

November 21, 2019

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, November 21, 2019

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 9:00 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman
Karen Homiak, Vice Chair
Edwin Fryer, Secretary
Karl Fry
Stan Chrzanowski, Environmental
Joe Schmitt, Environmental
Tom Eastman, Collier County School Board
Representative

ABSENT:

Patrick Dearborn

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager
Jeremy Frantz, LDC Manager
Jeffrey Klatzkow, County Attorney
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

CHAIRMAN STRAIN: Okay, everybody. Welcome to the -- what date is it -- November 21st meeting of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. Will the secretary please do the roll call.

COMMISSIONER FRYER: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER FRYER: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER FRYER: Mr. Fry?

COMMISSIONER FRY: Here.

COMMISSIONER FRYER: I'm here.

Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER FRYER: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRYER: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRYER: Mr. Dearborn?

COMMISSIONER DEARBORN: (No response.)

COMMISSIONER FRYER: Mr. Chairman, we have a quorum of six.

CHAIRMAN STRAIN: Okay. Patrick will not be able to make it today. He had an excused absence. He had something to attend to.

So that takes us to -- well, it's out of order, but addenda to the agenda. We have several items on the agenda; four of them to be exact. I don't know of any changes, and I'm hearing none from staff. So we'll leave it like it is.

Absences for the Planning Commission: On the evening of December 3rd, which is, I believe, a Monday -- or is it a Tuesday?

COMMISSIONER HOMIAK: Tuesday.

CHAIRMAN STRAIN: Tuesday, yeah. We have a meeting in this room on an LDC amendment. So does anybody know if they're not going to be able to make it to the evening meeting on December 3rd?

COMMISSIONER FRYER: Chairman, I will probably be here, as long as the plane is reasonably on time.

CHAIRMAN STRAIN: Well, we'll make sure it is.

COMMISSIONER FRYER: Thank you.

CHAIRMAN STRAIN: Okay. We'll have a quorum. And then two days later we have a regular meeting on 12/5. Does anybody know if they're not going to make it on the December 5th meeting?

(No response.)

CHAIRMAN STRAIN: And, by the way, I believe our packets might be sent out early because next week is our holiday, so you'll get your packet a little bit early. We'll have some extra time with it.

COMMISSIONER SCHMITT: How many petitions do we -- we still identify the same petition -- number of petitions on the 5th?

CHAIRMAN STRAIN: There's a few. I've seen the agenda. I just don't remember offhand. Ray?

MR. BELLOWS: I'll look it up.

COMMISSIONER FRY: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER FRY: Is there a second meeting in December?

CHAIRMAN STRAIN: I don't know. We usually have a second meeting if one's needed. Ray, that date would be the 19th, so it's a week because Christmas, so...

MR. BELLOWS: I'll see if anything's on the agenda, and I'll let you know.

CHAIRMAN STRAIN: The interesting one, and I was going to bring it up, is January 2nd is a Thursday. And, Ray, it might be nice to know if we're going to have -- because a lot of people might go out of town for the holiday.

COMMISSIONER SCHMITT: Yeah. I will not be available on the 2nd.

MR. KLATZKOW: Plus, you guys will be hung over. There's no point.

COMMISSIONER FRY: We will or you will, Jeff?

COMMISSIONER FRYER: May we strike that from the record?

COMMISSIONER CHRZANOWSKI: What is the matter with that, anyway?

MR. KLATZKOW: Just --

CHAIRMAN STRAIN: Oh, no.

MR. KLATZKOW: There's just nothing.

COMMISSIONER FRY: Strike that from the record.

CHAIRMAN STRAIN: Jeff, you got it going.

COMMISSIONER SCHMITT: But based on that, Rich may --

MR. KLATZKOW: In your case, you know --

CHAIRMAN STRAIN: Ray, at some point, when you get that information, would you let me know so we can just get acknowledgment on what we're going to do the 19th and January 2nd?

MR. BELLOWS: It's almost ready.

CHAIRMAN STRAIN: Okay. And today at the -- I'll be leaving early today at the break. I have another commitment I have to go to, and Karen will take over at that point depending on what we have left. I'm not sure how much we will have left by then.

Which takes us to approval of the minutes.

Oh, Ray. If you've got it now, that's great.

MR. BELLOWS: On December 5th there are four items. One is the Tree Farm PUDA; the other is the Immokalee Guatemala Center conditional use; parking exemption for Tin River Court; and an Oil Well Road Growth Management Plan amendment.

CHAIRMAN STRAIN: Okay.

MR. BELLOWS: And there's no scheduled hearing on -- we have one item on the December 19th meeting and no -- no items on that first meeting in January.

CHAIRMAN STRAIN: Okay. Well, that's probably -- the first one in January is the most important to probably avoid if we can. The one on the 19th, you know, keeping it light, that's great. I don't know why we wouldn't meet. It's the week before Christmas, so we'll just assume that's going to happen, and we'll get a report on the 5th to make sure, and we'll verify at that point.

Joe, did you have something?

COMMISSIONER SCHMITT: Yeah. The parking exemption does not go to the Hearing Examiner?

CHAIRMAN STRAIN: It does, but it had a heightened public concern, so I moved it to this panel.

COMMISSIONER SCHMITT: All right.

CHAIRMAN STRAIN: Okay. That takes us -- oh, and I'll be leaving at the break.

And that takes us to the next item, which is approval of minutes. We had our CCPC AUIR minutes from October 21st. Does anybody have changes or corrections. And if there isn't, is there a motion to approve?

COMMISSIONER FRYER: Move approval of those minutes.

COMMISSIONER SCHMITT: Second.

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER SCHMITT: Aye.
CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries -- six of us -- 6-0.
BCC report and recaps, Ray?

MR. BELLOWS: Yes. On November 12th the Board of County Commissioners heard the Logan/Immokalee PUD amendment. That was approved on their summary agenda.

They also approved the AUIR 5-0. And the Courthouse Shadows PUD amendment and Growth Management Plan amendment was approved 4-1, with Commissioner Taylor opposed.

CHAIRMAN STRAIN: Okay. That takes us to -- I don't have any Chairman's report, and there's no consent agenda.

***We'll move right into the first public hearing. It's Item 9A. It's PL20190000502. It's for the Audubon Country Club Planned Unit Development up on U.S. 41.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

(The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN STRAIN: Okay. Disclosures. We'll start with Tom.

MR. EASTMAN: No disclosures outside of those contained in the public record.

CHAIRMAN STRAIN: Stan.

COMMISSIONER CHRZANOWSKI: Same.

CHAIRMAN STRAIN: Karl.

COMMISSIONER FRY: Same.

CHAIRMAN STRAIN: Ned.

COMMISSIONER FRYER: Same plus very helpful meetings and telephone communications with staff.

CHAIRMAN STRAIN: I was going to say the same till Ned broke up the chain. Go back one person; I'll say the same as the previous three.

Go ahead, Karen.

COMMISSIONER HOMIAK: Same as everybody but Ned.

CHAIRMAN STRAIN: Okay. Go ahead, Joe.

COMMISSIONER SCHMITT: Only public information.

CHAIRMAN STRAIN: Okay. And with that, I notice there's a member of the public here for this. So we've all read it. I'm sure we've all read it, and I'm sure we understand it. It was plain and simple. But you'll need to provide a presentation so the members of the public that are here understand what it is they're getting.

MR. GALLANDER: Can do.

CHAIRMAN STRAIN: Thank you.

MR. GALLANDER: Mr. Chairman, fellow commissioners, my name's Ken Gallander. I'm a certified planner with RWA Engineering. Good morning.

I'm here on behalf of the owner/applicant Baer's Furniture Company, Inc. I have a brief presentation for you.

To begin, we have the subject property. It's the overall Audubon Country Club Planned Unit Development. And I'm going to speak to it with this next slide if that's all right.

Within the Audubon Country Club Planned Unit Development, there's a commercial retail tract, and this tract is outlined here in yellow. And within that, it was subdivided as a commercial center subdivision, and the location, obviously, is at the -- south of the intersection of Audubon Boulevard and Tamiami Trail.

Within this commercial subdivision, there's three tracts; Tract X, Y, and Z. Within this commercial retail tract, it is approved under the current ordinance for 124,000 square feet of commercial use. And out there right now -- and it was verified through the zoning verification letter -- it's built up to -- or currently built at 123,400 square feet.

But for this particular petition we're looking at Tract Y, and it's highlighted and shaded in yellow there, and that's the -- developed with a 60,000-square-foot furniture store, and that's the Baer Furniture retail store.

So the request is to amend the Audubon Country Club Planned Unit Development, and this is to allow an increase of the commercial square footage from the approved 124,000 square feet to 128,400 square feet. And as written out in the revised language within the PUD, it is only platted -- only if platted Tract Y is developed as a furniture store for a maximum size of 65,000 square feet, which, again, it's currently 60,000 square feet, or 60,000 square feet as a shopping center use.

So this, then, through this amendment, if approved, would then enable our client, the owner of Baer's Furniture, to then seek to expand the current store to 65,000 square feet; increase of 5,000 square feet.

What I want to do here is -- this gives you a perspective of the proposed expansion area. This is looking east towards -- Tamiami Trail is at the top, and this is looking at the back of the current structure. And then, obviously, you can see there's an open area, and that's the desired area for the expansion of the furniture store. It would, obviously, stay within the current footprint of the building.

Additionally, here's another perspective looking up. It's at the second story, second level there, and that's where it would be expanded.

So per the application and the evaluation criteria, in my professional opinion, the proposed amendment is suitable for the proposed expansion of the furniture store. We feel it's in conformity with the Growth Management Plan, the compatibility staying within the footprint of the structure surrounded by other commercial uses. There's no open-space impacts. We're not seeking any deviation.

We obviously had our neighborhood information meeting. We did have some of the public attend. They were interested in what the expansion would entail. And from that, they were just more curious as to what was happening within the commercial component of the Planned Unit Development. There was no opposition. They were then very pleased to see that the business was expanding; it was growing; there's not going to be an issue out there. And, obviously, we are, too. We're seeking to help our client move forward with a successful business out there.

So in closing, we concur with the staff report, the analysis and recommendation of approval to -- by the Planning Commission to the Board. Again, we feel we've satisfied the evaluation criteria per the application and, in my professional opinion, consistent with the Collier County Growth Management Plan and the Land Development Code, and we respectfully request the recommendation of approval to the Board of County Commissioners.

I do have a few members of the team here, but I'll be happy to answer any questions that you may have.

CHAIRMAN STRAIN: Okay. Anybody have any questions? Go ahead, Tom, then Karl.

MR. EASTMAN: You showed the photo of the building, and it's kind of odd to me with that gap there. What was the purpose of that? Was it -- was that -- what was it used for? Why is it designed like that?

MR. GALLANDER: Unfortunately, I don't know that particular answer. It apparently is -- there's doors that go out onto that deck maybe, and it could be used -- it's hard for me --

CHAIRMAN STRAIN: Did they ever sell patio furniture?

MR. GALLANDER: I don't believe so. That would be --

CHAIRMAN STRAIN: That's what I thought it might have been used for.

MR. GALLANDER: Yes.

CHAIRMAN STRAIN: Karl?

COMMISSIONER FRY: That was my exact question.

CHAIRMAN STRAIN: Okay. Anybody else have any questions?

COMMISSIONER SCHMITT: I just --

CHAIRMAN STRAIN: Go ahead, Joe.

COMMISSIONER SCHMITT: I'd note only for the public that the redesign will go through the county and be reviewed through the architectural standards and all the requirements.

MR. GALLANDER: Yes, sir.

COMMISSIONER SCHMITT: So it's nothing that this board is going to do. But the county staff will

ensure that it complies with all the other requirements in the LDC.

MR. GALLANDER: Yes. I should have followed that up that it would go through a Site Development Plan amendment process, getting the code requirements.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: I have two questions for --

MR. GALLANDER: Yes, sir.

CHAIRMAN STRAIN: -- or statements.

The staff said there were no commitments discussed at the NIM but yet the staff report did include two commitments that were discussed at the NIM based on the NIM report. And it said that the building will be expanded within the building footprint as it's on the second floor, and there will be no expansion beyond the exterior walls.

So do you have any problems with those being stipulations since that was what you told the public as a commitment you were going to do?

MR. GALLANDER: I do not.

CHAIRMAN STRAIN: Okay. And in the future, if those kind of commitments are made at NIMs, they should be picked up by staff and added as recommendations.

MR. GALLANDER: Okay.

CHAIRMAN STRAIN: So, basically, it's in your staff report under the NIM summary, and it's also in the minutes of the NIM.

COMMISSIONER FRY: Mr. Chairman.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER FRY: That language, to me, introduces a potential conflict.

CHAIRMAN STRAIN: It is. It's got to be modified. I was going to say that. The exterior walls on the second floor are going to be expanded to the footprint of the ground floor. That's exactly where I was -- I was already there, but you guys are getting ahead of me.

Anyway, I'll let staff write it up appropriately, but I believe that's a stipulation we should include in the recommendation on this, so, if --

MR. GALLANDER: Thank you for that.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER FRYER: Since the NIM was brought up -- and I'm not sure -- I was going to hold this question for staff, but I don't know who created the NIM recording. Who did?

MR. GALLANDER: It was ours, and we had coordinated with Chairman Strain and Mr. Bellows to identify that we had a technical issue with our --

COMMISSIONER FRYER: The NIM that was sent to me was -- the duration of it was 31 seconds.

MR. GALLANDER: Understood.

COMMISSIONER FRYER: And there was nothing audible on there anyway. So what exactly happened?

MR. GALLANDER: Well, our -- my permit coordinator who goes with me, she had -- she hit the record button but, apparently, it just did not engage the recording. And we went back and -- we have improved our process to ensure that that doesn't happen again.

COMMISSIONER FRYER: Good. Thank you.

CHAIRMAN STRAIN: Okay. With that, we'll go to staff report. And, Tim, I believe this one's yours.

MR. FINN: Yeah. For the record, I'm Tim Finn, principal planner.

The project is compliant with the GMP and the zoning criteria with the LDC; therefore, staff recommends approval.

CHAIRMAN STRAIN: Any questions of staff?

COMMISSIONER SCHMITT: Yes. I have one question --

CHAIRMAN STRAIN: Joe.

COMMISSIONER SCHMITT: -- comment on Page 10 of 12 of your staff report, 43 of our document, No. 16. I know these sometimes are the same statements used over and over again on various reviews, but that statement does -- certainly does not apply to this case where it says, "Any development anticipated by the PUD" --

CHAIRMAN STRAIN: You've got to be slower. She's got to type as fast as you talk. Please.

COMMISSIONER SCHMITT: It says, "Any development anticipated by the PUD document would require considerable site alteration and undergo state and federal permitting." I don't think that's applicable in this case. It just seems that that language was probably carried over, but I don't believe there's going to be any significant change in the site plan other than -- the footprint of the building remains the same other than to fill in that area, the gap.

MR. BELLOWS: For the record, Ray Bellows. And I concur; that appears to be.

CHAIRMAN STRAIN: Okay. With that, we'll go to any public speakers registered, Ray.

MR. BELLOWS: None on this item.

CHAIRMAN STRAIN: Any member of the public here who would like to speak on this matter?

(No response.)

CHAIRMAN STRAIN: Hearing none, there's no need for rebuttal, I would assume, then.

With that, we'll close the public hearing and entertain a motion. And if the motion is affirmative, which I think it probably will be, with a recommendation, please include the stipulations if you're so inclined.

COMMISSIONER FRYER: I'll make that motion with the stipulations.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion made and seconded. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0. Thank you very much.

MR. GALLANDER: Thank you.

CHAIRMAN STRAIN: That was one of the quickest we've had. We're trying to save money for your client, Richard, so...

MR. YOVANOVICH: See you January 2nd.

CHAIRMAN STRAIN: How about next week, Rich?

***That takes us to Item 9A2, and it is an LDC amendment, batch amendment, inquiring (sic) several issues including communication towers, outdoor lighting in the Estates, alteration plans, and architectural lighting on buildings.

All those -- oh, this isn't necessary. This is legislative. We haven't got to go into all that.

With that in mind, Jeremy, we'll turn it over to you.

MR. FRANTZ: I'm sorry. Could you repeat that?

CHAIRMAN STRAIN: Jeremy, we're going to turn it over to you. I'm glad you got that.

COMMISSIONER FRYER: Take three.

MR. FRANTZ: So as you said, we've got a few amendments on the plate here today. And we can go through each individual amendment, or we can respond with questions. We might have some folks from the public here today, so...

CHAIRMAN STRAIN: Yeah. Let's take each amendment, at least just bring it up. And what we'll do

is I'll first turn to the panel and see if we have any questions. Then I'll turn to any members of the public that may be here for that item. That way we can get right to it, so...

MR. FRANTZ: Okay. So beginning with the amendment related to outdoor lighting for single-family and dwellings in the Estates, this amendment you all have seen several times. We have gone back out to the public a little bit more. We've revised the language quite a bit and tried to add standards that are flexible enough for property owners to be able to know how to apply them when they're purchasing lights tight enough that can capture some of the unique lighting problems that we've been made aware of.

And we have met with the Golden Gate Estates Civic Association. We've continued to work with the homeowner that's brought this issue to light.

And if you have any questions about the language, I'm here to answer.

CHAIRMAN STRAIN: Okay. We'll start with the questions from the panel first. Anybody have any questions? Go ahead. Karl, then Stan.

COMMISSIONER FRY: Good morning, Jeremy.

So looking at the advisory board recommendations, Exhibit D, which says Page 283 in our packet, I notice that the DSAC reviewed the -- it's about the fourth paragraph. DSAC reviewed the amendment again on November 6th and recommended denial indicating that the amendment is too restrictive, too subjective, and is an overbroad response to a problem that is not widespread. Additionally, it was noted that this amendment would create a different standard for the Estates that does not apply elsewhere.

So that's kind of an intro just to hope maybe you can just reconstruct your process by which you cobbled together all these different requirements from different locales and jurisdictions, the issue that caused all this to come to light, and just how we ended up with what you've got, and I appreciate being part of the initial process and just would like you to fill us in on how we arrived where we are.

MR. FRANTZ: Sure. So initially this issue was brought to the Board of County Commissioners. They provided direction to -- just kind of broad direction to address these types of issues -- lighting issues between two residential properties. And so we -- we worked with the homeowner that had brought that issue to the Board and went through a couple of iterations here with you-all. We were, you know, trying to keep that language very brief at first, talking about actual light readings and things like that.

If you recall, we had some concerns about that type of a standard actually being useful for this type of application compared to a larger site. And so we have looked at a combination of lighting standards in other communities, the outdoor lighting model ordinance that's put together by the Dark Skies -- and I'm getting a bunch of different acronyms. A couple of different agencies put together this model ordinance. We cobbled together some standards specifically that we felt addressed the issues that were brought to us.

So we weren't trying to resolve all -- we weren't trying to regulate all different types of lighting but trying to address the issues that we were told were problematic.

I said that we also worked with the Golden Gate Estates Civic Association. They kind of confirmed that -- the members in attendance at that meeting confirmed that there were some issues more widespread throughout the community. It wasn't just this one homeowner. They pointed to some different types of issues that they -- that they experience. So there are a couple of areas that go beyond what we saw on those couple of properties previously.

I also did reach out to a couple of other civic groups, homeowners groups throughout the rest of the county to try and get an understanding, is this an issue limited to the Estates, or is it something that is more widespread throughout the county. We heard pretty resoundingly it's not a problem in the rest of the urban area. It sounded like it was just really the Estates, and so that's how we got narrowed down to the Estates.

COMMISSIONER FRY: When I -- I want to tell you what I gleaned from the amendment and see if it's accurate to the intent.

It appears to restrict lights that are over 100 watts of incandescent style, 18 watts of LED. There wouldn't be a whole lot of compact florescent lights, I believe, that would be used in landscape or outdoor lighting application anymore, I guess maybe some on the walls or recessed lighting, but those are mostly going to be downlights or sconces.

But it would seem to render any commercial-type fixture, which would be a 120-volt fixture, not a low-voltage fixture, that would be over 100 watts, to be used as an upright, because it talked about those lights needing no light to extend above the horizontal plane of the light. Is that an accurate interpretation?

MR. FRANTZ: Upright as well as a couple of other scenarios where lighting could be oriented in a way that it would shine or reflect onto the neighboring property, correct.

COMMISSIONER FRY: Okay. So I know that -- personally, I'm in the -- partially in -- the landscape lighting business is part of my business, and I do see fixtures on properties sometimes where they've taken a commercial -- oh, it's more of a work site light, and they've shined it up to light up a grove of trees or something like that, or bushes. So those would then be subject to needing to be removed and replaced if this were approved, if there was a complaint filed?

MR. FRANTZ: If there were a complaint filed. We weren't creating a new permit process for lighting, so it would be code-enforcement based.

COMMISSIONER FRY: Okay.

MS. ASHTON-CICKO: Are you asking whether this applies to commercial property next to residential dwellings?

COMMISSIONER FRY: No. I believe this is residentially focused.

MS. ASHTON-CICKO: Yeah, it is. So I wanted to make sure you weren't referring to that.

CHAIRMAN STRAIN: Anything else, Karl?

COMMISSIONER FRY: I'm checking.

CHAIRMAN STRAIN: Stan, you want to jump in in the meantime? Oh, no. Go ahead if --

COMMISSIONER FRY: I'm ready. How is the height of 20 feet for the maximum height of the fixtures arrived at?

MR. FRANTZ: I believe we were looking at -- that was either the model ordinance or some existing lighting heights in the code. I'd have to take a look back through my notes to --

COMMISSIONER FRY: I believe I saw reference in other documents where it was no -- it could not be above the first floor. But this would be a little bit higher. This seemed like it would be at a second-floor height potentially, which I don't necessarily have a problem with as long as the other criteria aren't offended in the code.

MR. FRANTZ: This one came from our meeting at the Golden Gate Estates Civic Association, and they indicated that, you know, they've seen some cases where a light is mounted on a very high pole. You know, it wasn't like people are putting it on their second floor, and we hate that, but we're just really trying to address kind of an extremely high -- from a residential perspective --

COMMISSIONER FRY: Thank you for that clarification. That makes sense.

When you discussed this with Golden Gate, the Golden Gate Estates community group, do they have mention of the same kind of concerns that the DSAC did in terms of it being too limiting, you know, solving problems that haven't been necessarily identified out there? I'm just curious if they felt that the scope of this was appropriate and not overreaching what was needed.

MR. FRANTZ: I remember that there was at least one -- one person who mentioned they moved out to the Estates for the, you know, less -- lesser regulatory environment in general and that, you know, this would be moving in a different direction.

But, you know, when putting the question to the group directly, you know how many of you are opposed to this? How many of you are in favor of this? It was overwhelmingly in support of making these changes.

COMMISSIONER FRY: Okay. So they actually saw this entire language and all the intent and approved what you have presented to us?

MR. FRANTZ: They -- at that meeting we had an earlier draft, but we walked through, you know, here are the issues that we're trying to address. Do you agree these are problems? Are there other problems that you would like to see addressed? Once this language was drafted, I sent an email back to that group, you know, for them to distribute, but we have not gone back to them to show them the final language.

COMMISSIONER FRY: But you haven't received objections back from them or -- in your opinion -- in your professional opinion, Jeremy, do you feel that with the changes that were made after that meeting, they

would still be in favor of it if you had a similar meeting?

MR. FRANTZ: I do. I mean, I don't mind going back to them with this language prior to going to the Board or something like that, or if you-all would like to see me do that and come back to you with another report saying a similar group, a similar meeting saw the language again, still liked it, that would be okay with me.

COMMISSIONER FRY: I mean, I think that DSAC's concern is a legitimate one that we should try to avoid, which is creating unforeseen cascading issues that weren't really there in the first place. So while I think the language makes sense, it's one of those things where we might have to wait to see what happens when it's released. Do neighbors -- does it generate issues that, you know, might not have been there otherwise, so...

MR. FRANTZ: Sure. We could certainly, you know, come back in a year or two or whatever period you think is appropriate, and, you know, maybe report how many code enforcement issues have we had, see if it's working and, you know, think about revisions, if needed.

COMMISSIONER FRY: Okay, thank you.

CHAIRMAN STRAIN: Stan.

COMMISSIONER CHRZANOWSKI: Yeah, just a couple comments.

So you all remember, the original complaint was because somebody had built a garage next to their property line, and the doors were faced away from the house. The house -- as I looked at the aerial photo on Google Earth, the house was at the west side of the property, the garage was at the east side of the property, and this was an oversized Golden Gate Estates lot. The driveway to the garage ran up the east property line and then turned into the garage doors. And the lighting was faced toward the garage doors so it lit up the face of the garage, and it shielded the lighting from the main house, but the neighbor looked at the garage door which was lit up.

Now, naturally, this makes me suspicious. Why would somebody do something like that? So I checked out the whole property on Google Earth, and I saw a lot of improvements out there. And I asked staff to go out and take a look at it and see if there was anything going on that -- you know, that might not meet code, and they went out, and they were impressed at how the one neighbor, who the complaint was filed against, had improved his property.

And they said, you know, the guy had just done a fantastic job. And they talked to that neighbor and found out that apparently there was a feud going on between the two neighbors. And I looked back at the aerial photos on Google Earth and on the Property Appraiser's website for a long time, and you could tell that the neighbor had lived out there for a long time, and all of a sudden this guy moved in next door and started doing all the improvements.

I'm curious -- the way the thing is set up, I'm curious, Jeremy, if somebody were to build a wall or an outside a house or an outside of a garage facing the neighbor's property but shielded the lights so that it just lit up the wall or the garage or the house without having any lights spill over directly onto the neighbor's property, would this stop that?

MR. FRANTZ: Would this stop that? I'm sorry. What are you asking?

COMMISSIONER CHRZANOWSKI: Would this stop you just from -- say you have something that's basically a billboard, you know, a face of a garage, a wall, whatever, and you put a light along your property line that lights up that entire wall or that garage or whatever, and the neighbor can't see the light, he can't see the beam, he can't see any part of the light, but all he sees is the lit-up wall, does this stop that?

MR. FRANTZ: If the light is just on the wall of the --

COMMISSIONER CHRZANOWSKI: No, the --

MR. FRANTZ: -- subject property?

COMMISSIONER CHRZANOWSKI: -- light is facing the wall, facing away from the neighbor and it lights up the wall so that at night the neighbor sees the lit wall, but he doesn't see any of the light source, does this stop that?

MR. FRANTZ: If you're looking at the language, C.I.C says, "The cone of light, including light from reflected surfaces, does not project onto a neighboring property." So if it's --

COMMISSIONER CHRZANOWSKI: Now, how do you measure that, whether it projects onto the

neighboring property? Is it at all or so many foot-candles or what?

MR. FRANTZ: The way it's written is at all. There's no foot-candles identified. There's no amount of lights --

COMMISSIONER FRY: May I interject, Stan? Because the C.1 restricts this to lights that are over 100 watts for incandescent, 26 watts for compact fluorescent, or 18 watts for LED. So this is only trying to restrict, in my understanding, the more powerful lights that are really beyond what would normally be used in residential low-voltage lighting. Is that accurate, Jeremy?

MR. FRANTZ: That's accurate. And, I mean, if a wall is blocking -- is between the light source and the property line, it's most likely going to satisfy a lot of these criteria.

COMMISSIONER CHRZANOWSKI: No. The wall is -- the lights are outside the wall lighting up the outside face of the wall. Does this stop that? And you're saying it does because it's going to automatically -- light -- you're going to spill light -- if you light up something at night, and you're on the neighbor's property, you're going to be able to see things you didn't see even if it's very little.

You know, I'm kind of with DSAC on this. You know, I think this is an overreach but -- okay. That's just me. That's all I had.

CHAIRMAN STRAIN: Okay. Ned.

COMMISSIONER FRYER: Thank you. I'm referring now to the language of the LDC proposal, Exemptions 2A and B, and this appears on Page 268 of the 384-page packet we received.

Exemption A talks about motion-activated lighting that's on no more than five minutes after it's been activated by motion. Then Exemption B talks about security lighting, provided its on no longer than 30 minutes after it's been activated.

And, to me, this seems it be confusing if not unusual. For instance, what about motion-activated lighting whose purpose is to serve as security lighting versus helping someone avoiding a fall or something like that. I think -- I think the bottom line of my concern is that 30 minutes is too long.

MR. FRANTZ: Okay. Yeah, I mean, we're comfortable making some tweaks to these exemptions. We're looking at, again, the model lighting ordinance, looking at other communities, and also just kind of, you know, trying to work through potential scenarios, so that, you know, that was one that we added in as a result of some, you know, staff consideration about what other types of lighting might be reasonable.

COMMISSIONER FRYER: Yeah, but if I have motion-activated security lighting, do I get the full 30 minutes? Can it be on that long?

MR. FRANTZ: I think what is intended by the security lighting provision is lighting that would come on as a result of some kind of alarm or some sort of, you know, phenomenon occurring rather than simply just motion. But, you know, I can see that there's a little bit of potential overlap there.

COMMISSIONER FRYER: I think the language is ambiguous, but it also is providing, in my opinion at least, for too long a duration of time, the 30 minutes. I don't know what the County Attorney feels about that language.

CHAIRMAN STRAIN: I mean, right now the way it's written is a motion detector kicks it on for five minutes, or a security camera kicks on for 30. You turn it off for one minute, then put it back on again. You turn it off for one minute, put it back on again. So you could have a timer set this thing on and off all night long. I'm not sure that it's enforceable. I'm not sure it's written in a manner that is needed, but that's kind of a problem I think could be inherent in this whole thing.

MR. KLATZKOW: This is the problem when you have one issue and you try to resolve one issue by changing the code.

CHAIRMAN STRAIN: That's where I was going when I get to my part of it; yes.

MR. KLATZKOW: You will have unintended consequences because you are changing the code because one person came to the Board of County Commissioners and complained about an issue with a neighbor that he's not getting along with.

COMMISSIONER FRYER: Perhaps this is --
(Simultaneous crosstalk.)

MR. KLATZKOW: That's how the County Attorney feels.

COMMISSIONER FRYER: -- problem.

CHAIRMAN STRAIN: I was going to ask when I got to my turn -- I need the history on how many complaints that you have for lighting in Golden Gate Estates or any Estates in Collier County. By the way, the Estates occur all over Collier County. They're down off Santa Barbara, they're up off -- they're down off Price Street. There's Estates zoning all over. So now all of a sudden we're going to pass a law because of one complaint with one -- two neighbors who can't get along, and we're going to actually have more what I would call code creep into rural neighborhoods that I don't think is warranted by the little bit of complaining that has happened.

MR. KLATZKOW: Well, the other issue is, why not make it countywide? Why just the Estates?

CHAIRMAN STRAIN: Well, because the Estates is unique. It's got -- it's rural. It's -- we don't have streetlights unless --

MR. KLATZKOW: But people getting flooded by their neighbors' lights is not unique.

CHAIRMAN STRAIN: Well, I don't know if -- but theirs are closer lots, too. And in the Estates we've got acreage as a lot. You don't have it --

COMMISSIONER FRYER: This thing extends not just to the rural Estates but the urban Estates as well, does it not?

CHAIRMAN STRAIN: Yeah. But the urban Estates is acreage. I mean, the Estates has got a -- is acreage size, so you're looking at acre and a quarter is the smallest. We don't even allow those anymore. But when you get an acreage that size --

(Simultaneous crosstalk.)

MR. KLATZKOW: Having a bad neighbor that shines his lights into your eyes is (sic) just a unique Estates problem. I'm just saying --

CHAIRMAN STRAIN: I don't think it is.

MR. KLATZKOW: -- if this is a problem in the Estates, this is going to be a problem countywide. And if there's only one complaint, then I'm --

CHAIRMAN STRAIN: Well -- and I don't mean to interrupt with all of you, but I did want to mention, we have things that are causing serious lighting problems in the Estates, and they aren't residential. It's commercial. We've got horse arenas out there that light up at night. They have loud speakers, and they're illegally operating under the guise of something for the kids to be horse training centers over whatever they -- and horse stables. They're causing a lot of problems, but they're not included in this lighting thing.

And that, to me, is a bigger source of an issue we ought to be looking at. And then streetlights are put in the Estates and residents, they're just plopped in there. And, basically, it's dark out in the Estates, but that opens them up to more light. How do we protect people from that?

I mean, I didn't move out there 42 years ago for streetlights but, boy, they're all over now, unfortunately, and they can be individually purchased and put on light poles, which is wrong as far as I'm concerned. But, anyway.

Go ahead, Ned. I got off on a tangent.

COMMISSIONER FRYER: That's all right.

A question for the County Attorney. The situation that was brought to us by the complaining neighbor, would that -- could that have been addressed under the county nuisance ordinance?

MR. KLATZKOW: I don't think it's a nuisance.

COMMISSIONER FRYER: Okay. So if there is -- to the extent that there is a wider spread concern than maybe just a very few people, it would be by means of a lighting ordinance? Because it's not covered under nuisance.

MR. KLATZKOW: Yeah. In essence, you're expanding the definition of nuisance by including a light.

COMMISSIONER FRYER: That's all I have. Thank you.

CHAIRMAN STRAIN: Okay. Anybody else? Karl.

COMMISSIONER FRYER: Jeremy, can you expand with any detail about other types of issues that the

Golden Gate Estates residents reported? You said it's more than just this one case.

MR. FRANTZ: From the code enforcement perspective, I'm not sure that we have frequent cases reported to Code Enforcement Division. But when I met with the Golden Gate Estates Area Civic Association, they did speak to, again, the height of some lights, lights that might be pointed toward the street. And there was kind of some general comments about, yeah, neighbors with lights that are too bright shining on their property. I don't have numbers to provide you all other than, you know, the comments that were made at that civic association meeting.

COMMISSIONER FRY: If this were to move forward, I guess I would see C.2.A and B being combined, potentially into lights that are activated by motion or security lights activated otherwise, you know, might have a 30-minute -- 30-minute limit.

Another scenario is when a homeowner's in bed and hears a noise outside, they might have a button for floodlights or a switch for floodlights that -- you know, that they turn on for a temporary period of time while they're resolving whether there's an issue outside or not. And so that's -- I believe that B would cover that scenario quite well. Same as Mark indicated with a camera triggering lights to go on.

So I get that maybe this, you know, the consensus might be that this is treating more of a problem than was created, but I would point out that the issue that was brought forward was kind of extreme in that the light that was used by that homeowner was an industrial -- I believe an industrial commercial-grade fixture many more than 100 watts incandescent and lumens based on that chart that you provided, and it was reflecting directly and seriously illuminating the side of the neighbor's house. So it was a pretty egregious lighting spillage from one property onto another, which I know is what you're trying to address here.

This looks to me as if it's an attempt to mostly restrict the type of lighting to the types of lighting that are appropriate for residential use in terms of the wattage and the -- you know, the watts of LED versus the watts of incandescent.

MR. FRANTZ: That's really the goal. We weren't trying to restrict your everyday residential lighting. We were trying to address the extreme examples.

COMMISSIONER FRY: Thanks.

CHAIRMAN STRAIN: Anybody else?

MR. FRANTZ: We do have a registered --

CHAIRMAN STRAIN: Well, I was going to add, why don't we call the registered speaker first, then we can turn to anybody else that wants to speak on the matter. So could you call that person, please.

MR. FRANTZ: This is Jeff Wothke.

MR. WOTHKE: So, I'm Jeff Wothke, 4551 First Avenue Northwest. And my house is the yellow one. And the offending property is the pink house which is just -- they're just bouncing light off the side of their house. So I'm not the only person who's had this issue. There was -- from what I heard originally, there was about three or four people who -- you know, they had an issue with neighbors, you know, using excessive lighting.

So I guess I'd ask you guys, what am I supposed to do. If this isn't a nuisance, what exactly is it? I mean, I can't sleep. That's my bedroom there. I haven't slept in my bedroom in two years.

CHAIRMAN STRAIN: Well, that's -- you'll have to -- that's not -- we don't have an answer for you. The County Attorney just expressed his thoughts on it. You might want to get an attorney and pursue it yourself. That's an opportunity.

MR. WOTHKE: He considered it a nuisance, so I don't know why the county wouldn't consider it a nuisance.

CHAIRMAN STRAIN: We're not -- this board doesn't determine nuisances or not. We just strictly look at Land Development Code actions. So how that comes out, that's outside the purview of this board. Now, if you have questions related to the code that's being proposed, we're certainly glad to hear it or comments in regards to that.

MR. WOTHKE: So I guess, what is the -- you know, at what point, or is there any, where somebody's lighting goes onto your property, you say enough is enough, or you can just do whatever you like?

CHAIRMAN STRAIN: Right now the -- we have a code that we're considering that for. Does the code

meet the requirements that would suit your needs? You're basically here to express your opinion on this code. We can't tell you how to proceed with any kind of action on this matter. We're simply trying to get a code in place as a reaction to this.

MR. WOTHKE: Oh, and that's what I'm asking, in general, is, I mean, what is your take on how much is enough?

CHAIRMAN STRAIN: I don't have a take on it. I've lived out in the Estates for 40 years, and people have had lights out there. Sometimes they bother me. Sometimes they don't. I put a shade up or I put a wall up. I mean, that's as simple as that, so...

MR. WOTHKE: Well, I guess, what Jeremy's proposed here I've worked with him closely on; I think it's very reasonable. You know, I mean, for -- it only says that it's over a certain amount, you have to shade it. You don't have to remove it. Nobody says -- nothing in there says, hey, stop, remove your lighting. It just says, hey, shade it to keep it off the other person's property if -- you know, if they complain or something.

So I don't think it's that drastic or anything else, in my opinion. But, you know, again, I'm living like this, though, too, so...

CHAIRMAN STRAIN: Okay. Any questions?

COMMISSIONER CHRZANOWSKI: I have a question. You know, I've been out in the woods at night, and when you turn on any light, it lights up the woods, you know, for some amount. Now, anytime you turn on a light in the house, you're going to light up some amount of the woods if you live in the woods.

I'm not sure -- do we have a firm standard, Jeremy, on -- where somebody could go out with a light meter onto a neighbor's property and say, hey, this property is lit up too much, where you could turn off every light and -- except for the offending light and see how much that lights anything up? Like, Mr. Wothke here, if he turns on his house lights, it's going to light up his property, and it's going to light up the neighbor's property a little. And if the neighbor turns on his lights, it's going to light up his property, apparently, a lot.

But is there any firm standard that, you know, if you turn on a light in the woods, how much you're not allowed to light up anything?

MR. FRANTZ: From the county perspective, no, there's no standard for how much light you can use on your property if you're a residential lot in the Estates.

COMMISSIONER CHRZANOWSKI: You do know what I'm saying, right? I mean, you know, putting on a light lights up -- if I held a light stick here, which is very little light, and this room was pitch black, you would see light back there, okay. And --

MR. WOTHKE: Well, you may see the light, right? You may see the light that somebody --

COMMISSIONER CHRZANOWSKI: It will light it up. Actually, you can't read by it, but --

MR. WOTHKE: It falls off with the -- you know, the intensity falls off with the square of the distance.

COMMISSIONER CHRZANOWSKI: Yeah.

MR. WOTHKE: I mean, it falls off pretty dramatically.

COMMISSIONER CHRZANOWSKI: It may be the cube of the distance.

MR. WOTHKE: I believe it's a square, but...

Anyway. So the point is that you may see that light; however, it's not illuminating onto your area, right? I mean, there's a big difference between the two, and I think that's where a lot of confusion lies is people say, oh, well, I see a light, and then they assume that it's lighting up their area when, indeed, it's just that you're just seeing light.

COMMISSIONER CHRZANOWSKI: Have you ever tried just talking to your neighbor, and --

MR. WOTHKE: Oh, yeah, absolutely, yeah, yeah, yeah, yeah. Yeah, absolutely.

COMMISSIONER CHRZANOWSKI: It doesn't work, huh?

MR. WOTHKE: Doesn't work, no. Absolutely not.

CHAIRMAN STRAIN: Any other questions?

MR. KLATZKOW: You know, again, I don't know how staff is going to enforce this if this is implemented. I would like to hear from Code Enforcement telling the Board, yes, we can enforce this ordinance or, no, we can't, before we actually enact it.

CHAIRMAN STRAIN: And I think there's alternatives we need to be looking at other than this. But anyway, go ahead. Karl was next, then Joe --

COMMISSIONER FRY: Whether this is voted for or against, I would -- I think there's a little confusion in how this is written.

That situation where you can see that halo of light on the neighbor's pink --

CHAIRMAN STRAIN: Is this a question of this gentleman, by the way? Do we need him to respond?

MR. WOTHKE: That's fine. I'll stay.

COMMISSIONER FRY: I'm saying it now because he's standing there. He is the -- he is the person reporting this.

You have a halo of light that is on the pink house, and then you see a brightly lit wall that's the result of the reflection purely of that light. The light that is used is above -- way above the standards of this LDC section. If this were a standard outdoor landscape light, it would be three, six, or nine watts, all right, which is one-half of the maximum in this clause, and it's way less than what is used right there.

In Stan's scenario, if I have a wall between my property and your property, and I light the outside of my wall with a 3-watt, a 6-watt, or 9-watt light, there's no way in the world that you get that type of effect from it.

So my point from being in the business is simply that if you use these lower wattage -- the wattage is below what you have stipulated here, this issue will hardly, if ever, occur. And it does provide relief for him in what is very obviously, the result of what the neighbor is doing. I incur with you, Jeff, that it would be nice to know if Code Enforcement can enforce it.

But I do believe that this is not an unreasonable approach to solving the problem, assuming we agree it's not overshooting its purpose.

CHAIRMAN STRAIN: Jeremy, your exemptions, motion detected and security lighting, can they be over 100 watts?

MR. FRANTZ: They're completely exempt from the standard --

CHAIRMAN STRAIN: Can they be over 100 watts?

MR. FRANTZ: Yes.

CHAIRMAN STRAIN: With this light, then, from what I heard Karl's testimony, is over probably 100 watts. So if these neighbors are not getting along and I was that guy with the house next door and I still wanted to circumvent the rules, I'd simply put it on a timer. Have it go off as a security light every 30 minutes, or I'd put it on a motion detector and make sure it was on a timer so it kept tripping every 30 minutes, or put a wind vane out there so it would keep going on and off.

This isn't going to solve any problems, and this is not the purview, I think, this whole action ought to be going. If we have a nuisance ordinance, that may be the thing that needs to be fixed other than that --

MR. KLATZKOW: It can't be nuisance if it doesn't violate code.

CHAIRMAN STRAIN: Well -- okay. We've had -- in 1951 we started our zoning codes. We had 12 pages. We have 1,000 pages now. And I'm just not willing to put any more pages in there if we can help it, and I don't think this is the right purview for this, but...

COMMISSIONER FRYER: Chairman, may I make a privilege motion.

CHAIRMAN STRAIN: I don't know what that means, but you can try it.

COMMISSIONER FRYER: I move we table this item for further consideration by staff.

CHAIRMAN STRAIN: Well, I guess, second for discussion.

COMMISSIONER SCHMITT: My discussion, I think it's --

CHAIRMAN STRAIN: Well, second. Is there -- are you seconding?

COMMISSIONER SCHMITT: Second, yes.

CHAIRMAN STRAIN: So discussion.

COMMISSIONER SCHMITT: I'll second. Let staff go back and review it, but I think it's a case of the staff and, in this case, government overreacting to a problem.

I certainly empathize with a few of -- the neighbor but, in fact, it is a gross overreach of government trying to solve a problem that really is not a problem countywide.

There are other solutions. I'm not here to recommend them in the public, but -- so I'd make that -- I second the motion, and let staff go back and look at it and review it and maybe come up with another alternative.

CHAIRMAN STRAIN: Well, I think we've spent way too much time on this already. We're spending more time on it every time we send staff back. It comes back. And as far as I'm concerned, it would have the same position that -- in my mind.

Go ahead, Tom, and then Stan.

MR. EASTMAN: I thought, initially, when we heard this we had more empathy for the complaining party.

What is the purpose of the light that's shining on the pink house? We have no testimony other than the owner of the yellow house saying it's designed to annoy me in a neighbor-to-neighbor spat.

So we have to take that, because we have no countervailing evidence. And initially when we talked about this, I think the panel, the Board, the Commission, was more inclined to provide some sort of remedy.

As an attorney, this looks like nuisance to me. So at a minimum, I think that if I'm allowed to take a spotlight, a high-powered spotlight or laser and shine it into my neighbor's property or, when he's out in the yard, shine it into his eyes, and that's not a nuisance, then our code is wrong and needs to be changed.

MR. WOTHKE: Thank you.

CHAIRMAN STRAIN: Anybody else? Stan.

COMMISSIONER CHRZANOWSKI: I've been watching too many impeachment hearings, but we can't subpoena this neighbor, can we?

CHAIRMAN STRAIN: Please.

COMMISSIONER CHRZANOWSKI: I know. I'm joking.

CHAIRMAN STRAIN: Thank you. Anybody else have any comments? I mean, there's a motion made and seconded. And the motion is to send it back for staff to continue working on it.

So with that -- oh, first of all, are there any more public speakers on this matter?

(No response.)

CHAIRMAN STRAIN: Okay. So...

COMMISSIONER FRY: Are we still discussing the motion?

CHAIRMAN STRAIN: If -- I can't believe we'd have more, but go ahead.

COMMISSIONER FRY: Well, I'm not in favor of the motion. I think we have an opportunity here to help this gentleman and create something that at least we could verify whether it's enforceable or not by restricting the wattage of the fixtures that are appropriate to residential use, which is done in C.1, and perhaps, by moving the exemptions underneath 1, there's sub-exemptions. So the lights are still restricted to those wattages. You don't really need lights more than 100 watts of incandescent or these other wattages for residential use. You could have something that would be enforceable.

Sir, your fixture is 250 watts. The maximum's 100. You can shield it, or you can replace it. Those are your options. Very simple code enforcement, and that would eliminate this issue and I believe eliminate a lot of -- and with black and white, a lot of issues that would exist between neighbors. If it's never reported, it's never going to be a code enforcement issue.

COMMISSIONER CHRZANOWSKI: And in spite of what I said, I'm with Karl. And if he makes that a motion, I'll second it.

COMMISSIONER FRYER: There's a previous motion on the floor.

CHAIRMAN STRAIN: Yeah, and I'm just trying to get to that. We were discussing a previous motion. I think we're done discussing it. The motion was to send this back to staff for more review, research, or --

COMMISSIONER FRYER: I'm going to clarify my motion, if I may, and ask the seconder.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER FRYER: Move to table.

CHAIRMAN STRAIN: Can you tell me what that means? I mean, "table" means we're -- we didn't do anything.

(Simultaneous crosstalk.)

MR. KLATZKOW: You're kicking the can down the road so staff can come back with --

CHAIRMAN STRAIN: Right. That's what I'm -- I'd rather not -- well, okay. So you really want to just state your previous motion in a different manner? Instead of making a motion to send it back to staff, now you want to table it so it goes back to staff?

COMMISSIONER FRYER: I want to table it.

CHAIRMAN STRAIN: Does the motion maker still --

COMMISSIONER SCHMITT: To clarify, that means it's done.

CHAIRMAN STRAIN: No. It goes back to staff. That's why I was trying to ask the question.

COMMISSIONER FRYER: Well, if I table it, it doesn't have to go -- staff doesn't have to --

MR. KLATZKOW: The issue is, do you want to kill this now, or do you want --

CHAIRMAN STRAIN: We don't have the opportunity to kill it.

MR. KLATZKOW: Yes, you do.

CHAIRMAN STRAIN: It's still got to go to the Board?

MR. KLATZKOW: Well, you could do -- you can do a recommendation for denial.

CHAIRMAN STRAIN: Right.

MR. KLATZKOW: Okay. You can either do that or you can say, you know, we've heard from, like, Karl here, and, you know, maybe staff can come back with something better. It's one of the two.

MR. FRANTZ: I could give just a little bit of history of the amendment. We've looked at it three times with you-all now. The first time we were looking at strictly a limitation on the power of the bulbs. The second time we came back with a limitation on the lumen standard that would, you know, limit how much light could be on the -- on a neighboring property. We've come back again now with a combination of those two, some performance standards with a limitation on bulbs, but some exemptions and some ways to get around that without having to just completely get by a new fixture.

So if you do want us to come back --

MR. KLATZKOW: You're saying you're tapped out for ideas?

(Simultaneous crosstalk.)

CHAIRMAN STRAIN: This is a huge waste of taxpayers' dollars on the amount of time it's taken staff to deal with this, for us to deal with it, going back and forth, and it's still got to go to the Board.

So let's just get a vote done on it. We've beat this thing to death so far talking about it. Ned's made a motion to table it. Joe -- and did you second the motion now that you've got a defining on what that tabling means?

COMMISSIONER SCHMITT: Well, based on what I heard, it's going back to staff to relook.

CHAIRMAN STRAIN: Just -- are you seconding?

COMMISSIONER SCHMITT: No. I withdraw my second.

CHAIRMAN STRAIN: Okay.

COMMISSIONER FRYER: Fails for lack of a second probably.

CHAIRMAN STRAIN: Right.

COMMISSIONER FRY: May I make an alternate motion?

CHAIRMAN STRAIN: Go right ahead.

COMMISSIONER FRY: I'd like to move for approval subject to C.2.A and B being moved underneath Section 1. So that they -- the wattage limitations expressed in C.1 apply to those two exemptions.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion made and seconded. Now discussion on that motion.

(No response.)

CHAIRMAN STRAIN: Anybody have any comments?

(No response.)

CHAIRMAN STRAIN: I'm simply -- this is just way, way overkill, and I'd rather see this thing die and

let it be fought out by court actions way beyond the ability of this board to get into something that's as ambiguous as this that's really going to result in enough points that nobody can settle on.

COMMISSIONER SCHMITT: I agree.

CHAIRMAN STRAIN: It just doesn't make any sense. And, you know, like I said, we started out with a code of 12 pages. Now we're over 1,000. And we're looking at site specific stuff on top of that, and our code's -- this is getting extreme for government. So I'm not in favor of the motion, so I will be voting no on it.

Anybody else have any comments?

COMMISSIONER FRYER: I will also be voting no.

COMMISSIONER SCHMITT: I will vote no as well. Call the vote.

CHAIRMAN STRAIN: With that, all those in favor of the motion to make some changes and move it forward, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: All those against the motion?

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: It's 3-3. The motion fails. So it will go to the Board of County Commissioners with a denial.

MR. KLATZKOW: No. You have to make a motion that you're going to deny. Right now you've got nothing.

CHAIRMAN STRAIN: So it just goes as a tie vote.

MR. KLATZKOW: If that's what you want, or you could make a motion for denial. See where that goes. That could be 3-3, too.

CHAIRMAN STRAIN: A motion of 3-3, a tie vote, does not -- is not an approval.

MR. KLATZKOW: It's not nothing right now. You guys got nothing.

CHAIRMAN STRAIN: Well, that's like tabling.

MR. KLATZKOW: My suggestion is make a motion for denial, see where that goes, and then --

CHAIRMAN STRAIN: Joe, you want to make that motion?

COMMISSIONER SCHMITT: Make a motion that we deny the amendment.

COMMISSIONER FRYER: Second.

CHAIRMAN STRAIN: Motion made and seconded. Any discussion?

(No response.)

CHAIRMAN STRAIN: All in favor of the motion to deny, signify by saying aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Any opposed?

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Okay. Does that satisfy your concerns there?

MR. KLATZKOW: 3-3.

CHAIRMAN STRAIN: It goes -- it's hung --

COMMISSIONER SCHMITT: Goes to the Board.

CHAIRMAN STRAIN: It goes to the Board. Sir, you can sit down. We're done with your input.

Thank you.

MR. KLATZKOW: And just note --

COMMISSIONER FRY: Would it be appropriate for Jeremy to document the proposed amendment to it and send that to --

MR. KLATZKOW: Yes.

COMMISSIONER FRY: -- the County Commission along with a 3-3 tie vote?

CHAIRMAN STRAIN: As long as Jeremy documents the reasons why the rest of us aren't supporting it.

MR. KLATZKOW: Yes. It will all be in there. That's why I wanted it done this way.

CHAIRMAN STRAIN: Okay.

MR. KLATZKOW: And just for the record, high fences make good neighbors.

MR. WOTHKE: Twenty feet is pretty high, though.

CHAIRMAN STRAIN: Okay. Jeremy, you want to take us on to -- and just out of curiosity, the people in front, are you here for a specific one? Because we'd probably move to that next to expedite that for you so you haven't got to sit here too long.

MS. WASNICK: We're here to support the tower inspection intervals that have been proposed.

CHAIRMAN STRAIN: Let's move to that next.

MR. FRANTZ: That's the next one.

CHAIRMAN STRAIN: Go ahead, Jeremy.

MR. FRANTZ: So our next amendment is modifying the inspection time frames for communication towers, moving those from two years for guyed towers and -- from two years for guyed towers to three years, and four years for self-supporting user towers to five years. These time frames are in line with industry standards for inspections of communication towers.

We were -- the issue was raised to staff that the -- some state agencies use a different inspection time frame. Their contracts are all based on that industry standard. The question was put to staff why do we have a different standard than anywhere else in the county, and so we're putting this to you-all for consideration.

CHAIRMAN STRAIN: Go ahead, Ned.

COMMISSIONER FRYER: I personally oppose this because to me it seems like a relaxation of safety requirements that -- the cost of which is not borne at all by Collier County. And if we were moving from having no standards or longer standards to the four and the five, I would support it, but I think we make not a very attractive record for ourselves if we relax the standards and then something terrible happens when a tower crashes in year two-and-a-half or year three-and-a-half. And I just don't see any reason why we would go along with this.

Related to that -- and I'm going to ask Mr. French to speak to this, and it relates to the roles of the so-called advisory boards, DSAC, and Collier County Planning Commission. I think -- and, of course, our friend, Stan, was a member of DSAC for a long time, and I know, undoubtedly, he made very valuable contributions to that group.

But to me DSAC is largely an advocacy group consisting of, not inclusively, but largely of people who frequently appear before us: Contractors, lawyers, paid consultants and the like. Again, not to put down their input, but it's an advocacy group, and we're not.

We're a quasi-judicial group. I'm not sure that just saying we're you quasi-judicial is enough to differentiate us from DSAC, but when this material goes to the Board of County Commissioners, there's a phrase in the law that looks as though we are acting of equal dignity, and we're really not. We're a neutral -- supposed to be neutral group, and DSAC is not.

I'm going to ask Jamie French if he would comment on that, because we had a good discussion about this a few days ago.

COMMISSIONER CHRZANOWSKI: Could I say something about cell towers before Jamie talks?

CHAIRMAN STRAIN: Just out of curiosity, too, we shouldn't be getting off on a tangent about the qualities of DSAC or subcommittees. We're here to review this language only. And I'm not saying I agree or disagree with you, Ned. In fact, I share some of the same concerns you have but, really, I don't think it's our position to start picking apart other boards in the county.

We basically handle ourselves based on the language in front of us. We can take this into consideration,

give it the weight each of us wants to, and then go on with our own analysis. I'd prefer we didn't get into criticizing other boards if --

COMMISSIONER FRYER: I'm not --

CHAIRMAN STRAIN: Evaluating other boards.

COMMISSIONER FRYER: -- meaning to be critical -- or evaluating them.

Well -- I'd like to hear from Mr. French, but Mr. Chairman, you --

CHAIRMAN STRAIN: On the ability of DSAC's?

COMMISSIONER FRYER: On the paperwork as it is to be presented to the Board of County Commissioners on this matter.

CHAIRMAN STRAIN: So it's -- okay. Go ahead.

MR. FRENCH: Maybe I can offer a little clarification.

Good morning. Jamie French. I'm the deputy department head for Growth Management Department.

First and foremost, maybe a little clarification on these radio towers and how they come about. What happens with the radio towers, so you know, we issue a permit, a building permit, but that's it. We have nothing to do with them. Everything from site design to inspections, that's all done by a private provider. Outside of our engineering staff going out there -- and I would defer to Stan because he worked in that area -- we may go out there and check the site to make sure setbacks are right, exotics, things like that. But as far as the Building Department goes, we rely 100 percent on threshold type inspectors that would go out there that do this for a living. They submit their reports to us. We review their reports. The permit is issued. It's closed out. The tower stands.

Going forward in future years, those same inspectors or inspectors of those -- of that capacity and of that qualification, they would go back out and do those same inspections.

Staff has very limited, if any, interaction with the builder, with the tower constructor, or with the tower owner outside of we review those engineered reports to make sure that they are constructed correctly and then make sure that they're within the federal or state safety standards.

With regards to DSAC, we have an obligation by code to take many of our items, much like LDC amendments, to the building industry, and they are representatives that are signed by the Board of County Commissioners. They -- where the Board -- and, Jeff, correct me if I'm wrong -- but they're looking for industry feedback as far as how government is working with -- how local government is working with that building industry and what their input might be on either changes, amendments, or perhaps even additional restrictions or fees that may be coming out that are being thought of by the Board of County Commissioners for consideration.

And I know I covered two things here, but I hope I've answered your questions.

COMMISSIONER FRYER: Not the way you did when we met together, but that's all right.

MR. FRENCH: Okay. How --

COMMISSIONER FRYER: Never mind.

MR. FRENCH: No. But DSAC is an advisory committee, where this committee -- and that was one of the conversations we -- I think we had, Ned, was this is a quasi-judicial -- we don't rely on DSAC. We get their input, but it's not really a binding decision.

COMMISSIONER FRYER: Well, okay. Thank you.

That's all I had, Chairman.

CHAIRMAN STRAIN: Anybody else? Stan.

COMMISSIONER CHRZANOWSKI: A little history. It was sometime in the '90s that the Board passed a ruling -- and somebody worried that a cell tower would come down during a hurricane, so the Board passed a ruling that every cell tower had to submit a report to the county once a year. It was for guyed towers, g-u-y-e-d, or for monopole, the single without guys on it, without guy-wires.

There was a different standard. One was once a year; one was every two years. It might -- it had something to do with height. But it was about five or six years after that was passed that Mark -- Mr. Strain has an annoying habit of reading everything, and he found an ordinance that said that you had to do this inspection, and he asked for it at a Planning Commission meeting, and it turned out nobody had been doing them.

So I was tasked by Jim Mudd, the County Manager at the time, to set up a system, and we went and we found every tower in Collier County, and we set up an Excel spreadsheet. And we had -- it took about a year to contact everybody, because we -- besides finding them all; we didn't know where they were.

We started contacting people. And the owner is not always the one who's in charge of making sure everything is correct. But we finally started getting reports. And every time I would get a report -- I'm a licensed professional engineer. I have to read the report. I can't just take a report and file it.

So the report would come in, and it would say I've got a rusted bolt here; I've got a wire here that's got to be replaced. I have to send a letter to somebody saying, what are you going to do about the rusted bolt? What are you going to do about the wire? And then, you know, I had to double-check on that to make sure it was done.

And I'm not going to go out in the field and double-check that it's done. I'm just taking somebody's word for it. I never liked the liability of being responsible for these. And I was told that they're inspected by state and federal agencies, and the reports are filed with state and federal agencies.

And I was always saying, we don't want to be in this business. If a tower comes down, we don't want to have somebody say, well, the county inspected it. We didn't inspect it.

Well, the county had a report saying that it was going to fail. Well, you know, okay. I got a report. I read the report. Maybe it's going to fail; maybe it's not. I don't know. These things -- the guyed towers that are space -- it's called a space frame. It's a three-dimensional truss. They're designed by computers.

The monopole, I think, is probably designed by a computer, too. Everything is designed by computers nowadays.

So, you know, it's a black box thing. I've got to trust what it says. I don't want to be part of that system. Well, I'm retired, and I'm not part of that system; thank God. I don't think the county wants to be part of that system either.

So I think you ought to just do away with any county involvement in these towers, because the FCC and a whole bunch of other -- the FAA and a whole bunch of other agencies are involved in this stuff, and they are getting structural reports that I don't think we ought to have any part of.

Thank you.

CHAIRMAN STRAIN: Do you want to say something?

COMMISSIONER SCHMITT: I agree with Stan, but if we're going to keep this, I have no problems with following the ANSI code. The ANSI code is certainly -- that's a national code, meets all the criteria. Why we are more restrictive, it doesn't make sense, unless there's empirical data out there. You have some kind of analysis that would justify us being more restrict (sic), and I don't think there's any.

But I would -- I would support this amendment because it does comply with ANSI requirements.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER FRY: I echo that.

CHAIRMAN STRAIN: Okay.

COMMISSIONER FRYER: The inspection didn't cost the county a penny.

COMMISSIONER SCHMITT: Well, it does. It --

COMMISSIONER FRYER: Somebody has to look at the material.

COMMISSIONER SCHMITT: As Stan said, if it comes into the county, there's an issue of the county being somewhat liable for the report and doing follow-up.

COMMISSIONER FRYER: So your point is, is that by ignoring the problem altogether, there won't be liability?

COMMISSIONER SCHMITT: Well, it's not ignoring because there's other agencies that are responsible for the inspections.

CHAIRMAN STRAIN: You know, why don't we go to the source and ask the District why they are even getting involved in this in the first place. It might be an interesting -- we might have an interesting response. I know it's not you, and there is someone sitting here from the District who probably came in so that she could talk and explain all of this that she's created.

MR. FRENCH: That's where I was going to go next, Mr. Chairman. This is how it all started. So

thank you.

CHAIRMAN STRAIN: It doesn't surprise me.

COMMISSIONER SCHMITT: It's Lisa's fault. I got it now.

MS. KOEHLER: Lisa Koehler, South Florida Water Management District. It is a pleasure to be back here again today, even though --

CHAIRMAN STRAIN: We rarely see you.

MS. KOEHLER: -- even though it seems I'm the troublemaker today.

The District did make this request, and it was -- it's just like was summarized. We have self-supporting structures throughout the districts, which is 16 counties in South Florida. This county is the only one that has -- that differs from the industrial -- or the industry standard on the times for inspections.

So the folks had asked the county to amend that so that that this county is consistent with all the other industry standards of a five-year inspection program or, better yet, Mr. Chrzanowski said, is eliminate the county's standard and let us continue to work with the state and the federal guidelines on these.

CHAIRMAN STRAIN: But -- see, that kind of contradicts what you started out by saying. You said all the counties have five-year standards except Collier, which has got a four-. Now you're suggesting Collier, contrary to all the other counties, just eliminate them altogether.

MS. KOEHLER: Whatever your pleasure is.

CHAIRMAN STRAIN: Okay.

MS. KOEHLER: But we would like to at least match in Collier County what the District is doing in the other areas of the South Florida Water Management District.

CHAIRMAN STRAIN: And I think that makes sense, but at the same time, I don't think it makes sense to eliminate them and be the only county that doesn't inspect them. Obviously, the others must have found a reason why it was necessary. So at a minimum --

MS. KOEHLER: I think some do and some don't. I don't have the list, but there are some counties that have the five-year inspection program that's consistent with industry standards.

COMMISSIONER SCHMITT: It's a three-year and a five-year.

MS. KOEHLER: It depends on the type of tower whether it's a three- or a five-.

CHAIRMAN STRAIN: Okay. Anybody?

(No response.)

CHAIRMAN STRAIN: Thank you, Lisa. It's good to hear from you again.

MS. KOEHLER: You're welcome. It's a pleasure to be here.

CHAIRMAN STRAIN: Any there any members of the public that would like to speak on this matter? Now is the time. Ma'am, come on up for the --

MS. WASNICK: Good morning, everyone. Heather Wasnick with Crown Castle.

And I am here today, along with some of my colleagues who have more expertise than I do. I have one of our engineers on staff who is a PE and structural engineer licensed in the state of Florida who can attest to the ANSI TIA standards as Commissioner Schmitt has referred to, and we are in support of moving towards a standard of following what ANSI has outlined, as the telecommunications industry does use that for their inspections.

Crown Castle does have some additional guidelines that they follow, which are a bit more rigorous, but we are on board with following this change that's been proposed.

And Rolando Farious (phonetic) is here if you have any questions of him as our engineer on staff. Thank you.

CHAIRMAN STRAIN: Okay. Miss, just one question.

MS. WASNICK: Yes, sir.

CHAIRMAN STRAIN: Are the five-year standards something you do regardless of whether we would require it or not?

MS. WASNICK: We do follow a regular standard --

CHAIRMAN STRAIN: So you're always doing it?

(Simultaneous crosstalk.)

CHAIRMAN STRAIN: We're just getting a copy of this time and every five years?

MS. WASNICK: Correct. We do follow a three-, five-, seven-year standard as well as an annual standard for ground inspection at all of our facilities.

CHAIRMAN STRAIN: Well -- yeah, that kind of makes it seem moot to undo it because, if you're doing it, we might as well benefit from the report.

MS. WASNICK: We file our reports.

CHAIRMAN STRAIN: Thank you.

Anybody else have any questions?

COMMISSIONER SCHMITT: I make a motion that --

CHAIRMAN STRAIN: Well, no. Stan. We've got -- make sure --

COMMISSIONER CHRZANOWSKI: Just curious -- I would like Rolando to tell me whether I said anything inaccurate.

(No verbal response.)

COMMISSIONER CHRZANOWSKI: Okay. I'm good.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHMITT: Note for the record a signal of "okay."

CHAIRMAN STRAIN: Having no further questions, is there a motion --

COMMISSIONER SCHMITT: I make a motion that we approve the amendment as stated with changing to comport and comply with the ANSI standards.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER FRY: Second.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Okay. Discussion? Anybody?

Ned.

COMMISSIONER FRYER: I'm going to vote against the motion. And there is some material on Page 2 of the staff report where there's -- Mr. Leroy Pate, who was referred to. And at the end of the first paragraph it says, "However, staff continued to recommend the two- and four-year inspection cycles which were ultimately adopted by the Board and currently enforced today."

So I'm just wondering what the transformation was within staff that has led to the change in opinion. I don't believe I've heard really anything. It's a -- it's a nominal to zero cost to have these towers inspected more frequently. I can't for the life of me think of a reason why we would want to relax this safety requirement.

MR. FRANTZ: From a staff perspective, I was still a child when this was adopted in the beginning. So I'm evaluating it for the first time now.

And, you know, I'm looking at the industry standard, and I'm looking at our standard. And I don't think staff really has an opinion one way or the other. We're -- you know, it was a policy question back in the '90s, and it's a policy question again today, I think.

CHAIRMAN STRAIN: Okay. Any other comments during the discussion of the motion?

(No response.)

CHAIRMAN STRAIN: Motion's been on the -- been made to support the request. All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Motion carries 5-1. Thank you.

Jeremy, we're going to break around 10:30, so why don't we go to whatever next one you'd like to go to.

MR. FRANTZ: The next amendment is related to commercial building lighting. This is --

CHAIRMAN STRAIN: We love lighting.

COMMISSIONER FRY: You have a problem with lighting, Mark?

CHAIRMAN STRAIN: Only for those people that install it.

MR. KLATZKOW: You beat noise to death a few years ago, so now we're going to beat light to death.

CHAIRMAN STRAIN: I know. Joe --

MR. KLATZKOW: Smells are coming.

CHAIRMAN STRAIN: I mean, our code was 12 pages, and now it's a thousand.

MR. KLATZKOW: Smells are coming. Give us a couple years.

COMMISSIONER SCHMITT: Yeah. It's coming back again. Give us --

CHAIRMAN STRAIN: Okay, Jeremy. Go ahead.

MR. FRANTZ: This is a board-directed amendment again related to complaints in the community, an issue with a particular building. And the Board asked us to come back with some standards to address lighting.

The building that was in question was the El Dorado building on Pine Ridge and Airport. We have again tried to have flexible standards and tried to limit the amendment language to the issues that were brought to us. So we're limiting the number of colors on a building and the frequency that those lights can -- I'm sorry. We removed the number of colors on the building -- but the frequency that the lights can change. And I can answer any questions you might have.

CHAIRMAN STRAIN: Anybody have any questions about this lighting issue? Our lighting guy does. Go ahead, Karl.

COMMISSIONER FRY: I'll be brief.

CHAIRMAN STRAIN: No. That's okay. I figured you would have.

COMMISSIONER FRY: What is the scenario with El Dorado Furniture that caused this?

MR. FRANTZ: There was a complaint about the lighting. I can put the image on the visualizer.

CHAIRMAN STRAIN: One complaint.

MR. FRANTZ: It might not come through very well. But when the building was being constructed, these lights were changing. I don't know the frequency, but I think it was fairly rapidly, and that issue was brought to Code Enforcement, to some board members.

The resolution was to limit the amount of times that they could change the lights. So, essentially, we've kind of followed that resolution into the code.

COMMISSIONER FRY: How did you come up with the one day; you can change the lights no more frequently than once per 24 hours?

MR. FRANTZ: I believe that that is the agreement that was made with El Dorado.

COMMISSIONER FRY: That's all I have, Mr. Chairman.

CHAIRMAN STRAIN: Okay. Anybody else have any questions on this lighting?

MR. KLATZKOW: Yeah. I've just got one question. So when people put up, during Christmastime in front of their house, these lights that, well, just go all around their house with whatever it is, that -- is that encompassed by this language?

MR. FRANTZ: This one only applies to buildings that are subject to architectural standards or car washes, so it would not apply to --

MR. KLATZKOW: I'm just getting for the record that this will not have anything to do with residential property and people decorating with Christmas lights.

MR. FRANTZ: That's correct.

MR. KLATZKOW: That's coming next.

CHAIRMAN STRAIN: It wouldn't surprise me.

Ned?

COMMISSIONER FRYER: The reference to the number of colors that may be used, we're limiting it to three colors, and it seems to me that if something is undesirable, two colors could be just as undesirable as three,

and I wonder why you chose three colors. This is just D, Sub 1, the new language on Page 334 of the packet.

MR. FRANTZ: You know, honestly, I think the reference to the number of colors could be removed. I don't think that the problem with the -- the problem that was brought up with the building was related to the number of colors. Actually, I think this should have been removed previously. I think if we limit it to the frequency that the lights change that that would address the issue that was brought up by the Board.

COMMISSIONER FRYER: Okay. And let's see. On Page 335, the new language in J, it talks about adjacent residential property. Wouldn't we be better saying "nearby" instead of "adjacent"?

MR. FRANTZ: Adjacent is a defined term in the LDC. Nearby would be a little more nebulous.

COMMISSIONER FRYER: How is "adjacent" defined? Immediately next to?

CHAIRMAN STRAIN: I can read it for you. Let me find it. I can read it for you here in a minute. I'm going to read the definition for "adjacent," as soon as I get -- okay. Adjacent: To share a common property line or boundary or to be separated by a public right-of-way, easement, or a water body. Unless it's the school board, then it's a different issue. But that's the typical word "adjacent."

COMMISSIONER FRYER: Thank you.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHMITT: I have a comment.

CHAIRMAN STRAIN: Go ahead, Joe.

COMMISSIONER SCHMITT: And I know lighting is a major significant emotional event in this county in regards to signs. It really is. But having been -- visited cities like Shanghai or Hong Kong or Singapore or other parts of the world where the entire facades of buildings are illuminated, to me this is a lot to do about nothing.

So I'm indifferent. I don't think it's obtrusive, but I'll -- if the Board wants to move in this direction, that's fine.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Is there a motion to move in some direction? That was a good phraseology. Anybody want to make a motion?

COMMISSIONER HOMIAK: Make a motion to approve.

CHAIRMAN STRAIN: Motion made. Is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Motion made and seconded. Discussion?

COMMISSIONER FRYER: I'll ask --

CHAIRMAN STRAIN: You guys are really enthusiastic about this one, I can tell.

COMMISSIONER FRYER: The mover and seconder, what was their point of view with respect to the number of colors?

CHAIRMAN STRAIN: I think Jeremy said he would suggest it should have been not included in the first place. Is that what the motion maker assumed? Joe?

COMMISSIONER SCHMITT: Yeah, I couldn't -- I didn't motion.

CHAIRMAN STRAIN: I know.

COMMISSIONER HOMIAK: I did.

CHAIRMAN STRAIN: Oh, you did the motion. Okay. I'm sorry.

COMMISSIONER HOMIAK: Yeah. Motion to approve with removal of the three colors.

CHAIRMAN STRAIN: The second accept that?

COMMISSIONER CHRZANOWSKI: Yeah. I just want to say something. When it comes to color, you're talking wavelength, and I don't think we want to get that deep into this.

COMMISSIONER SCHMITT: Right.

MR. KLATZKOW: It isn't the color. It's the flashing.

COMMISSIONER SCHMITT: Flashing.

MR. KLATZKOW: What El Dorado's doing, they're forming, in a sense, their own signs, because it's

taking your eyes to look at them because they're flashing their colors. It's more of a signage issue than anything else. And it -- and it depends upon the aesthetics of the community. Shanghai, they like it; Collier County, they don't.

COMMISSIONER SCHMITT: Exactly.

CHAIRMAN STRAIN: Any further comments?

(No response.)

CHAIRMAN STRAIN: All in favor of the motion to support it with the language change, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Jeremy, what's the next one that you'd like to go to?

MR. FRANTZ: The next amendment is related to the creation -- or the codification of a nominal alteration plan.

CHAIRMAN STRAIN: Okay.

MR. FRANTZ: This is a new type of Site Development Plan or Site Improvement Plan specifically related to very minor changes to those site plans.

CHAIRMAN STRAIN: Any comments? Questions from the Planning Commission?

COMMISSIONER FRYER: I had a good discussion with staff about this and was -- it was explained to me that this is not a change in the safety inspections, and the like, or structural issues. We'll go through the same level of rigorous review, so I'm in favor of it.

COMMISSIONER CHRZANOWSKI: Move to approve.

CHAIRMAN STRAIN: Motion made. And seconded, anybody?

COMMISSIONER FRYER: Second.

CHAIRMAN STRAIN: Second by Ned. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Next, Jeremy?

MR. FRANTZ: The next amendment is related to modifications to the public notice and required hearings for land-use petitions.

A number of these changes are updates or corrections to the code, and then we have a couple of changes in particular related to the notice requirements for PUD ordinances for conditional uses. We currently have two requirements for mailed notice, and we're proposing the removal of one of those required mailed notices before the Board.

CHAIRMAN STRAIN: Okay. Any questions of staff? Go ahead; Karl, then Ned. Go ahead; Ned, then Karl, whatever you guys -- you guys fight it out.

COMMISSIONER FRYER: Are you eliminating two occasions of public notice or duplicative language? I thought it was the latter.

MR. FRANTZ: It's a little bit of a combination. So the typical mailed notice goes out prior to the Planning Commission hearing, and that mailed notice for PUDs would typically include property owners within that area. The provision that we're removing puts the onus on the county to send out an additional mailed notice.

COMMISSIONER FRYER: Of the same meeting?

MR. FRANTZ: Of the Board meeting only. And it's specific to the owners within the area. So from staff's perspective, we would see that as, you know, a second mailed notice to owners. It just is going out prior to the Board rather than at the beginning of the process.

COMMISSIONER FRYER: But these are two notices of the same meeting?

MR. FRANTZ: Of the same petition but not the same meeting.

COMMISSIONER FRYER: Okay. So public's going to be less informed as a result of this?

MR. FRANTZ: I'd actually have to go back to staff about what is on that initial mailed notice, whether they -- it goes out before the Planning Commission. I'm not sure if it notices both the dates of the Planning Commission and the Board hearings or if it just notices the Planning Commission.

COMMISSIONER FRYER: Chairman, this sounds to me like it's not ready for prime time.

CHAIRMAN STRAIN: Jeremy, I think the issue's going to be definitive on -- as your -- is it Rich that wrote this or someone here with staff who can -- oh, it was Ellen, wasn't it?

MR. FRANTZ: Yeah. I'd have to go and look at those mailed notices and verify with staff what the --

CHAIRMAN STRAIN: That would be important. I agree with Ned; we don't want to lessen the public notification. In fact, years ago we strengthened it. So it would be a bad time to turn it around. So if you could get that answer to us before we weigh in on that, that would be very helpful.

Karl.

COMMISSIONER FRY: Are you finished, Ned?

COMMISSIONER FRYER: Yes, sir.

COMMISSIONER FRY: Jeremy, I notice reference to the notification area at several points within this, and to me that's -- I know it fits into the equation, but I'm not quite sure how. How is that defined in terms of distance or number of residents? Is that relevant to this? I've heard a complaint that not enough people are notified when a commercial development or PUD is applied for; that it's only a thousand feet, and it should be an entire neighborhood if it's adjacent or surrounds that applicant.

I'm just -- I'm not sure if it's relevant or not. I want to just understand where the notification area is defined. I don't find it in this document. But how does that fit into this equation?

MS. ASHTON-CICKO: It's defined in another section. I think it's 10.03.05 has the notification requirements and the distances, and it depends on whether it's urban or rural. The distances are different.

COMMISSIONER FRY: Did I miss that in the packet, or is it in a section that's not within our packet?

MS. ASHTON-CICKO: It's not in the packet.

COMMISSIONER FRY: Separate, okay.

CHAIRMAN STRAIN: Yeah. It's a separate part of the code.

COMMISSIONER FRY: It's not relevant to today's discussion?

CHAIRMAN STRAIN: No. I mean, if the Board wanted us to take a second look at it, we certainly could, but I haven't heard that request yet. So it's not the one before us today.

COMMISSIONER FRY: Thank you.

CHAIRMAN STRAIN: Jeremy, I think the last batch amendment is really a series of scrivener's errors; is that correct?

MR. FRANTZ: That's correct.

CHAIRMAN STRAIN: Do you want to just leave that out?

Yes, sir.

COMMISSIONER FRYER: On Page 358 -- and this relates to the one that we were just talking about, I think. It says, the NIMs shall be held after the first set of staff review comments have been issued and prior to the advertised Planning Commission adoption hearing, and it deletes language, "15 days before the first advertised." So, I mean, is it something that could be done as short as one hour prior?

CHAIRMAN STRAIN: Actually, the 15 days comes up -- I had the same question when I met with staff. The 15 days come up. I was reading it; in another section of the code it's referenced.

COMMISSIONER FRYER: Oh. So it's duplicated.

MR. FRANTZ: And in this amendment in the Administrative Code change, you see that language in the admin code.

COMMISSIONER FRYER: So it's just duplicative?

MR. FRANTZ: It's duplicate language now. So we're just keeping that process --

COMMISSIONER FRYER: It's still going to be 15 days.

(Simultaneous crosstalk.)

MR. FRANTZ: Yeah.

COMMISSIONER FRYER: Thank you.

CHAIRMAN STRAIN: Let's finish up this one section of the agenda. So is there any issues with the scrivener's error section that you're presenting to us, Jeremy, that you need to highlight?

MR. FRANTZ: No. These are your typical corrections.

CHAIRMAN STRAIN: Anybody have any corrections to the corrections?

(No response.)

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Made by Karen. Is there a second?

COMMISSIONER FRY: Second.

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

And with that, we'll take a break to 10:45 and resume the meeting at that time.

(A brief recess was had from 10:31 a.m. to 10:45 a.m., and Chairman Strain and Commissioner Chrzanowski left the board room for the remainder of the meeting.)

MR. FRANTZ: You have a live mic.

VICE CHAIR HOMIAK: Okay. We're missing Stan and Mark now, so we have four.

And we'll -- next, Jeremy, is the Bayshore/Gateway Triangle.

MR. FRANTZ: Correct. This is another Board-directed amendment clarifying the dimensional requirements for minimum floor area as they relate to hotels in the Bayshore redevelopment area.

COMMISSIONER SCHMITT: I have a question.

Jeremy, for clarification, this -- basically, as I read this, it now is pretty much consistent with the rest of the county. It was -- am I my mistaken that the Bayshore was a bit more restrictive, and this is now in compliance with other requirements throughout the county?

MR. FRANTZ: The minimum floor area was never applied to hotels in Bayshore either. This is really just a clarification of the existing --

COMMISSIONER SCHMITT: Okay.

MR. FRANTZ: -- of the existing language.

COMMISSIONER SCHMITT: All right. I have no issues with it. I'd pass to others to make comments.

VICE CHAIR HOMIAK: Ned.

COMMISSIONER FRYER: Didn't the Board of County Commissioners weigh in on this issue?

MR. FRANTZ: Yes. They directed this amendment to be drafted as a result of another issue in front of them.

COMMISSIONER FRYER: Okay. And the issue that was in front of them, how was that resolved?

MR. FRANTZ: I am not a part of that.

COMMISSIONER FRYER: Oh, okay. But I guess it was their point of view that there was an ambiguity here?

COMMISSIONER SCHMITT: That's the way I read it. I mean, I read there was an ambiguity, and this just brings it in --

MR. FRANTZ: I think there was a question about whether it applied or not. Staff said, no, it does not. And in an abundance of caution, I believe the Board is trying to make it --

(Simultaneous crosstalk.)

MR. FRANTZ: -- absolutely certain that it's clear it does not apply.

COMMISSIONER FRYER: Yeah. That's exactly -- thanks. That's all I have.

VICE CHAIR HOMIAK: Any other questions or --

COMMISSIONER SCHMITT: I make a motion to approve as stated.

COMMISSIONER FRYER: Second.

VICE CHAIR HOMIAK: All those in favor, signify by saying aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

VICE CHAIR HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

VICE CHAIR HOMIAK: Opposed, like sign?

(No response.)

MR. FRANTZ: The last LDC amendment -- actually, this is an amendment to the Code of Laws and Ordinances. This is related to temporary emergency housing.

If you all recall, approximately a year ago we were reviewing an LDC amendment related to the Plantation Island Overlay, and there was some discussion about relaxing the process for getting extensions of temporary housing during a build-back scenario, and so we've added an additional extension process. And that's kind of the history of this amendment.

COMMISSIONER SCHMITT: Question.

VICE CHAIR HOMIAK: Yes.

COMMISSIONER SCHMITT: Typically -- and I'm probably looking at Jamie French. But, typically, in a hurricane -- and there are provisions. I won't get in all the details. But there are provisions where the staff, typically, would come to the Board with emergency criteria for permitting and other type of things. But hasn't it been in the past, my recollection, pretty routine that we would allow this language in the post-storm emergency provisions, or not? And we've done this in the past.

MR. FRANTZ: Right now it requires the Board to extend the ability to have that temporary housing on your property. And the thought process that you-all had -- and we did bring that to the Board when they reviewed the Plantation Island amendment, and they also agreed and, you know, we got direction for this amendment, was, there's no need to go back to the Board for another six-month extension. Why not make that process -- we know that it takes longer than six months to build your home in a lot of cases.

COMMISSIONER SCHMITT: My comment was, typically, in the post-hurricane ordinance, we put this in the ordinance and codify it as separate language in a hurricane recovery ordinance. Now it's going to be permanent as part of the LDC.

MR. HENDERLONG: Rich Henderlong. I worked on this amendment. Let me clarify it for you.

There are three things. There's the post disaster --

COMMISSIONER FRYER: Would you state your name, sir.

MR. HENDERLONG: Rich Henderlong, principal planner, Land Development Code section.

COMMISSIONER FRYER: Thank you.

MR. HENDERLONG: The Post Disaster Emergency Task Force, okay, was not required, which involves multi agencies. The Emergency Review Board -- the Board, once an emergency declaration occurs, the Emergency Review Board does get instituted. And you're right, Commissioner, it involves a lot of departments, a lot of agencies, intensive coordination.

They're only allowed to grant temporary housing for the six months. They would have to go back to the Board of County Commissioners or a task force to get extended.

COMMISSIONER SCHMITT: To extend it.

MR. HENDERLONG: So this measure is to empower the County Manager and a designee to allow it to go beyond six months.

The concern is when FEMA comes in for housing and that housing is going to be out there for a year or much longer. But the Planning Commission should be aware that the county is looking at a consultant to come in and look at a longer-term duration for a site. For example, everyone will recall Charlotte County where they had -- they call it a mobile home housing setup, a whole site development plan. That's a whole different process.

COMMISSIONER SCHMITT: Very, very familiar.

MR. HENDERLONG: This is very specific to recreational vehicles, and it could be a fire storm that somebody gets out there. So they're not limited to six months. The staff can extend it.

COMMISSIONER SCHMITT: This is not a section that would allow it -- under the emergency response plan, federal emergency response plan where you're setting up a FEMA trailer center. This is for individual homesites. They have a --

MR. HENDERLONG: That's correct.

COMMISSIONER SCHMITT: Okay. Fine.

VICE CHAIR HOMIAK: Karl.

COMMISSIONER FRY: One question. It says, additional six-month extensions for temporary housing -- emergency housing may be administratively approved by the County Manager or designee. Who would be typically a designee? Is that the Hearing Examiner? Is that -- could it be anybody? I'm just wondering who the likely designees might be.

MR. FRANTZ: This is a common phrase that we use in the LDC to refer to staff processes. In this case, it's a temporary-use permit; is that correct, Rich?

MR. HENDERLONG: (Nods head.)

MR. FRANTZ: So this is the staff within the Growth Management building.

MR. HENDERLONG: It's normally going to be the Community Development administrator or the building -- the department that issues that temporary-use -- the head for that would be the Community Development administrator.

COMMISSIONER FRY: But there would be no requirement for it to come before any formal board or group?

MR. HENDERLONG: (Witness shakes head.)

COMMISSIONER FRY: Thank you.

VICE CHAIR HOMIAK: Anything else?

COMMISSIONER FRYER: I'll move a recommendation of approval to the BCC.

COMMISSIONER SCHMITT: Second.

VICE CHAIR HOMIAK: All those in favor, signify by saying aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

VICE CHAIR HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

VICE CHAIR HOMIAK: Opposed, like sign?

(No response.)

MR. FRANTZ: That's the final LDC amendment for you today.

VICE CHAIR HOMIAK: And then there's just that one that comes back, and you don't need --

MR. FRANTZ: If you'd like to continue that to a date certain, that would be helpful so that we wouldn't have to readvertise. We've got a couple of dates coming up on December 5th or the second meeting in December as well. Either of those two dates would work for us.

MS. ASHTON-CICKO: And that's the public notice LDC Amendment 10.03.06.

VICE CHAIR HOMIAK: Okay. So we should continue that one till the 5th?

COMMISSIONER FRYER: What else do we have on for the 5th.

MR. FRANTZ: I don't have the schedule. I believe the 19th has probably only got one item or maybe only a few items on that agenda, so that might be a better date for you.

COMMISSIONER FRY: I believe Chairman Strain mentioned four agenda items.

COMMISSIONER SCHMITT: The 19th would be better.

COMMISSIONER FRYER: Yeah. Let's move it to the 19th. That's my motion.

COMMISSIONER FRY: Second.

VICE CHAIR HOMIAK: You need a motion for that, right, to continue it to the 19th?

MS. ASHTON-CICKO: Yes, please.

COMMISSIONER FRY: Second.

VICE CHAIR HOMIAK: Okay. Ned and Karl.

All those in favor, signify by saying aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

VICE CHAIR HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

VICE CHAIR HOMIAK: Opposed, like sign?

(No response.)

VICE CHAIR HOMIAK: Thank you.

COMMISSIONER SCHMITT: Jeremy, I'd recommend you talk to Karl and get some input from Karl. He's the resident expert.

COMMISSIONER FRY: Well, I'd like to move that we have a special night meeting to discuss lighting. Perhaps Christmas Eve. I withdraw that motion.

VICE CHAIR HOMIAK: Okay. So we have no new business, no old business. I don't see any public. So we are adjourned.

COMMISSIONER FRYER: Out of here.

COMMISSIONER FRY: Do you need a motion for that, Karen?

COMMISSIONER SCHMITT: I make a motion to adjourn.

COMMISSIONER FRY: Second.

VICE CHAIR HOMIAK: All those in favor?

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

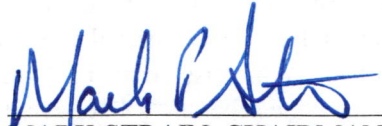
VICE CHAIR HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

November 21, 2019

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:54 a.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

These minutes approved by the Board on 12-19-19, as presented or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF U.S. LEGAL SUPPORT, INC.,
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