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DATE: 15 June, 2023

TO: Lee County BoCC – All
From: Chauncey Goss
RE: Changes to Land Development Code – Captiva

As a long-time resident of Lee County, I watched the BoCC weekly meeting on June 6 and feel compelled to comment. You are all consummate professionals, but as I listened to agenda item 8, I concluded your staff failed in the assignment you had provided.

You directed staff in January to review the land development code for areas that could be improved to encourage resiliency after Hurricane Ian. Staff failed in that exercise by confusing resiliency with insanity. The proposed amendments staff prepared for you pave the way for an increase of density and intensity of use in the coastal high hazard community of Captiva at the request of none in the Captiva community except one developer.

Commissioner Ruane pulled the item from consent and stated he was uncomfortable with the process because he clearly did not have all the information he had requested from staff. The item should have been immediately continued to the next meeting by the Chair and his fellow Commissioners as a courtesy to the Commissioner from District 1 so that he could work through his concerns with staff. It wasn't.

On June 6, staff provided a disjointed presentation of the proposed amendments. Staff referred to other staff with more expertise who were not in attendance on June 6 to answer your questions. Staff said that other staff, not in attendance, would be sure to answer your questions prior to June 20 – with the presumption from staff that you would blindly pass the resolution to go to hearing. This should have been another red flag to table the issue. It wasn't.

During public comment, many stakeholders asked why they had not been contacted by staff. One would presume when amending the land development code in a community, staff would engage that community. Staff responded that there had been three public meetings in Fort Myers of various land development code advisory committees. When asked specifically by residents of Captiva why no one from the County had reached out to the Captiva Community Panel prior to any of those meetings, staff went on to say that the reason they hadn't included anyone on Captiva in the discussion (except apparently the developer) was because "they didn't have to." Staff said the proposed amendments are "County initiated" which it views as some sort of bureaucratic hall pass to get around the Lee Plan which requires consultation with the Captiva Community Panel.

Regardless of whether this proposal was County initiated – which it became apparent later in the meeting it wasn't – or whether the developer requested it, why wouldn't County staff reach out to the residents of Captiva who are most impacted to ask for input? The "we didn't have to" response implies a unique level of arrogance, laziness, or duplicity I don't associate with any of you – and certainly not one I expect from your staff. Doing the absolute minimum and consciously evading an entire community except for one developer is malfeasance. This should have been your third red flag. It wasn't.

When I look at Commissioner Ruane's clear discomfort – as the Chairman of the Resilient Lee Recovery Task Force – to proceed with an item labeled "resilience" in his own district and combine that with the staff's "we don't have to" attitude, I become worried. I don't think I am alone in concluding that the handling of these

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proposed amendments by staff was not performed in a transparent and open way in which the Captiva community or the District 1 Commissioner had any input. None of you picked up on this during the June 6 meeting and that is troublesome. Perhaps you are feeling pressure to pass something prior to your recess, perhaps the developer and its consultants are applying pressure to move forward quickly, or perhaps staff is just attempting to be efficient and to clear items from their desk.

None of those reasons should supplant your duty to fully vet each issue your staff provides. If any of you are uncomfortable with the process staff used or with the responses you are receiving from staff, it is your duty to vote no when asked if you are prepared to move forward. Staff will be disappointed, the developer will be disappointed, the developer's consultants will express disappointment, but the process will have been served – and that process is designed to serve the people you are elected to represent.

As a resident of Sanibel who lost pretty much everything I own in Ian, I fully understand the County's desire to address resiliency in the land development code. It became clear, however, on June 6 that while staff didn't feel it had to work with the Captiva community, staff has been working closely with the developer on the proposed changes. You are now being asked to pick winners and losers on Captiva. Rifle shot policies have long-been associated with crony capitalism. I know you all well enough to know your conservative credentials and I know the Governors who appointed three of you eschew crony capitalism. Governor DeSantis, in particular, has made it crystal clear how he feels about corporate overreach at the expense of the residents.

Your direction to staff in January may not have been clear enough and now is the perfect time to let them know your direction wasn't to work with one entity exclusively to the detriment of an entire community. Your direction was to work with the community to address resiliency. No one on Captiva – developer excluded – has asked for an amendment to the land development code to change height limits. No one on Captiva – developer excluded – has asked you to pave the way for an increase in density and intensity of use on Captiva.

If the developer and its consultants want to change the administrative interpretation of South Seas, that conversation should definitely not take place under the guise of resiliency. That tactic is a cynical abuse of “never letting a crisis go to waste” and comes as a kick in the gut to those of us trying to recover from Ian. That discussion should take place independently in the sunshine with the many residents within the South Seas Island Resort and not just the developer and the developer's consultants. The administrative interpretation was a negotiated settlement nearly two decades ago and deserves input from all parties involved in that settlement. I would hope that conversation can be held with the Captiva Community Panel to ensure a consistent policy across all of Captiva and not one that provides any entity special favors or carve-outs.

I will not be able to attend the meetings on the 20th or the 21st which is why I am emailing my comments. I hope you take them in the constructive vein in which they are offered. I have tremendous respect for each of you and I know how much time and energy you give every day to our County. I think your staff has failed the assignment you gave them in January. I would ask staff to start again from the beginning. I would instruct staff to work closely with Commissioner Ruane and in the sunshine with the Captiva Community Panel, the developer's consultants, and the other residents of the South Seas community to come up with an answer to improving resilience on Captiva that is well-crafted, well-understood, well-balanced, and comes as a surprise to none.