MINUTES
City of Cocoa
Regular Meeting of The City Council

July 26, 2022

A Regular City Council Meeting was held on Tuesday, July 26, 2022, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. Opening Matters:

Mayor Blake called the meeting to order at 6:00 p.m.

Councilmember Goins provided the invocation and a citizen led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The City Clerk took the roll.

PRESENT:	Michael C. Blake	Mayor
	Lavander Hearn	Deputy Mayor
	Rip Dyal	Councilmember
	Alex Goins	Councilmember
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	Stockton Whitten	City Manager
	Carie Shealy	City Clerk

OTHER STAFF MEMBERS PRESENT:

Jack Walsh, Utilities Director; Tammy Gemmati, Administrative Services Director; Charlene Neuterman, Community Services Director; Pat Dovale, Police Commander; Rebecca Bowman, Finance Director; Jonathan Lamm, Fire Chief; Mitch Lawyer, Tech Services Supervisor; Bryant Smith, Public Works Director; Samantha Senger, Assistant to the City Manager/PIO; Angela Essing, Growth & Economic Development Director; Lora Howell, Deputy Finance Director; and Erik Montgomery, Helpdesk Support Tech.

II. Approval of Agenda and Minutes:

1. **Agenda:** Regular Meeting of July 26, 2022. (22-418)

2. **Minutes:** (a) Minutes of the Regular meeting of May 10, 2022 (22-343)
(b) Minutes of the Regular meeting of May 24, 2022 (22-344)

* **MOTION by Councilmember Koss; Seconded by Councilmember Dyal, to approve the Agenda as Amended for the Regular meeting of July 26, 2022. The Amendments were to remove Items III.1 under Awards & Presentations, as well as Council Business Item VII.4.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

* **MOTION by Deputy Mayor Hearn; Seconded by Councilmember Dyal, to approve the Minutes for the Regular meeting of May 10, 2022 as written.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

* **MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to approve the Minutes for May 24, 2022 as written.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

II. Awards and Presentations:

~~1. Presentation of the City of Cocoa's 2022 "Cocoa Works" Summer Youth Employment Program. (22-324). (Administrative Services Director)~~

* **This item was removed from the agenda.**

IV. Delegations:

John Niland, 121 Island Place, Orchid, Florida, with Solutions Environmental & Energy, LLC, spoke on issues with fluoride in the water. He explained a study that was conducted. He commended Council for their respect of the youth and has never seen any other council show attention to the youth like the City does.

George Brown, Jr., Cocoa, has had a business in Cocoa for forty-seven years. He does not like Ordinance No. 07-2021 regarding term limits and provided his

reasonings why. He mentioned the last Code Enforcement Board meeting and that he would like for the ordinance to be reconsidered.

Tara Gabor, Cocoa resident, pointed out that at the July 12th meeting the EFSC golf camp was recognized and that has given her hope that one day there would be a nine-hole golf course in Cocoa. She further stated that if records could be searched for online that would help with the records policy.

Kristin Lortie, Cocoa resident, statement read by Tara Gabor on her behalf. Gabor The statement has been sent to Council on July 25, 2022 to Council and staff[1].

Jackie Lewis, Cocoa resident, is an independent contractor who teaches Zumba and Aqua Zumba to kids and adults in the community. She teaches at the Joe Lee Smith Center and they do not want the pool to close. She asked if the City could help fund the lifeguards so that the pool does not close due to the lack of lifeguards. She wants to help people remain healthy.

V. Consent Agenda:

(A) General Consent Items:

1. Authorize the City Manager to Issue a Purchase Order in the Amount of $123,309 for Meter Reading Software Related Expenditures Pending the FY-2023 Budget Adoption, to Ferguson Waterworks #3648, Utilizing the Master Agreement for Water Meter and Meter Reading Equipment Purchases Contract. (22-262). (Finance Director)

2. Approve Change Order #1 for P.O. 78729 with Connect Consulting, Inc. in the Amount of $135,083.00. (22-383). (Utilities Director)

3. Request Council to Approve a Resolution Amending the FY22 budget, BAF 22-114-A to increase funding from Florida Housing Finance Corporation, in the amount of $4,044, for the City's State Housing Initiatives Partnership (SHIP) program. (22-389). (Community Services Director)

4. Approve a Resolution Amending the FY22 Budget, BAF 22-116-T, to Transfer Funds from the Streets Repair and Maintenance Account 001-3510-541.46-00 to the Professional Services Account 001-3510-541.31-00. (22-397). (Public Works Director)

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[1] EXHIBIT A: Statement from K. Lortie

5. Approve a Resolution Amending the Fiscal Year 2022 Budget, BAF# 22-111-A in the amount of $25,000 for the grant award $25,000 using Fund Balance (Match) and $50,000 for the expense related to the State of Florida Historic Preservation Small Matching Grant Award #22.h.s.m.300.24. (22-423). (Community Services Director)

6. Approval of the requested Pay Plan changes for Fiscal Year 2022. (22-424). (Administrative Services Director)

(B) Multi-Year Contracts:

7. Approval of the multi-year agreement for Neogov dated August 1, 2022 through December 9, 2025 for the City's applicant tracking and onboarding systems; authorize the City Manager to negotiate and execute attorney approved agreement; approve a resolution to Waive Competitive Bidding. (22-380). (Administrative Services Director)

8. Approve a multi-year renewal of United Healthcare Medicare Advantage Plan for eligible retirees 65 and over from January 1, 2023 to December 31, 2023 and payments to eligible retirees for Medicare Part B reimbursement. (22-396). (Administrative Services Director)

* **MOTION by Councilmember Dyal; Seconded by Mayor Blake, to approve the Consent Agenda.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VI. Public Hearings:

1. Comprehensive Plan Text Amendment - Transmittal Hearing and First Reading of Ordinance No. 05-2022 of the City of Cocoa, Brevard County, Florida readopting a Private Property Rights Element pursuant to Section 163.3177, Florida Statutes. (22-366). (Growth & Economic Development Director)

City Attorney Garganese read Ordinance No. 05-2022 into the record, by title only, as follows:

ORDINANCE NO. 05-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AMENDING THE TEXT OF THE CITY'S COMPREHENSIVE PLAN TO INCLUDE A PROPERTY RIGHTS ELEMENT AS

REQUIRED BY LAW; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS INCLUDING ORDINANCE NO. 15-2021, INCORPORATION INTO THE COMPREHENSIVE PLAN, SEVERABILITY AND AN EFFECTIVE DATE AND LEGAL STATUS OF THE PLAN AMENDMENT.

City Attorney Garganese expounded on the ordinance and noted it was in regards to the Public Property Rights Element. He advised that a new law had passed in 2021 requiring cities and counties to incorporate a Property Rights Element into their Plan. This was originally done by Ordinance No. 15-2021 but later they learned that it was never transmitted to the State, therefore, it was being requested to re-adopt this new ordinance.

Mayor Blake opened the hearing to the public. There being no response, the public portion of the hearing was closed.

* **MOTION by Deputy Mayor Hearn; Seconded by Councilmember Dyal, to approve Ordinance No. 05-2022 on First Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

2. Consideration of a Comprehensive Plan Text Amendment: Transmittal Hearing and First Reading Ordinance No. 07-2022 to create a comprehensive plan policy in the Future Land Use Element authorizing the City Council to approve by development agreement residential densities of up to 125 dwelling units per acre related to vertical mixed use projects within a very limited geographical area of approximately 4.5 acres, more or less, and designated mixed use on the future land use map and designated a Cocoa Village Subdistrict with a commercial/mixed use large (cl) building type on the Cocoa Waterfront Overlay District Regulating Plan; under certain terms and conditions deemed necessary and acceptable to the City Council by development agreement. (22-381). (Growth & Economic Development Director)

City Attorney Garganese read Ordinance No. 07-2022 into the record, by title only as follows. He advised that this was a transmittal hearing and Ms. Essing would be providing a brief presentation[2].

ORDINANCE NO. 07-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, ADOPTING A LARGE SCALE

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[2] EXHIBIT B: Presentation: Comp Plan Text Amendment

COMPREHENSIVE PLAN TEXT AMENDMENT; ADOPTING A POLICY IN THE FUTURE LAND USE ELEMENT AUTHORIZING THE CITY COUNCIL TO APPROVE BY DEVELOPMENT AGREEMENT RESIDENTIAL DENSITIES OF UP TO 125 DWELLING UNITS PER ACRE RELATED TO VERTICAL MIXED USE PROJECTS WITHIN A VERY LIMITED GEOGRAPHICAL AREA WHICH IS GENERALLY LOCATED ALONG BREVARD AVENUE NEAR CITY HALL AND MORE SPECIFICALLY DESCRIBED HEREIN BY PARCEL INFORMATION AND MAP THAT CONSISTS OF AFFECTED REAL PROPERTY OF APPROXIMATELY 4.5 ACRES, MORE OR LESS, AND IS DESIGNATED MIXED USE LAND USE ON THE FUTURE LAND USE MAP AND DESIGNATED COCOA VILLAGE SUBDISTRICT WITH A COMMERCIAL/MIXED USE LARGE (CL)BUILDING TYPE ON THE COCOA WATERFRONTOVERLAY DISTRICT REGULATING PLAN; REQUIRING ADEVELOPMENT AGREEMENT BY THE CITY COUNCIL TOAPPROVE SUCH PROJECTS ON SUCH REAL PROPERTYUNDER CERTAIN TERMS AND CONDITIONS DEEMEDNECESSARY AND ACCEPTABLE TO THE CITY COUNCIL;PROVIDING FACTORS TO BE CONSIDERED BY CITY COUNCILWHEN CONSIDERING WHETHER TO APPROVE SUCHPROJECTS BY DEVELOPMENT AGREEMENT; PROVIDINGFOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCESAND RESOLUTIONS, INCORPORATION INTO THECOMPREHENSIVE PLAN, SEVERABILITY, AND AN EFFECTIVEDATE AND LEGAL STATUS OF THE PLAN AMENDMENT.

Ms. Essing explained the parcels that were being discussed as well as the project. A map was shown of the parcel locations. She further pointed out what was allowed on the property as well as the size of the property.

The FLU, Zoning Code and Future Waterfront Overlay District were all discussed and this proposal will bring all of those plans together.

She reviewed the Consistency with Comp Plan Policies and Objectives. All of these went through a lot of scrutiny with all of the departments within the City and the Brevard County School Board.

In closing, Ms. Essing stated the recommended motion and added that the Land Planning Agency reviewed this and recommends approval.

Mayor Blake asked Ms. Essing about the comments and results of the Planning & Zoning Board. In response, she advised there was some discussion and they felt that encouraging mixed use in the area was advantageous to the Village. There was further discussion among the Board about surrounding businesses and they looked at diversifying housing options. The Board felt it was nice. They do,

however, have concerns about the character of the building and how it would mix with the existing Village.

Councilmember Koss asked what the height would be based on the current dwelling units. In response, Ms. Essing mentioned it would be based on the unit itself, and could be between three and five stories because this is a mixed-use category.

Councilmember Koss shared her feelings about the height in furtherance and shared that she had been contacted by a number of people who have the similar affection for the Village.

Further discussion was held on the height and the pros and cons to this ordinance.

Councilmember Dyal understood that the height was already approved for the hotel. Staff responded in the affirmative and stated it was eight stories.

Attorney Garganese clarified that the ordinance is only about density. He understands that it can drive height sometimes but this only proposes a potential increase in density in the three properties shown. The maximum height is already regulated in the Waterfront Master Plan. He explained what those limits were and noted that in Cocoa Village it was allowed by Development Agreement. In order for a building to be eight stories in height it would need to be a development agreement and it could be in a much larger area. He reiterated that this item was just about density and does not impact height.

City Manager Whitten clarified the addresses being affected and that the hotel is located at 603 Brevard Avenue, not 630 Brevard Avenue which is on the slide.

Mayor Blake opened the hearing to the public.

Brad Whitmore, with HCVMA, felt that that the Village used to not be a place to be but it has improved. They hoped it would maintain that and continue to be a destination. He is a merchant and lives in the Village. There is word on the street that retail cannot survive and more food and beverage services need to be brought into the store fronts in order to create a night life district. He believed that would be terrible as that is not what they want the Village to be.

Donna Kettner, 103 Derby Street, Cocoa, moved here over forty years ago. She came to the Village when it was not as pretty as it is today but she knew the potential of the downtown. She hopes it continues to grow in the right direction. There are opportunities for it to remain charming and have something you cannot get anywhere else but the Village. She urged Council to consider keeping a height restriction in the downtown area.

George Brown, Jr., Cocoa, loves the Village as well but you cannot hold back progress.

Steve Murphy, 3733 N. Sherwood Circle, Cocoa, mentioned in this discussion there were three things he did not hear: 1) how this would possibly jeopardize the CRA with the County; 2) parking in the Village is already bad; and 3) parking on the streets is also narrow and how will emergency vehicles fit in those areas.

Bill Riddle, Cocoa, asked if on-sight parking could be required as it would be a mess without that.

There being no further response, the public portion of the hearing was closed.

Deputy Mayor Hearn asked for clarification on the ordinance and that it was not deleting a height restriction but strictly referring to density. In response, staff confirmed that height restrictions in the Code were not affected. This only allowed a potential increase in density on the properties depicted in the presentation only.

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to approve Ordinance No. 07-2022 on First Reading.**

AYES: Blake, Hearn, Dyal, Goins

NAYES: Koss

THE MOTION CARRIED (4-1)

3. Consideration of Ordinance 06-2022, a Comprehensive Plan Text Amendment consistent with Chapter 163, Florida Statutes, to correct a scrivener's error in the Future Land Use Element, Figure FLU-1, to provide that the RU-2-10 zoning district is an allowable zoning district only in the Low Density Residential Future Land Use Category. (22-393). (Growth & Economic Development Director)

Mayor Blake advised this has to do with the Consent Decree and provided information on this item.

City Attorney Garganese read Ordinance No. 08-2022 into the record, by title only, as follows. He noted this was a transmittal hearing and was being done in order to correct a scriveners' error. He expounded in furtherance on the changes.

ORDINANCE NO. 06-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, ADOPTING A LARGE SCALE COMPREHENSIVE PLAN TEXT AMENDMENT; CORRECTING A SCRIVENER'S ERROR IN FIGURE FLU-1 SET FORTH IN THE FUTURE LAND

USE ELEMENT TO PROVIDE THE RU 2-10 ZONING DISTRICT IS ONLY AN ALLOWABLE ZONING DISTRICT IN THE LOW DENSITY RESIDENTIAL FUTURE LAND USE CATEGORY; PROVIDING DATA AND ANALYSIS AND THE LEGAL BASIS SET FORTH IN THE RECITALS TO SUPPORT THE PROPOSED COMPREHENSIVE AMENDMENT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE COMPREHENSIVE PLAN, SEVERABILITY, AND AN EFFECTIVE DATE AND LEGAL STATUS OF THE PLAN AMENDMENT.

Mayor Blake opened the hearing to the public. There being no response, the public portion of the hearing was closed.

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to approve Ordinance No. 06-2022 one First Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

4. Council consideration and public comment on the allocation of the 2022 Edward Byrne Memorial Justice Assistance Grant in the amount of $14,108. (22-400). (Chief of Police)

Mayor Blake opened the hearing to the public. There being no response, the public portion of the hearing was closed.

* **MOTION by Councilmember Koss; Seconded by Deputy Mayor Hearn, to approve.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

5. Approval of a Preliminary Subdivision for River Walk consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code. (22-402). (Growth & Economic Development Director)

Mayor Blake pointed out that this property is underdeveloped and is a former orange grove. This would be the west side of North Indian River Drive.

Councilmember Koss noted she is the neighbor of the owner and would recuse herself from this item. She submitted a Form 8B to the City Clerk.[3]

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[3] EXHIBIT C: Form 8B submitted by Councilmember Koss

Ms. Essing explained this item in detail and showed a map of the proposed location[4]. There will only be access by Indian River Drive. She further advised that the total amount of hardwood trees would be mitigated with other species. There is consistency with the Comprehensive Plan and Planning & Zoning recommended approval with conditions, which Ms. Essing provided.

Mayor Blake opened the hearing to the public.

Mr. Murphy asked if these properties would be on city sewer and staff responded in the affirmative.

Rose Mary Bowman, 1421 N. Indian River Drive, is south of the development and is concerned that there will be no other access out of the development. That is a lot of traffic in a confined space. She asked if there could be consideration for US 1 access.

Mr. Smith responded to her concerns and stated that from a traffic impact analysis it was very minor. He explained the statistics in regards to roadways and why having access to US 1 would be more hazardous.

Ms. Bowman also mentioned stormwater issues that are already apparent and asked if anything would be done to fix those. Mr. Smith stated that SJRWM is required to come into compliance with those.

Bill Riddle, Indian River Drive, voiced concerns about the amount of traffic with no access to US 1. He asked which road would be used to enter the development. In response, Mr. Smith advised most would use Dixon Blvd.

Dan Burns owns property in this area and asked about construction vehicles as well as the duration of construction. He also asked about fencing requirements.

Kenneth Leblow, with BSE Consultants, 312 S. Harbor City Blvd., were the applicants and engineers for the project. He first noted that the stormwater would be on site. He further spoke in regards to the traffic, pointing out that a traffic plan would be required and there would be a construction entrance.

The two tracts along the river will not be developed but restored with new vegetation and the native vegetation would be enhanced. This will improve the view.

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[4] EXHIBIT D: Presentation regarding River Walk

He spoke about the lot size and advised that the water and sewer would be connected on US 1 and Indian River Drive. The sewer would be done by a project that the City was already going to be doing.

Lastly, he stated that the construction period of time would be nine months to a year.

Tammy Carter, 1809 Indian River Drive, Cocoa, asked about the sewer remarks that were made. In response, Mr. Walsh explained that they had already coordinated with BSE about the plan and whomever goes first, would be the first manhole. If J & K were to go forward they would pick up from that manhole and go forward.

Celeste Gorado, Indian River Drive, Cocoa, mentioned the beauty of Indian River Drive and Cocoa Village were the reason she moved here. She cannot imagine changing the scale of the Village and of the neighborhood. She pleaded with Council not to approve as she believed this would destroy the area and she is concerned.

Steve Ricker, 110 N. Indian Circle, Cocoa, pointed out that there has been an easement issued for many years and by the fruit stand there is a road that comes through. Additionally, when you come off of Dixon Blvd. to River Road about half way between it floods. They are thankful for access to US 1 on the west side.

Dan Burns asked if there were requirements for fencing around the property and any consideration for traffic off of Bedford.

The contractor advised that fencing was proposed but he could not remember if it was required. He further spoke in regards to utility easements and stated that those on the plan will be maintained.

Nancy Cabana, Cocoa, was glad to see housing going in there as it is needed in Cocoa. She asked if they would be one or two story homes.

The public portion of the hearing was closed.

Councilmember Goins questioned the location of the retention pond and if the homes on Indian Hill Drive would abut to the subdivision. If so, would there be a swell between them. The engineer advised that all lots would be tiled into the site. The pond would be in two triangular tracts in the corners. He showed their locations on the map.

Deputy Mayor Hearn was interested in this project because it is in his district and asked if there were any plans for green space or recreational areas. In response,

the engineer mentioned that there were no plans for green space but reiterated that the two tracts along the river would be updated.

* **MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins

THE MOTION CARRIED UNANIMOUSLY (4-0)

* **MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to take a five-minute recess. It began at 7:39 p.m.**

AYES: Blake, Hearn, Dyal, Goins

THE MOTION CARRIED UNANIMOUSLY (4-0)

* **MOTION by Councilmember Dyal; Seconded by Mayor Blake, to reconvene the meeting. The meeting reconvened at 7:50 p.m.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

6. Approve Ordinance No. 08-2022/2nd & Final Reading: To Update Irrigation Conservation Practices to Promote Water Conservation. (22-420). (Utilities Director)

City Attorney Garganese read Ordinance No. 08-2022 into the record, by title only, as follows. He advised this was second and final reading of the ordinance.

ORDINANCE NO. 08-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 22 – WATER AND SEWERS, ARTICLE VI. – IRRIGATION CONSERVATION TO PROMOTE WATER CONSERVATION THROUGH THE MORE EFFICIENT USE OF LANDSCAPE IRRIGATION; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Mr. Walsh noted that this was being updated consistent with the SJRWMD ordinance.

Mayor Blake opened the hearing to the public. There being no further response, the public portion of the hearing was closed.

Steve Murphy, Cocoa, spoke on the reclaimed water system and believed that this was not promoting more sufficient use of water use on landscaping. There is also a conflict of interest for the City and suggested #7 under exemptions be removed.

Mr. Walsh addressed his concern and noted that St. John's does not have jurisdiction over reclaimed. We would not want that to happen as there would be more discharges to the river.

Councilmember Koss felt that Mr. Murphy's point was a good one and she knows how our water system works. She is aware that there is also a higher level of nitrogen and there could be issues where it drains into the Lagoon. The idea of educating people on how they use their water is encouraged as well as guiding them to do more native plantings. She believed some guidelines were worth their consideration at a later time.

* **MOTION by Councilmember Dyal; Seconded by Mayor Blake, to approve Ordinance No. 08-2022 on Second and Final reading.**

Mr. George Brown, Jr. has a nice system and wondered if there were restrictions on his home use. It was pointed out that there are no restrictions on reclaimed water usage.

Tammy Carter questioned the notifications about this ordinance and stated there are lot of items that come up that people do not know about. She felt more would be in attendance if they knew about this.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VII. Council Business:

1. Provide Direction to Staff for Funding and New Policies, if Necessary, for the Indian River Drive Septic to Sewer Conversion Areas J & K. (22-399). (Utilities Director)

Councilmember Koss recused herself from this item and stepped down from the dias. She submitted Form 8B to the City Clerk[5].

City Manager Whitten advised that Mr. Walsh has a presentation which is pretty much the same as the last meeting. City Manager Whitten clarified that contract language is no longer an issue as of tonight's meeting.

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5 EXHIBIT E: Form 8B submitted by Councilmember Koss

He advised that as of today, they do not have an estimate based on the market as to what the project would cost. The $5.1 million may not be enough once the bidding is done. There are also contractual issues to work though.

Mr. Walsh provided a presentation[6]. He reviewed the three options in detail being presented in regards to the project. He advised that originally there were four options but the third was removed. He discussed the advantages and disadvantages of each option in detail and reiterated that costs were hard to predict at this time.

Project costs were shown and Mr. Walsh highlighted some of the figures. He spoke about grants pointing out that there were risks involved in getting those as they do not know the real number.

A summary of grants was shown in regards to SJRWMD and FDEP. He further showed Private Infrastructure Grant information.

Deputy Mayor Hearn asked the City Attorney if there was a 100% mandate to this area and if the additional nineteen homes could be included and if there is legal standing to make the homeowner hook up. In response, Mr. Walsh advised that they would send notices and they would have twelve months to hook up if its available.

Secondly, he asked about the Indian River Lagoon and if the City could ask for more. It was stated no as the City is already getting the maximum reimbursement per lot which is the $5.1 million.

Mayor Blake asked how many have signed up out of the ninety-two homes. It was pointed out that there have been three community meetings in the last few months and it is about a 50/50 for it and against it.

Discussion was held on the grants and funding.

Councilmember Dyal asked if the grants fell through who would be responsible. Mr. Walsh noted it would all have to be decided as to who would pay for those shortages.

Councilmember Dyal has a problem paying for someone with a million dollar home. He is concerned with people having to pay out of pocket for something that does not directly affect them.

Mayor Blake is aware that the whole project may not be covered and it falls on the shoulders of others. Everyone has valid points.

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6 EXHIBIT F: Presentation regarding SOIRL

Further discussion was held on funding.

- Bill Riddle, Indian River Drive, Cocoa, voted for the ½ penny sales tax in order to clean up the Lagoon. He does not want to participate in this and will opt out. He has his tank pumped every three years at his own expense. Additionally, there is no evidence that he is polluting the river. Further testing needs to be done to establish the problem and continued testing thereafter.
- Norris Park, Cocoa, spoke about the Lagoon and felt that approving this item was the only way it would be helped. He urged Council to take the leap and approve this.
- Astrid Heard, Cocoa, spoke on implementation. There was a letter delivered to the Mayor stating they are not opposed but opposed to the method of implementation and provided reasonings as to why. They asked Council to reconsider the methodology and implementation on the scenic drive.
- Frank Sullivan, Cocoa, has lived on Indian River for a long time and has seen a lot of changes to the Lagoon. They are not talking about adding values to homes but bringing back the Lagoon. It is a great asset but not like it used to be. He thanked staff for bringing back further information. He stated that bids could be done as the problem is the cost. Once that is done grants can be sought. He asked that bids could be done which the problem is the cost. He believed there is money out there and it should not be passed up.
- Jennifer Riggs, Cocoa, thanked Council for bringing this forward. She advised that the grant environment is excellent right now. She provided a slide with information on grants. She felt that the money was available and if bidding is done correctly the funds would be there. This is not difficult engineering and could be done. Rockledge, Titusville, and Merritt Island are all moving along with the project. Ms. Bowman added they would need a motion to apply for the grant.

City Manager Whitten advised that engineers would need to estimate the work and Mr. Walsh agreed they could get an estimate with up to date information. Further discussion was held on grants and mandated hookups.

- Ms. Riggs spoke about the calculations and she noted they answered her point. She added to Attorney Garganese's point that the benefit was not for homes it was for the Lagoon.
- Jackson Riggs, Cocoa, spoke for a neighbor who could not be in attendance, Gary Aguinaga. He provided a statement on his behalf which

was to urge the approval of the project. He provided reasonings why this project should be approved.

- Tammy Carter, Cocoa, sent an email about the technical aspects of the projects. She spoke about the money and what is and is not included. She felt that the money really needed to be looked into.

Further discussion was held on the costs of the project and Councilmember Goins asked if the costs could be updated by the August 9th meeting. in response, Mr. Walsh advised that he has drawings and distances but would need an engineer to get today's costs. Mr. Walsh mentioned the unknowns at private residences.

* **MOTION by Deputy Mayor Hearn; Seconded by Councilmember Goins, to approve Option #2, for discussion.**

Councilmember Goins would like to allow Mr. Walsh time to return with an updated cost amount for the August 9th Council meeting, as great points were made.

Deputy Mayor Hearn asked about the other costs and if they were included. In response, City Manager Whitten stated that on public infrastructure a guess can be done as each homesite will be different.

Mr. Walsh can bring back the estimates for public infrastructure and can take a look at the private as well.

Deputy Mayor Hearn felt like this has been going on and has been delayed twice and would like to take a chance at the mandating hookups.

THE VOTE ON THE MOTION WAS:

AYES: Hearn, Goins

NAYES: Mayor, Dyal

THE MOTION DIED (2-2)

* **MOTION by Councilmember Goins; Seconded by Councilmember Dyal, to allow Mr. Walsh to bring back a cost estimate for both public and private infrastructure to the August 9, 2022 City Council meeting.**

AYES: Blake, Hearn, Dyal, Goins

THE MOTION CARRIED UNANIMOUSLY (4-0)

2. Approve the requested street closure for the Oil of Joy Back to School event on August 7, 2022. (22-409). (Assistant to the City Manager/PIO)

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

3. Consider Jim Gifford, Michael Simpson or Verna Hughes to fill the Regular member seat vacancy on the Code Enforcement Board through June, 2025. (22-417). (Administrative Services Director)

* **MOTION by Councilmember Dyal; Seconded by Mayor Blake, to nominate Mr. Jim Gifford.**

Verna Hughes spoke at the request of Council and advised that she recently moved to the City in 2019. She has a background in insurance and is familiar of working within guidelines and building code and believes that her background would help in this position.

George Brown, Jr. spoke on behalf of Mr. Gifford as he could not be at the meeting. Mr. Gifford has been on the board for twenty-seven years and it is one of the best run meetings in the City.

Councilmember Koss mentioned that the ordinance regarding term limits was passed with the birth of the citizens academy, as it has generated a lot of new volunteers. It was never intended to hurt or dishonor anyone but she believes in term limits.

THE VOTE ON THE MOTION WAS:

AYES: Blake, Dyal

NAYES: Goins, Hearn, Koss

THE MOTION FAILED (2-3)

* **MOTION by Deputy Mayor Hearn; Seconded by Councilmember Koss, to appoint Michael Simpson as a Regular member on the Code Enforcement Board through June, 2025 and to move Verna Hughes up to 1st Alternate.**

AYES: Blake, Hearn, Goins, Koss
NAYES: Dyal

THE MOTION CARRIED (4-1)

~~4. Consider a resolution to rename S.F. Travis Park to Clear Lake Park, naming the Travis Park Community Center to the S.F. Travis Community Center at Clear Lake Park, and formalizing the official naming of the Johnnie Johnson Nature Trails. (22-415). (Councilmember Koss)~~

- **This item was removed from the agenda.**

3. Approve Resolution No. 2022-67, Establishing the Rolled-Back Rate, approve a Proposed Tentative Millage Rate for the Purposes of Notification to the Taxpayers by the Brevard County Property Appraiser and set the date, time, and place for the first Public Hearing to consider the FY2023 Budget. It is also recommended for the City Manager to be instructed to complete the Florida Department of Revenue's Certifications of Taxable Value, Forms DR-420. (22-408). (Finance Director)

Ms. Bowman explained this is required to be done in order to be in compliance. She reviewed what the presentation entailed but did not provide the presentation due to time.

* **MOTION by Councilmember Goins; Seconded by Deputy Mayor Hearn, to approve Resolution No. 2022-67, Establishing the Rolled-Back Rate, approve a Proposed Tentative Millage Rate for the Purposes of Notification to the Taxpayers by the Brevard County Property Appraiser and set the date, time, and place for the first Public Hearing to consider the FY2023 Budget. It is also recommended for the City Manager to be instructed to complete the Florida Department of Revenue's Certifications of Taxable Value, Forms DR-420.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VIII. City Business:

1. Approve Resolution No. 2022-068 adopting an updated City of Cocoa Public Records Policy. (22-175). (Administrative Services Director)

City Manager Whitten presented this item and stated that it was basic changes that clarified language in the existing policy. This was worked on by the City Attorney and City Clerk. He provided a brief overview of the changes and provided July statistics for records requests.

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to approve. The Motion was opened for discussion.**

Councilmember Koss felt that she has been harassed by FOIA requests more so than anyone else on this Council. In today's environment there is not a robust

media but there are watchdogs who are doing research and discovery. One piece of evidence can lead to asking for more information and she is against the change regarding cumulative requests.

Mayor Blake agrees with the updated policy.

City Attorney Garganese clarified some of the changes that were made.

Councilmember Goins stated that he contacted other cities after receiving various emails and we are in line with other cities that surround Cocoa.

AYES: Blake, Hearn, Dyal, Goins

NAYES: Koss

THE MOTION CARRIED (4-1)

2. Approve a Resolution Amending the Utility Handbook's Policies and Procedures. (22-377). (Finance Director)

* **MOTION by Councilmember Koss; Seconded by Councilmember Goins, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

2. Approve First Modification to Code Enforcement Lien Reduction Agreement between the City and Broadmoor Acres Community Restoration and Preservation, Inc. to require payment of a CDBG demo lien at closing, in the amount of $2,310.50, and modifying the meaning of an affordable home purchase for purposes of expanding the qualifications for potential buyers of the home constructed on 1115 Broadmoor Drive. (22-391). (Community Services Director)

Ms. Neuterman explained the item and that staff was requesting a modification of the agreement for the sale of the home at 1115 Broadmoor.

Deputy Mayor Hearn asked if staff knew who the organization was. In response, Ms. Neuterman stated yes and advised that Bob Harvey and Brenda Warner were still residing in Brevard County. She added that the City would be responsible for ensuring the closing happens the way it should.

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

3. Approval of Ordinance No. 09-2022 on First Reading regarding updates to the Special Events Ordinance. (22-404). (Asst. to the CM/PIO)

Attorney Garganese read Ordinance No. 09-2022 into the record, by title only as follows. He advised that this was the first reading of the ordinance.

ORDINANCE NO. 09-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ARTICLE XI. – SPECIAL EVENTS AND PARADES; PROVIDING FOR AMENDMENTS RELATED TO THE CLOSURE OR GATING OF PARKS, DEFINITIONS, PERSONNEL SERVICES, REVIEW CRITERIA AND OTHER PROVISIONS; PROVIDING FOR THEREPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to approve Ordinance No. 09-2022 on First reading. The motion was opened for discussion.**

Councilmember Goins had an issue with the thirty-day time frame and provided reasonings why. Ms. Senger explained that this is already being done and is done directly following the event. The fees are collected upfront and if there are any changes the adjustments are made.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

Multi-Year Contracts:

None.

IX. Informational Agenda:

1. Council request to review the cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2021 to 5/31/2022. (22-338). (Finance Director)

2. Calls for service provided by the Cocoa Fire Rescue Department for the month of June 2022. (22-394). (Fire Chief)

3. Council request to review the cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2021 to 6/30/2022. (22-395). (Finance Director)

4. Details related to FY21 Surplus Revenue from Auction Sales. (22-398). (Finance Director)

5. FY 2022 Budget Adjustment Report. (22-412). (Finance Director)

6. Data showing the relation between the estimated and actual income and expenses to date. (22-413). (Finance Director)

7. Approved change orders to construction contracts that the City Council has authorized the City Manager, by resolution, to approve in excess of the City Manager's spending authority. (22-414). (Finance Director)

8. City Activity Report. (City Manager)

X. Reports:

City Manager Whitten advised Reports would be given via email.

It was announced that school supply collections will continue through July 31st and there is a collection at the Cocoa Walmart this Saturday, from 9 a.m. until 2 p.m. Backpacks and supplies will be given out on August 5th at Provost Park.

XI. Adjournment:

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to adjourn the Regular meeting of July 26, 2022.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

The meeting adjourned at 10:30 p.m.

Michael C. Blake, Mayor

ATTEST:

Carie Shealy, MMC, City Clerk

SEAL
FLORIDA

EXHIBIT A: E-Comment from K. Lortie

From:	Kristin Lortie
To:	Carie Shealy
Cc:	Carie Shealy; Monica Arsenault
Subject:	eComment for 7/26 Meeting: Agenda Item 22-175 - Opposition to Proposed City of Cocoa Records Policy Changes
Date:	Tuesday, July 26, 2022 1:39:30 PM
Attachments:	eComment Agenda Item 22-175 - K. Lortie Opposition to Proposed City Records Policy Changes.pdf

EXTERNAL MESSAGE - USE CAUTION WITH LINKS AND ATTACHMENTS!

City of Cocoa,

I am submitting the attached eComment for the 7/26 meeting opposing agenda item 22-175 Changes to City Records Policy.

Can you please advise that you have received it and that it will be included in the 7/26 meeting?

Kristin

Gmail

Kristin Lortie <kristin.lortie@gmail.com>

7/26 Agenda Item 22-175 - Punitive Public Records Proposal & Lack of Public Transparency & Citizen/Council Member Inclusion

1 message

Kristin Lortie <kristin.lortie@gmail.com> Sun, Jul 24, 2022 at 1:35 PM
To: City Council <citycouncil@cocoafl.org>
Cc: "Anthony Garganese (OrlandoLaw)" <agarganese@orlandolaw.net>, Stockton Whitten <swhitten@cocoafl.org>, Carie Shealy <cshealy@cocoafl.org>, Monica Arsenault <marsenault@cocoafl.gov>, Tammy Gemmati <tgemmati@cocoafl.org>
Bcc: cocoacarescitizens@gmail.com, Kristin Lortie <kristin.lortie@gmail.com>

City of Cocoa Council Members,

I am writing to you to bring an item to your attention that was included on the July 26th agenda for your approval, and to ***oppose the proposed Resolution Agenda Item 22-175 with proposed changes to the city records policy, and that places additional burdens to the citizens public right of access to public information, and to request your vote AGAINST the resolution at Tuesday's 7/26 council meeting.***

Agenda Item 22-175 Presentation to Council: Does City of Cocoa staff think so little of Council that they have already ***drafted the resolution with a recommendation to Approve, and absent any prior discussion at a public meeting?*** Is staff looking to council to adopt the resolution, and without "considering" it, or soliciting public comment, and in advance of implementing their punitive records policy changes? *Please note that City staff "prepared through" member Tammy Gemmati and agenda item "preparer" Clerk Carie Shealy did not include the redlines in the meeting detail so that the reader can actually see the changes, providing only the "clean" version of their proposed changes for adoption in the online materials available.*

Records policy changes are a hot topic that citizens are interested in as a part of transparent government. Both the "further explanations" used to describe the proposed changes, and the "rubber stamp" appearance of how this resolution is presented for council review - ***further feed the narrative that the City of Cocoa is ruled by city staff, and not city council, and not on behalf of the residents of Cocoa.***

Due to the City of Cocoa declining to provide the redlines for public inspection, please find attached a redline copy I created, and with citizen review comments provided in blue. This version assists council members and citizens of Cocoa in reviewing what city staff is actually proposing. **City staff declined to include the changes where they *"further explain Policy Definitions, General Procedures, and Fees"* in their policy proposal update, and where staff proposes to *even more aggressively charge citizens seeking public information (than they already do), including time spent to determine if a document exists, charging for anything more than 15 minutes in a 30-day period, making the requests cumulative, and censoring/deleting "Draft" versions of city documents, to name a few objections to the proposed changes*.**

The 2013 city records policy is already punitive in charging residents for over 15 minutes of staff time as being "excessive use". The city should be working to make access to public records easier for citizens, and not more restrictive. Making records available to citizens is a part of the city duties, and citizens should not be required to pay staff time to fulfill this duty.

City staff should be embarrassed to put anti-resident policy changes like this forward. The changes reflect that the city staff are eager to initiate the "citizen charging meter" for simply providing citizen access to public records, and which is not the intent of public records access statutes. A vote to approve the punitive policy changes presented to council members is a vote against the citizens of Cocoa and transparency in city matters.

I strongly oppose the proposed policy resolution, and call on Council Members to vote NO, to avoid sending the message that they support punishing Cocoa residents interested in knowing about the affairs of our city.

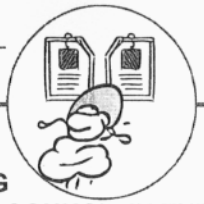
Making records access cost-prohibitive leads to greater public suspicion, and not to public trust. **Your vote on Tuesday will be noted by the citizens of Cocoa. The City of Cocoa should be working with its citizens as the custodians of the city records. The proposed policy reflects that the City of Cocoa staff *prefers to spend valuable staff-time invoicing its residents rather than helping to inform us*.**

Please show your support for the residents of Cocoa's access to public information by voting NO on the records policy resolution.

Kristin Lortie, ***Cocoa Resident Concerned about Prohibitive Access to Public Information in the City of Cocoa***

22-175 - Citizen Comments on City of Cocoa Redlines - Proposed Changes to City Records Policy.pdf
2153K

CITY OF COCOA CITIZEN ALERTS: BARRIERS TO CITIZEN ACCESS TO PUBLIC RECORDS!



STAFF-PROPOSED CHANGES AT JULY 26, 2022 CITY COUNCIL MEETING

THIS REDLINE DOCUMENT IS BEING PRESENTED
N RESPONSE TO THE CITY OF COCOA PRESENTING
NTI-CITIZEN RECORDS POLICY CHANGES TO CITY COUNCIL IN THE 7-26-2022 COUNCIL AGENDA ITEM 22-175.

STAFF-PROPOSED DOCUMENT DECLINED TO HIGHLIGHT THE PROPOSED CHANGES FOR THE READER.

CITIZENS AND COUNCIL MEMBERS SHOULD NOT ACCEPT THE CHANGES PRESENTED BY CITY STAFF.

SPECIFIC CITIZEN COMMENTS ARE PRESENTED FOR COUNCIL MEMBER AND CITIZEN REVIEW.

THIS DOCUMENT IS TO ILLUMINATE THE ANTI-CITIZEN CHANGES PROPOSED BY CITY OF COCOA STAFF UNDER THE GUISE OF "FURTHER EXPLANATIONS" ON THE CITY RECORDS POLICY.



City of Cocoa Records P...

CITY OF COCOA HR DIRECTOR TAMMY GEMMATI PROPOSES CHARGING THE CITIZENS RECORD CHANGES CAMPAIGN TO DETER CITIZENS FROM REQUESTING PUBLIC RECORDS!



22-175 - Records Policy...

Exhibit "A"
to Resolution No. 2022-068

ITY OF COCOA POLICY

PUBLIC RECORDS/INSPECTING AND DUPLICATING

~~NOTARY SERVICES, AND LIEN SEARCHES~~

AND NOTARY SERVICES

1. APPLICATION: All Departments

2. PURPOSE: ~~To comply with the State of Florida public records law,~~ The purpose of this policy is to implement the State of Florida public records law; to set forth policy and procedures for providing public accessibility to certain ~~records, for safeguarding records,~~ records; to safeguard records; and to set forth policy on providing notary services ~~and City lien searches~~ to the public.

3. POLICY; DEFINITIONS:

A. It is the policy of this State that all ~~State, County, and Municipal~~ public records, except those exempted or deemed confidential by law, shall at all times be open for inspection, examination, or copying by any person (Section 119.01, F.S.). The City of Cocoa shall comply with Chapter 119, Florida Statutes, Public Records (Policy). A request for public records may be made verbally or in writing.

B. "Public Records" means all documents, papers, letters, maps, books, tapes,

photographs, films, sound recordings, or other material, regardless of physical form, characteristics, or means of transmission made or received pursuant to law or ordinance or in connection with the transaction of official business of the City of Cocoa. (Section 119.01, F.S.). The term "public record" is not limited to traditional written documents. The term "public records" does not include personal records of City officials, employees, and contractors unrelated to the transaction of official business of the City of Cocoa. Thus, personal record do not fall within the aforementioned definition of "public record."

Per sunshine manual p 132: "personnel records are subject to public inspection and copying under s. 119.07(1), F.S. See Michel v. Douglas, 464 So. 2d 545 (Fla. 1985)."

C. "Custodian Designated" means any person who has supervision and control over a public record or legal responsibility for its care, keeping or guardianship including, but not limited to, the City Clerk and the department custodian required herein. Each official and employee is the custodian of his or her own public records including any public records created or existing on the official's or employee's personal mobile device or other personal property, such as a computer.

4. PROCEDURES – GENERAL:

A. The State of Florida has determined that providing access to public records is a statutory duty imposed by the Legislature upon all record custodians and should not be considered a profit-making or ~~revenue-generating~~ revenue-generating operation. However, the cost associated with responding to a public records

1 Public Records/Inspecting and Duplicating, ~~Notary Services, and Lien Searches | City of Cocoa~~

and Notary Services | City of Cocoa

ACCESS TO PUBLIC RECORDS IS ONE OF THE CITY'S DUTIES, AND THE CITY SHOULD MAKE EVERY EFFORT TO NOT PASS ON COSTS TO TAXPAYERS REQUESTING TO BE INFORMED OF CITY BUSINESS.

FLORIDA GOVT IN SUNSHINE MANUAL:
"(Fla. 2016), noting that "excessive, unwarranted special service charges deter individuals seeking public records from gaining access to the records to which they are entitled."

Exhibit "A"
to Resolution No. 2022-068

UNREASONABLE REQUIREMENT AND BURDEN TO HAVE "COSTS ASSOCIATED WITH RESPONDING TO A PUBLIC RECORDS REQUEST BORNE BY THE REQUESTOR."

request shall be borne by the requestor and not the general taxpayer of the City. The supervision and safekeeping of records is one of the prime duties ~~custodians assume~~ that a custodian assumes when they take office.

B. Every person who has custody of a public record shall permit the record to

be inspected and examined by any person desiring to do so, at any (1) reasonable time, (2) under reasonable conditions, and (3) under supervision by the custodians of the public record or their designee, except for those exemptions provided by law. (Section 119.07(1)(a), F.S.). All Custodians or their designees shall acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other officers or employees whether such a record exists and, if so, the location at which the record can be inspected.

(1) An automatic delay in producing public records may not be imposed

before allowing access to public records. However, the custodian shall be allowed a reasonable time to ~~retrieve the public records.~~

determine the existence and location of the record, and whether any portion of the record should not be publicly disclosed. More specifically, "Reasonable time" is that time allowed the custodian to ~~retrieve the record and~~ determine whether requested records exist, locate and retrieve the records and to withhold, delete or redact those portions of the record the custodian asserts are ~~exempt.~~ exempt or deemed confidential by law or not a public record. If satisfying the request immediately would unduly interfere with conducting official City business or the operation of the department, however, the custodian will arrange, to the extent agreeable with the requestor, a mutually satisfactory time for fulfilling the request. If a mutually acceptable time is not agreeable, the Custodian shall fulfill the request as soon as possible in accordance with this Policy. This will vary according to ~~the~~ several factors including, but not limited to, the number of pending public records requests, number of records requested, the time it takes to determine whether the requested records exist, the number of years being reviewed, the department's filing system, storage of records, timely receipt of a deposit for estimated time expended to handle the public records request, copy charges and actual cost of duplication, and any other factor affecting the ~~retrieval and copying of public records.~~ location, retrieval, review, and copying of public records.

CITY ADDING CHARGES TO "DETERMINE WHETHER RECORD EXISTS!"

"REDACTING TIME" IS A COMMON BARRIER USED TO DETER PUBLIC ACCESS TO A REQUESTOR!

CITIZENS GET READY TO PAY FOR THE CITY TIME TO DETERMINE NON-EXISTENT RECORDS!

MORE BARRIERS - CITIZEN MAKING ANY SECOND REQUEST IN 30-DAYS CAN NOW BE DENIED THE ALREADY PARSIMONIOUS 15 MINUTES?

CITY OF COCOA CHARGE-OMETER LANGUAGE!

(a) If a requestor makes a new records request, the Custodian will determine if the request is cumulative to a pending/prior request and if it will require extensive staff time to fulfill the request, or if it is a new request to the extent allowed by law. For example: if a requestor seeks to expand a pending request, the Custodian can add the additional items into the existing request rather than creating a new request. In determining if a request is cumulative, the Custodian will consider the following:

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and Notary Services | City of Cocoa

Exhibit "A"
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CITY OF COCOA CHARGE-O-METER LANGUAGE LET THE METER START UPON RECEIVING YOUR REQUEST!

1. Is it related to a substantially similar topic or sub-topic;
2. Is it an expansion of the scope of the prior or pending request;
. How much time has passed between the requests;
. The ability to verify that the requests are from the same person; and
5. Any other reasonable basis for concluding that the request is cumulative to a prior request.

If it is determined that the request is cumulative to a pending request and requires extensive time to fulfill the request, the requestor will be notified of the cumulative nature of the request and an invoice will be provided with the additional time and costs. A new request is handled in the normal fashion hereunder.

CITIZENS CAN LOOK FORWARD TO CITY INVOICES NOT PUBLIC INFORMATION!

(2) "Reasonable conditions" do not refer to conditions that must be fulfilled before review is permitted, but to reasonable regulations that would permit the custodian of records to protect them from alteration, damage, or destruction, or to prevent a disruption to the operations of the City, and also to ensure that the person reviewing the records is not subject to physical constraint designed to preclude review.

NEW CRITERIA? WHAT INFORMATION REQUESTS POSE A "DISRUPTION TO THE OPERATIONS OF THE CITY"?

C. Custodians/persons within the departments responsible for records should

be knowledgeable of the following when a request is made to inspect or duplicate a record and the custodian should advise the public of the same when appropriate:

(1) Individuals are not required to identify themselves or make the request

in person, in writing, or in any particular format, nor give a reason for such request;

(2) Individuals may not be denied access to records due to the lack of

specifics of the record they wish to inspect or copy;

3) Public records on computers, personal mobile devices, or other communication devices are governed by the same rules as written documents and other public records. Information stored on a computer, personal mobile device, or other communication device are as much a public record as a written page or tabulation in a file stored in a file cabinet;

(4) ~~Custodians are not required to~~ Based ~~upon~~ on the particular circumstances and the definition of "public record," City officials and employees who post comments and emails relating to the transaction of City business on a privately owned and

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operated website may be responsible for ensuring that the information is maintained in accordance with the Public Records Law.

(5) Custodians are not required to verbally give out information from the records ~~of their office.~~ maintained by their office or required to provide analysis or answer questions regarding the records produced. Custodians also are not required to create a public record that does not exist. The statutory obligation of the custodian is to provide access to or copies of the public records being requested.

UNFRIENDLY LANGUAGE ALERT: IS IT NECESSEARY TO CODIFY THE CITY'S RIGHT TO NOT ANSWER A CITIZEN'S QUESTION?

(6) ~~If any attorney requests the examination or duplication of records or information on which a lawsuit is pending with the City,~~ Custodians are not required to produce records in a particular form or format as demanded by the requestor, nor tailored to the requestor's specific needs, if they are not ordinarily created, filed, produced, maintained, or used in that form by the department.

WHAT IS THE HISTORY ON THIS ONE? HAS THERE BEEN AN ISSUE WITH ATTORNEYS MAKING RECORDS REQUESTS?

(7) If any attorney requests the examination or duplication of records or information related to a pending lawsuit, proceeding, claim or dispute with the City, the opposing attorney should be coordinating the public records requests through the City Attorney under applicable Florida

Bar Rules. Therefore, the City Attorney should be contacted and advised of ~~same.~~ same if the attorney submitted the request directly to City staff. The City Attorney will help coordinate the City's response to the request to the extent deemed necessary by the City Attorney. In situations involving potential or actual litigation, administrative proceedings, or any form of actual dispute involving the City or its officials or employees, the City Attorney's office shall be notified and at the discretion of the City Attorney, either act as a liaison and/or provide guidance to the custodian for purposes of coordinating the public records production, examination, or inspection with the opposing counsel or the adverse party and the ~~custodian.;~~

custodian;

(8) A fee may not be imposed for the mere inspection and examination of public records by the general public unless the nature or volume of the public records to be ~~inspection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance.~~ inspected is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance to determine whether requested records exist, location of records, and review each record to determine if it is exempt from production. As set forth in section 7(C) of this public records policy, a special service charge or fee shall be required when extensive use of information technology resources or extensive clerical or supervisory assistance is required to locate, review for ~~confidential information, copy and re-file requested public records.~~

MORE LANGUAGE TO PAY THE CITY FOR EVEN DETERMINING IF A RECORD EXISTS!

CITY DISCOURAGING ACCESS TO PUBLIC INFORMATION THROUGH USE OF "REDACTION" BARRIER, SAYING TIME IS NEEDED TO ENSURE EXEMPT INFORMATION IS NOT DISBURSED TO THE PUBLIC.

exempt or confidential information, redact exempt or confidential information, copy and re-file requested public records.

REDACTION TIME HAS BEEN USED BY THE CITY OF COCOA TO CREATE UNNECESSARY BARRIERS TO BEING AN INFORMED CITIZEN.

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nd Notary Services | City of ocoa

Exhibit "A"
to Resolution No. 2022-068

(9) Payment and pick-up of previous records requests made by an

individual or organization must be made prior to any new requests being filled.

(10) Custodians should advise those individuals requesting copies of public records that may be copyrighted that copying and utilizing such records may be subject to federal copyright laws and penalties.

(11) Documents in draft format that have not been circulated to another person(s) are not a public record. Draft documents may also not be retained because they have been deemed obsolete, superseded or to have no administrative value because they have been replaced by a more current record.

CITY MAKING LESS INFORMATION AVAILABLE TO THE PUBLIC, NOW WE CANNOT REVIEW PRIOR DRAFTS, OR DRAFTS THAT HAVE NOT BEEN CIRCULATED? LOTS OF ROOM FOR PLAYING AROUND BY NOT RETAINING DRAFT INFORMATION, AND BY NOT CIRCULATING INFORMATION! MORE CITY GAMES!

D. The foregoing general procedures apply to all departments within the municipality of Cocoa. Department Directors may develop internal instructions for the inspection or copying of records provided they do not conflict with the public records law or this policy. Each official and employee is the custodian of his or her own public records, including but not limited to, any public records created or existing on his or her computer, personal mobile device, and any other communication device. As such, each official and employee is responsible for maintaining his or her own public records and complying with the Public Records laws. To that extent, each official and employee shall have full authority to manage and coordinate the inspection and/or copying of public records requested consistent with this Policy. If the official or employee is not available or is no longer employed by the City, the department director shall be responsible for ensuring that the request to inspect and/or copy public records is handled in a timely fashion.

(1) Per City Charter, the City Clerk is the custodian of all the minutes of all

the meetings of the Council, and all boards, committees, and agencies of the City. Additionally, the City Clerk has been designated as the appointed position to maintain vital records of the City, including official contracts and agreements, in a safeguarded fireproof vault. Additionally, the City Clerk shall be the custodian of public records generated and received by the Mayor and City Council as a governing body, and insofar as practicable, the Custodian of vital, permanent, or archival records of the City and records generated and received by the Mayor and City Commissioners in their respective official capacities. The City Clerk shall also assist in coordinating city-wide public records

that are either made directly through the City Clerk's office or as directed by the City Manager.

Public Records/Inspecting and Duplicating, ~~Notary Services, and Lien Searches City of Cocoa~~

and Notary Services | City of Cocoa

Exhibit "A"
to Resolution No. 2022-068

All persons, telephone calls, and written correspondence requesting public records from departments in City Hall should be referred to the City Clerk, and all such records will be reviewed, picked up, and paid for through the Office of the City Clerk, unless such request is simple in nature and the records can be easily obtained and provided in the normal course of business.

All records requested from departments located outside City Hall, such as police, fire, public works and utilities, should be reviewed, picked up and paid for through the affected departments. For internal tracking purposes only, notice should be provided to the City Clerk as soon as practicable regarding the request made, the public records provided, and the fee charged and collected for completing the request.

Each Department Director shall assign one or more employees as the custodian of the public records for that particular office or department. All fees collected in payment of public records should be forwarded to the Finance Department.

2) Should any person making a request for public records from any department, official, employee, or contractor of the City feel that he/she is being restricted or circumvented from right to inspect and/or copy public records, said person shall make their request to the City Clerk for resolution.

(3) The City Manager's Office and the City Council will be advised immediately of citizen or news media complaints regarding access to public records.

5. ELECTRONIC MEDIA:

A. Each employee shall be responsible for his or her own telephone call

records, transitory telephone messages, text messages, voicemail messages, electronic mail (e-mail), and other electronic messages relating to City business sent to or from a City-issued or personally-owned cell phone or equipment.

B. Voicemail messages are intended to be brief, transitory messages instead of

non-transitory messages, and therefore transitory voicemail messages need to be retained by an employee only until obsolete, superseded, or the administrative value is lost. In the event an employee receives a non-transitory voicemail message, the recipient shall be responsible for retaining the content in accordance with the Public Records Law.

6 Public Records/Inspecting and Duplicating, ~~Notary Services, and Lien Searches | City of Cocoa~~

and Notary Services | City of Cocoa

Exhibit "A"
to Resolution No. 2022-068

C. City business transacted on a personal mobile device or computer may be

subject to disclosure under the Public Records laws. Furthermore, transacting City business on a personal mobile device or computer may result in a request to inspect the personal mobile device/computer or its

contents, thereby placing in jeopardy the privacy of communications that do not meet the definition of a "public record" under the Public Record Law. If an employee/official decides to use his/her personal mobile device or computer to transact City business, it shall be the employee's/official's responsibility to take all appropriate steps at his or her own cost and discretion to ensure that any public record generated on such device or computer is retained consistent with the Public Record Law so that, if necessary, the public record may be produced for inspection and/or copying upon request. However, nothing in this subparagraph shall be construed or interpreted to mean that an employee/official who uses a personal mobile device or computer to conduct City business forfeits any individual rights to protect against or prevent the disclosure of communications that the employee/official believes do not meet the definition of a "public record."

6. EXEMPT AND CONFIDENTIAL RECORDS:

A. Those individuals who provide copies to the public must be knowledgeable

of the records that are exempt or confidential or that contain exempt or confidential information. If a question arises as to whether or not a record or portion thereof is exempt or confidential, it should be addressed to the Department Director. If the Department Director cannot address same, the City Clerk is to be contacted.

B. If a records custodian asserts that a record, or part of a record, is exempt

from public records disclosure, such person shall deny the public records request and state to the person requesting the record the following:

(1) The basis of the exemption which is applicable to the record; and

(2) The statutory citation to an exemption created or afforded by the statute.

If requested by the person seeking the record, the custodian shall state in writing and with particularity the reasons for asserting the exemption and denying the public record request.

If the records custodian asserts that only a portion of a record is exempt or confidential, the records custodian shall delete or redact the exempt or confidential portion of the record and produce the remainder of the record which is not exempt or confidential

7 Public Records/Inspecting and Duplicating, ~~Notary Services, and Lien Searches~~

~~| City of Cocoa~~

and Notary Services | City of Cocoa

Exhibit "A"
to Resolution No. 2022-068

The City Attorney shall review all public records requests which present a legal question to the custodian as to whether a record contains information which is confidential or exempt. A record referred to the City Attorney for review by the custodian shall not be made public until the City Attorney has made a final determination on the legal question presented.

C. Any record which contains information that is suspected of being confidential, related to a federal agency, and deemed public and open for inspection, copying and examination by State law, should be examined to determine whether a Federal statute (i.e. The Freedom of Information Act, U.S.C. Section 552) requires the particular information to be exempt from public disclosure.

D. All records custodians shall take reasonable steps to ensure that exempt and

confidential records are not improperly released to the public.

7. FEES: ***WHY IS THE ONLY PERSON THAT CAN WAIVE FEES THE CITY MANAGER, AND ON A CASE-BY-CASE BASIS? SO IF A STUDENT GETS ALONG WITH THE CITY MANAGER THEY GET ACCESS TO PUBLIC INFORMATION? VERY BIASED POLICY!***

A. Certain Limited Exemption: Copies of documents supplied ~~to~~ other governmental agencies that provide the City of Cocoa with the same courtesy shall be free of charge. The City Manager may also waive fees, on a case-by-case basis, for students ~~or~~ making simple requests for purposes of conducting school assigned research projects if the request requires services of less than two (2) hours.

B. Fee of Duplication of Public Records: (Section 119.07(4)(a) F.S.)

(1) The uniform fee for copies to be charged per page by all departments is as follows:

14" x 8-/12" or less – one sided $0.15
14" x 8-1/2" or less – two sided $0.20
11" x 17" $0.25
14-7/8" x 11" (greenbar, computer) $0.25
All other copies Actual cost of duplication

(2) Certified copies - $1.00 plus the duplication fee in subparagraph (1) above.

(3) ~~Video and audio tapes – Charge for 15 minutes of clerical assistance plus actual cost of tape.~~

~~4)~~ CDs/DVDs - $1.00 per CD/DVD – includes clerical assistance time.

C. Fee for Extensive Clerical or Supervisory Assistance:

8 Public Records/Inspecting and Duplicating, ~~Notary Services, and Lien Searches | City of Cocoa~~

and Notary Services | City of Cocoa

Exhibit "A"
to Resolution No. 2022-068

A custodian must produce the record requested regardless of the number of

documents involved or possible inconvenience.

If the nature or volume of public records requested to be inspected, examined, or copied is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the department or division involved, in addition to the actual cost of ~~supplication,~~ duplication, a special service charge may be imposed. The actual charge will be based upon the labor costs actually incurred or attributable to the City for the clerical and supervisory assistance required of such personnel providing the service. (Section 119.07(4)(d) F.S.)

The amount to be charged shall reflect the actual hourly rate (including the salary and the cost of benefits) of the individual providing the service. In keeping with the City of Cocoa's easy access, community spirit, public document policy, there will be no labor charge for requests requiring 15 minutes or less in actual labor. However, when requests from members of the public require more than 15 minutes in actual ~~labor, they will be charged for all time expended.~~ labor or repeated requests requiring 15 minutes or less in a thirty day time period, the City will provide the requestor with an estimated cost to complete the records request based on the length of time estimated to provide the ~~service, a deposit may be collected prior to the cost actually being incurred.~~ service and a deposit amount that must be paid in advance before the City expends additional labor and costs to complete the request. The requestor will be charged for all labor and costs expended and payment must be received prior to delivery of the records. Page counts shall be considered "clerical assistance." Monies collected exceeding the actual cost of assistance and duplication shall be returned to the requestor.

CHARGE-THE-CITIZEN LANGUAGE! GET THOSE CHARGES COMING!

NOTICE THE 30-DAY TIME PERIOD LANGUAGE!

"FREE" 15-MINUTES UNLESS YOUR TIME HAS BEEN USED UP, PERHAPS ASKING FOR A RECORD THAT DOES NOT EXIST!

A deposit or pre-payment for services provided under this policy ~~may be required~~ will be required in advance to those persons or agencies: (i) who by the nature of the request require the City to utilize an extensive amount of information technology resources or extensive clerical or supervisory assistance; (ii) have requested to inspect and/or copy a large volume of public records; or (iii) have made previous records requests with the City or another agency and have failed to make payment for those requests.

NOTICE THE CHANGE FROM "MAY" BE REQUIRED, TO "WILL" BE REQUIRED!

CHARGE ON, CITY OF COCOA CHING, CHING CHING!

8. NOTARY SERVICES AND CHARGES:

WILL RESIDENTS PAY THE FEES, OR WILL THIS DAMPER THE PUBLIC'S REQUEST FOR INFORMATION WE ARE ENTITLED TO?

City of Cocoa employees (Notaries) shall notarize documents as necessary for City business and "Proof of Life" documentation. There will be no charge for documents notarized for City business, and a fee of $10 will be charged for proof of life documentation.

9. ~~SERVICE CHARGE FOR CITY LIEN SEARCH:~~

~~There shall be a service charge for the preparation of a written confirmation of a~~

~~en search for the determination of whether a property has any liens or utstanding fees owed to the City of Cocoa and the amounts owed, if any, as ollows:~~

~~Lien search fee $30.00~~
~~Expedited service $10.00 (additional)~~
~~Account update (within 30 days) $15.00~~
~~Account history $ 5.00 (additional)~~

COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES, PUBLIC RECORDS:

ANTI-CITIZEN POLICY PRESENTED FOR COUNCIL APPROVAL UNDER THE GUISE OF REMOVING LIEN SEARCHES AND "FURTHER EXPLAINING" THE EXISTING POLICY. REALLY?

9 Public Records/Inspecting and Duplicating, ~~Notary Services, and Lien Searches | City of Cocoa~~
and Notary Services | City of Cocoa

CITIZENS OF COCOA AND CITY COUNCIL MEMBERS SHOULD DENOUNCE THESE ANTI-CITIZEN POLICY "EXPLANATIONS", SHOWING OUR CITY'S TRUE COLORS IN CREATING ADDITIONAL BARRIERS TO PUBLIC PARTICIPATION AND INFORMATION!

Exhibit "A"
to Resolution No. 2022-068

The City Manager and Department Directors shall disseminate this policy to

appropriate city employees and officials. It shall be the responsibility of each City custodian, employee and official to comply with this Policy. Any questions regarding the application of this policy should be made to the City Clerk. To the extent deemed necessary, the City Clerk will contact the City Attorney regarding any legal questions related to this Policy and the application Public Records laws.

City custodians, employees, and officials are encouraged to review Chapter 119,

lorida Statutes and the Florida Sunshine Law Manual for more details regarding he Public Records Laws of Florida.

Nothing herein is intended in any way to conflict with or abrogate chapter 119,

Florida Statutes, or any other applicable Florida or federal laws. In the event of any conflict between this Policy and any Florida or federal law, the conflicting provision of the Florida or federal law shall prevail and apply

~~12.~~ 10. DESTRUCTION OF PUBLIC ~~RECORDS.~~

RECORDS:

Pursuant to the requirements of section 119.041, Florida Statutes, the custodian, in

coordination with the City Clerk to the extent necessary, shall systematically dispose of public records no longer needed by the City, in accordance with the records and information management program of the State Library & Archives of Florida of the Department of State.

~~13.~~ 11. APPROVAL ~~GRANTED:~~

GRANTED.

This policy was approved by the City Council of the City of Cocoa in a regular ~~th~~ meeting held on the ~~27 day of August, 2013.~~

26th day of July, 2022.

Advertisement

START NOW

1. **Click** 'START NOW'

2. **Download** on website

Consideration of a Comprehensive Plan Text Amendment to adopt a large scale comprehensive plan text amendment (Ordinance No. 07-2022) to create a policy in the future land use element authorizing the City Council to approve by development agreement residential densities of up to 125 dwelling units per acre on certain properties



Address	Property Type	FAR/Commercial Use#	Residential Units	Acres	DU/acre
430 Brevard	Mixed Use	10,000 sq. ft. Co-working and 3,000 sq. ft. retail	243	1.95	125
505 Brevard	Mixed Use	16,754 sq. ft. Bank	166	1.33	125
630 Brevard*	Hotel	107 Hotel rooms, 4,885 sq. ft. Retail, 6,798 sq. ft. Restaurant and Bar	156	1.25	125
Total			565	4.53	



FLU MU

Zoning Code:
CBD, CBD-CVO

Waterfront
Overlay District

Development
Agreement

30 DU/acre

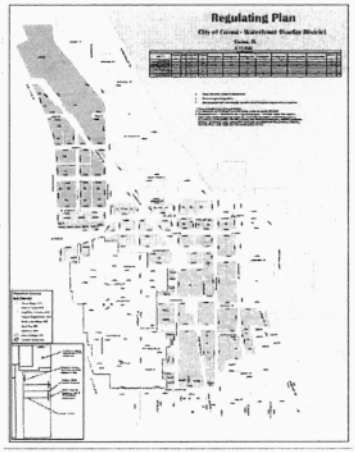
FLU MU

Allowed Zones:
CBD, CBD-CVO

Waterfront
Overlay District

Development
Agreement

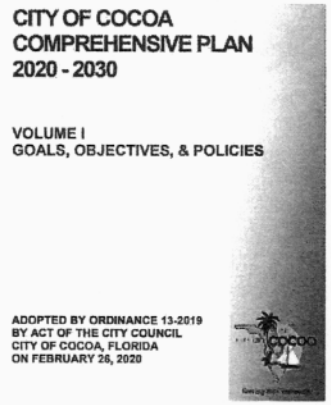
125 DU/acre





COCOA
FLORIDA

Consistency with Comp Plan Policies and Objectives



a) City's Budget
b) Service Level of Public Facilities
c) Environment, Natural or Historic Resources
d) State Comprehensive Plan
    a) East Central Florida Comprehensive Regional Policy Plan
e) City's Ability to Provide Adequate Public Facilities
f) Compatibility with Surrounding Neighborhoods
g) Adequate Housing
h) Consistent with City Comp Plan

Serving our community with P.R.I.D.E!

Summary and Recommended Motion

COCOA
FLORIDA

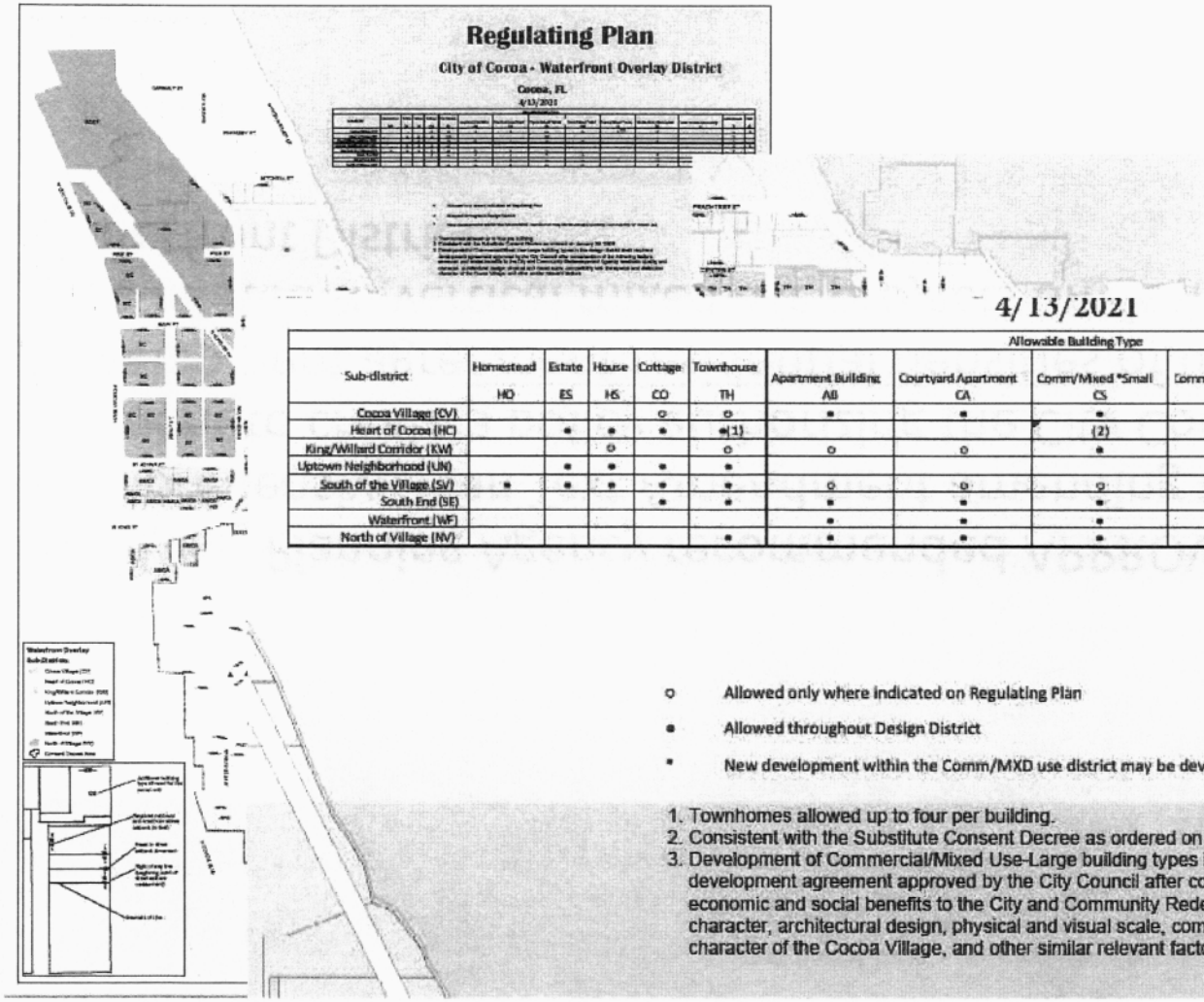
- The Land Planning Agency recommended APPROVAL of the proposed Comprehensive Plan Text Amendment amending the Future Land Use Element to create a policy authorizing the City Council to approve by development agreement residential densities of up to 125 dwelling units per acre related to vertical mixed use projects on designated lots in the Waterfront District.

Regulating Plan

City of Cocoa - Waterfront Overlay District

Cocoa, FL

4/13/2021



4/13/2021

Sub-district	Allowable Building Type													
	Homestead HO	Estate ES	House HS	Cottage CO	Townhouse TH	Apartment Building AB	Courtyard Apartment CA	Comm/Mixed *Small CS	Comm/Mixed *Med CM	Comm/Mixed *Large CL	Single-Story Commercial SC	Large Format Commercial LF	Institutional IT	Civic CI
Cocoa Village (CV)				o	o	•	•	•	•	o (3)	o		•	o
Heart of Cocoa (HC)		•	•	•	•(1)			(2)					•	
King/Willard Corridor (KW)			o		o	o	o	•	•		•		•	
Uptown Neighborhood (UN)		•	•	•	•								•	o
South of the Village (SV)	•	•	•	•	•	o	o	o					•	
South End (SE)				•	•	•	•	•	•		o		•	
Waterfront (WF)						•	•	•	•	•	ɔ		•	o
North of Village (NV)					•	•	•	•	•		o	o	•	

- o Allowed only where indicated on Regulating Plan
- • Allowed throughout Design District
- * New development within the Comm/MXD use district may be developed as either commercial or mixed use.

1. Townhomes allowed up to four per building.
2. Consistent with the Substitute Consent Decree as ordered on January 28, 2009.
3. Development of Commercial/Mixed Use-Large building types in this design district shall require a development agreement approved by the City Council after consideration of the following factors: economic and social benefits to the City and Community Redevelopment Agency, aesthetic quality and character, architectural design, physical and visual scale, compatibility with the special and distinctive character of the Cocoa Village, and other similar relevant factors.

EXHIBIT C: Form 8B submitted by Councilmember Koss for Item VII.5

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
Koss-Lorraine-Loken	Cocoa City Council
MAILING ADDRESS 65 Stone Street	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☑ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY: Cocoa — COUNTY: Brevard	NAME OF POLITICAL SUBDIVISION: Brevard County
DATE ON WHICH VOTE OCCURRED 7/26/2022	MY POSITION IS: ☑ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Lorraine Koss, hereby disclose that on July 26, 20 22:

(a) A measure came or will come before my agency which (check one or more)

✓ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, _____;

___ inured to the special gain or loss of my relative, _____;

___ inured to the special gain or loss of _____, by whom I am retained; or

___ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am one of the 92 homeowners potentially eligible for a septic to sewer conversion. The vote will determine whether or not we proceed with Project J & K of the Brevard County SOIRL plan.

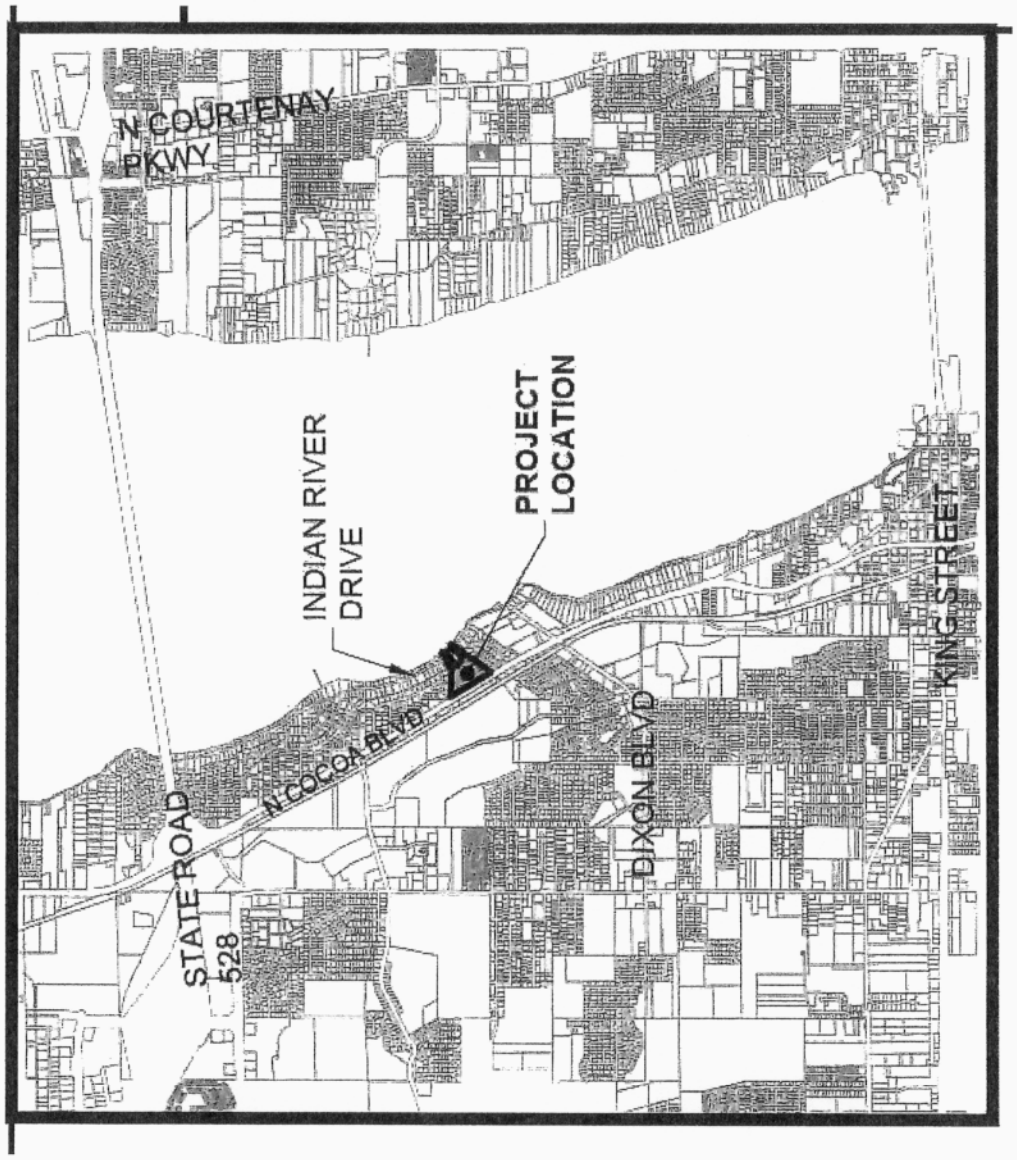
If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/26/2022
Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.

EXHIBIT D: Presentation re: River Walk



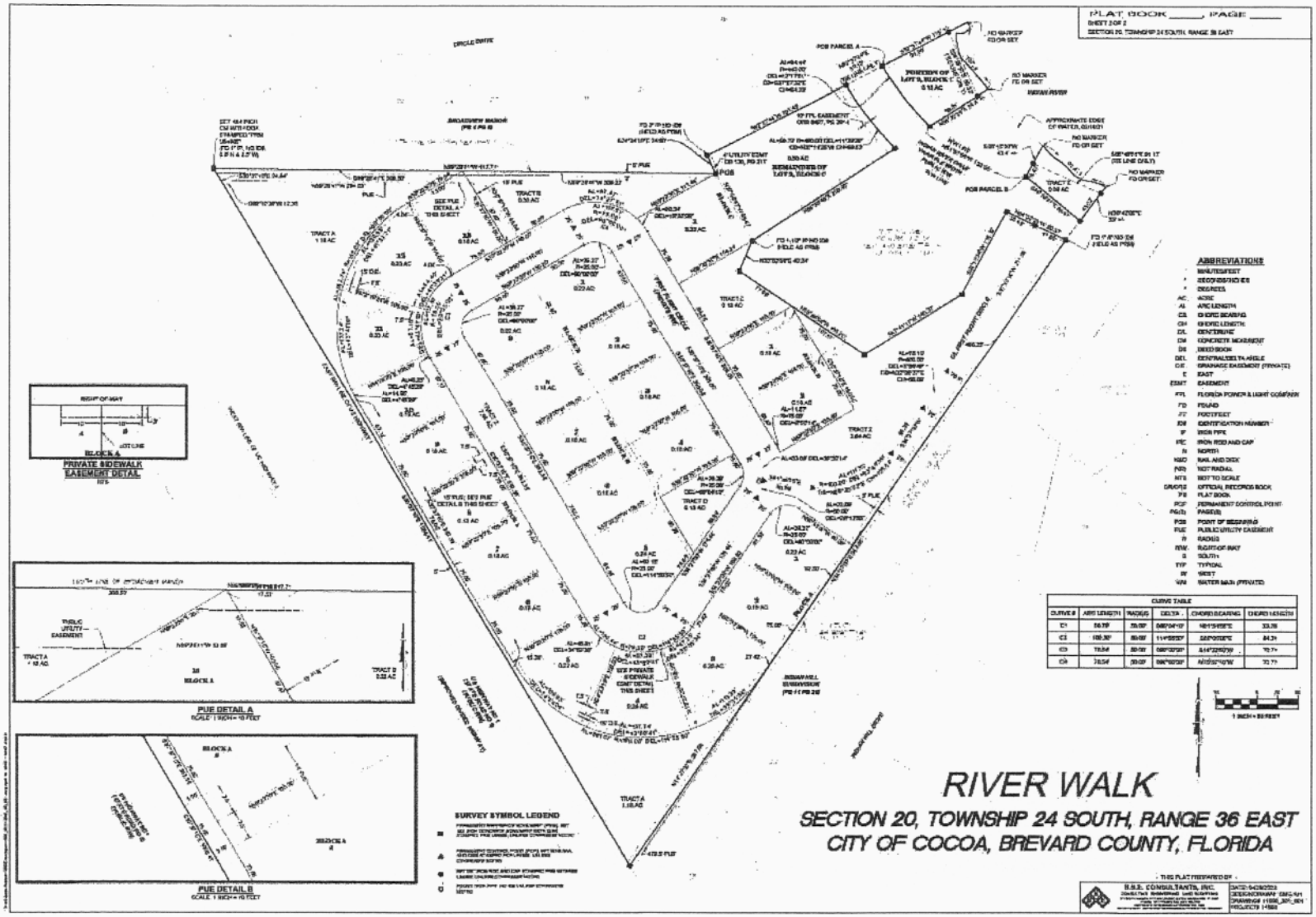

PLAT BOOK _____, PAGE _____
SHEET 2 OF 2
SECTION 20, TOWNSHIP 24 SOUTH, RANGE 36 EAST
ABBREVIATIONS
CURVE TABLE
PRIVATE SIDEWALK EASEMENT DETAIL
PUE DETAIL A
PUE DETAIL B
SURVEY SYMBOL LEGEND
RIVER WALK
SECTION 20, TOWNSHIP 24 SOUTH, RANGE 36 EAST
CITY OF COCOA, BREVARD COUNTY, FLORIDA
THIS PLAT PREPARED BY
B.S.E. CONSULTANTS, INC.

EXHIBIT E: Form 8B submitted by Councilmember Koss for Item VII.1

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
Koss - Lorraine - Loken	Cocoa City Council
MAILING ADDRESS 65 Stone Street	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☑ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY / COUNTY Cocoa / Brevard	NAME OF POLITICAL SUBDIVISION: Brevard County
DATE ON WHICH VOTE OCCURRED 7/26/2022	MY POSITION IS: ☑ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, *mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business* enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Lorraine Koss, hereby disclose that on July 26, 20 22:

(a) A measure came or will come before my agency which (check one or more)

✓ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, _____;

___ inured to the special gain or loss of my relative, _____;

___ inured to the special gain or loss of _____, by whom I am retained; or

___ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The owner of the property being voted on for the preliminary subdivision is my next door neighbor. As such, we have a social relationship. My concern is that this be perceived as a conflict of interest.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/26/2022
Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.

Utilities Department

Save Our Indian River Lagoon
Indian River Drive J and K

7/26/2022

John A. "Jack" Walsh, P.E.
Utilities Director
City of Cocoa

EXHIBIT F: Presentation re: SOIRL

Indian River Drive Project Options

- **OPTION 1 – Advanced Septic**
- **Option 2 – Septic to Sewer** (Mandatory)
- **Option 3 – Septic to Sewer** (Non-Mandatory)

Not Recommended

- **Option 4 – Defer/Delay Project**

COCOA FLORIDA

Indian River Drive Project Options

- **OPTION 1 – Advanced Septic**
  - Withdraw Septic to Sewer project
- SOIRL Dept. Natural Resources will fund $18,000 grant per lot for all lots on IRD on septic
- Homeowners may be eligible for additional grants from SJRWMD or FDEP for shortfall in costs

COCOA FLORIDA

Indian River Drive Project Options

- **OPTION 2 – Septic to Sewer (mandatory)**
  - Must require all 92 to connect with new policy
- SOIRL Dept. Natural Resources funds $5.1M public infrastructure for 92 connections
- City can submit for additional grants from SJRWMD or FDEP to cover short fall funding for public infrastructure
- Homeowners can submit for grants from SJRWMD or FDEP for homeowner costs to cover septic removal, service line etc. via County

COCOA FLORIDA

Indian River Drive Project Options

- **OPTION 4 – Delay Septic to Sewer**
  - Take no action at this time
- Cocoa will request and maintain allocation of funds from SOIRL
- 92 homes in J and K would not be able to apply for advanced septic while the Septic to Sewer Project has allocated funds
- Delay may decrease or increase costs by waiting

COCOA FLORIDA

Indian River Drive
Option 1 – Advanced Septic



Advantages

- Homeowners can immediately apply for funds and start the application process
- Avoids impact fees to the city
- No monthly charges for city services for owners
- All residents on IRD can apply

Disadvantages

- SOIRL grant may not cover all costs but may be eligible for additional grants
- Still allows nutrients to the river (35% or less)
- No future revenues for the city

Indian River Drive

Option 2 – Septic to Sewer Mandatory



Advantages

- Maximizes SOIRL funding available ($5.1M)
- Allows project to qualify for other grants
- Allows for potential future expansion of areas further west toward US1
- Creates future sewer revenues for city
- Removes all discharge to river from 92 homes (100%)

Disadvantages

- Requires a new connection policy and enforcement policy
- Council must decide who is paying for cost overruns if they occur
- Only 92 homes are available due to design constraints (other homes outside project area could use advanced septic)
- Homeowners must pay monthly charges for city services
- Manage multiple grants
- Homeowner can apply for SJRWMD or FDEP grants via County to cover private costs such as service line install, septic removal and Homeowner grants from agencies may not cover all costs
- Will impact other lots not in J and K but are using septic and have access to city sewer
- True project will not be known until well past contract commitment to SOIRL and other grant agencies
- SOIRL contract terms need to be negotiated

Indian River Drive

Option 4 – Delay Septic to Sewer



Advantages

- No impacts to customers or city in short term during uncertain economic times

Disadvantages

- Must come back to Council for decisions on funding responsibilities and connection policy
- Costs may be lower or higher in the future, no guarantee
- Grants and other funding may or may not be available in the future
- Delays improvements to the river WQ

Project Costs

Areas J and K - Estimated Costs

5/24/2022

Septic to Sewer Project

Current SOIRL Funding - Infrastucture Reimbursement								Infrastructure Costs net Design and Eng	
# of Connections Served by Project	Assumed Particpation Rate	Actual Connections made	Current Funding SOIRL	Current Estimated Const. Cost Min.	Current Estimated Const. Cost Max.	Design Cost	Estimated EOR cost	**Net Cost Low to be funded**	**Net Cost High to be funded**
92	100%	92	$5,132,404	$6,600,000	$8,200,000	$405,865	$200,000	**$1,673,461**	**$3,273,461**
	90%	83	$4,619,164	$6,600,000	$8,200,000	$405,865	$200,000	**$2,186,701**	**$3,786,701**
	80%	74	$4,105,923	$6,600,000	$8,200,000	$405,865	$200,000	**$2,699,942**	**$4,299,942**
	70%	64	$3,592,683	$6,600,000	$8,200,000	$405,865	$200,000	**$3,213,182**	**$4,813,182**
	60%	55	$3,079,442	$6,600,000	$8,200,000	$405,865	$200,000	**$3,726,423**	**$5,326,423**
	50%	46	$2,566,202	$6,600,000	$8,200,000	$405,865	$200,000	**$4,239,663**	**$5,839,663**
	40%	37	$2,052,962	$6,600,000	$8,200,000	$405,865	$200,000	**$4,752,903**	**$6,352,903**

Note: SOIRL fund based on $56,787 per lot reimbursement
SOIRL allocated 99 lots x $56,787 = $5,622,000
Cost of Construction min and max from EOR

Range of Costs to be paid for by city, homeowners or by grant or in any combination

Project Costs

Septic to Sewer Project

Home Owner Costs (service line, remove septic, repairs, landscaping)						
# of Connections Served by Project	Assumed Particpation Rate	Actual Connections made	Estimated Cost per Lot	Impact Fee	Estimated Total Customer Cost	
92	100%	92	$15,000	$1,406	$1,509,352	Range of Costs
92	100%	92	$25,000	$1,406	$2,429,352	to be paid for by homeowners or by grant or in any combination

Project Grants

Public Infrastucture

FUNDING SJRWMD

SOIRL	%	SJRWMD Cost Share	%	Project Max Funding
$5.1M	75%	$1.7M	25%	$6.8M

* Typically Feb application
* Maximum project allocation $3M or 25%

FUNDING FDEP

SOIRL	%	FDEP 319	%	Project Max Funding
$5.1M	60%	$3.4M	40%	$8.5M

* Rolling application evaluated in Spring and Fall
* Maximum project allocation of 40%

Project Grants

Private Infrastructure FUNDING FDEP				
SOIRL	%	FDEP 319	%	
0.0	n/a	request $2.4M for 92 lots	n/a	
* Rollng application evaluated in Spring and Fall				
* No private applicants, County would be required to submit on behalf of the homeowners				

Questions



COCOA
FLORIDA