

1 the back half of the book that says, oh, wait a second,
2 there's a plot twist here, guys. This Comprehensive
3 Plan, which trumps it, says something else.

4 And so that was the issue, and that came up
5 for the City. The City is like, you know, look, people
6 are now beginning to try to exploit this in some way.
7 We have to clean this up. But from a legal effect, the
8 zoning ordinance was written to really not do anything
9 except clean it up. The Comprehensive Plan still
10 applies or doesn't, and the zoning ordinance would,
11 therefore, still apply or not.

12 CHAIR PRO TEM LAWSON: Okay, perfect.

13 Thank you, Madam Chair. Those are my
14 questions.

15 CHAIR BOTEL: Thank you. Anyone else,
16 because I have a couple. Ms. Miller-Anderson, do you
17 have anything?

18 COUNCILPERSON MILLER-ANDERSON: (Shakes
19 head.)

20 CHAIR BOTEL: Okay, Mr. Baumann, so if I
21 purchased property, let's say for want of a better
22 example, on Pine Point, and I purchased it knowing that
23 the Comprehensive Plan of the City of Riviera Beach
24 prohibited any development along Pine Point, plus, you
25 know, allowing me to be assured that my line of sight

1 up the Lake Worth Lagoon would be unimpeded, I could
2 sue the City if the City allows development on that
3 submerged land, that Special Preservation area, because
4 the Comprehensive Plan that was in effect when I
5 purchased my property would have prohibited that
6 development. Is that right? I guess my question is --

7 MR. BAUMANN: Yes and no.

8 CHAIR BOTEL: -- anybody can sue the City,
9 okay.

10 MR. BAUMANN: Yes, anybody, you know, anybody
11 can sue anybody for anything these days.

12 CHAIR BOTEL: Right, right, right.

13 MR. BAUMANN: But the two things that you
14 have to remember, of course, is number one, as a
15 government entity, you enjoy sovereign immunity. And
16 so from a sovereign immunity standpoint, you have
17 protection for what always characterizes those uniquely
18 governmental planning decisions, such as granting a
19 permit.

20 That line of cases actually came from a case
21 where an adjacent owner sued, in that case it was the
22 predecessor of the DEP, I believe, for giving his
23 neighbor an environmental permit that he said was going
24 to harm him. And in that case, they said no, that's
25 sovereign immunity. That's a uniquely governmental

1 function. It's not like, you know, failing to maintain
2 a traffic signal or something like that, where, you
3 know, you've already made the uniquely governmental
4 decision, and now you're just negligent in carrying it
5 out, let's say.

6 Now that being said, the different cause of
7 action is the one that we talked about where if
8 somebody is granted a development order that conflicts
9 with the Comprehensive Plan, any citizen can
10 essentially sue the City for injunctive and declaratory
11 relief to enforce the Comprehensive Plan.
12 Comprehensive Plans are essentially citizen enforced
13 under the statute.

14 So in your scenario, if someone along the
15 water anywhere in the city determined that the City had
16 given his neighbor some kind of a permit that was in
17 violation of the Comprehensive Plan, that person could
18 file a lawsuit against the City to ask for a
19 declaration that the City's permit is null and void and
20 could ask that the Court enjoin the City from honoring
21 that permit, in essence. That has always been the law.

22 The Pine Point scenario that you're referring
23 to, Ms. Botel, is -- that one's a little bit of a
24 sticky wicket, because the particular preservation
25 district that we're talking about here, as drawn by the

1 Comprehensive Plan, does not necessarily extend to Pine
2 Point Road. So there's land around it that, you know,
3 one way or another.

4 But what you're describing is I would call a
5 general statement of the law. If the government grants
6 a permit that violates the Comprehensive Plan, any
7 citizen is essentially harmed and can essentially sue
8 to enforce their local Comprehensive Plan.

9 CHAIR BOTEL: Okay. So any of the citizens,
10 for example, that have signed a petition in support of
11 this ordinance could, in their minds, because they're
12 being harmed by us not enforcing the ordinance or not
13 enforcing --

14 MR. BAUMANN: No, that's -- no, they would
15 have to have the government essentially grant a
16 development permit somewhere along the line. The City
17 would have to give somebody something.

18 CHAIR BOTEL: Right. And then they could,
19 okay.

20 MR. BAUMANN: Yes.

21 CHAIR BOTEL: One other question. I see
22 Mr. Lawson would like to chime in again, but let me
23 just ask this.

24 So if something happened that we did not pass
25 this ordinance, the Comprehensive Plan doesn't change.

1 The Comprehensive Plan still prohibits any development
2 in that Special Preservation area, and the
3 Comprehensive Plan trumps anything below it. So no one
4 in the building officials' department, for example,
5 could give a permit to develop that land, whether it's
6 zoned -- whatever it's zoned, no one could give a
7 permit to develop that land because the Comprehensive
8 Plan trumps the permitting process. Am I right?

9 MR. BAUMANN: Yes.

10 CHAIR BOTEL: Yes, okay.

11 MR. SIRMONS: If someone submitted a permit
12 to our department and we sent it through the typical
13 planning review, Planning would return it and say that
14 based on a review of the Comprehensive Plan, we cannot
15 grant this permit, even if the zoning does or does not
16 match up with what they're trying to do. But it would
17 not pass through zoning because the Comprehensive Plan
18 would not allow the development.

19 CHAIR BOTEL: Okay, so --

20 MR. BAUMANN: It wouldn't pass through the
21 zoning department.

22 CHAIR BOTEL: Right. So our vote on this
23 ordinance is almost a pro forma vote. It's because we
24 have to bring the zoning into compliance with the
25 Comprehensive Plan. It's not as if anything really

1 changes. It is the Comprehensive Plan is what rules
2 our actions, and our bringing the zoning into
3 compliance with the Comprehensive Plan is simply to
4 come into accord with what the State requires us to
5 do. Am I right? I want to make sure I'm right, Mr. --

6 MR. BAUMANN: Yes, that's what we presented
7 in the first reading, that's correct.

8 CHAIR BOTTEL: Right.

9 Mr. Gagnon.

10 MR. GAGNON: Thank you, Madam Chair.

11 I just wanted to add to the record that there
12 are specific uses that are permitted according to the
13 Comprehensive Plan, and that would be carried over into
14 the zoning district. So I know you were using a
15 general example as far as general development within
16 that Special Preservation area, however, there are
17 specific uses that are called out, so there are legal
18 uses available for those property owners.

19 CHAIR BOTTEL: Right. And as I understand it,
20 that is what we hang our hats on when it comes to
21 anyone claiming that there's a taking, because we're
22 not prohibiting certain things from happening there.
23 In other words, you could put a little dock to put your
24 kayak on and so on. So we're not completely
25 eliminating your use of your property, so therefore,

1 it's not considered a taking. Am I right, somebody?

2 Mr. Gagnon?

3 MR. GAGNON: That's why I wanted to bring

4 it --

5 CHAIR BOTEL: Yes.

6 MR. GAGNON: -- to everyone's attention that

7 there are uses available. And perhaps Mr. Baumann can

8 expand on that.

9 CHAIR BOTEL: Right, okay. I think --

10 MR. BAUMANN: Well, and the taking is, again,

11 it is by definition a court doctrine. So a court, you

12 know, will not make a categorical ruling across

13 properties that aren't before it. It's case by case,

14 and the court would have to look at the particular

15 property.

16 So the other thing to bear in mind is that

17 you could have a taking in one case and not have a

18 taking in another case with the same regulation, for

19 example, based upon different physical configurations

20 of the property. It gets that complicated.

21 CHAIR BOTEL: Could -- you know, Singer

22 Island has the Singer Island Civil Association, and

23 many of the people in that Association are supportive

24 of this ordinance. If the City granted a permit and

25 issued a permit for building, could the Singer Island

1 Civic Association sue the City?

2 MR. BAUMANN: Their standing is a little
3 different. What they would likely do is they would
4 name a couple of members who are citizens and residents
5 and then themselves, but yes.

6 CHAIR BOTEL: Okay, thank you.

7 Mr. Lawson had -- I'm sorry, Mr. McCoy, were
8 you --

9 COUNCILPERSON McCOY: No.

10 CHAIR BOTEL: I couldn't see what you were
11 doing.

12 CHAIR PRO TEM LAWSON: He's hiding.

13 CHAIR BOTEL: Go ahead, Mr. Lawson.

14 CHAIR PRO TEM LAWSON: So just to understand
15 your point, Councilwoman Botel, what you're trying to
16 say is that anybody could sue the City at any time.

17 CHAIR BOTEL: Well, yes. And, you know, I
18 think that's the argument that you were trying to make,
19 is let's be careful, let's be careful not to be sued.
20 And I agree, we certainly don't want to be sued. But
21 the point is anybody can sue us, whether it's --

22 CHAIR PRO TEM LAWSON: Right.

23 CHAIR BOTEL: -- a certain person who wants
24 to develop the land or the people who don't want to see
25 the land developed. So it really is --

1 CHAIR PRO TEM LAWSON: Correct. So it's
2 going to happen one way or the other, essentially. And
3 that's the reason I'm saying that whether we -- that
4 land, we allow for it to be developed or not developed,
5 essentially someone is going to not be happy with it.

6 So that's why I want all the information
7 brought to the table so that we can understand exactly
8 what decision we need to make as a collective, and
9 whether it's unanimous or whether it's a majority.

10 And the last question, the last question I
11 just wanted to address with Attorney Wynn is in
12 reference to the majority and supermajority, because I
13 definitely want to bring that to the table, because I
14 did receive a letter, and I want to understand the
15 dynamics of passing and changing this so that we can be
16 completely educated, so that we know exactly how to
17 maneuver out the steps that we can take so that if a
18 lawsuit does come about, that we can be prepared and
19 not jeopardize the taxpayers' dollars.

20 COUNCILPERSON MCCOY: Madam Chair, before he
21 answers, can I ask a question, because I literally
22 asked the same question of Legal, and I was waiting for
23 them to come back with a more comprehensive response.
24 So I was hoping that it probably would be best that
25 they can answer that, you know, after they spend some

1 time, because literally I got -- I think we may have
2 gotten all of the letters this evening.

3 CHAIR PRO TEM LAWSON: I think we all got
4 them this evening.

5 CHAIR BOTEL: I didn't get one, so maybe
6 you'll have to read to me. For some reason, I didn't
7 get one, so --

8 COUNCILPERSON McCOY: But I guess --

9 COUNCILPERSON MILLER-ANDERSON: I didn't
10 either.

11 COUNCILPERSON McCOY: And I'm saying this
12 respectfully to Councilperson Lawson. I'm not trying
13 to cut you off, but I wanted to find out if this is
14 something that Ms. Wynn should probably spend some time
15 looking into first, because I literally asked the City
16 Attorney's Office a similar question this afternoon.

17 MS. WYNN: Yes. No, I saw the letter earlier
18 this morning, so I'm prepared to address it.

19 Our code says that if 20 percent or more of
20 the landowners in the areas affected by the change have
21 signed a protest, that we have -- that this ordinance
22 can only be passed by three-fourths of the City
23 Council, which is a four to one vote.

24 The first reading, the ordinance passed on
25 first reading, moving it on to second reading by three

1 to two, a three to two vote. That vote of passing it
2 on the first reading does not make the ordinance
3 effective. The ordinance only becomes effective upon
4 adoption, and adoption only occurs at a second reading
5 or the public hearing.

6 So we're in the posture now where you still
7 can move forward to the second reading. If it had
8 passed four to one or five/zero at first reading and
9 never got to second reading, you would not have an
10 effective ordinance, because it would not have passed
11 on second reading. So all that's required --

12 CHAIR PRO TEM LAWSON: So Madam --

13 MS. WYNN: -- at the second reading, a
14 supermajority, three-fourths vote of Council is what's
15 required to pass this ordinance.

16 CHAIR BOTEL: Okay.

17 CHAIR PRO TEM LAWSON: So Madam Chair, being
18 that I believe you said and Ms. Miller-Anderson said
19 you did not read the letter, would you like for that to
20 be read into the record or --

21 CHAIR BOTEL: No, that's okay. I'll get a
22 copy from Ms. Wynn. Thank you.

23 CHAIR PRO TEM LAWSON: Okay.

24 CHAIR BOTEL: Mr. McCoy, did you have
25 anything else, because I have a quick question of the

1 attorney.

2 COUNCILPERSON McCOY: (Shakes head.)

3 CHAIR BOTEL: So Ms. Wynn, when you say 20
4 percent of the landowners, is that based on the number
5 of landowners or on the amount of land?

6 MS. WYNN: And Mr. Gagnon and Mr. Sirmons,
7 feel free to jump in.

8 It's the 20 percent of the area of the lots
9 that are comprised of. And I believe Mr. Gagnon did a
10 calculation earlier today for us, and it was
11 33 percent. So the 20 percent is definitely there.

12 CHAIR BOTEL: Okay. So it's the submerged
13 landowners, is my question.

14 MS. WYNN: Mr. Gagnon, you can tell us who
15 they are.

16 MR. GAGNON: Yes, I believe the section, and
17 I'm pulling it up now, it specifically refers to the
18 property owners directly impacted, and it also refers
19 to some of the property owners in close proximity of
20 the impacted area. In this instance, the directed or
21 directly impacted property owners meet the criteria for
22 Section 31-5, which is 20 percent of the area that is
23 being impacted. And yes, so we did an acreage
24 calculation, and it's approximately 33 percent.

25 CHAIR BOTEL: Okay, thank you. Thirty-three

1 percent and about half of (audio disruption), because
2 if you base it, I'm sure, on the number of people, it
3 would be quite a different calculation.

4 But Mr. Lawson, did you say you had something
5 else?

6 CHAIR PRO TEM LAWSON: No, Madam Chair.

7 CHAIR BOTEL: Ms. Miller-Anderson, do you
8 have anything?

9 COUNCILPERSON MILLER-ANDERSON: Where were
10 the letters? They were e-mailed, and by whom and when?

11 MS. WYNN: They were e-mailed. I'm not sure
12 I have them in front of me. One, I believe, from Kerri
13 Barsh on behalf of Mr. Lozman, and one from an attorney
14 Barbara. I'll have -- Ms. Busby will send those
15 tonight.

16 COUNCILPERSON MILLER-ANDERSON: Okay, thank
17 you. And I don't have any other questions.

18 MS. WYNN: Yes, Richard Barber -- Barbara
19 also.

20 COUNCILPERSON MILLER-ANDERSON: Okay, thank
21 you.

22 MS. WYNN: You're welcome.

23 CHAIR BOTEL: Anything from you, Mr. McCoy?

24 COUNCILPERSON McCOY: (Shakes head.)

25 CHAIR BOTEL: No. Mr. Lawson, do you have

1 all the information you need to make your
2 determination?

3 CHAIR PRO TEM LAWSON: Thank you, Madam
4 Chair. I still am waiting on information, because I
5 believe Mr. Gagnon and Mr. Sirmons said that they would
6 get back with me with some questions, I'm assuming by
7 the next meeting or prior to the next reading.

8 CHAIR BOTEL: And just so I'm sure they know
9 what those questions are, could you just repeat them?

10 CHAIR PRO TEM LAWSON: I believe they know
11 what those questions are, Madam Chair.

12 CHAIR BOTEL: Mr. Gagnon, do you know what
13 the questions are?

14 MR. GAGNON: Yes, I believe Vice Chair Lawson
15 requested additional information pertaining to any
16 other development of environmentally sensitive areas,
17 specifically within the City Marina area, as well as
18 the Harbor Point project, which is east of the City
19 Fire Station. Those are the two talking points that I
20 can recall. I know Mr. Sirmons --

21 MR. SIRMONS: Yes, I think on both, I think
22 that particular point we did address and the difference
23 between those and the lands in question, are those not
24 considered a special development future land use area.
25 So I think we answered that question already.

1 But I do have, I have the zoning map and the
2 future land use map been misaligned for so long, and
3 the second one is what is the value of the lands in
4 question. Those are the two still standing questions
5 that I have.

6 Is that correct, Mr. Lawson?

7 CHAIR PRO TEM LAWSON: Yes. Mr. Baumann
8 answered the question about the values as well, so --

9 MR. SIRMONS: Okay.

10 MR. BAUMANN: That reflects my notes as well,
11 Mr. Sirmons, on the Vice Chair's questions, was why had
12 the problem sat so long, and why not now, and then the
13 question of valuation, which I believe staff said that
14 they could look into it. And then the last one was
15 impact to environmentally sensitive lands in the last
16 ten years, is what my notes are reflecting.

17 CHAIR PRO TEM LAWSON: Thank you,
18 Mr. Baumann.

19 CHAIR BOTEL: Okay, anything else? Okay, so
20 we will be discussing this again when, Ms. Wynn?
21 When's the second reading? September -- I don't have
22 my calendar in front of me.

23 MS. WYNN: I don't know if staff has
24 additional work to do or in response to Mr. Lawson's
25 questions or if they have a date. That's set by

1 Development Services.

2 CHAIR BOTEL: Okay. And I guess I have --
3 sorry.

4 MR. SIRMONS: The meeting is slated for
5 September 2nd. I don't perceive we need to push the
6 meeting back to dig more into the history of the
7 disparity between the future land use map and the
8 zoning map. So at the current moment I will foresee us
9 continuing with the second reading on November 2nd.

10 CHAIR BOTEL: Thank you.

11 Mr. McCoy.

12 COUNCILPERSON McCOY: Okay, I think he said
13 November.

14 MS. WYNN: Right.

15 CHAIR BOTEL: Oh.

16 MS. WYNN: You mean September, correct,
17 Mr. Sirmons?

18 MR. SIRMONS: I beg your pardon.

19 CHAIR BOTEL: That's funny. He said
20 November, I wrote September on my -- so I don't know, I
21 guess I --

22 COUNCILPERSON McCOY: I'm not sure I agree
23 with that, because, you know, I think I share with
24 Ms. Wynn. You know, members, as much as I want to be
25 committed to coming to every single meeting and taking

1 care of our duty, like we have to be cognizant of our
2 particular calendars. Next week we have four meetings,
3 and out of four of those meetings, three of those days
4 I'm out of the -- I won't be in town, so I'm literally
5 logging in.

6 But I mean to automatically declare that
7 we're going to do it on the 2nd, I mean the problem I
8 have with that is like obviously there's going to be a
9 notice requirement. Then that essentially is the first
10 meeting in September, right? That's our first
11 regularly scheduled meeting. And I don't want to be in
12 a meeting until midnight to deal with this item, you
13 know.

14 So I think there has to be more planning, and
15 it needs to work around the existing schedule that we
16 have with the CRA, also with the City, especially
17 because we're in constant budget discussions on both
18 sides, and obviously we're going to have the same with
19 USD. So, you know, this is becoming where we almost
20 see each other every night.

21 MS. WYNN: Mr. Sirmons -- I'm sorry,
22 Mr. McCoy. Have we advertised this for the 2nd
23 already?

24 MR. SIRMONS: Well, we've been working with
25 the City Clerk's Office, and I believe that notice is

1 already out.

2 Ms. Anthony.

3 CHAIR BOTEL: Wait, we already have a City
4 Council meeting scheduled for the 2nd, right?

5 I'm sorry, Mr. McCoy, what's your objection,
6 that you wanted to cancel the City Council meeting?

7 COUNCILPERSON McCOY: Well, I'm just hoping
8 that there is some coordination, because, you know, are
9 we going to have a regular scheduled City Council
10 meeting, or are we going to, I guess, push back our
11 regular scheduled meeting until the third Wednesday?
12 So that's kind of my question.

13 CHAIR BOTEL: I think we have a regularly
14 scheduled City Council meeting on which agenda this
15 item will appear.

16 Madam Clerk.

17 CITY CLERK ANTHONY: Madam Chair, members of
18 the Board, September 2nd is your regular scheduled City
19 Council meeting. However, if you all recall, we will
20 also have a meeting on September 8th as it relates to
21 the first reading of the budget ordinances. So I don't
22 know if that's what Mr. McCoy may be referring to as to
23 the number of meetings that are scheduled.

24 CHAIR BOTEL: Well, we do have a lot of
25 meetings. But this one is a regularly scheduled City

1 Council meeting, so this is just going to be another
2 item on that agenda.

3 COUNCILPERSON McCOY: Well, I mean is that
4 really the case? Can you say that? Because I guess my
5 concern was we had the first reading on a meeting all
6 by itself because of the voluminous amount of comments.
7 So are we suggesting that we're going to have a regular
8 scheduled meeting, then have this ordinance included in
9 that meeting? I just don't want to spend all night
10 on --

11 CHAIR BOTTEL: I know.

12 COUNCILPERSON McCOY: -- one item.

13 CHAIR BOTTEL: I know, I appreciate that, and
14 I don't either. But my understanding from people with
15 whom I've spoken on the island is that they
16 consolidated their public comments into a petition so
17 that their public comments don't have to individually
18 be read. And they did this on their -- of their own
19 volition so that they will just have their names read.

20 Am I right, Ms. Wynn? Did we clarify that
21 their names are going to be read? I don't know if
22 you -- or maybe the Clerk has that information, so that
23 we don't have to listen to every single public comment
24 read out in full, but rather just the list of names.
25 And I think there's almost up to 1,000 names at this

1 point, so we'll take a little bit of time to read the
2 names. But it certainly won't take the several hours
3 worth of reading of public comments that it would
4 normally take.

5 So I think that the preference of people with
6 whom I've spoken who are directly impacted by this
7 ordinance would like to have it done as soon as
8 possible.

9 Lina Busby is just texting me something.

10 MS. WYNN: Ms. Anthony, can you please speak
11 to the public comment? I don't know how many we've
12 received thus far, if you've received a petition or
13 not.

14 CITY CLERK ANTHONY: The Office of the City
15 Clerk has not -- my apologizes.

16 Madam Chair and members of the Board, the
17 Office of the City Clerk has not received anything in
18 regard to that matter. I believe there (audio
19 disruption) an inquiry done by a resident regarding
20 that, whether or not that could be done, and Ms. Wynn
21 did address that person. However, we have not received
22 anything in our office as of to date.

23 CHAIR BOTEL: Right. But I think the
24 question was have they -- are they being allowed to
25 have the names of the people who signed the petition

1 read. And the answer is yes, I think. Yes. So they
2 won't be reading individual letters addressing this
3 issue, they'll just be reading the names of the people
4 who are in support of the petition.

5 MS. WYNN: Unless people submit
6 individually --

7 CHAIR BOTEL: Oh, of course.

8 MS. WYNN: -- then those will be read as
9 well.

10 CHAIR BOTEL: Of course.

11 MS. WYNN: Yes.

12 CHAIR BOTEL: Oh, absolutely, right. But the
13 people who sign the petition will have their names
14 read. So that will eliminate the voluminous nature of
15 the past meetings' public comment section. So I'm
16 hopeful that we can get it done on the 2nd of
17 September.

18 COUNCILPERSON McCOY: Okay, that's fine,
19 Madam Chair. You know, if that's what we need to do,
20 if that's what they want to advertise, I would just --
21 I guess we can -- I'm sure the Manager will be briefed
22 on our sentiments about -- he knows exactly, you know,
23 our concerns with the number of meetings across the
24 board. So if the City Council has regular business
25 that is going to be, I guess, more than usual, then

1 we'll call a special meeting again to handle the
2 regular City business that we would normally have taken
3 care of on the --

4 CHAIR BOTEL: Right.

5 COUNCILPERSON McCOY: -- on the first
6 Wednesday of the month. So, but that's fine. I
7 certainly understand the need to want to kind of move
8 this item forward. So thank you.

9 CHAIR BOTEL: Thank you.

10 Ms. Busby.

11 MS. BUSBY: Good evening, Chair Botel and
12 members of the City Council.

13 Chair Botel, I just, about five minutes ago,
14 e-mailed you and Councilperson Miller-Anderson and
15 Councilperson Lanier the requested letters. So I just
16 wanted to confirm that you received that by e-mail.

17 CHAIR BOTEL: I did. I wasn't sure what you
18 were e-mailing, and I just picked it up and saw that
19 you were sending me that. So thank you.

20 MS. BUSBY: Thank you so much.

21 CHAIR BOTEL: Okay. So just one last time,
22 and I'll just ask Mr. Baumann -- or actually, I'll ask
23 the attorney this. So if we do not pass this
24 ordinance, what is the consequence to the City from a
25 State mandate, you know, point of view? We are

1 required to make our zoning come into compliance with
2 the Comprehensive Plan. What happens if this doesn't
3 pass?

4 MS. WYNN: The practical effect is that we're
5 in the same position -- we'll be in the same position
6 that we're in right now where they won't be consistent.

7 I don't believe, Mr. Baumann, is there a
8 penalty associated with that from the State?

9 MR. BAUMANN: The now -- it was Department of
10 Community Affairs. Was it Department of Economic
11 Opportunity can essentially bring, levy some sort of
12 enforcement action, if you will, which is essentially
13 they'll start, you know, bugging you with
14 correspondence and raising threats and whatnot about
15 correcting something, if it comes to their attention,
16 that's correct.

17 CHAIR BOTEL: Okay. So --

18 MR. BAUMANN: Or at some point the City will
19 go in for its -- for an amendment to its Comprehensive
20 Plan, and this could get raised at some point.

21 CHAIR BOTEL: Okay.

22 MR. BAUMANN: Which is, ironically, how this
23 provision in the Comprehensive Plan came about in the
24 first place.

25 CHAIR BOTEL: Okay.

1 MS. WYNN: Thank you.

2 CHAIR BOTEL: So in the meantime, if we were
3 not to pass this, nothing changes with regard to
4 development. Nothing can be developed because the
5 Comprehensive Plan prohibits it, right?

6 MR. BAUMANN: Unless the savings clause in
7 that Comprehensive Plan provision applies to a
8 particular property owner, then the Comprehensive Plan
9 places limitations on what people can do on the
10 property. The properties are not -- quote --
11 undevelopable. Could you put a house on it? Probably
12 not.

13 CHAIR BOTEL: All right, okay.

14 MR. BAUMANN: But there are things that can
15 be built on it.

16 CHAIR BOTEL: Okay. What about legal fees?
17 If the -- and I get back to my question about the
18 Singer Island Civic Association. If the Singer Island
19 Civic Association were to sue the City and they win, do
20 we have to pay their legal fees?

21 MR. BAUMANN: Yes, that is traditionally a
22 provision that's been in Chapter 163.3215, that if a
23 citizen initiated Comp Plan enforcement case is brought
24 and the citizens win, they get their attorneys' fees.

25 That statute, be mindful, was amended last

1 year or the year before to actually make that
2 reciprocal. So that is a new wrinkle to the 163.3215,
3 which is a reference to the statute, Comprehensive Plan
4 lawsuit, is that if the government agency wins, they
5 are entitled to their attorneys' fees. The idea was to
6 try to tamp down, you know, frivolous or ill-advised
7 lawsuits that sort of are aimed at harassing
8 governments.

9 CHAIR BOTEL: Okay.

10 MR. BAUMANN: Save it for the good ones, in
11 other words.

12 CHAIR BOTEL: Thank you.

13 Mr. Sirmons.

14 MR. SIRMONS: From a staff perspective, we do
15 deal with the issue on an applicant level, and there's
16 ambiguity when the zoning code says one thing and the
17 Comprehensive Plan says another. So that consistency
18 really helps staff when we are explaining to someone
19 why they cannot develop, because when this code says --
20 this map says one and this map says the other.

21 So if we're not willing to make the zoning
22 code consistent with the future land use map, then we
23 should also probably determine that we don't want that
24 future land use there if we're not going make the
25 documents consistent.

1 But either way, it helps staff when we have
2 all of your documents lined up and we have to deal with
3 these property owners on an individual basis. So that
4 consistency is not only mandated by State, but it also
5 helps us making sure there's clarity among the
6 (inaudible) City regulations.

7 CHAIR BOTEL: Okay, thank you.

8 Anything else before we -- Mr. Lawson.

9 CHAIR PRO TEM LAWSON: Madam Chair, just a
10 question in reference to the fencing that was placed on
11 Pine Point. I'm not sure if it's Mr. Sirmons,
12 Mr. Gagnon or Ms. Wynn.

13 Was that fence legally allowed to be put
14 there, because I know of some residents on Pine Point
15 have expressed concern with that fence being placed.
16 So can you give me an update on why that fence was
17 there, and if it was not there, how quickly can that be
18 taken down? What would the steps be?

19 COUNCILPERSON McCOY: But that -- I'm sorry,
20 can I ask? But isn't that a question that would kind
21 of seem to be more appropriate to be taken off-line,
22 because isn't there currently some Code Enforcement
23 magistrate, I guess, litigation, if you will --

24 CHAIR BOTEL: Yes.

25 COUNCILPERSON McCOY: -- that I think will

1 probably potentially compromise? I just don't see that
2 that's a benefit, to ask that question at this point,
3 Mr. Lawson. And I mean if you --

4 CHAIR PRO TEM LAWSON: Well, Councilman
5 McCoy, I didn't know that there was litigation. So I
6 guess that would be something that -- I know there was
7 an issue, but if either our attorney or Mr. Sirmons
8 could let me know or let the Council know that there is
9 litigation going on and let the Council know that, we
10 can take that off-line, because I guess I didn't have
11 that information.

12 CHAIR BOTEL: Ms. Wynn.

13 MS. WYNN: A citation has been issued, there
14 is a code case, and it's the City's position that the
15 fence should not have been placed on the property,
16 which is why we cited them.

17 CHAIR BOTEL: Thank you.

18 CHAIR PRO TEM LAWSON: So based on Councilman
19 McCoy's statement that we're currently with the
20 magistrate, and I guess that we're currently just going
21 through the steps of figuring out what's going to be
22 done next.

23 MS. WYNN: Right.

24 CHAIR PRO TEM LAWSON: Okay, thank you in
25 that case.

1 CHAIR BOTEL: Okay. This was a workshop, so
2 we don't have any comments from City Attorney or
3 Council. If there's nothing else, this meeting is
4 adjourned. Thank you for your time.

5 CHAIR PRO TEM LAWSON: Thank you, everyone.

6 (Whereupon, at 7:40 p.m., the proceedings
7 were concluded.)

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WORD LIST

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0.0 (2)	< A >	allows (2)	attach (1)
< 1 >	a.m (1)	ambiguity (1)	attaching (1)
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11 (1)	absence (1)	amending (1)	attention (4)
163.3215 (2)	absolutely (1)	amendment (2)	Attorney (16)
17th (1)	accepting (1)	amount (3)	attorneys (2)
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1996 (1)	accounts (1)	answer (7)	Audio (21)
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20 (7)	acres (1)	Anthony (25)	authority (2)
2018 (1)	action (6)	anybody (7)	authorized (1)
2019 (1)	actions (1)	anytime (1)	automatically (1)
2020 (6)	activities (1)	apart (1)	available (3)
2021 (1)	actual (3)	apologize (1)	avoid (2)
21 (2)	add (4)	apologizes (1)	aware (2)
21st (1)	addition (1)	appear (1)	< B >
23rd (1)	additional (6)	appears (1)	back (9)
28th (1)	address (9)	applicant (1)	backed (1)
2nd (7)	addressed (1)	applicants (1)	balance (1)
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31 (1)	adjacent (2)	applies (3)	Barber (1)
31-5 (3)	adjourned (1)	apply (4)	barely (1)
33 (2)	adopt (1)	appraisal (1)	barrier (1)
3rd (1)	adopted (2)	appraise (1)	Barsh (1)
< 4 >	adoption (2)	appraised (1)	barshk@gtlaw.com
4122 (2)	advertise (1)	appraiser (1)	(1)
4133 (1)	advertised (1)	appreciate (1)	base (1)
4147 (4)	Affairs (1)	apprised (1)	based (13)
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51 (1)	afternoon (1)	approval (2)	battle (2)
< 6 >	agencies (1)	approve (1)	Baumann (40)
6:08 (3)	agency (1)	approximately (2)	BEACH (9)
< 7 >	agenda (9)	Aquatic (1)	beaches (1)
7:40 (2)	ago (3)	area (39)	bear (1)
75 (1)	agree (2)	areas (5)	becoming (1)
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	ahead (4)	asked (2)	beg (1)
	aimed (1)	asking (1)	beginning (3)
	aligned (1)	aspect (1)	behalf (2)
	aligns (1)	assess (1)	believe (18)
	Allegiance (2)	assessed (2)	beneficial (2)
	allow (4)	Assessment (2)	benefit (1)
	allowable (2)	Assistant (3)	best (2)
	allowed (5)	associated (2)	better (1)
		association (6)	beyond (2)
		assuming (1)	

biggest (1)	certain (3)	comments (13)	Consulting (1)
bills (1)	certainly (3)	Commission (5)	content (2)
Biodiversity (1)	certify (1)	commissioned (2)	context (1)
bit (3)	cetera (1)	committed (1)	continuing (1)
Board (8)	Chair (164)	communicated (1)	controls (1)
boil (1)	Chairman (1)	communicating (1)	conversation (1)
book (3)	Chairperson (4)	Communication (2)	coordination (1)
Botel (109)	Chair's (1)	Community (1)	copy (2)
Botel's (1)	change (5)	Comp (1)	corner (1)
bottom (2)	changed (1)	company (1)	Correct (7)
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brackets (1)	changing (2)	compatibility (1)	correspondence (1)
brief (1)	Chapter (2)	compatible (2)	cost (2)
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bring (7)	charges (1)	complaint (2)	Council (36)
bringing (1)	chime (1)	completely (2)	Councilman (3)
brought (3)	Christian (1)	compliance (3)	Councilperson (47)
budget (2)	citation (1)	complicated (1)	Councilpersons (1)
bugging (1)	cited (1)	Comprehensive (55)	Councils (1)
build (1)	citizen (4)	comprise (1)	Councilwoman (2)
building (4)	citizens (3)	comprised (1)	Counsel (1)
built (1)	CITY (130)	compromise (1)	County (4)
Busby (5)	City's (14)	concern (6)	couple (3)
business (3)	Civic (3)	concerning (2)	course (4)
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call (6)	clean (2)	configurations (1)	Critical (1)
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caught (1)	color (2)	consistently (1)	day (1)
cause (1)	come (7)	consolidated (1)	days (2)
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	comment (17)	Consultation (1)	

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deliberations (2)	dotted (1)	estuary (1)	figure (2)
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Deputy (4)	earlier (2)	exactly (3)	findings (1)
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discussed (2)			Friday (4)

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July (3)
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LLC (2)
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located (1)

locations (1)	members (11)	notice (2)	packet (1)
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long (4)	midnight (1)	notified (1)	Palm (4)
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looking (4)	minimal (2)	< O >	parentheses (1)
Looks (1)	minute (1)	objection (2)	parenthesis (7)
lot (3)	minutes (3)	Observation (1)	part (2)
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low (1)	misaligned (3)	obviously (3)	participation (1)
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Lozman (5)	mitigation (1)	occurs (1)	particularly (2)
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Madam (32)	month (1)	Office (6)	passing (2)
magistrate (2)	months (1)	official (2)	patterns (1)
maintain (1)	moratorium (1)	officials (1)	pay (1)
major (2)	morning (2)	off-line (2)	paying (2)
majority (2)	motion (4)	offset (1)	pays (1)
making (1)	motions (1)	Oh (7)	pdf (1)
manage (1)	move (2)	Okay (42)	peddler (1)
Management (3)	moved (1)	ones (2)	penalty (1)
Manager (7)	moving (2)	one's (1)	people (12)
Manatee (3)	multiple (2)	ongoing (1)	perceive (1)
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maneuver (1)	name (1)	Opportunity (1)	permit (13)
Mangrove (1)	names (8)	oppose (1)	permits (3)
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Mapper (1)	nature (2)	option (2)	person (3)
Marina (3)	necessarily (1)	opt-out (1)	perspective (1)
marine (4)	necessary (1)	order (3)	pertaining (1)
match (2)	need (7)	orders (5)	petition (6)
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Mayor (1)	neighbor (2)	original (1)	picture (1)
McBride (6)	Network (1)	outright (1)	Pine (7)
McCoy (39)	never (2)	owned (1)	place (5)
McCoy's (1)	new (1)	owner (5)	placed (3)
mean (13)	night (4)	owners (11)	places (3)
means (1)	non-arm's (1)	ownership (1)	Plan (56)
Media (2)	normally (4)	owning (1)	Planning (6)
meet (1)	north (1)	< P >	Plans (2)
meeting (26)	noted (2)	p.m (5)	Plan's (1)
meetings (6)	notes (4)		plays (2)
			please (23)

pleasure (2)	property (23)	recap (1)	resort (1)
Pledge (2)	proposed (5)	receive (1)	resource (1)
plot (1)	proposing (1)	received (8)	resources (7)
plus (1)	prosecutors (1)	reciprocal (1)	resources/wetlands (1)
point (20)	protect (1)	recited (1)	respectfully (1)
pointing (1)	protected (3)	recommend (2)	respond (1)
points (1)	protecting (1)	recommendations (1)	response (6)
political (2)	Protection (3)	recommended (1)	rest (1)
Portal (1)	protest (1)	record (8)	result (1)
portion (2)	provide (8)	red (1)	results (1)
position (5)	provided (1)	redeveloping (1)	return (1)
possible (3)	provides (2)	redevelopment (1)	review (3)
possibly (3)	provision (5)	refer (1)	reviewing (1)
posture (1)	provisions (2)	reference (3)	rezoning (2)
potentially (1)	proximity (1)	referring (2)	Richard (1)
practical (1)	public (34)	refers (4)	right (41)
practice (1)	pulling (1)	reflecting (1)	rights (3)
precedence (1)	purchase (4)	reflects (1)	RIVIERA (5)
predate (1)	purchased (3)	refresher (1)	road (3)
predated (1)	Purely (1)	regard (2)	Ronnie (1)
predecessor (1)	purposes (4)	regarding (4)	rules (1)
preemptively (1)	push (2)	regular (6)	ruling (1)
preference (2)	pushing (1)	regularly (3)	run (2)
prepared (3)	put (6)	regulate (1)	rush (1)
presence (1)	puts (1)	regulation (3)	
Present (5)		regulations (8)	
presentation (1)	< Q >	reiterate (1)	< S >
presented (2)	Question (30)	related (1)	sacred (1)
presenting (5)	questions (14)	relates (2)	salaries (1)
Preservation (30)	quick (1)	relief (1)	sat (1)
preserve (2)	quickly (1)	religions (1)	Satellite (1)
previous (1)	quite (1)	remainder (1)	Save (1)
previously (2)	Quote (2)	remember (2)	savings (3)
price (1)		REMEMBERED (1)	saw (2)
prior (9)	< R >	Renegade (3)	sawfish (1)
priority (2)	R5 (2)	repeat (2)	saying (6)
private (3)	raised (2)	report (1)	says (16)
Pro (42)	raising (2)	request (3)	scenario (4)
probably (9)	ranks (1)	requested (5)	scenarios (1)
problem (3)	ratio (2)	require (1)	schedule (1)
procedurally (1)	read (24)	required (7)	scheduled (9)
proceed (1)	reading (25)	requirement (1)	school (1)
proceedings (2)	real (1)	requirements (2)	screen (1)
process (1)	really (12)	requires (2)	sea (1)
prohibited (2)	reason (3)	research (7)	Seagrass (4)
prohibiting (1)	reasonable (1)	resent (1)	Second (16)
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project (2)	reasons (1)	residential (2)	see (15)
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send (1)
 sending (1)
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 September (9)
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