engineers -- okay. But surveyors --

COMMISSIONER SCHIFFER: I think we're going to discuss that further down what an engineer and a land surveyor can do. I think the only person that can give me piece of data that, as a professional, I should trust is a registered land surveyor.

CHAIRMAN STRAIN: Okay. I just think, though, that's --

COMMISSIONER AHERN: Yeah.

CHAIRMAN STRAIN: -- where we could add a requirement to find the right person to do it.

Go ahead, Melissa.

COMMISSIONER AHERN: Generally, especially when it comes to septic, all of your health codes are based off of -- partially off wet-season water table. And you get the survey from the engineer -- or from the surveyor, and then the engineer gives the wet-season water table based on that elevation. So whatever your elevation is, it will say minus six or plus four, so it refers back to the surveyor's elevation, but the water table's determined by the engineer.

COMMISSIONER SCHIFFER: So could we say something, as provided by Florida registered land surveyor?

CHAIRMAN STRAIN: And could staff take a look at the proper person who would provide that and include the reference language that we just talked about when we come back for review?

MR. LORENZ: Yes. For the record, Bill Lorenz, Land Development Services director.

We can do that, and maybe we can reference some standardized methodology that the state has, and then that would cover all of those questions.

CHAIRMAN STRAIN: Excellent.

COMMISSIONER SCHIFFER: On the same page, the only other question is, what's still water flood level? We give the acronym after that, but -- I think this is the only time this shows up in the document unless I missed something else. But I don't know what a -- there's a town in Pennsylvania called Stillwater, and it has flooding, so --

CHAIRMAN STRAIN: And why does -- the acronym SWEL? Shouldn't it be FL?

COMMISSIONER EBERT: On what page?

CHAIRMAN STRAIN: Page 13 under Zone AE.

COMMISSIONER EBERT: Thank you.

COMMISSIONER SCHIFFER: Yeah, I'm sorry.

MR. WILEY: That's your last word, still water elevation, SWEL. Still water and EL. And this is --

COMMISSIONER SCHIFFER: But what is it? I mean, it's -- this shows up here.

MR. WILEY: When you're doing coastal surge analysis, you have -- the water's coming in -- they have a wave height to them and they have a still-water elevation. Two separate models are used to generate these criteria. So within an AE zone, you're below a wave height of 3 feet, but you still measure from the still-water elevation, which is a calculated number from the FEMA coastal modeling.

COMMISSIONER SCHIFFER: Okay. So people in the know who use that know what that means?

MR. WILEY: Yes, sir.

COMMISSIONER SCHIFFER: And it's my naivety? That's fine.

MR. WILEY: This is just straight off of FEMA's page, this definition is, cut and paste.

COMMISSIONER SCHIFFER: Okay. As long as it makes sense to the people it has to make sense to.

You want to -- are you leaving that page to the next?

CHAIRMAN STRAIN: Through 15.

COMMISSIONER SCHIFFER: Okay, 14. As we go in the general provision, section three, you're stating

that this ordinance -- in other words, from this point on, it's only those areas that are in special flood hazard areas, correct? So in other words, if I own an X and I own a D, I can skip this section?

MR. WILEY: That's not what it says. Notice what it says. The ordinance shall apply to all areas of special flood hazard except as otherwise noted. That phrase is put in there because of the addition of our local criteria which is in our current ordinance for that 18-inches-above-crown road criteria which may be within a Zone X, but we still have the local criteria.

So when we go in the ordinance to that section, that is where it is noted as an area that applies to; otherwise, it is only just a special flood hazard area.

COMMISSIONER SCHIFFER: And that's why I'm bringing it up. But it is only that section, right? So can't we, out of courtesy to people, make them not have to read this whole section to determine that? Can't you just state, go to that, except as, and give that section?

Because here's what you're saying to somebody. And, you know, we're talking about, you know, code courtesy here is the -- much like the definitions, you -- don't make me read the whole thing to find out where -- or where it is. For two reasons. One, it makes me read the whole thing; two, I may miss something. I may miss the thing you're looking for. So why -- if it's only that one area, which it is, why can't we just send them right there?

MR. WILEY: We can.

COMMISSIONER SCHIFFER: Well, let's do it.

CHAIRMAN STRAIN: Great.

COMMISSIONER SCHIFFER: Do you want me to find out what it is, or do you know what it is, or you will do that?

MR. WILEY: I'll do that.

COMMISSIONER SCHIFFER: Because we've talked about this before.

MR. WILEY: I'm coming back anyway, so I'll do that.

COMMISSIONER SCHIFFER: Okay. And that is the only place, so let's just --

MR. WILEY: I mean, you can see it right there in the comment, it tells you where it is, so that we will simply say, except as noted in Section 5A16. But be careful about using a particular section number as verbatim because if something gets renumbered between now and when we come back -- but that's why we'll simply reference the location appropriately.

COMMISSIONER SCHIFFER: Well, okay -- but -- all right.

CHAIRMAN STRAIN: Okay. Anything else through Page 15?

COMMISSIONER SCHIFFER: Fifteen, I still have -- this brings in the violation, is, why do we have violations based on days, not based on -- because think about this thing. If somebody violates this ordinance, what really should happen to them is they should not be covered by insurance. They should have penalty. But to come up with a monetary per-day thing, what does that -- you know, a guy installs ductwork underneath the house below the elevation. What does the day -- dollars per day have to do with that?

Now, I know that's how we do code violations, but this is one, you know, section of code that is punished by Mother Nature, you know. In other words, if you do violate it, odds are you're going to be damaged in a storm. So, it's -- you know, I know we talked about it in the past, but I'm still having trouble coming up with \$5,000 a day for violations. We got the jail thing removed.

CHAIRMAN STRAIN: Is this the FEMA's requirement? Maybe that will help.

COMMISSIONER SCHIFFER: We got the jail time removed, so that was good.

CHAIRMAN STRAIN: Is this a FEMA requirement?

MR. WILEY: This language is put in here at the direction of the county attorney. This is not the language from the model ordinance. It is put in here so that we are consistent with what's currently used by code enforcement through -- and I hope I say this correctly -- the code enforcement master, whoever that person is.

So they're going to be the entity which is -- actually presents to the violator the issue, so it will go through code enforcement. This just duplicates their current process.

CHAIRMAN STRAIN: Okay. But code enforcement normally is involved with violations that are not of a nature necessarily with this floodplain ordinance, meaning it's not damaged as a result of storm events or flooding. It's more or less complaints about setbacks, hedges --

MR. WILEY: Well, they're involved with violations of our existing codes and ordinances. This happens to

be an ordinance.

CHAIRMAN STRAIN: I realize that they are, but what I'm saying is to apply the standards that are here that are used in everyday ordinary violations to violations as Fred -- as Brad aptly said, is more of a by-nature violation, may be more onerous than we need to be. And my question was, is the requirement to be this onerous from FEMA?

MR. WILEY: No, sir.

CHAIRMAN STRAIN: Okay. What is FEMA's requirement?

MR. WILEY: Just that you have a violations and a penalties section that you can enforce so that you can get the people to make the corrective actions. You have to have a way to bring about corrective action, versus the county itself having to come in and physically do it. I don't know how that would happen, but you have to have a mechanism by which the owner is penalized for violating, because the violations puts the county's participation in the flood insurance program at risk. And so we are supposed to be able to enforce by corrective action.

CHAIRMAN STRAIN: Can you give me an example of a typical violation that we might find in which this application would apply?

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: Okay.

MR. WILEY: North end of the county. Lely Barefoot Beach, VE zone. Supposed to be built with open space beneath the bottom lowest horizontal member. Now, go up there and look at it right now. The vast majority of them, all nice open space, as well as my garage, what I've built it in, I've partitioned it off, I've air-conditioned it, all without building permits; I've got a big list of them that FEMA drove by and gave to me. They expect the county to bring about corrective action. They've asked us, when are we going to do it.

We've got notifications from FEMA; that's what this is for, is for us to take those notifications we receive, go through code enforcement to bring about corrective actions for people to have to go in and take out their illegal improvements. They did it without permits.

CHAIRMAN STRAIN: Okay.

MR. WILEY: That's a typical situation that I'm aware of right now that is pretty prevalent in a particular part of the county. But they're all over the place.

CHAIRMAN STRAIN: Okay. Well, let's -- okay. That's an example along the coast. What if you went into Immokalee?

MR. WILEY: Okay.

CHAIRMAN STRAIN: What kind of -- say someone had done an improvement and it wasn't to the height that was required; what kind of reaction -- I mean, what kind of improve- -- what kind of violation could we have in that community as a result of the new flood maps, not the existing?

MR. WILEY: Okay. I clarified that. Because of the new flood maps, once they go into effect, should someone do something that would not meet the flood-zone elevation, what's existing right now is considered grandfathered.

CHAIRMAN STRAIN: Right.

MR. WILEY: Okay. So they've not required under this ordinance to go back and correct that. It's when they hit that substantial-improvement number, they would have to make the corrective actions.

But at that point -- say someone comes in, you've got a base-flood elevation -- let's pick a number out of the air. Let's say 20. I think the ground's higher than that, but let's just pick a number of 20, and they've come in and they have chosen to build onto their house a -- you know, they've got a big difference of elevation they need to have because they're at 18 and need to be up at 20 and they just go on out and build at 18. They did it without a permit; they're clearly in violation -- because they would not get a permit from the county unless they went to the 20. So they've done it without permits. This gives us another authority to go to them and say, you violated.

CHAIRMAN STRAIN: Okay. And then that's -- well, yeah. We're all heading in the right direction. And the reason I went through this exercise is I wanted you to lay it out so that I could make my point without me saying it.

So what happens is, they get fined at \$1,000 per day starting from the initial day, but we all know to take that addition down that is illegal, they may need a legal permit to do it or, at the minimum, they've got to rip it all out and they can't do it in a day. They probably can't do it in a week. They probably couldn't even get a permit in two weeks.

So now we've automatically built in --

COMMISSIONER CARON: You have read the entirety, and it goes over onto the next page.

CHAIRMAN STRAIN: Right.

COMMISSIONER CARON: Because it is a date set for compliance by the special magistrate. So the special magistrate, when they come before them, is going to know that it takes two months in order to get a permit, never mind get the action done, and will set a date accordingly -- that's what he or she does -- and then if you just don't follow that, I know that you get a chance to go back again and say, oops, I couldn't do it. So you get an extension again by the magistrate, and then if you still are not complying -- I don't know how many chances they give you, but I've watched these hearings; they get plenty of chances to comply. And then at some point, she's finally going to say, well, obviously, you're not trying to comply, so fines kick in. And it's -- you have to get to the end of the sentence before --

COMMISSIONER SCHIFFER: But my point is, she's brought in because you build something without a permit. In other words, the actual construction act. The fact that it's a violation of this ordinance may be one of the elements on it. But essentially it violated the master concept of, you built something without a permit. And she's dealing with it already. That's kind of my point is that, why do we have punitive clauses within here? Take your Barefoot Beach. Did they get a permit to build those things under there?

MR. WILEY: No, sir, as far as I know.

COMMISSIONER SCHIFFER: There's the problem, not the fact there's -- there may be electrical violations. You don't have to get to the electrical code to get penalized. I mean, there may be tons of other violations in that, one of which might be this FEMA -- well, is this FEMA requirement. So the point is that building without a permit is the problem, so --

COMMISSIONER AHERN: That's the problem.

COMMISSIONER SCHIFFER: -- therefore, I don't know why we need a -- you know, a special little penalty clause in here if there's a master penalty clause it would cover.

CHAIRMAN STRAIN: Well, I think because Robert -- when I asked that question in the beginning, you said that FEMA required some form of violation paragraph or clause; is that correct?

MR. WILEY: We have to be able to have a way to remedy noncompliance.

COMMISSIONER SCHIFFER: Then let's just reference our county, you know, whatever statute, or whatever clause is there for building without a permit; let's just aim it to that and let it be taken up with everything else.

CHAIRMAN STRAIN: Robert, can that be done?

Heidi, can that be done?

MR. WILEY: Talk to Heidi.

MS. ASHTON: Could you repeat the question, please.

COMMISSIONER SCHIFFER: Well, what I -- the point is that we're inventing our own little violation process here, and why don't we just piggyback the county's? Because every example he gave of violations of this code are building without a permit.

MS. ASHTON: Well, I think --

MR. WILEY: Let me interject here. You asked for an example. I'm not saying that it can't happen someone builds it incorrectly even with a permit. You just asked for a typical example of what I know has happened in a portion of the county.

COMMISSIONER SCHIFFER: Okay. So what you're saying is that there could be a case where a project's permitted, it's constructed, it's inspected, it's CO'ed, and then you go back and, oops, the floor's too low? That's a different -- totally different game.

CHAIRMAN STRAIN: But your solution still fits. We could simply refer -- any violations of this floodplain ordinance will be handled in the same manner as violations of any other ordinance in Collier County, through the code enforcement process, then you're covered. So it doesn't matter for what reason.

COMMISSIONER SCHIFFER: Because this never really was necessary. I mean, remember, we had jail time in it at one time. And I like -- Mark's comment is, he's sitting on the bunk and, you know, what are you in for?

COMMISSIONER CARON: Flooding.

MR. WILEY: Well, don't laugh, gentlemen; that's still in effect. That ordinance is still in effect until this one replaces it.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Well, good. Then we need to get this done.

MR. WILEY: Can we get a vote for full (sic) today then? Now, let's go.

CHAIRMAN STRAIN: I think what we're saying is, "I" needs to be omitted and just a reference put in to reference our typical process for violating ordinances in Collier County.

Is everybody on the same page?

COMMISSIONER CARON: You don't take out "I"; you just reference.

CHAIRMAN STRAIN: Rewrite it, yeah.

COMMISSIONER CARON: Yes.

CHAIRMAN STRAIN: Okay. We got there.

Sixteen through twenty, any questions?

Go ahead, Ms. Caron?

COMMISSIONER CARON: Yeah. Permit procedures. There's a note over here, and I'm not sure it's actually been resolved. So has that been resolved? We have the CCPC saying one thing, the County Attorney's Office saying one thing, and the Building Department staff saying something. So have we resolved that issue?

MR. WILEY: My understanding is, we still need to see plans, and it needs to be so stated in the ordinance. That's my understanding. If --

CHAIRMAN STRAIN: The question was --

MR. WILEY: -- you-all direct otherwise --

CHAIRMAN STRAIN: -- did it need to be a separate submittal, or was it all part of one massive process, or are we going to have someone now submitting separately to a floodplain administrator, receiving separate submission, documents, et cetera?

MR. WILEY: These are your existing plans that are being submitted right now to the Building Department.

MR. FRENCH: Your floodplain administrator, Mr. Chairman, is actually your -- one of your building chiefs. So that function is incorporated administratively within the former Building Department, now the plan review and permitting section.

CHAIRMAN STRAIN: Okay. And the floodplain administrator is defined as the county manager or his designee, if I'm not mistaken.

MR. FRENCH: That's correct.

CHAIRMAN STRAIN: Okay. So that works.

COMMISSIONER CARON: So you're okay?

MR. FRENCH: Yes, ma'am.

COMMISSIONER SCHIFFER: Okay. I had the same note. It appeared to me that this would be separate. So there's not a separate -- you don't get sheets within the submission that are just for you?

MR. WILEY: No, sir.

COMMISSIONER SCHIFFER: Okay. And you're going to be -- okay.

CHAIRMAN STRAIN: Unless there's a policy instituted afterwards that interprets it differently than what we're talking about today.

COMMISSIONER SCHIFFER: Well, yeah. And maybe somewhere we should make everybody aware of the fact that the floodplain administrator is the -- well, is within the Building Department. It's not the building official.

MR. FRENCH: It is not the building --

COMMISSIONER SCHIFFER: The manager.

MR. FRENCH: It's a licensed floodplain manager or certified floodplain manager. Actually, it's Jim Turner for Collier County, a long-term employee, and Jim runs mechanical and plumbing, that entire review section.

COMMISSIONER SCHIFFER: But when we submit plans, we don't submit them to Jim like this says.

MR. FRENCH: They come in as plan set, and they're routed through the building-review section.

COMMISSIONER SCHIFFER: I mean, I would rather see something here that states that the permits shall be reviewed by the floodplain administrator. But anyway, this does give the impression you're submitting something to him directly. Whether that's a big issue or not, I don't know.

MR. FRENCH: We can clean that up.

CHAIRMAN STRAIN: Yeah, why don't you? I mean, Brad just suggested it real simple. Why don't you



take a paragraph and make it a sentence?

MR. FRENCH: Sure.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: I think the requirements of what you should show is good so that somebody preparing those plans knows what you're expecting.

MR. FRENCH: Helps us manage expectations.

CHAIRMAN STRAIN: Anything else through Page 20?

COMMISSIONER SCHIFFER: Yeah.

MR. WILEY: So how do I revise it?

CHAIRMAN STRAIN: Go ahead, Brad.

MR. WILEY: What do you want it to say?

COMMISSIONER SCHIFFER: Just state in there that you'll -- during the permitting process, will be reviewed -- in other words, application for a development permit shall be reviewed by the floodplain administrator on forms furnished by him.

MR. WILEY: Are you getting this? Because I'm going to have to go from what you type.

COMMISSIONER SCHIFFER: It's just getting rid of -- the impression of, shall be made to give the impression that I walk in to Jim and give it to him. I mean, if that's -- I mean, we're really enjoying ourselves too much here, but --

COMMISSIONER CARON: I think so, on that one.

COMMISSIONER SCHIFFER: The next question I have is, on 17 you're looking for flood certification by a professional land surveyor or professional engineer. My confusion is, does an engineer -- is that the person in the state licensure system you would want to be making or qualifying elevations in buildings? In other words, I think a land surveyor alone is that person. I guess --

CHAIRMAN STRAIN: A lot of times these surveyors are employed by an engineering firm. The engineering firm actually is the one that submits the documents on SDPs that they submitted.

So I guess it could be done by either, but they -- one of them -- they'd have to do it through a chain and include a land surveyor.

COMMISSIONER SCHIFFER: Yeah, I think -- I mean, just check. I mean, if -- you know, and then the reason I bring it up, professional engineers is a big, broad band that it's very difficult for your staff, let alone the public, to differentiate what they're qualified as. And I don't think they're all qualified to establish -- maybe none are -- to establish flood-elevation datums, which is what that's saying.

Then the next sentence should makes sense, or further down, but that one first one, I think -- just check and see. If they're allowed by state statute to provide that, that's good.

My only other comment is B, paren two, maybe the word verify rather than assure is safer.

CHAIRMAN STRAIN: Lacking any objection, then we need to move forward with those changes, Robert.

COMMISSIONER CARON: Where was it?

CHAIRMAN STRAIN: B(2).

COMMISSIONER SCHIFFER: B(2).

CHAIRMAN STRAIN: Second line, verify.

COMMISSIONER SCHIFFER: I mean, everywhere else we changed that, you know.

CHAIRMAN STRAIN: Assure to verify.

COMMISSIONER CARON: Yeah, okay.

CHAIRMAN STRAIN: We did change that other places. We missed it there.

Anything else through Page 20? Okay.

COMMISSIONER SCHIFFER: On 20, paren 10, it's, any alteration; that makes sense. Repair, what you're saying is that if you have something that is in violation, you can't further it, extend it, or replace it, but you really do want people to be able to repair their homes. And these are in the general conditions for flood-hazard reduction.

So don't you think -- is repair really -- should that be in there, Bob? In other words, what you're really saying is if the paint job on my house is bad but the house is below flood criteria, I'm violating this by chipping off the -- maybe the rotted wood should have given me a clue, but chipping off the rotted wood and fixing it.

CHAIRMAN STRAIN: Bob, you want to react to that?

MR. WILEY: I better not.

COMMISSIONER SCHIFFER: Remember, I think rebuilding it, yes.

CHAIRMAN STRAIN: I'm not sure what that means, but I tend to agree with Brad. Why would we penalize people and not allow them to repair their homes? I don't think that's appropriate.

MR. WILEY: In this concept repair can be taken to allow you to continue to maintain the nonconforming situation, and when you have that situation, it needs to be brought up to compliance. That's what it's saying; you have to bring it into compliance with the flood ordinance. You can't just simply repair it and stay in noncompliance.

COMMISSIONER SCHIFFER: Your argument might be, the paint job is not the violation.

MR. WILEY: The paint job is not an issue for flooding, sir. That's why I preferred not to answer it, sir.

COMMISSIONER SCHIFFER: I'm good with that. But there is the impression that I'm repairing something that is in violation, which is a wall below the flood grade area. So, you know, the paint job is part of an assembly. So, you know, that fine -- you know, it is a minutia conversation here, but we don't want it down at the Building Department with somebody who --

CHAIRMAN STRAIN: What would be an example of a repair of a -- of something that is not in compliance with this ordinance?

COMMISSIONER SCHIFFER: I'll give you one. You know, a guy -- a building is built below flood level, the slab is at the wrong elevation and his wife backs the car into the stud-frame wall, and they have to repair it. He's repairing something essentially that's in violation, which is a wall coming off of a low slab.

CHAIRMAN STRAIN: But the low slab, was it -- was it put in at a time it was allowed, or was it put in without a permit?

COMMISSIONER SCHIFFER: Well, it would have -- here's what it is. It's sitting out in the Estates, and then when the new FEMA maps come in, it's now --

CHAIRMAN STRAIN: Well, but see, if it's prior to the new FEMA map, it's grandfathered in, so it wouldn't be a repair of a nonconforming structure because it's consistent with the ordinance because it was grandfathered prior to this ordinance.

COMMISSIONER SCHIFFER: Okay. So now we're in -- okay. In those other clauses we substantially -- would be where he's protected, okay.

COMMISSIONER CARON: Yeah.

COMMISSIONER SCHIFFER: I think that's okay.

CHAIRMAN STRAIN: Is that -- Robert, is that a fair assessment?

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: Okay. Now we'll hit Pages 21 through 25. Anybody have any questions?

COMMISSIONER SCHIFFER: Yeah. Bob, what brings in 16? Let's make sure, because 16 -- paren 16 on 21 is where you want to -- that's the other, right?

MR. WILEY: Yes.

COMMISSIONER SCHIFFER: So that will be clear. Never mind. That's good.

MR. WILEY: Notice in that one it says, for all areas of Collier County.

COMMISSIONER SCHIFFER: Right. But it is buried in that section.

MR. WILEY: But we're going to bring that reference point earlier on.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Anybody else, 20 through -- or 21 through 25? One thing noticed in reading parts of this -- and I should have caught it earlier, but I made the note on Page 22. When we refer to a defined term in this document, I see it neither capitalized nor bolded, and I'm wondering if that legally is sufficient. For example, when you talk about a professional engineer, are you talking about the professional engineer as defined or some other regard? And I'm used to seeing definitions either capitalized or bolded. Is that something we should have in this document, Heidi?

MS. ASHTON: It provides more clarity to capitalize it.

CHAIRMAN STRAIN: Right.

MS. ASHTON: Because it puts the reader on notice that it's a defined term. So my preference is to capitalize it, but technically it's legally sufficient as written.

CHAIRMAN STRAIN: What would be the simplest for the public to understand, do you think?

MS. ASHTON: To capitalize the first letter of each word.

CHAIRMAN STRAIN: Okay.

MR. WILEY: And if I'm correct, in the Land Development Code we also put it in a bold font, I think, don't we?

MR. FRENCH: Yes.

MS. ASHTON: Well, the Land Development Code does bold it. I think if you capitalize the words, that's sufficient, but it's a policy decision how you'd like to do it.

CHAIRMAN STRAIN: Honestly, with the terminology and the definitions different in this document, I think if you were to capitalize and bold them, we'd be in real good shape to know exactly when you're referring to a defined term, and everyone could turn to the front of the book to know that's where the term is. Does anybody think that's a good or bad thing?

COMMISSIONER SCHIFFER: No. And I'd even mentioned that in the intro to definition, so --

CHAIRMAN STRAIN: Pardon me?

COMMISSIONER CARON: Yeah.

COMMISSIONER SCHIFFER: So people know that. I would mention that in the intro to definitions.

CHAIRMAN STRAIN: I think it just adds a lot of clarity. And this is going to be a confusing document to begin with when it has to go -- instituted countywide, so -- so we're going to add in the intro that all defined terms will be capitalized and bolded, and then we'll follow that through with the entire document.

MS. ASHTON: And the capitalization will just be the first letter of each word, correct?

CHAIRMAN STRAIN: Correct. Otherwise it looks like one of those big articles in the paper that nobody ever reads.

COMMISSIONER SCHIFFER: I have a 23/24 question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Bob, on the bottom of 23 -- and it's just, I think, the way the pages are given to us -- is 4A, and then there's Roman numeral IV, and then at the top of 24, is that paragraph up there, the following -- that should be attached to Roman numeral IV, correct? The way it's presented here it just seems to be floating, but --

MR. WILEY: On Page 24, you said?

COMMISSIONER SCHIFFER: Look at the bottom of 23 and the bottom of 24. I'm talking about -- this is pure scribner kind of thing.

MR. WILEY: Okay.

COMMISSIONER SCHIFFER: The -- is that -- that lowest floor, is that part of Roman numeral IV?

MR. WILEY: Yes, sir.

COMMISSIONER SCHIFFER: Okay. So the end of Roman numeral IV where the parentheses ends, there should be the word, the lowest floor and continue on. It's a little awkward, but --

MR. WILEY: Yeah. It's very awkward there, especially where it flips pages. I don't -- you know, that's just a --

COMMISSIONER SCHIFFER: Even the reading of it's awkward, so --

MR. WILEY: Yeah. It's just an automatic page break put in by Word there.

COMMISSIONER SCHIFFER: So you're sure it belongs there? This is not a floater?

MR. WILEY: Nope, it goes there. It's just a continuing after the comma. After the word flood, it just continues on there.

COMMISSIONER SCHIFFER: Okay, okay. That's it. Thank you.

CHAIRMAN STRAIN: Anybody else through Page 25?

Maybe the lady from the Building Department could answer this better. I don't know. But, Robert, I'll start with you. This manufactured home and mobile home provisions, how do we know or how would it affect the farmworker housing in those areas that are no longer Zone X or D in Immokalee that are flood -- that are, under the new maps, flood zone? Do we -- has anybody checked that to see? Because there's a lot of farmworker housing out there, and they have to move the trailers and modify the housing periodically as their farm fields change. Do we know how this is going to impact those kind of facilities?

MR. WILEY: Well, they'll have to be built in compliance with it. So as they're moving it, when they

relocate it, they'll have to elevate it up to 3 feet or to the BFE, whichever is higher. That's -- right now they have to do the 3 feet anyway.

CHAIRMAN STRAIN: Right.

MR. WILEY: So they'll have to be --

CHAIRMAN STRAIN: And any accessory uses or anything, all that would apply; the entire document would apply to that housing as well?

MR. WILEY: Be careful when you start using accessory uses as to what you include in there, because we, earlier in discussions -- there are differences -- terminology using here, if it's nonresidential, they can be lower and then allow the water to come in through wet floodproofing techniques. You can do that.

CHAIRMAN STRAIN: I'm thinking utilities.

MR. FRENCH: If I might, Mr. Chair. I think the biggest issues that we would see is going to be on the mechanical side as far as elevating the air-conditioners up. Because, as you know, the mobile homes are already elevated. They're already on an axle, and then they put them on piers (sic). So I don't know that there's going to be much of an issue as far as adding another level of pier (sic), so to speak, and then tying it down so much as it's going to be actually raising that air-conditioning unit up.

Your underground utilities as far as water, I think -- and Tatiana can certainly speak of this -- but so long as those spigots -- and again, those spigots are already attached and those trailers are already plumbed, so to speak -- they're already going to be above your base flood elevation. So you would not have any access points or any openings without probably some sort of backflow-prevention device that's attached to that faucet or to that utility.

CHAIRMAN STRAIN: Through Page 25, any other questions? If not, we'll go from 26 to 30. Anybody have any questions on that?

COMMISSIONER SCHIFFER: Just one thing about -- or -- yeah, Bob, on 26, accessory structures. Some of that is repetitive from the definition. I just wonder if it's necessary or dangerous just to make sure they're both the same. But just check that to make -- because a lot of that you covered in the definition. And you're just repeating it here?

MR. WILEY: In some areas it does appear to be a bit, as though it's repeating, but this particular section was added at the specific direction of the Floodplain Management Planning Committee. And we went around and around and around with this issue, and this was the result of several votes, and this was the final version, that they wanted this particular section, including all of these lettered subpoints.

COMMISSIONER SCHIFFER: I guess, just make sure it doesn't conflict with the definition. If you're going to be redundant, you've got to be right.

MR. WILEY: That's correct. Within our ordinance, it -- as far as I'm aware, it does not conflict with the ordinance definition.

COMMISSIONER SCHIFFER: Okay.

COMMISSIONER CARON: And because this is an instance where we have two different definitions from our code to this, it probably is good to spell it out for people.

COMMISSIONER SCHIFFER: All right.

CHAIRMAN STRAIN: In that Page 26, 8G and H, they refer to Section 5A4 for anchoring of those particular facilities, like a storage container. Would this be like one of those pods where they -- big, like a steel box?

MR. WILEY: Uh-huh.

CHAIRMAN STRAIN: So you would have to steal the box -- not steal. You would have to set the box pursuant to the same standards in which you'd set a manufactured home?

MR. WILEY: Anchoring it down.

CHAIRMAN STRAIN: Right.

MR. WILEY: Right.

MR. FRENCH: Mr. Chair, those terms would be defined by the manufacturer of that box. So they would provide us -- I mean, essentially, for lack of a better term, the label's law. So they've engineered that box. They would provide you with tie-down directions, and it may or may not be the same as a mobile home. We would only inspect to what the manufacturer of that pod said.

CHAIRMAN STRAIN: Okay. So the Walmart right over here with all those storage containers behind it, you're telling me every one of those would have to be anchored like a mobile home?

MR. FRENCH: Probably not like a mobile home.

CHAIRMAN STRAIN: But that -- okay.

MR. FRENCH: But most likely they would do probably the 18-inch drilling stakes, and then they would be ratcheted down or cabled down to prevent them from floating away. Because they are temporary. They're not intended to be a permanent structure like a mobile home could be.

CHAIRMAN STRAIN: Well, that's what I was concerned about. To anchor them down like a mobile home, you're getting into a lot of -- but you're saying in lieu of Section 5A4 they could use standards that were certified with the container.

See, if you move -- turn to Page 19, I think that's Section 5A4.

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: And it says, manufactured homes shall be anchored to prevent flotation, et cetera. Methods of anchoring may include, but not limited to, the use of over-the-top or frame ties to ground anchors.

It doesn't say that they should be all -- they can also be anchored according to their manufacturer recommendations. But now you're saying the storage containers could be anchored according to the manufacturer recommendations?

MR. FRENCH: Well -- and again, I'll refer to Tatiana. But the manufacturer of each of the trailers or the mobile homes, so to speak -- just like whether it be a mobile home or whether it be a travel trailer, they give you direction, and that's -- when they submit permits, that's what we inspect to.

CHAIRMAN STRAIN: Okay. Should that latitude be mentioned in 5A4? Because if you're going beyond the manufacturing -- manufactured homes for anchoring by referring to that section in 8G and H, I just want to make sure that --

MR. FRENCH: We could certainly put a clause in there that says, or as defined by the manufacturer of that

--

CHAIRMAN STRAIN: That would be fine, okay. Just as an alternative.

MS. GUST: May I suggest some?

CHAIRMAN STRAIN: Sure.

MS. GUST: In general, we're allowed to use manufacturer specifications or anchoring detail provided by a professional engineer or an architect that will sustain the required wind loads or, in this case, flood.

MR. FRENCH: Or flotation.

MS. GUST: Right. So it's either way, an architect or a design professional method.

CHAIRMAN STRAIN: Or the manufacturer's specs.

MS. GUST: Or the manufacturer's specs.

CHAIRMAN STRAIN: That's fine. I mean, but I would like to see that latitude put in so someone reading it would know that.

COMMISSIONER SCHIFFER: And, Tatiana, aren't -- are all sheds like that governed by the building code? I know in the sections of the code I'm on anything, you know, less than 100 feet is not even required to get a permit, but --

MS. GUST: Any structure that is a structure itself is regulated by the building code. Now, for temporary construction, trailers or that type of building, we don't -- we just check accessibility, but they're not required a permit for the trailer itself but for the accessibility only.

COMMISSIONER SCHIFFER: All right. Thanks.

CHAIRMAN STRAIN: On that same Page 26, 8C, accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters. How is that determined?

MR. WILEY: Well, with us having almost imperceptible flow, it really is not going to be a big deal. But where you are in a situation you do have a flow north to south, you're going to want to put the narrow direction of the building so that the water has a chance to somewhat streamline and go around it. You're not going to want to create a deliberate blockage by putting the width of the building perpendicular to the flow direction.

It's not a big issue with us because of our flat conditions. But should the situation be there, this is to address it.

Now, let's go back, if we can, to make sure I'm get it clear on what you wanted before. Under G, 8G on Page 26, did you want us to address the issue there of manufacturer specs or put it over in the previous page?

CHAIRMAN STRAIN: I would suggest putting it in Section 5A4, then it encompasses any reference back to that section, including the manufactured homes who may have different design standards or another alternative that an engineer could be establish then. That way you cover everything.

MR. WILEY: Okay. That's why I wanted to make sure I got it in the right section.

CHAIRMAN STRAIN: Okay. That gets us through Page 30.

COMMISSIONER SCHIFFER: I have a 28 question.

CHAIRMAN STRAIN: Okay. Go ahead, Brad.

COMMISSIONER SCHIFFER: Bob, it's 3 and it says, the engineer or architect shall develop or review the structural design specification. In other words, what does shall -- we discussed it before, but -- or review mean? In other words, architects have to do their own work. They certainly have to develop it. The concern I have, are you giving the impression that an architect can review the work of others and sign and seal it and you'll be happy with that?

CHAIRMAN STRAIN: That's the rubber stamp option.

MR. WILEY: This is not condoning rubber stamp option, and we've talked about this before. But if Architect A designs something --

COMMISSIONER SCHIFFER: Yes.

MR. WILEY: -- then nothing gets done with it, a year later, two years later, whenever the builder comes back, they've got Architects A's plans. I'm a new owner. Hey, that looks pretty good. But they go to Architect B. This is what so and so -- you have, under the existing laws that architects and engineers work under, certain rights upon which you can take over ownership. You do certain acknowledgments, but you're best -- you're reviewing work and then you're certifying that you've reviewed it and it does meet -- and then you take ownership of that work, but you're not starting from scratch again. That's what this is talking about here. It's not simply saying, yeah, I've looked at it, no.

No, no. We're not supporting rubber stamp at all. This is following the current existing law that allows one architect or engineer to take over the work of another following their protocols. That's all we're saying here. But we're saying it in a single word, better than a paragraph.

COMMISSIONER SCHIFFER: The successor law really doesn't allow you to review. What it allows you to do is to essentially recreate that existing product as if it was their own. So essentially they redevelop it based upon that old plan.

In other words, I would really be comfortable if you got rid of "or review", because someone's going to stand there and say, I didn't create this document. They fired the other guy, but I reviewed it, it's okay. And that's not the way the game is played. I know later on you describe you have to meet the practices of the state.

MR. WILEY: So after the words, architect shall develop, scratch out "or review"?

COMMISSIONER SCHIFFER: I would get rid of "or review", just to not give the impression that just reviewing it's allowed, and you do state that it has to be done according to the state law. So if somebody had an argument that all they had to do is review it, they could bring it back with the state law, but I don't think that's what it's saying. Anyway, but that's my opinion. The board may --

CHAIRMAN STRAIN: No. I don't have a problem with it. Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Anything else through Page 30?

Robert, under this section on Page 28, standards for coastal high hazard V zones, would -- are docks considered principal or accessory?

MR. WILEY: Docks are not considered as a part of the structure, so they're not even an issue here for FEMA rules.

CHAIRMAN STRAIN: Docks are neither principal or accessory?

MR. WILEY: That's my understanding. They're not a structure. They don't have four walls or two walls under roof. They're open.

CHAIRMAN STRAIN: What if they put a canopy on it?

MR. WILEY: Then it becomes a structure. It's not a dock.

CHAIRMAN STRAIN: Okay. Well, then if you go to -- well, would it be a principal then or accessory structure with a roof, with a canopy?

MR. WILEY: I'm not going to say it's a definite either way. You'd have to look at the situation. I mean, are you building a very serious structure, or are you building just a little miniature thing? You could look at it depending on what you're building.

CHAIRMAN STRAIN: Say you're building a 150-square-foot dock, a dock that has a platform of 150 square feet.

MR. WILEY: Okay. And you're going to fully enclose it, walls and a roof?

CHAIRMAN STRAIN: No. You're going to put a canopy over it so that your boat, or while you're sitting out there --

MR. WILEY: Again, there's no walls. It's not a structure.

CHAIRMAN STRAIN: It's an accessory then.

MR. WILEY: But it's not a structure under this requirement here.

CHAIRMAN STRAIN: What makes it -- so a structure has to have walls and a roof?

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: Okay. A dock box then is --

MR. WILEY: I don't know what a dock box is. I'm not a boater.

CHAIRMAN STRAIN: It's a 6-foot by 4-foot by 3-foot-high square box house attached to a dock, has a lid on it and four sides. It wouldn't be a structure?

MR. WILEY: That's not a structure, no.

COMMISSIONER SCHIFFER: Unless it's a habitable dock box.

CHAIRMAN STRAIN: Well, what concerns me is what's on Page 30. 13 B&C, they talk about maximum allowable accessory structures in V zones. We have a lot of docks, and I just wanted to make sure that we weren't inadvertently affecting the square-footage area of the various docks that come in, because all of them have more than 100 square feet, and they're all worth more than \$2,500, so -- as long as they're not, then I don't have a problem.

MR. WILEY: Docks are not structures.

CHAIRMAN STRAIN: Good. Okay. But docks don't fall under this ordinance, but they do have a value that's insurable, I would assume, so -- if they're damaged or wiped out by a storm, so why wouldn't they fall under this ordinance?

MR. WILEY: They're not covered by flood insurance. You cannot get flood insurance for a dock.

CHAIRMAN STRAIN: Is that right?

MR. WILEY: That's correct.

CHAIRMAN STRAIN: Interesting.

COMMISSIONER SCHIFFER: What if it winds up in the neighbor's living room?

MR. WILEY: Well, that's your liability insurance. That's not your flood insurance. Flood insurance only repairs damage to structures.

MR. FRENCH: If it's your damage.

CHAIRMAN STRAIN: Okay. Well, let's take 31 -- Page 31 through the balance of the document, which is Page 35. Anybody have any questions from those?

COMMISSIONER SCHIFFER: I have some.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Bob, on 32, conditions for variances. The conditions that are listed there, you have to -- do you have to meet all of those or one of those or --

MR. WILEY: Depending upon where you are in the stack, it may reference subsequent sections or it may not. You really need to tell me where you want to talk about it.

COMMISSIONER SCHIFFER: Okay. So you have -- in other words, it just is a -- okay. Essentially it really boils down to that it's a one-half-acre site. Anything would have one-half acre, you're never going to get a variance on; is that true? Or -- it's an awkward thing to read. It gets really awkward. 2A -- and I know you've revised it a lot, but back -- and it starts to exclude some things.

Anyway, you've read this thing, and you think it covers everything all right?

MR. WILEY: What this does is this shows you within our ordinance format the requirements of the federal language.

Now, you made a statement that if you're less than a half acre, you can never get a variance. That's not

correct. A variance is granted as soon as the Board of County Commissioners votes for it. Now, you may not be able to properly get that supported by FEMA, but if they grant a variance, it is your local ordinance they have granted a variance to, and then the county has to live with the consequence of that through the flood-insurance program.

COMMISSIONER SCHIFFER: Okay. But it would not be a condition for a variance?

MR. WILEY: FEMA would not find it a condition for a variance.

COMMISSIONER SCHIFFER: But based on this, the condition -- FEMA only considers a condition for a variance a one-half-acre site or less? The first -- you know, paren 1 tells you that, paren 2 doesn't tell you that, but A refers you back to paren 1, so I guess it does get you --

MR. WILEY: And FEMA's position is, once you get a half acre or larger, you've got room to construct in a way that is in conformance. Remember, they do not consider cost. They do not consider appearance. They do not consider factors that typically we think justify a variance, and that's why you have to look very carefully within the FEMA program what they consider is acceptable criteria for a variance, and it sort of narrows you down very quickly.

COMMISSIONER SCHIFFER: Okay. On 33A, I think there should be, after subsection F, I think the word "and" should be there, and that's just a scribner -- make the sentence read well. I think you'll see it once you pull it apart.

MR. WILEY: Okay. Can you tell me where you're talking about here?

COMMISSIONER SCHIFFER: On Page 33A after subsection F. Just a scribner. I think it -- you know, the criteria of subsection F and paragraph paren 3, 4, 4 -- I don't know. Just check it out.

MR. WILEY: Okay, yeah. The statement's saying is the criteria of subsection F, paragraphs 1, 3, and 4 of this subsection D --

COMMISSIONER SCHIFFER: You may have it right.

MR. WILEY: Okay.

COMMISSIONER SCHIFFER: I mean, it's klutzed up with the cross-outs.

MR. WILEY: I can add an "and" in there.

COMMISSIONER SCHIFFER: Well, make sure you do need one. Don't trust me on grammatical things, believe me.

MR. WILEY: Yeah. Well, once I say accept changes, and then we look at the document again, it helps you be able to read it easier. In the underline and strikethroughs, you get lost in them. But we will correct that if it needs an "and" added in there. I've got it noted.

COMMISSIONER SCHIFFER: On Page 34, historic structures, the last sentence, without regard to the procedures set forth in the remainder of this section, and the remainder of this section is just structures in the floodway. Is that exactly what you want it to mean? I mean --

MR. WILEY: Your section is Section 6, which starts at the bottom of Page 30.

COMMISSIONER SCHIFFER: Correct. And between the words remainder of this section and Section 7 is only structures in the regulatory --

MR. WILEY: The remainder means all other portions of this section, not from this point forward.

COMMISSIONER SCHIFFER: Well, you may have to work with me on that.

MR. WILEY: I mean, we can change it, set forth in this section.

COMMISSIONER SCHIFFER: With regard to the procedures set forth in the remainder of this section. I have the urge to think from here to the end of this section is what you're talking to.

MR. WILEY: Well, delete that urge. That's not what it means. So how should we word that? Instead of saying remainder, just saying in other portions of this section?

COMMISSIONER SCHIFFER: Well, what does it mean then? When you say the remainder of this section, what does that mean?

MR. WILEY: That means, out of Section 6, you have subsection A, B, C, D, E, F, G -- no, through F. So you've got everything except E would be the remainder of this section. You got A, B, C, D, and F are the remainders of Section 6, whereas this E is only a sub-portion of it. That's what we're talking about. So if you don't want to say the remainder, we can take that reference out so we understand.

COMMISSIONER SCHIFFER: What you're saying, remainder means, except for the one you're reading right now.

MR. WILEY: That's correct.



COMMISSIONER SCHIFFER: Everything else.

MR. WILEY: Yes, sir.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: You can take it out.

COMMISSIONER CARON: Take out remainder.

COMMISSIONER SCHIFFER: Why don't you just say this section? And if I double read the one I'm reading myself, I think I'll double do it.

MR. WILEY: I will take out the words, the remainder of, so it would read, without regard to the procedures set forth in this section.

COMMISSIONER SCHIFFER: That would be perfect.

MR. WILEY: And I'll go back and check to make sure that is what we intend to say.

COMMISSIONER SCHIFFER: And I've been around a lot of codes, building, the land codes. I've never seen anybody worry about it that way, but --

CHAIRMAN STRAIN: Anything else through the end of the document? I have one question back where Brad had started. I had circled the same thing on Page 33, Item A on top.

Can you tell me word for word where that's referring to? The criteria of subsection F. First, I guess that takes you to Page 34 with the new subsection F called structures and regulatory floodway; is that correct?

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: Paragraphs 1, 3, and 4 of this Subsection D, which is everything, excluding the section that paragraph is in, 1, 3, and 4, are met. What criteria in Section F are we referring to? There's a statement that's two lines in one sentence. Is there criteria within that statement that you believe somehow -- are we -- I wasn't able to follow it when I was trying to track it back.

MR. WILEY: Okay. In a condition allowing for use of a variance, one of the things that you have to follow is what is in that Subsection F, which simply says, variances shall not be issued with any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.

So if you have a situation with an identified floodway, you cannot grant a variance that would allow something to have that negative impact within the floodway.

Now, just as a further clarification so you will note it, Collier County does not currently have any designated floodways on its Flood Insurance Rate Map. The preliminary digital Flood Insurance Rate Map, which is out for public review right now and is coming forward for future adoption, also does not contain any designated floodways.

But FEMA has made it very clear we must, in our ordinance, address the floodway potential should there be one declared in the future. They are requiring us to keep the term "floodway" within our ordinance, even though effectively we don't have any for Collier County.

CHAIRMAN STRAIN: So they're setting us up so that in the future when they declare one, they already have the provisions in place to utilize it.

MR. WILEY: If one is ever declared for Collier County. Lee County has them; Collier County does not. I really would not support the concept they're setting us up. It's just a statement of fact, sir.

CHAIRMAN STRAIN: Okay. Well, now that they are setting us up, can we anticipate the setup by undoing other relationships in this documents so that when they declare floodways all over Collier County we make sure we're as best protected as we possibly can?

If we approach it under that concept, is there changes that we could make that would protect us in regards from FEMA's vehemence, let's say, or aggressiveness when they declare floodways throughout Collier County?

MR. WILEY: Well --

CHAIRMAN STRAIN: Would it increase insurance rates to be declared a floodway?

MR. WILEY: No, sir.

CHAIRMAN STRAIN: What would be the impact of declaring something a floodway?

MR. WILEY: It has to do with the allowable building that can take place within it that you cannot increase the base flood elevation, knowing what a floodway is. That is the minimum area that you can have without creating that vertical increase, rise in the BFE.

And they are not identified in Collier County because we have such flat topography. We are in broad sheet flow.

Now, we did address the issue with them, even developing in the DFIRMs to consider, are there going to be floodways, and their answer back was, not for Collier County. Your topography does not support floodways.

CHAIRMAN STRAIN: We're not that much different than Lee County, but Lee County has floodways.

MR. WILEY: Apparently we are sufficiently different, because they have the Caloosahatchee.

CHAIRMAN STRAIN: Well, that's interesting.

MR. WILEY: And, you know, encroaching within the Caloosahatchee can have some significant backwater impacts on it.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: But, Mark, one thing, your original point is, it is awkward, this thing. And I read this D, you know, over and over. For example, D1 does not include a reference to Section F, yet once you get out of D, you go through E, F, and it's included.

So why in D2 do we have that reference to Section F? I understand that we're limiting it within D to 1, 3, and 4, but in other words, D1 does have to comply with the criteria of Section F; don't you agree, Bob?

You know, after you hop out of D, you're going to hit E and then you're going to hit F, and it has to comply.

MR. WILEY: Let me just help you understand it. I went as closely as I could to the verbatim cross-paragraph references that are contained in Chapter 44, Code of Federal Regulations. They've got you jumping back and forth paragraph to paragraph. I simply used our paragraphing numbering to put into that. Is it confusing? Yes. Would I like to change it? If I change it, I've got to basically duplicate language multiple places versus referencing cross-paragraphs.

So that's the only reason it's here in this way is, I'm trying to imitate what's in the federal language without having to sit and rewrite lots of wording over and over again.

If you don't want it, we can write the words in, but it gets several pages longer.

COMMISSIONER SCHIFFER: I think the danger of it is people trying to understand it. If, for example, in D2 you reference it, D1 you don't, yet the reality is, if you didn't reference it in D2, it would apply.

So can I start to come to the conclusion that maybe it doesn't apply to D1? Because why would you specifically reference it in D2? You know, that's -- and there's no answer to that, so don't try to figure it out.

But the point is that, you know, if you do something, you have to be consistent or people start to get confused thinking that it -- since you were specific in D2 -- D, you know, A, then maybe it didn't apply to one.

So it's just -- but the reality is, once you hop out of D, you've got to meet E and F and -- unless you're excluding it. So -- in other words, I wouldn't reference it unless you were saying it didn't have to meet something.

MR. WILEY: Let me just try to help you understand a little bit better. Between 1 and 2, the emphasis there is, if you'll notice it says, for the conduct of functionally dependent use.

Okay. Now, that's going to put you in a situation that you're going to be close to that water source. So you have an additional consideration to take into effect when you're close to that water source then, if it is a floodway, what you also have to consider.

Granted, up in D1, if you're in that D1 area, you're going to be addressing that floodway issue, too, because it's all a part of the whole section. But they're bringing to your attention through the way the federal law is written, as approved by Congress, that they happen to bring this particular cross-reference in. I just tried to imitate right out of 44CFR.

COMMISSIONER SCHIFFER: So what you're telling everybody, even though it applies to the other sections, if you're in 2, watch out for that one.

MR. WILEY: That is a special consideration because 2 puts you in a unique location, yes, sir.

COMMISSIONER SCHIFFER: But all the other, you know, variance conditions apply.

MR. WILEY: They do, yes, sir.

COMMISSIONER SCHIFFER: I mean, it's -- I mean, I'm not worried about it because it's overkill. But the only thing I'm worried about is people starting to think that it doesn't apply to the other section, so that's all.

MR. WILEY: We will remind them.

CHAIRMAN STRAIN: Okay. We've gotten through the entire document. Ms. Caron?

COMMISSIONER CARON: Just one thing. Back on Page 32, under K, this is one of those notes to the side where there is disagreement. And I think we either need to solve it or decide that it's okay to let it go the way it is. The County Attorney's Office would like it to read public utilities. The flood --

MR. WILEY: Floodplain Management Planning Committee.

COMMISSIONER CARON: -- committee would like it to read all utilities. And I think we need to decide.

CHAIRMAN STRAIN: Could you explain the difference? I mean, I know what a -- public utilities, let's assume, are like sewer and water, and all utilities would now include telephone and cable, so --

MR. FRENCH: And electric.

CHAIRMAN STRAIN: Well, electric too, but I mean, there's probably a lot of --

MR. WILEY: The big issue came out of Floodplain Management Planning Committee from our utilities division who did not want people to think that only the utilities provided by the public utilities divisions were applicable and private providers of water and sewage would not be applicable.

So they want it to be all utilities so everyone understood we're on the level playing field, and that's where this came from.

COMMISSIONER CARON: And the county attorney objects to that because?

MS. WHITE: Jennifer White, assistant county attorney, for the record. Frankly, it's been a very long time since this provision has been reviewed by our office, and I don't recall the reason for the difference in language. But I can tell you that we really could defer to the Planning Commission as to what is appropriate. I have no strong feeling one way or the other really.

COMMISSIONER CARON: This does have to come back. So if there is something, if you can find a note that says this is why we did this -- right now it is reading all utilities. And I guess we can leave it as all with the caveat that you-all will check and make sure. But you don't have a really legitimate reason why this needs --

MS. ASHTON: I would think the reason that they put public in would be because of the cost of providing governmental services to repair, you know, after flood conditions. That must be why they put public in, because referring to the public facilities, we may or may not have an obligation to repair private, so -- that's my guess, but we can --

COMMISSIONER SCHIFFER: Check it out.

MS. ASHTON: -- get that information for you.

COMMISSIONER CARON: Yeah. It's an important phrase, and I think it does need to be checked.

MS. WHITE: Okay. We'll go back through our notes. Thank you.

CHAIRMAN STRAIN: Okay. Does that wrap it up, guys, girls, ladies, gentlemen?

COMMISSIONER CARON: Kids.

CHAIRMAN STRAIN: I would like to now suggest, though, how we want the final draft to come back to us.

MR. WILEY: Well, let me -- let me give my comments here. We did get direction from the Planning Commission about -- you wanted to specifically address floodproofing to the base flood elevation or to 1 foot above base flood elevation. You specifically asked me to come back with some cost implications for it. So I wanted to make sure we went over that so we can have that on the benefit for the record.

You sent us back to DSAC to specifically get their input in giving us an example. So through great reluctance they finally did agree to do so. I mean, Nick jumped in in the conversation, because they weren't going to be of assistance at all. And Nick said, folks, Robert's directed to come back to you for this, so you've got to help us out here. So they finally did.

I got one example given to me. It says, assuming they have a typical 5,000-square-foot retail building with storefront windows to the floor on the front, some on each side, two exit doors on the rear and a double-door entry, that's the typical building example they were giving. That was developed by one of the architects on DSAC.

It was then handed over to another member of DSAC to come up with a cost estimate to floodproof that. He says, looking at a cost of about 45,000 to floodproof up to 12 inches. And I'm not sure why he came this way, but that's what he did. So he'd going to floodproof it up a foot.

Then I said, well, that's really not the question. The question is not floodproofing for 12 inches. The question is floodproofing an additional 12 inches above BFE. He said, okay.

So if he assumed he was -- he then said, let's assume then that just to get to BFE I had to floodproof it to 12 inches. I said, okay. We'll use that assumption. So he says, to build a building, he's got \$45,000 to floodproof it at 12 inches.

To go floodproof it up to 24 inches, he said, add an additional 70 percent to the cost. So floodproofing at that

point for the 24 inches, we then go to \$76-and-a-half thousand.

So the cost differential there to floodproof to 1 foot above the BFE in that example was a difference of \$31,500.

Now, what I then did was took that information and put it into the cost implications for flood insurance. If I assume it's a single-story structure -- and, again, it's nonresidential. That's the only ones you can floodproof are nonresidential. We're not talking about homes. These are residential.

If I make an assumption that I'm going to insure the building and I got -- I have ranges here -- and we can put any range you want. I've got the spreadsheet on my computer.

But if I started at \$200,000 of insurance on the building, \$150,000 insurance on contents -- now that's just a number I picked. To floodproof it at the base flood elevation, their annual flood insurance premium will be \$10,753. If you floodproof it to 1 foot above the BFE, that same flood insurance policy is \$2,853.

Numbers, follow -- if we assume the building value of 500,000, because you can go up to that for flood insurance, with 150,000 in contents, you're at BFE, floodproofing insurance would be 13,991 each year; 3,139 if you floodproofed it the additional 1 foot.

If you have a multi-story structure, it follows parallel. It's just your dollar values are different for the risk you have factored in there. The 200,000 building, 150,000 flood insurance, floodproof at BFE would be right at \$7,200. If you floodproof it to 1 foot above BFE, you're talking \$1,800.

So you can see you have factors of from four to five, little over five running here. And those are your annual flood-insurance premiums. So using that example, you then figure out, if he's going to have to spend an additional \$31 and-a-half thousand, how many years would it take him to recoup the costs? And it just depends upon the particular insurance that you get for it. You can see that cost factor come in. Within three years he's paid out more in flood insurance than to build the building.

So I want you-all to understand that so you can give direction. The current ordinance says, floodproof to the BFE. There is just a note in there that floodproofing to the BFE can have some impacts on the flood insurance.

Remember, not everyone's required to have flood insurance, only for federal dollars attached to the building, which is typically through a mortgage. But if the flood insurance is required, those are the impacts they have.

So I wanted you-all to have the benefit of that so you can give us direction, do you want us to stay with floodproofing to BFE, do you want us to change it to requiring floodproofing 1 foot above BFE; what's the direction of the commission?

COMMISSIONER SCHIFFER: Question?

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: And did that take into consideration making the walls of the building up to that level as the code says, substantially impermeable?

MR. WILEY: I gave you the prices that come from the architect and his drawing that was submitted to the contractor who gave the price.

COMMISSIONER SCHIFFER: Okay. So the answer is --

MR. WILEY: What he says -- what he says, you're looking at a cost to floodproof up 12 inches. It would include creating a different foundation at each door to accept the flood panels, raising the storefront windows on a concrete curb, providing a waterproof membrane from the footing up to the underside of windows, providing flood panels at the four doors.

He did not address any additional strengthening of the walls which, up to 2 feet, you generally don't have to for a CBS structure. When you get above 2 feet, you do have trouble with mortar starting to break under the hydrostatic load.

COMMISSIONER SCHIFFER: So I think it really -- the cost is at the openings that he did the study for, don't you agree?

MR. WILEY: He's addressing primarily cost of openings here, that's correct, and the foundation required to support that paneling, right. So he is not including also the cost for walls that he would have to do anyway.

COMMISSIONER SCHIFFER: I'd be in favor of the freeboard to 1 foot.

CHAIRMAN STRAIN: Does the freeboard in this context have any impact by itself on the CRS, or is that still needed to be in a package to change the CRS a significant amount to get to a new level?

MR. WILEY: The latter. It would have to be a separate package addressing a freeboard for all structures --

COMMISSIONER SCHIFFER: Right.

MR. WILEY: -- not just the dry floodproofing consideration for nonresidential.

CHAIRMAN STRAIN: So the only --

MR. WILEY: It's a different criteria. When you seem to say freeboard, then dry floodproofing it's -- it seems to be the same for that one particular building, but freeboard would address everything.

CHAIRMAN STRAIN: Okay. So by utilizing -- encouraging a freeboard now, we're not gaining a CRS standard; we're just forcing people to save money on their flood insurance; is that --

MR. WILEY: You are giving them an opportunity to save money on their flood insurance if they have to purchase it or choose to purchase it.

CHAIRMAN STRAIN: Why was the DSAC reluctant to respond to you in your request from this board?

MR. WILEY: Every building is different, as Mr. Schiffer has stated, so they did not want to give the impression that this is just what it's always going to cost you. Every building is unique, criteria, even how you would choose to address the floodproofing.

So ultimately they finally said, okay, we'll just give you a typical example and make sure to explain it as a typical example, not a specific building in mind.

Even going to the 24 inches, just depending upon the style of the building, could have grave differences in cost factors, depending upon what you choose to do, and which is what Mr. Schiffer was saying before in our conversation.

CHAIRMAN STRAIN: Okay. I'm just surprised that the industry didn't want to weigh in more strongly on this whole process anyway without having to be asked, and when -- to be asked and then be -- not want to respond.

Go ahead, Melissa.

COMMISSIONER AHERN: I was at that DSAC meeting, and I talked to members after our meeting. And, you know, they recommended adding the note and not forcing it due to the cost.

And so I think that was part of their issue, not that they didn't want to address it. But the cost is so variable that it's hard to pin it down, which is why they chose to go with the note and give people the option instead of -- because that 30,000, depending on the building, can easily get into the hundreds.

So that was the specific reason for them going with the note as opposed to enforcing the 1 foot.

CHAIRMAN STRAIN: Well, I think it would be easier to deal with it under that term now, but when we go to a CRS change, we'd probably have to look at a more binding requirement versus a note.

So anybody have any -- Brad?

COMMISSIONER SCHIFFER: Well, I mean, I think, you know, the payback's rather -- extremely beneficial. You know, in the design of that building, you know, they don't have to bring the windows to the floor and stuff like that -- could have saved some money.

So I'm a fan of trying to push it where -- I mean, isn't the smart thing to do to put it 1 foot above the base flood elevation? I mean, the reason the insurance rates are a lot less is because of wave action and everything else, right?

MR. WILEY: The insurance requirement is, if you use dry floodproofing on the building, you initially look at the building and subtract 1 foot from the top elevation of dry floodproofing. That's how you rate the building.

So if you build it with the building, floodproof to the BFE, as soon as you go to buy flood insurance, you're automatically rated at 1 foot below BFE. That's just standard. That is right in the flood-insurance manual.

COMMISSIONER SCHIFFER: Right. So essentially you're rated not compliant?

MR. WILEY: You are rated noncompliant, yes, sir.

COMMISSIONER SCHIFFER: So what we would do by making the freeboard requirement or the 1-foot requirement is we'd make all the buildings comply.

MR. WILEY: For flood insurance side of it.

COMMISSIONER SCHIFFER: I mean, I guess my question is, do we want people to have the free will to make that decision, or do we want the government to tell them to make that decision?

CHAIRMAN STRAIN: But I think there's two stages in which we can make that determination. One is now, or one is by the CRS modifications that we package up in the future to see if it's worth it on a countywide basis.

COMMISSIONER SCHIFFER: But the CRS would -- has much more meaning. If you put a 1-foot freeboard on the -- essentially you would move this thing up another foot, too.

MR. WILEY: Yes, sir.

COMMISSIONER SCHIFFER: So you're 2 feet above it.

MR. WILEY: That's correct.

COMMISSIONER SCHIFFER: So the CRS is different. This is the decision, do you want the government to tell people that they should comply with their insurance, or do we want them to do it on their own?

CHAIRMAN STRAIN: But isn't it people's decisions, if they want to make -- if they want to save money on insurance policies, shouldn't that be up to them to make that decision rather than the government telling them? It's like health insurance. I mean --

COMMISSIONER SCHIFFER: Yeah, it is. If everybody knew all the regulations, yes. But, you know, somehow in plan review are we going to send a note out saying, oh, by the way, remember, you're -- the way you're protecting this building is not going to get you the benefit of the insurance.

COMMISSIONER AHERN: Well, we discussed -- Jamie, I think we had the conversation about this being at -- through the application process of you guys identifying this issue when it comes in, whether it's addendum or somehow addressing to make sure that -- whether somebody has to sign off stating they understand.

MR. FRENCH: If I recall the conversation correct -- I think Commissioner Caron was the Chair that day -- I think the intent of this board was, you wanted to see what best represented the person who was going to be occupying this dwelling. In other words, we took into -- you were taking into consideration clearly what the contractor or what the builders were having to go through as far as the costs associated with this, but really was the payback large enough for that increase -- because it's a pass-through to the person who's buying the building. And that's what Robert's mission was.

So yes, we had conversation as to -- because they're at a disadvantage, clearly, when they build to the current base flood elevation -- and that's a federal standard. That's just the way it is -- we would allow them or certainly point out to them throughout the application process -- point that out so that they would -- that way it's clearly identified to them that they are going to pay a higher rate of insurance and that they should -- not that they will -- but they should allow whoever their con- -- their customer is, whoever's going to be owning that building or occupying that building, to know, your flood insurance rates are going to be higher because of this particular standard of measurement, so -- but we did have that conversation, yes.

COMMISSIONER AHERN: Saying it's another way to notify -- to have on record that they've been notified, but they do have the option.

MR. FRENCH: And we can put that within the application package as a -- just as a -- we can insert an addendum, and -- just for information purposes only, and maybe even have them initial it off that they just -- administratively, we can have them acknowledge it.

COMMISSIONER AHERN: Yes.

COMMISSIONER CARON: I think that would be a good thing, and you might want to say that it will be dramatically higher flood insurance premiums because --

MR. FRENCH: We would run that through -- clearly, would run that through the County Attorney's Office to make sure that we weren't putting us or the manager's office or the board in the position that we were using language that they weren't in agreement with.

But -- and it could be based off of where they built, the elevation they built at, and the flood zone that they built in.

COMMISSIONER CARON: Yeah. This note has to get to some other place than in this document.

MR. FRENCH: Oh, yeah. And I can't -- I think from staff's perspective and not that -- maybe it should be our perspective -- but I don't know that that's going to get to the owner of that building or the occupant of that building. It may stay at the contractor level.

CHAIRMAN STRAIN: Well, if someone is going into business, one of the biggest costs right now is to check your insurance policies, your payroll costs, and everything else.

MR. FRENCH: Clearly.

CHAIRMAN STRAIN: If they're going into business, they ought to be smart enough to know that they can receive different rates if they -- and it would certainly be a question they should ask their insurance agent; otherwise, they maybe shouldn't be going into business.

So anyway, I am steadfastly against larger government, and the less we can have government intrusion, the

better. So I like the idea of an option.

COMMISSIONER SCHIFFER: Okay. But in our ordinance we -- you have brackets there where you do point that out to them?

MR. WILEY: Right now in the ordinance it is bracketed and in bold.

COMMISSIONER SCHIFFER: Right. So I guess we're doing our job. I'm comfortable.

MR. WILEY: It's just a note.

CHAIRMAN STRAIN: Okay. Then we're going to leave it like it is.

Now, process for the next time. It's nice to have all these little bubbled on the right column and the light blue and the strikethroughs and the underlines and the dots and all the other stuff, but I think since you're going to go back and reformat this with capitalization and bolding for definition and you're going to edit those areas that this board now has boiled it down to for our concerns, and we're the last board that's going to see it, I would just as soon that -- and I don't know -- I'm asking the rest of this board, that we eliminate all of the other items in here and just now focus on the -- what we've just asked, which is the handful of changes -- well, actually, there's been quite a few changes -- we've suggested making, the new ones the county attorney makes, and do away with all the right-column bubble, you know, comments and all the rest of it, do away with all the different colors and strikethrough, but focus on just those items that we've now changed so that we can read this in somewhat of a clean format except for what happened today. Is that --

COMMISSIONER SCHIFFER: I'm good.

CHAIRMAN STRAIN: We always got this document to keep. In case we start questioning something again, we can pull back and look at this one to make sure it wasn't already questioned and changed because of a prior action. So I think that gets us there.

MR. WILEY: And the easiest way to do that is just simply take this current document, accept all changes, then edit it to reflect comments from today.

CHAIRMAN STRAIN: I agree. That's what I'm --

MR. WILEY: That's what it sounds like you're saying.

CHAIRMAN STRAIN: I want to make sure the rest of the board accepted that and didn't want a continuation of all these comments on the right column, so --

COMMISSIONER CARON: No. I think if we didn't comment on any of the comments to the right, then we've accepted them.

CHAIRMAN STRAIN: Right. That's what I meant.

MR. WILEY: Now, I do have a question then when I go to the Board of County Commissioners. Do you want the Board of County Commissioners to have the benefit of seeing everybody's comments up to this point or just yours?

CHAIRMAN STRAIN: That's a staff policy. I could care less. I mean, whatever the board wants you normally to do. You guys produce executive summaries constantly to that board. So whatever you think they want, you need to give them. I can't speak for them.

MR. FRENCH: We could bring that back up when we bring this document back to you.

CHAIRMAN STRAIN: Yeah. I mean, if I was a -- if I was a board member there, I'd want to see a clean version, because my assumption is, it would have been thoroughly vetted by the various subcommittees, and I'm reading a clean version. Why would I want all the jibber jabber in between? But, anyway, that's up to them.

Anybody else have any comments? Then I think we are about done.

No new business?

Go ahead. Diane?

COMMISSIONER EBERT: Yeah. I'm going to ask Mr. French, because there are three new people on the Planning Commission, could we come in like a day or two before the Planning Commission and have some of our questions answered?

CHAIRMAN STRAIN: You can't do it as a group, that's for sure.

COMMISSIONER EBERT: So you have to make an appointment individually?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: Is there -- can we go through some of the procedures?

MR. FRENCH: I think that that would actually be a great idea. Almost -- not necessarily like a

new-employee orientation, but clearly as you're up there making decisions, it is -- it's advantageous to staff that you have all of the information that we've been presented with and have a clear understanding as to how we process it in accordance with both state statute and our local Land Development Code.

I would defer to Mr. Lorenz -- he is the director of that department -- as well as Mr. Bellows to set that up with you. But certainly, I think I speak for Nick as well, in telling you that we would have no objections to that.

The only thing that we would ask, and simply for consideration purposes, is that we schedule these well in advance and understand that you get this Planning Commission package in a certain amount of time. So we're going to have to actually lock down a time that's both convenient for you and also convenient for staff simply because of the fact that there are meetings with the permit applicants that are paying to -- for their preapplication meetings and things like that. But certainly, we could -- I believe we could schedule that, Ray?

MR. BELLOWS: Yes.

MR. FRENCH: No issues. But -- and I know we've spoken about this before, and for the rest of the board's -- certainly just for your knowledge, I know Diane has come in on numerous occasions, and both myself and Ray and staff have met with her, and we encourage you all to reach out to us and come down at any time and make that call. And we encourage that of the public as well. So clearly we want to have that information available to you.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay. Barry?

COMMISSIONER KLEIN: Just coincidentally, I happened to trade some emails with Ray over the last week about things that we knew commissioners could do to accelerate our knowledge, et cetera, and I was even asking about the big planning --

MR. BELLOWS: APA.

COMMISSIONER KLEIN: -- APA, whether we could join, whether we could use their resources, not -- from our own pocket. You know, I'm not asking for any handout. So I think Ray's sending out something like that to explore.

MR. BELLOWS: Yes. And we do have an APA planner library for anyone to come in and look at if you want some resource reference materials. Staff can send you resource reference materials. But we welcome calls, emails, any questions you have, and we will be setting up an orientation, a more formal one than we had already, where we'll have some of the directors from the other divisions, such as Bosi in Comprehensive Planning, Mike Green in transportation, to give you some more background in what they do in review of land use petitions and how that information affects the Planning Commission.

MS. ASHTON: If you're going to have more than one member of the planning commission at that orientation --

MR. BELLOWS: Yeah, we'll advertise it.

MS. ASHTON: Okay. You're going to advertise it in accordance with the Sunshine Law.

MR. BELLOWS: Yeah. We did that a few years ago, like five or six years ago, and that was an advertised meeting.

CHAIRMAN STRAIN: Okay. Is that it?

(No response.)

CHAIRMAN STRAIN: With that, motion to adjourn.

COMMISSIONER KLEIN: (Raises hand.)

COMMISSIONER EBERT: (No verbal response.)

CHAIRMAN STRAIN: Mr. Barry, seconded by Diane.

All in favor?

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: We are adjourned.



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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 11:45 a.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

These minutes approved by the board on \_\_\_\_\_ ✓ \_\_\_\_\_ as presented \_\_\_\_\_ or as corrected \_\_\_\_\_.

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