

Mayor

Joe Coviello

Council Members

District 1: John Gunter

District 2: John M. Carioscia Sr.

District 3: Marilyn Stout

District 4: Jennifer I. Nelson

District 5: Dave Stokes

District 6: Richard Williams

District 7: Jessica Cosden



1015 Cultural Park Blvd.
Cape Coral, FL

City Manager

John Szerlag

City Attorney

Dolores Menendez

City Auditor

Andrea R. Butola

City Clerk

Kimberly Bruns

AGENDA
COMMITTEE OF THE WHOLE

May 20, 2019

4:30 PM

Council Chambers

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree.
We will direct all comments to the issues. We will avoid personal attacks.

VIDEO

1. MEETING CALLED TO ORDER

A. MAYOR COVIELLO

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

A. MAYOR COVIELLO, COUNCIL MEMBERS CARIOSCIA, COSDEN, GUNTER, NELSON, STOKES, STOUT, WILLIAMS

4. BUSINESS:

A. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters concerning the City Government; 3 minutes per individual.

B. DISCUSSION

- (1) Shared-Use Non-motorized Trail SUN Trail Design Presentation
- (2) School Bus Stop Safety Update
- (3) Discussion of Council Agenda Rules of Procedure

5. ROUND TABLE DISCUSSION

6. TIME AND PLACE OF FUTURE MEETINGS

- A. A Regular Meeting of the Cape Coral City Council is Scheduled for Monday, June 3, 2019 at 4:30 p.m. in Council Chambers

7. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL CITY COUNCIL AGENDA

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Persons wishing to address Council under Citizens Input or the Consent Agenda may do so during the designated times at each meeting. No prior scheduling is necessary. All speakers must have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting.

Any citizen may appear before the City Council at the scheduled PUBLIC HEARING/INPUT to comment on the specific agenda item being considered. No prior scheduling is necessary.

When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state or local law.

Copies of the agenda are available in the main lobby of Cape Coral City Hall and in the City Council Office, 1015 Cultural Park Boulevard. Copies of all back-up documentation are also available for review in the lobby of Council Chambers. You are asked to refrain from removing any documentation. If you desire copies, please request they be made for you. Copies are 15 cents per page. Agendas and back-up documentation are also available on-line on the City website (capecoral.net) after 4:00 PM on the Thursday prior to the Council Meeting.

***PUBLIC HEARINGS DEPARTMENT OF COMMUNITY DEVELOPMENT CASES**

In all public hearings for which an applicant or applicants exist and which would affect a relatively limited land area, including but not limited to PDPs, appeals concerning variances or special exceptions, and small-scale rezonings, the following procedures shall be utilized in order to afford all parties or their representatives a full opportunity to be heard on matters relevant to the application:

1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
2. The order of presentation will begin with the City staff report, the

presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.

3. Members of the City Council may question any witness on relevant issues, by the applicant and/or the applicant's representative, City staff, or by any member of the public.
4. The Mayor may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is felt that such witnesses and/or evidence are necessary for a thorough consideration of the subject.
5. After the introduction of all-relevant testimony and evidence, the applicant shall have the opportunity to present a closing statement.
6. If a person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Item Number: B.(1)
Meeting Date: 5/20/2019
Item Type: DISCUSSION

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Shared-Use Non-motorized Trail SUN Trail Design Presentation

REQUESTED ACTION:

Staff Direction

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

Planning & Zoning/Staff Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The City of Cape Coral was awarded a SUN Trail grant for the design of a 12-foot wide multi-use trail on the north side of Van Buren Parkway from Burnt Store road to El Dorado Boulevard; on the west side of El Dorado Boulevard from Van Buren Parkway to Kismet Parkway; and on the north side of Kismet Parkway from El Dorado Boulevard to Del Prado Boulevard; approximately 6.5 miles.

This non-motorized trail will provide a signature destination for recreational activity in the North Cape.

The consultant VHB will be presenting design plans.

LEGAL REVIEW:

EXHIBITS:

Staff presentation

PREPARED BY:

Persides
Zambrano

Division- Planning and
Permitting

Department- Public
Works

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
 Staff Presentation	Backup Material

FLORIDA SHARED-USE NON-MOTORIZED SUNTRAIL

VAN BUREN PARKWAY / EL DORADO BOULEVARD / KISMET PARKWAY /
BURNT STORE ROAD TO DEL PRADO BOULEVARD

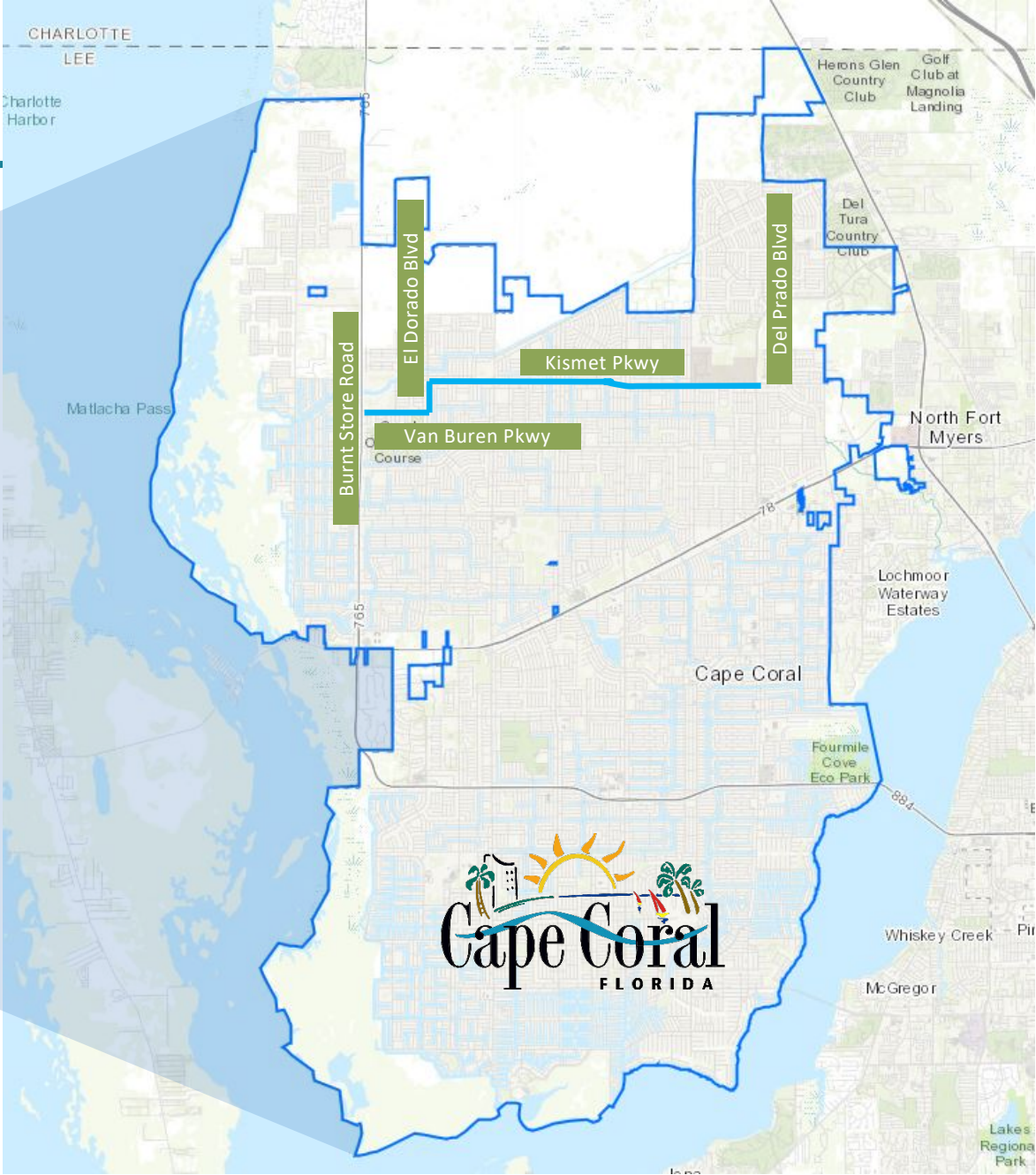
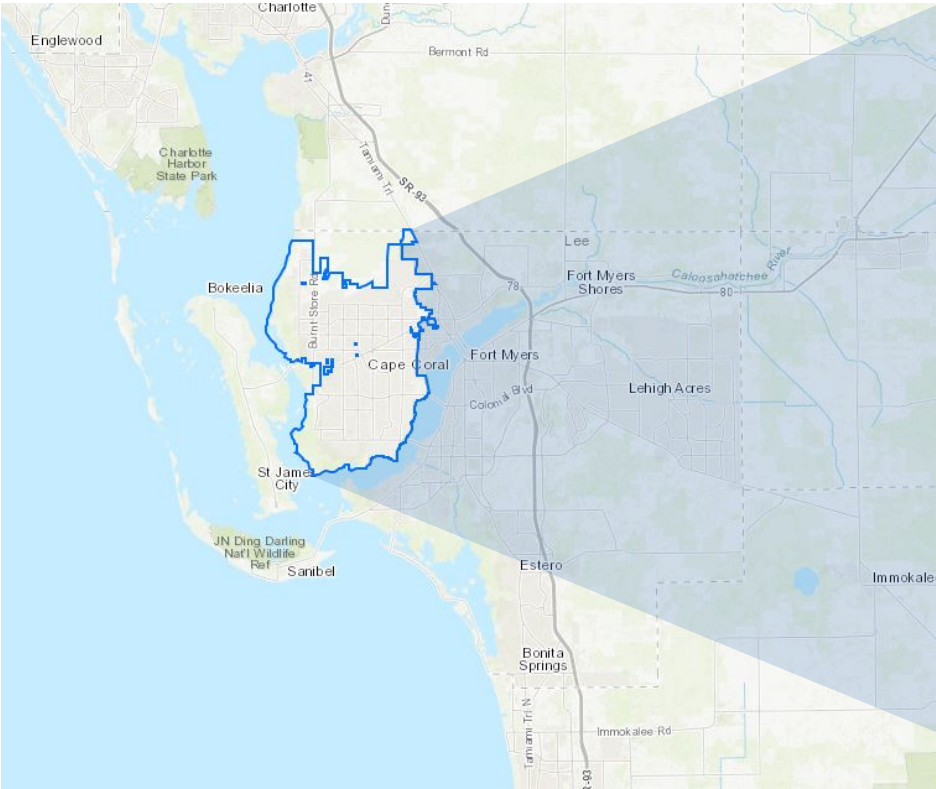


CITY COUNCIL PRESENTATION

May 20, 2019



Project Location Map



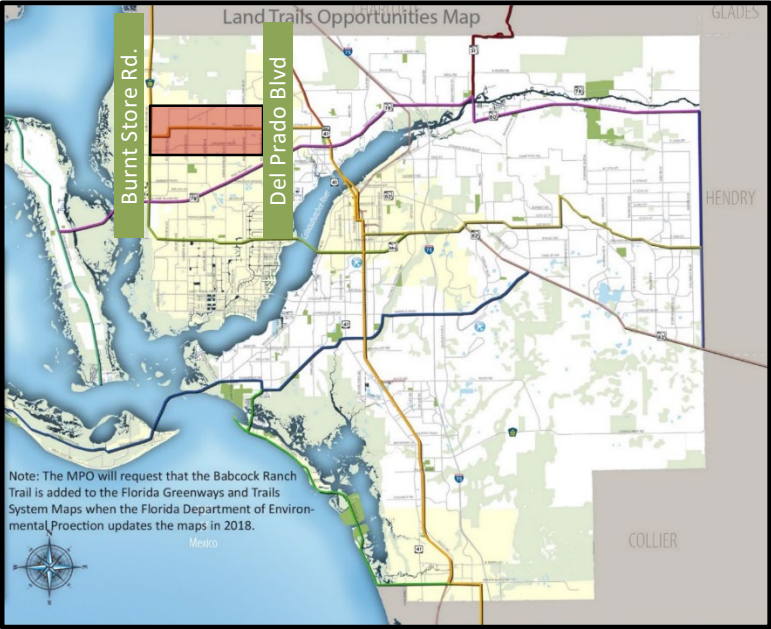
FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Trail Network

Statewide Connection

Critical Connection for Florida Greenways & Trails Network



Local Connection

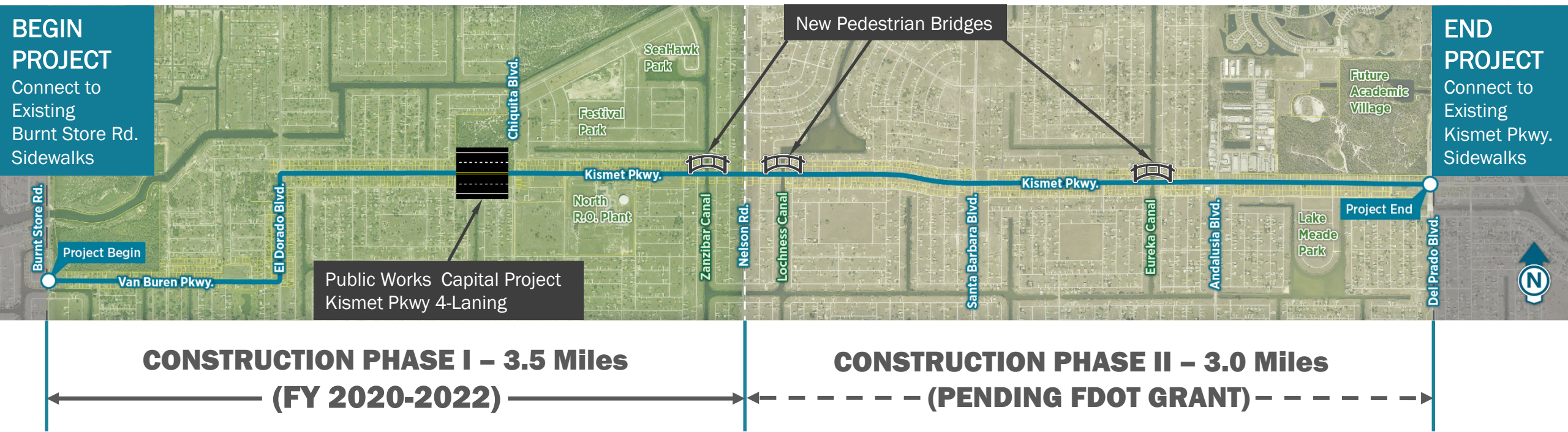
Provides the missing link to connect the trails along Burnt Store Road and Del Prado Boulevard



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Project Limits



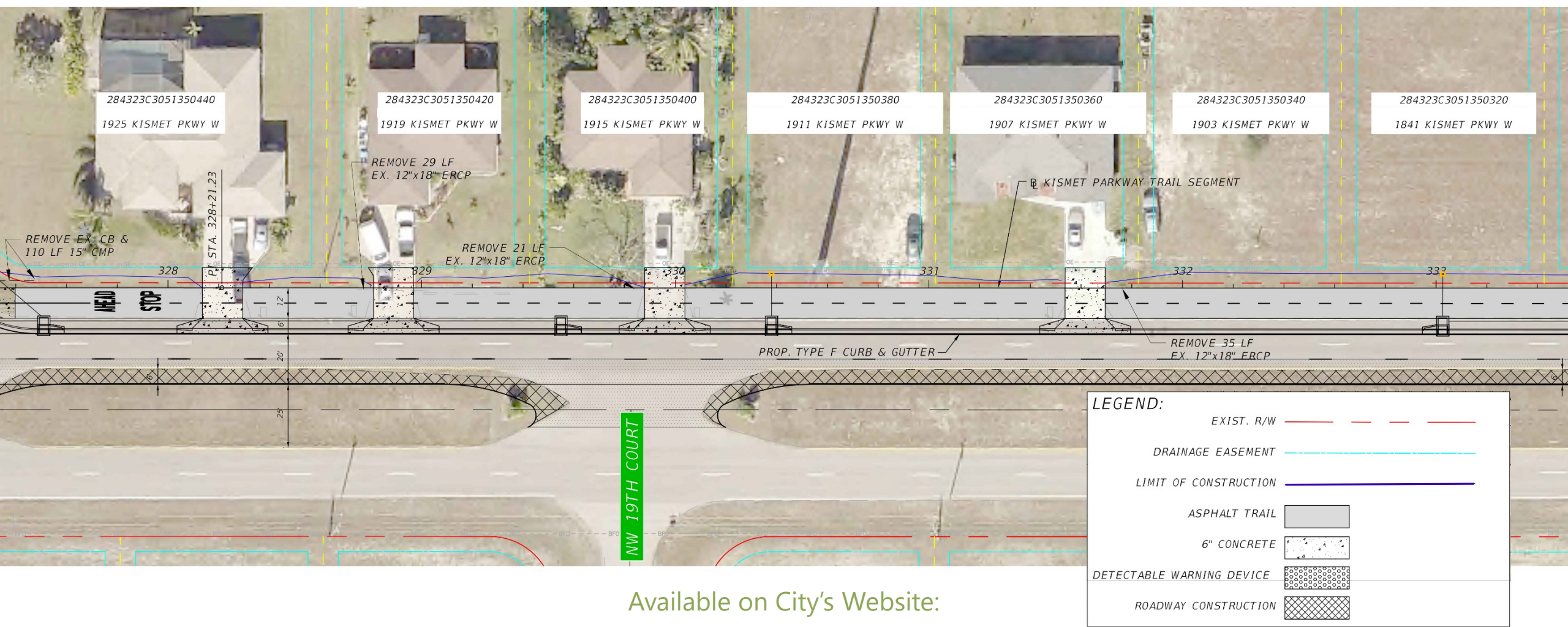
Project Length: 6.5 Miles

Typical Section: Rural 4-Lane Divided Highway

Typical Right-of-Way: 100 Feet

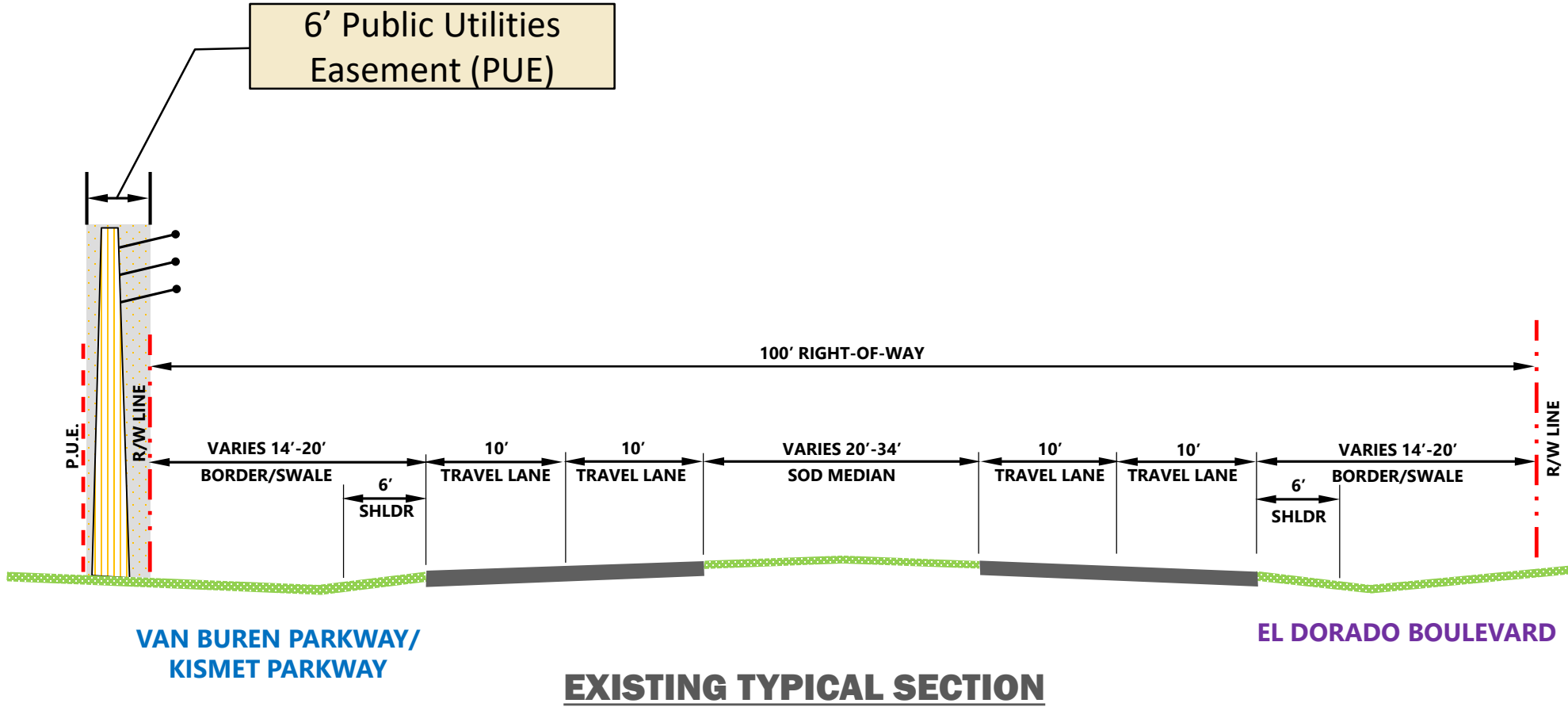
Posted Speed: 45 MPH

Final Design Plans



Available on City's Website:
www.capecoral.net/special_project_plans/sun_trail

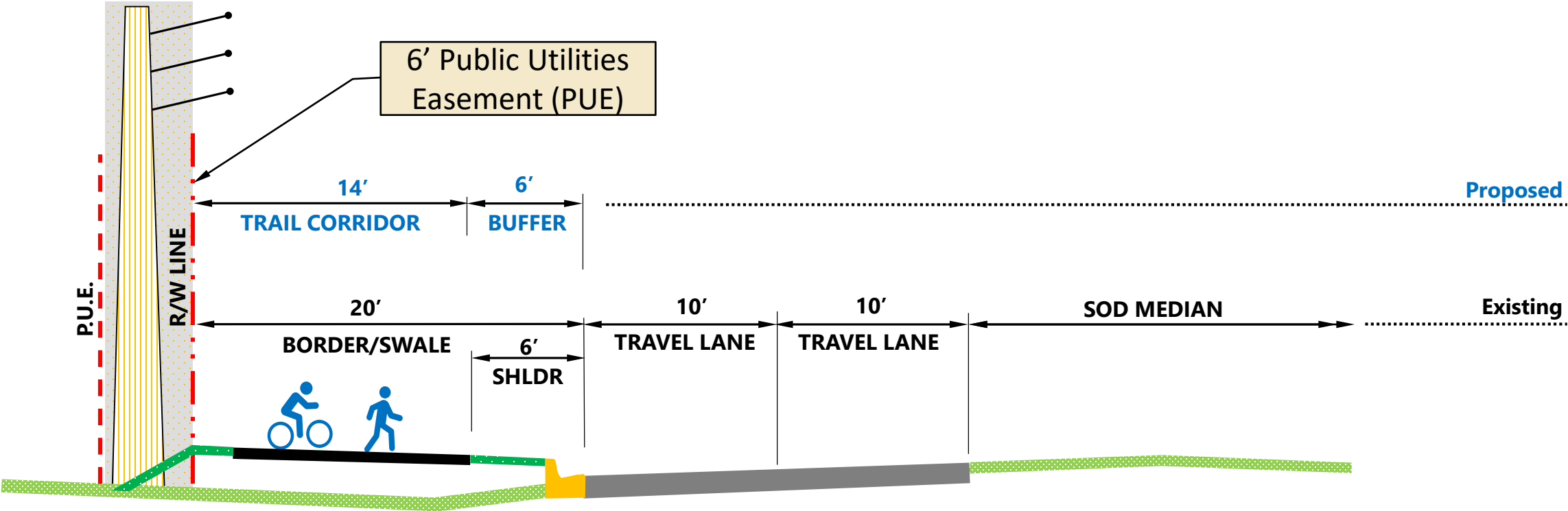
Typical Section - Existing



LOOKING NORTH OR EAST
VAN BUREN PARKWAY/EL DORADO BOULEVARD/KISMET PARKWAY



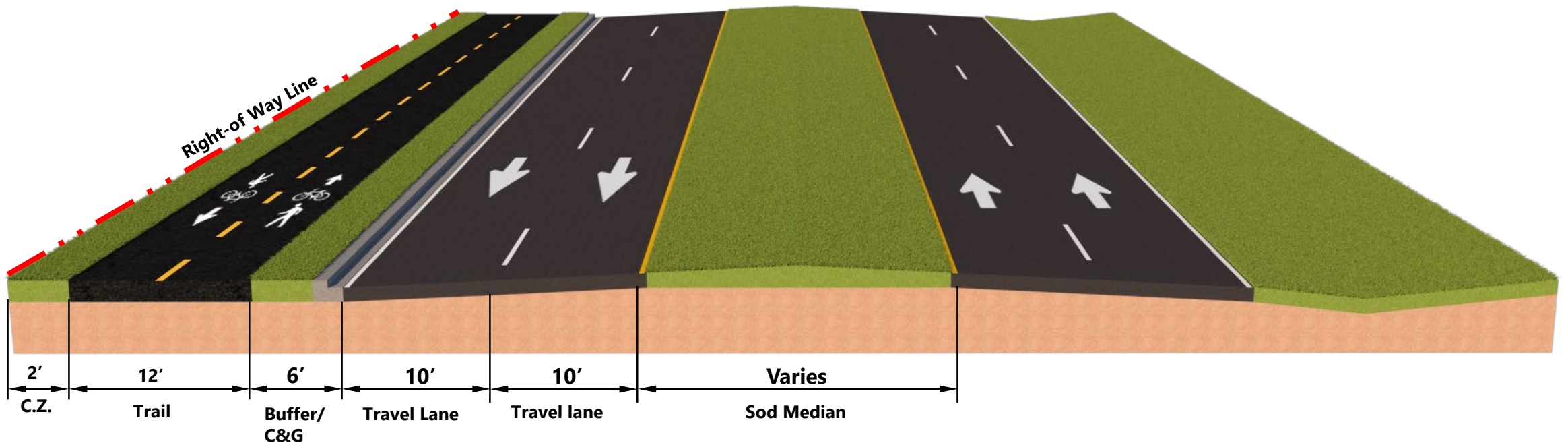
Typical Section - Proposed



PROPOSED TYPICAL SECTION



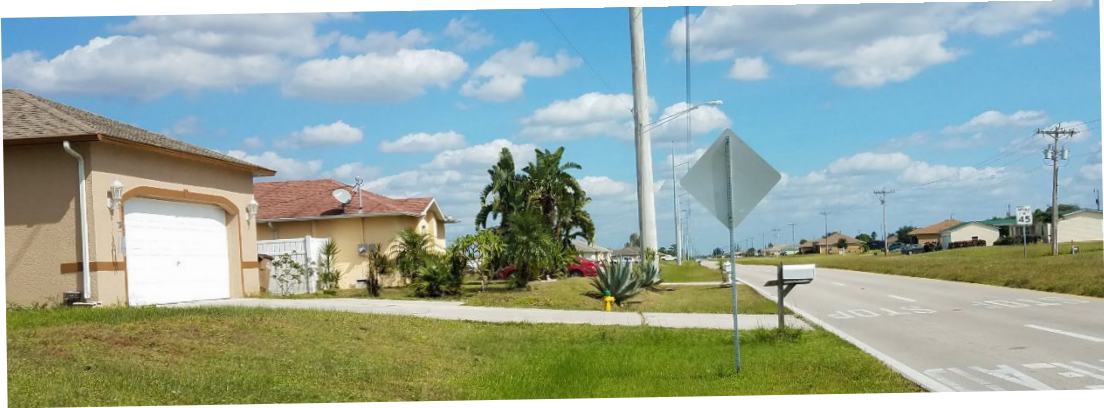
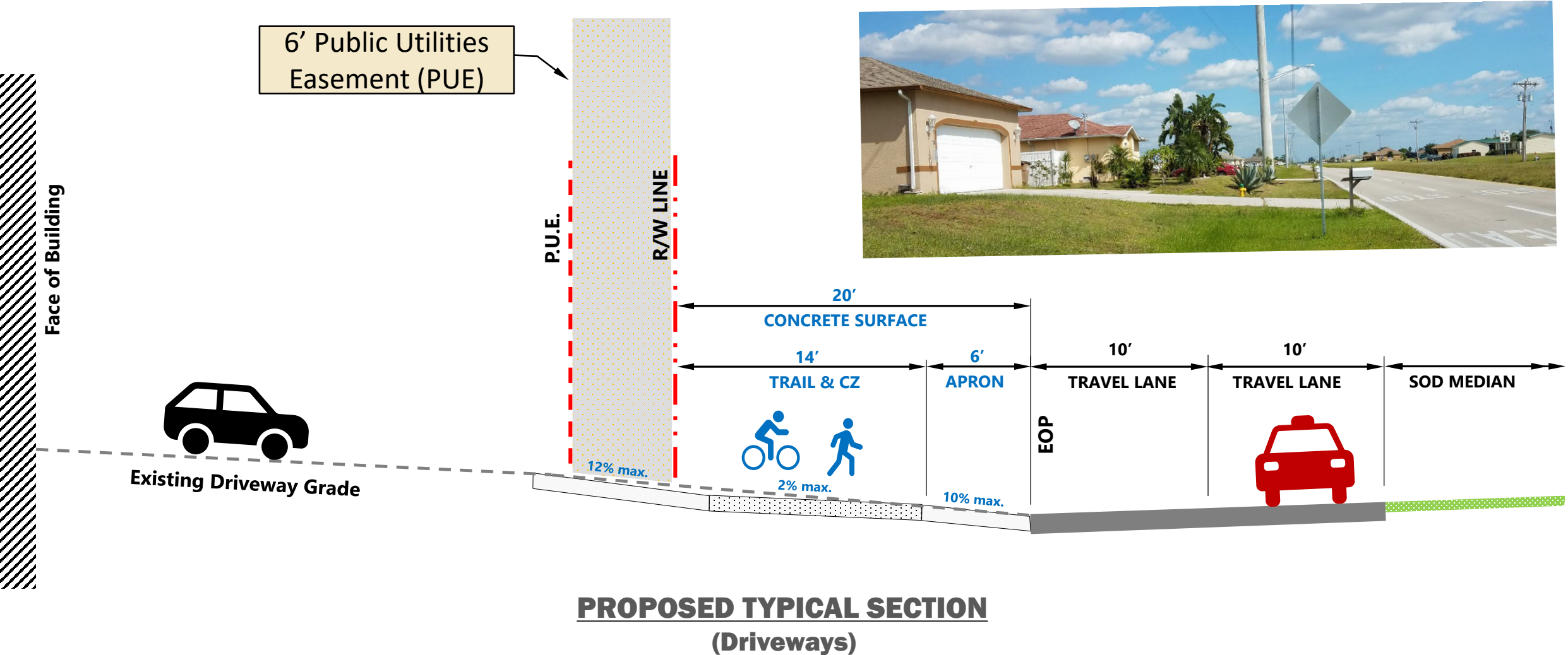
3-D Perspective



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Typical Section-Driveway



Rendering



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Rendering



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



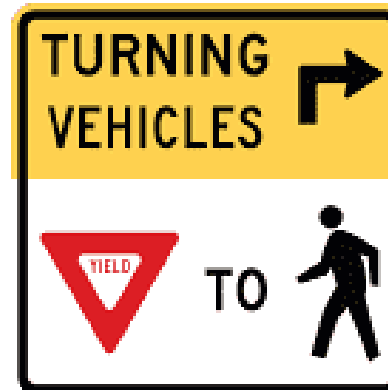
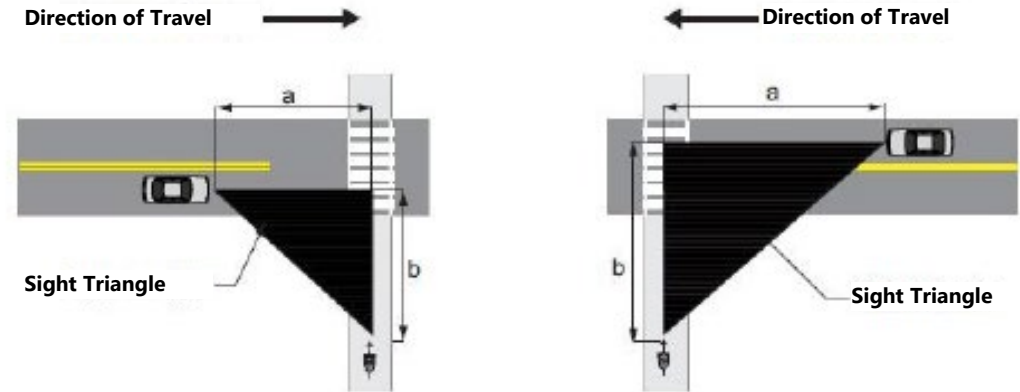
Trail Intersection Design

Considerations:

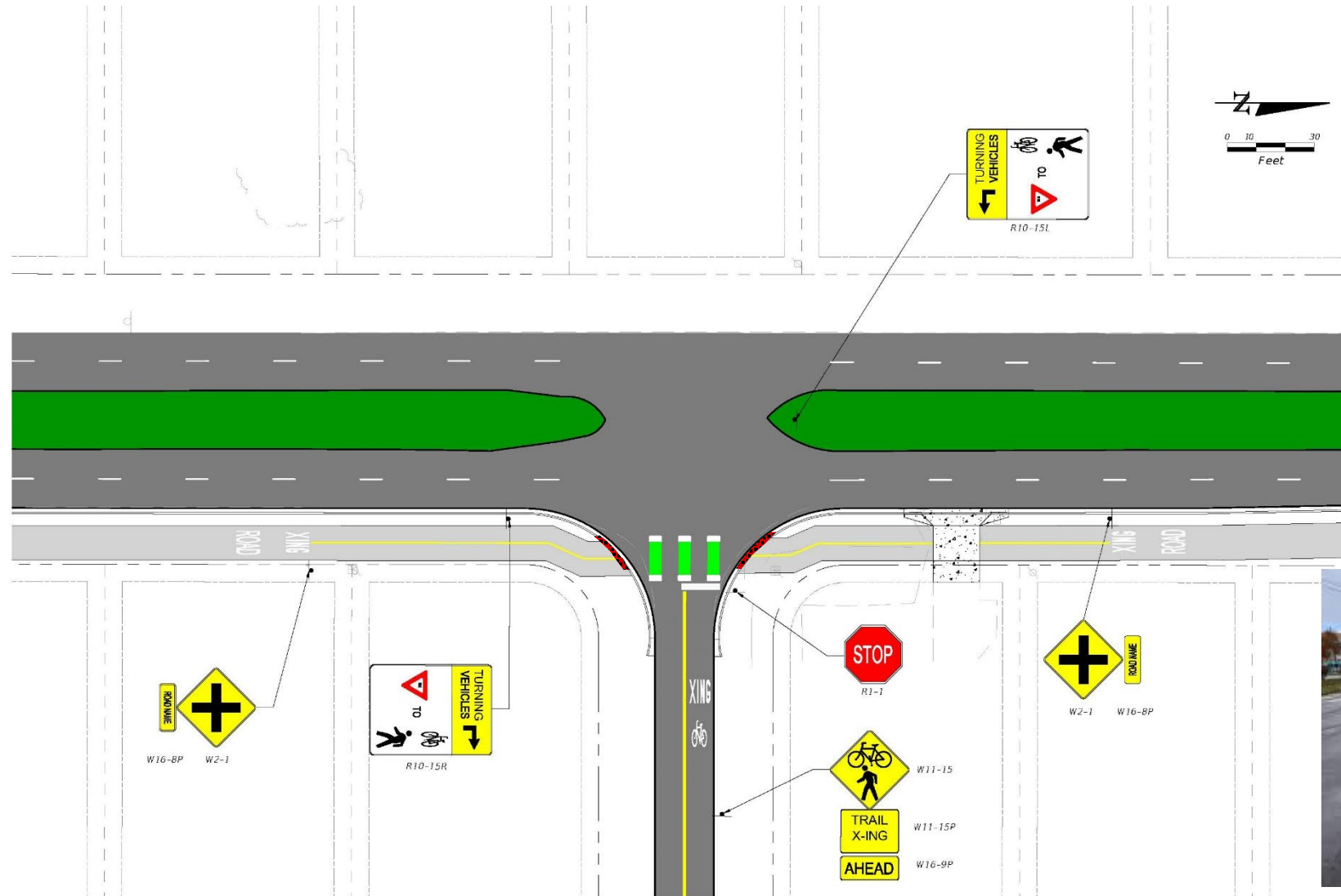
- Right-of-Way (Bicyclist or Vehicles)
- Sight Triangles
- Alignment
- Traffic Volumes
- Markings
- Signage
- Awareness

Intersection Types:

- High Usage
- Medium Usage
- Low Usage



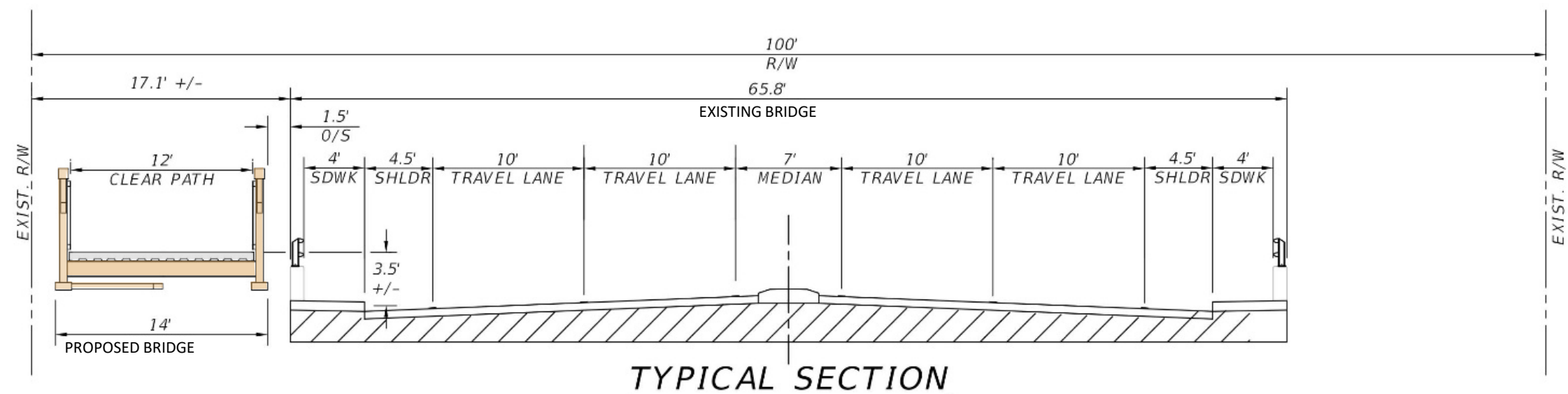
Trail Intersection Design



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Proposed Pedestrian Bridge



PEDESTRIAN BRIDGE OVER CANALS

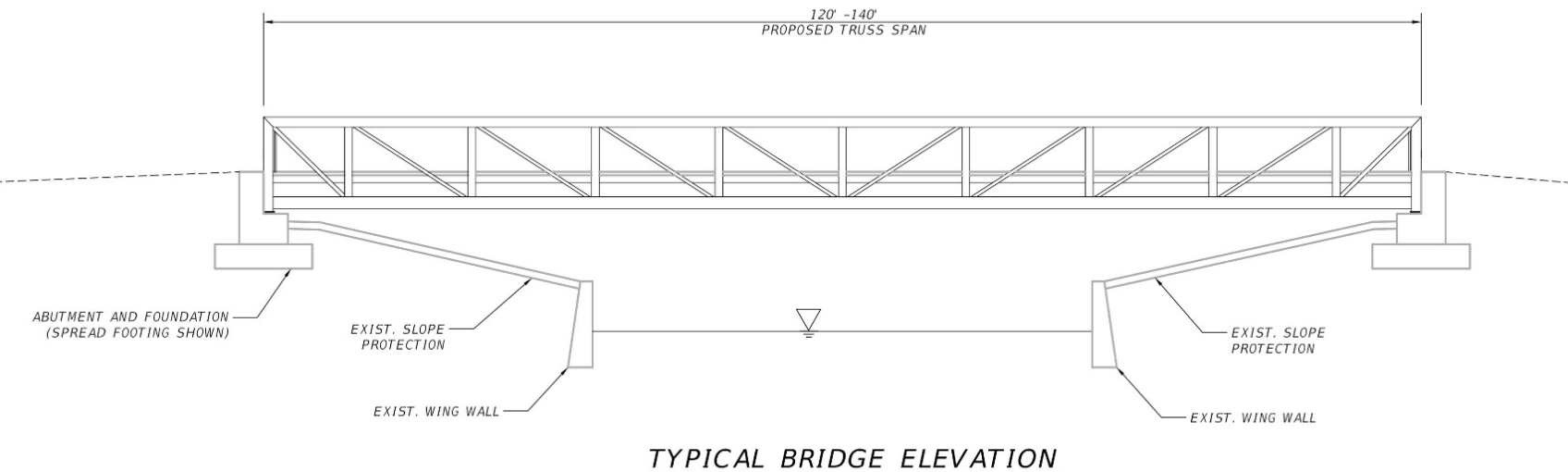


Proposed Pedestrian Bridge

Aesthetics

- Painted Steel Truss
- Decorative Options to be Determined

Decorative Options



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Stakeholders Meeting (September 25, 2018)

Representative Attendees

- Lee County
- Lee MPO
- BPAC
- FDOT
- Bike Walk Lee
- City of Cape Coral
- HealthyLee

Summary of Outcome

- Fully Supported by attendees



Public Meeting (October 23, 2018)

Public Notice

- 950 direct mailers to property owners within 300' radius of project
- Email notifications to local officials, agency partners, and utility owners (61 recipients)
- Meeting posted on the Bike Walk Lee website

Attendees

- 18 Attendees
 - ✓ 11 Residents
 - ✓ 4 Public agencies
 - ✓ 3 Others
- 16 Comments received

Summary of Outcome

- The majority of the comments supported the project



Capital Projects & Utility Improvements Coordination

Future Project Coordination w/ Phase I

- Utilities & UEP
 - ✓ Water and irrigation sleeves
 - ✓ Sanitary laterals
- Transportation
 - ✓ Widening of Kismet Parkway to 4 lanes (Chiquita Blvd to NW 18th Avenue)

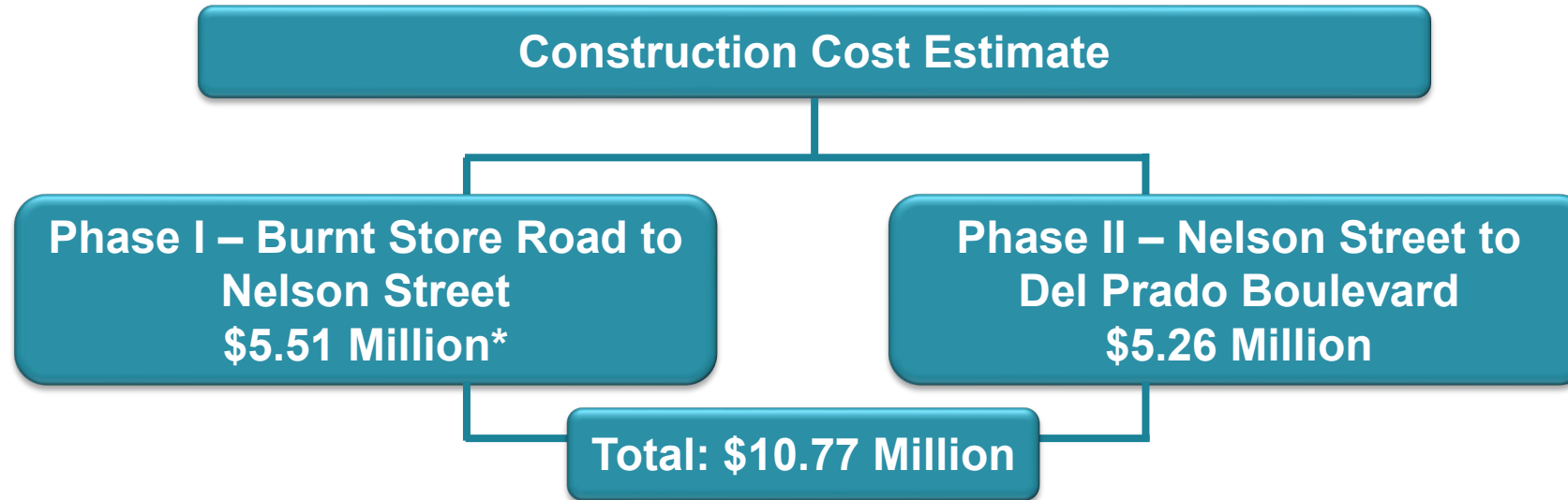


Permitting

- South Florida Water Management District (SFWMD)
 - ✓ Trail Construction – Permit Exemption Received (1/22/19)
 - ✓ Bridge Construction over Canals – General Permit Received (2/22/19)
 - ✓ Kismet Parkway Widening – General Permit (Expected by July 2019)
- Corps of Engineers (USCOE)
 - ✓ Canal Crossings – Email concurrence of exemption received (4/4/19)
- Florida Department of Transportation
 - ✓ Plans Approved



Estimated Construction Cost



*Includes City's Kismet Parkway widening and future utility connections



THANK YOU



FLORIDA SHARED-USE NON-MOTORIZED (SUN) TRAIL



Item Number:	B.(2)
Meeting Date:	5/20/2019
Item Type:	DISCUSSION

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

School Bus Stop Safety Update

REQUESTED ACTION:

Staff Direction

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? Yes

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

Planning & Zoning/Staff Recommendations:

N/A

SUMMARY EXPLANATION AND BACKGROUND:

Update regarding school bus stop safety best practices and future improvements.

LEGAL REVIEW:

N/A

EXHIBITS:

Memo

Presentation

PREPARED BY:

Cheryl
Mackowski

Division- Administration

Department- Public
Works

SOURCE OF ADDITIONAL INFORMATION:

N/A

ATTACHMENTS:

Description	Type
▣ Memo	Backup Material
▣ Presentation	Backup Material

MEMORANDUM

TO: John Szerlag, City Manager, City of Cape Coral
Dolores Menendez, City Attorney, City of Cape Coral
FROM: Chris Roe, Bryant Miller Olive
DATE: May 7, 2019
SUBJECT: Special Assessments to Fund Sidewalks and Related Improvements

Summary: Cities are authorized by Chapter 170, Florida Statutes, to levy special assessment to fund sidewalks and related improvements, and cities may alternatively impose such assessments pursuant to home rule powers. Any capital improvement project funded by special assessments must provide a special benefit to the parcels subject to the assessment, and the benefit and costs of the improvement must be fairly apportioned among those parcels. While parcels adjacent to or abutting road and sidewalk projects are presumed to benefit from sidewalk improvements, non-adjacent property may also benefit. To the extent that non-adjacent parcels benefit but to a lesser degree than parcels abutting the sidewalk, the lesser benefit would be reflected in the apportionment methodology such that parcels which benefit more are assessed proportionately more of the overall cost.

Background: Approximately 3% of local roadways and 46% of major streets in the City of Cape Coral have sidewalks. Over the last twelve years, the City has constructed sidewalks utilizing mostly state and federal grant funding, receiving approximately \$10 million from 2007-2018 which paid for approximately 30 miles of sidewalk. The City has been awarded an additional \$8 million in grants for 2019-2023. While new commercial and most planned development projects require sidewalk installation by the developer, the City is considering special assessments as a potential funding source for the installation of sidewalks and related street features (which may include curbs and gutters, street lights and benches) to address all or some portion of the 101 miles of major roads and 1,176 of local roads which currently do not have such features.

Discussion: Section 170.01, Florida Statutes, expressly authorizes the imposition of special assessments to pay for sidewalks and related improvements.¹ Chapter 170 is by its terms an additional source of authority and procedure for imposing assessments which is

¹ "Any municipality of this state may ... provide for ... grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing, and rehard surfacing of sidewalks; for constructing or reconstructing permanent pedestrian canopies over public sidewalks; and in connection with any of the foregoing, provide related lighting, landscaping, street furniture, signage, and other amenities ..." Section 170.01(1)(a), Florida Statutes.

supplemental to home rule authority. All special assessments, whether imposed pursuant to statute or home rule power, are subject to the requirements that (1) the improvement funded by the assessment must convey a special benefit to the assessed parcels, and (2) the benefits and costs of the improvement project are fairly and reasonably apportioned among the assessed parcels.

There is a presumption in law, reflected by the authorization to assess for improvements under Chapter 170, that properties adjacent to or abutting a road or sidewalk project are specially benefitted by the improvements for assessment purposes. Non-adjacent parcels may also be assessed, provided such parcels are specially benefitted by the improvements.²

For example, non-adjacent parcels may realize an increase in value and marketability through various economic, social, environmental and health benefits resulting from proximity to or presence of sidewalks and related improvements in the wider neighborhood such as minimized traffic congestion, improved conditions for ingress and egress resulting from associated drainage facilities, improved pedestrian safety, enhanced sense of place and community identity, and reduced vehicle emissions resulting in cleaner air for all parcels in the neighborhood.

To the extent that non-adjacent parcels benefit but to a lesser degree than adjacent parcels, the lesser benefit could be reflected in the apportionment methodology such that parcels which benefit more are assessed proportionately more of the overall cost. Conceivably, the methodology could include a tiered approach which recognizes a common benefit to all properties in the neighborhood and additional benefits conveyed to parcels immediately adjacent or in close proximity to the sidewalks.

Additional Considerations:

- Methodology Consultant. If the City is interested in further exploring a potential sidewalk assessment program, it would be helpful to engage an assessment methodology consultant and to seek input from a traffic or transportation engineering perspective, both with respect to describing the special benefits and for developing an apportionment methodology. The conclusions of the consultant(s) are typically summarized in a report or study which can be utilized

² For instance, section 170.01 includes a long list of improvements which may be paid for with assessments and authorizes cities to provide "... for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specially benefitted property."

by the City in developing the assessment program and a fair and reasonable method for allocating costs among all benefitted parcels.

- Phased Approach: The City may wish to consider a phased approach to special assessment funding whereby discrete regions or assessment areas are established over a period years, similar to the City's utility expansion program (UEP). Among other benefits, a phased approach would ensure that the costs and benefits of providing sidewalks in a given area are isolated to that area.
- Plan of Finance:
 - There is no requirement that special assessments fully fund a given improvement project, and assessments can be one component of an overall plan of finance which may also include state and federal grants or other sources of funding.
 - If the City intends to borrow funds with which to finance all or some portion of the cost of sidewalk installation projects, the lending entity may consider the total amount of assessments imposed against affected property (i.e. sidewalk assessments, UEP assessments, etc.). Since assessments are typically collected in annual installments over a period of years, the primary focus may be on the aggregate annual installment payments rather than total assessment load, such that an extended repayment term may not only ease the annual expense faced by landowners but may also facilitate financing of a given project.

School Bus Stop Best Practices and Future Improvements

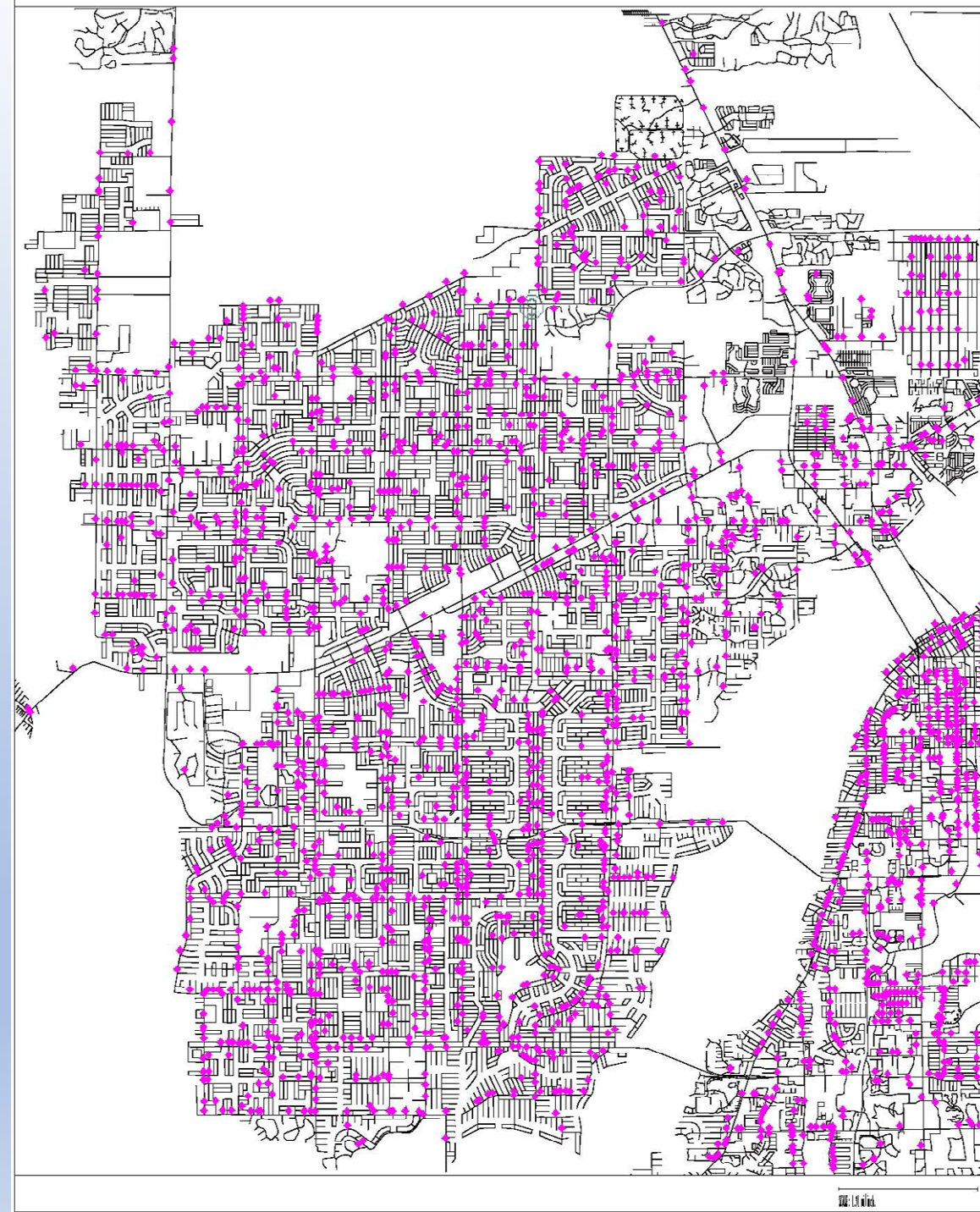
Committee of the Whole – 5/20/19

Existing School Bus Service

- The Lee County School District and City of Cape Coral manages a fleet of school buses serving approximately 50,000 students utilizing approximately 7,000 stops.
- The school buses make approximately 36,000 daily stops picking up and dropping off students.
- Within the City of Cape Coral, there are 19 Lee County Schools and 4 City of Cape Coral Charter Schools :
 - 11 Elementary Schools
 - 7 Middle Schools
 - 5 High Schools

Existing School Bus Service

- Approximately 7,000 school bus stops in Lee County with **1,671** located within the City of Cape Coral (approx. 24%).
- To date, there have been over 16,000 school bus stop changes County-wide for the current 2018-2019 school year.
- It is estimated that approximately **4,000** of the bus stop changes are in Cape Coral since August.



Existing School Bus Service

- Although there are many changes annually, the Lee County School District has designated **673 bus stops in the City as “semi-permanent”**. These are stops that remain the same year after year, and serve multiple schools and routes.
- Street lights have been installed at 425 semi-permanent bus stops since 2015. The remaining 248 semi-permanent stops had an existing street light or do not have pickup or drop-off during dark hours. At this time all semi-permanent bus stops with pickup or drop-off during dark hours have a street light in place.
- The earliest school start time is 7:00 AM with the earliest scheduled bus pickup at 5:04 AM.
- County-wide 2,243 buses have pick up and 240 buses have drop off during dark hours.

School Related Pedestrian/Bicyclist Traffic Crashes

(2009 - 2019) ** No Crashes from 2009 - 2012

In a ten year period, there were 11 incidents involving children related to being hit by a car walking to the bus stop or leaving a bus stop, at the bus stop, or going to school.

Incident locations:

- 8 – walking to or from the bus stop.
- 2 – walking or riding bicycle to school.
- 1 – at the bus stop.

Crash Severity:

- 2 – fatalities: (1) at bus stop. (1) riding bicycle to school.
- 1 – serious injury crossing street to school.
- 8 – minor injuries, non life threatening.

During the ten year period population in the City of Cape Coral from 2009 to 2018 has increased by 20%. 157,000 in 2009 to 188,000 in 2018, not including seasonal residents.

School Related Pedestrian/Bicyclist Traffic Crashes

(2009 - 2019) ** No Crashes from 2009 - 2012

Year	Time of crash	Light conditions	Means of travel	Age of child	Location	Streetlight at time of crash	Sidewalks at the time of the incident	Hit & Run	Comments
2019	5:34	Dark - NOT Lighted	Pedestrian (Walking)	16	CR 765 Burnt Store RD N & NW 9th TER	No (See comments)	Yes	No	There is a new multi-use path on Burnt Store Road. There is an existing street light across from the marked crosswalk. Lee County is currently working to install an additional light over the marked crosswalk.
2019	6:16	Dark - Lighted	Pedestrian (bus stop)	8	NE 19th TER & NE 3rd Ave	Yes	No	Yes	
2018	6:58	Daylight	Pedestrian (running)	6	SE 15th PL & SE 31st ST	Yes	Yes	No	There are sidewalks on SE 15th PL at that intersection; it can be seen on 2007 aerial
2016	6:01	Dark - NOT Lighted	Pedestrian (walking)	15	1122 Diplomat Pkwy E	No	No	Yes	
2016	8:17	Daylight	Bicycle	12	300 Blk SW 26th ST	No	No (See Comments)	Yes	There are sidewalks now; they were built by November 2017
2015	6:33	Dark - Lighted	Pedestrian Running	13	SE 4th ST & SE 1st PL	Yes	No	No	
2015	15:19	Daylight	Pedestrian Walking	11	NE 24th Ave & NE 6th ST	Yes	Yes	Yes	NE 6th St on the north side of intersection has sidewalks since 2007 aerial
2014	6:00	Dark - NOT Lighted	Pedestrian Walking	17	2231 NW 5th ST	No	No	Yes	Walking to bus stop
2014	6:35	Dark - NOT Lighted	Pedestrian Walking	16	SW 35th TER & Skyline Blvd	No	Yes	Yes	There have been sidewalks on Skyline at that intersection since 2007 aerial. A street light has also been added to this location.
2014 ***	6:07	Dark – NOT Lighted	Bicycle	15	700 Kismet Pkwy W	No	No	No	Riding bicycle to school
2013 ***	6:45	Dark -Lighted	Pedestrian Walking	16	2400 Santa Barbara Blvd	Yes	Yes	No	Going to school

School Bus Stop Safety – Best Practices

The Lee County School District monitors safety of school bus stops, often conducting field audits to confirm if a stop is safe and compliant with standards and policies.

The School District meets or exceeds all minimum State standards for safety of a bus stop.

The City of Cape Coral has installed street lights at all semi-permanent school bus stop locations with pickup and drop-off during low light hours.

Thousands of bus stops change each year as a result of the safety audits or due to:

- High student mobility rate (change schools within the County)
- New students growth (about 1300 each year)
- A stop becomes unsafe due to a newly registered sex offender
- Other safety concerns from a parent or community member

School Bus Stop Safety

- Safety efforts are continuously conducted through various groups including the Lee County Traffic Management Operations Committee and Community Traffic Safety Team in conjunction with the Safe Routes to Schools Program to address safety throughout the community, including school bus stops and pedestrian routes.

Participants include:

- Lee County Metropolitan Planning Organization
- Lee County Department of Transportation
- Lee County School District
- Lee County Sheriff's Office
- City of Cape Coral Public Works Department
- Cape Coral Police Department
- City Charter Schools
- Florida Department of Transportation
- Other local municipalities

Best Practices

- The City of Cape Coral is working with the Lee County School District to evaluate bus stops on City's transportation network and reviewing the following elements:
 - Traffic Safety Solutions
 - Bus stop seating – **Pilot project approved and in progress**
 - Sidewalks/Crosswalks
 - Street lights
 - Signs
 - Education and Awareness
 - Volunteerism
 - Best practices nationwide

Traffic Safety Solutions

Bus Stop Seating

Pilot Project in Progress

Bus Stop Seating

- A pilot project was initiated by the City of Cape Coral, the Lee County School District, Rotary Club/Kiwanis to provide benches at 200 select bus stop locations. The project was approved by City Council on May 6, 2019.
- Success of the pilot project will be measured through the following metrics:
 - Survey of the bus drivers on the success of the project comparing pilot locations with benches vs locations without benches (control group).
 - Benches deployed and in use throughout the pilot project at locations based on existing site conditions, site preparation costs and future maintenance.
 - Visual inspection of bench usage.
 - Survey of the parents/ guardians and students on the success of the project.
 - Complaints received regarding the project.
 - Number of benches relocated during the pilot project.

Bus Stop Seating

- The benches shall be installed prior to August 10, 2019. The pilot project shall start on August 10, 2019 and shall end on December 20, 2019. Upon completion of the pilot project the City and the School District shall assess the success of the pilot project. If upon completion of the pilot period the project is determined unsuccessful, the Rotary/Kiwanis will donate all benches to the City of Cape Coral and Lee County School District.
- The City and Lee County School District are in the process of identifying exact locations for the placement of bus stop benches. Site preparation and deployment of the bus stop benches is in progress.

Bus Stop Seating



Bus Stop Seating

- The benches may require additional improvements to support the placement of furniture adjacent to the roadway. These improvements may include:
 - Site work
 - Paving
 - Curbing
 - Additional improvements for accessibility (ADA)
 - Drainage structures and piping
 - Swale adjustment
 - Utility relocation

Bus Stop Seating

- There are also other considerations when placing bus seating adjacent to the roadway:
 - Mobility/relocation of seating as school bus stops are moved.
 - Seating will be located directly adjacent to private residences and landscaped yards.
 - Accessibility design for disabled riders. This can include extensive site work and paving.
 - Obstruction of sight for vehicular traffic.
 - New object could be a potential hazard within the roadside clear zone.
 - Reviewing compliance with land development code and engineering design standards.
 - Ongoing maintenance by the City to ensure seating remains in good condition and clean (graffiti, mowing, trimming, weed removal, etc.).

Bus Stop Seating - Costs and Implementation

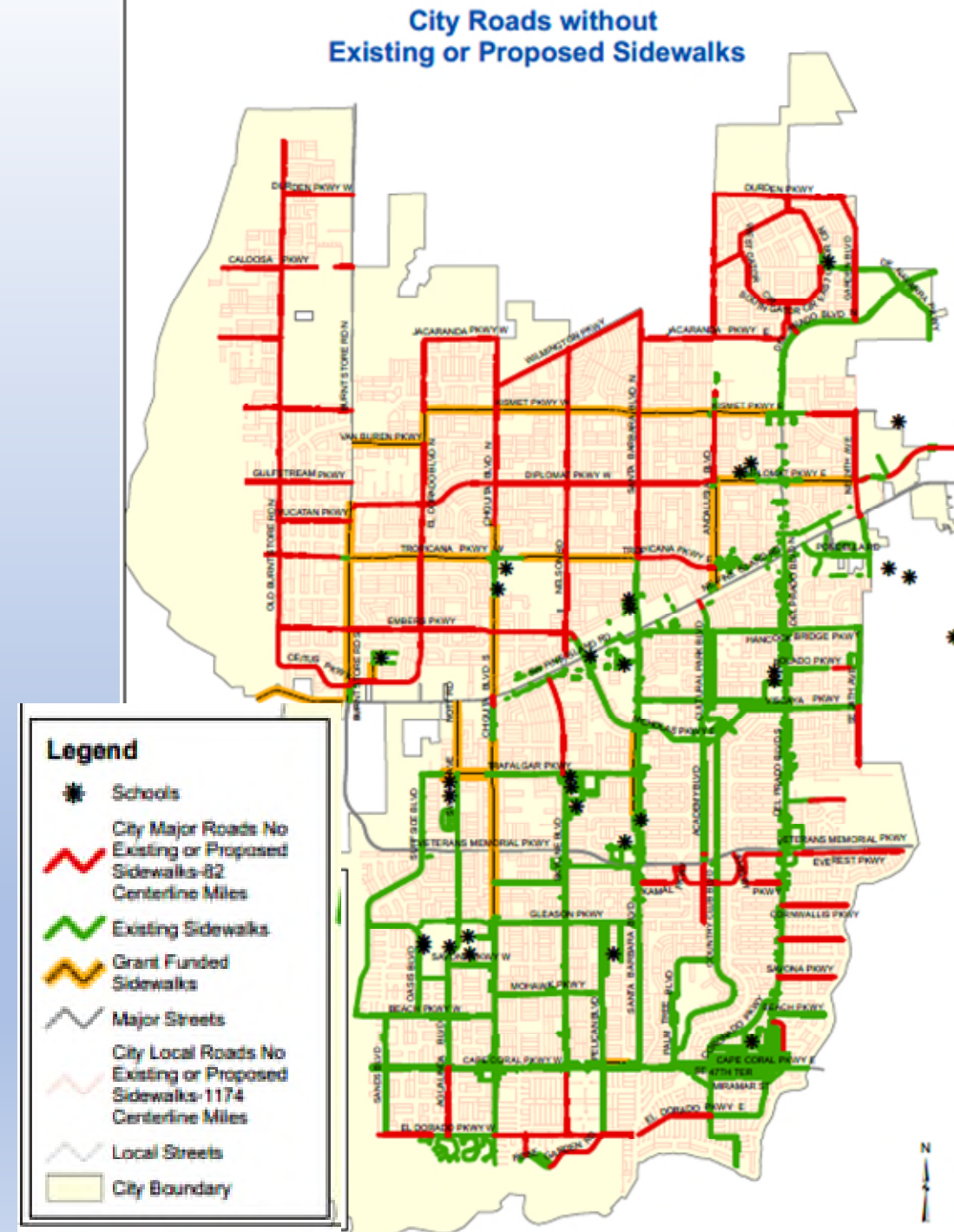
- Installing 1 seating area at each school bus stop (1,671):
 - **\$6,500,000 (*)**
- If the pilot project is successful and the City purchases additional benches it will be required to go through the City's procurement process.
- Additional costs will be incurred as bus stop locations are changed annually by the Lee County School District. Seating will be required to be relocated to all new bus stop locations. At this time there is approximately 4,000 bus stop changes annually in the City of Cape Coral.

(*) Assumes \$3,000/seating area only. Includes 30% contingency for installation and other additional improvements. Cost can vary greatly based on site conditions and are expected to be calibrated during pilot project.

Sidewalks

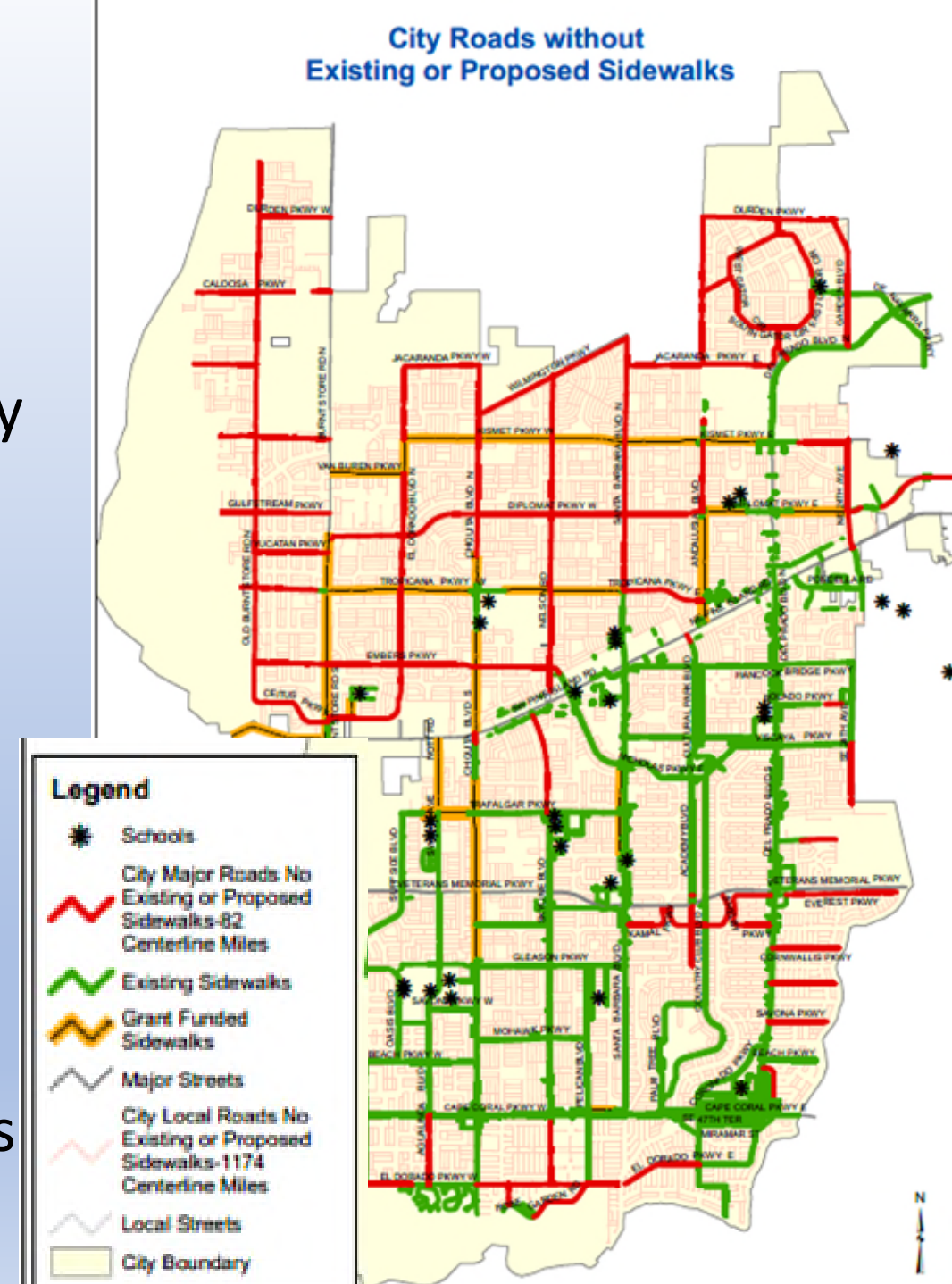
Existing Sidewalks

- 9% of all City roadways have sidewalks (Green) as follows:
- 46% of major roadways;
- 3% of local roadways.



Existing Sidewalks (cont.)

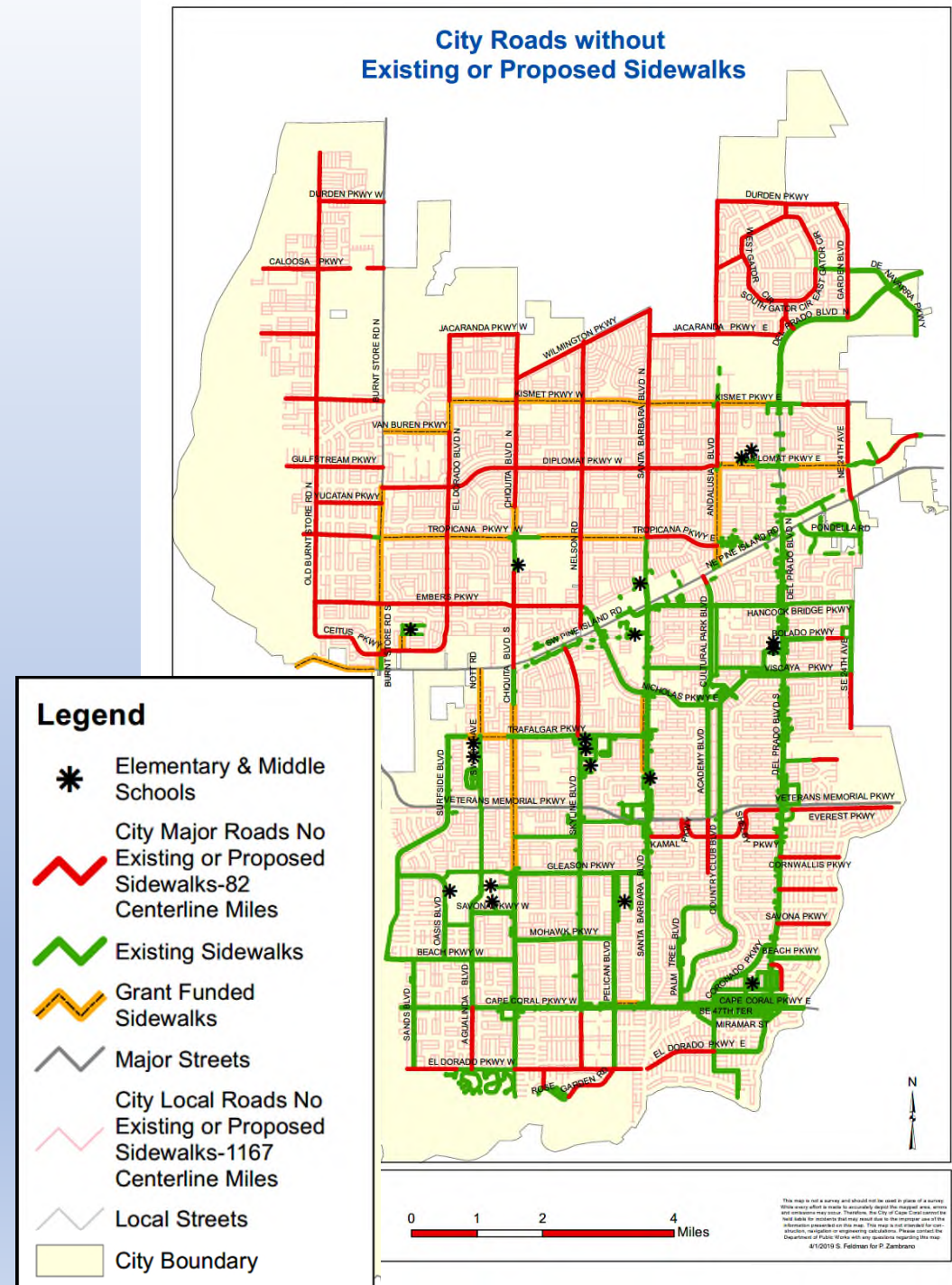
- Over the last 12 years, the City has constructed sidewalks utilizing mostly Federal and State grant funds, receiving approximately \$10 million from 2007-2018. (Approx. 30 miles)
- The City has been awarded \$8 million in grants for 2019-2023 (**orange**). (Approx. 21 miles)
- New commercial and most Planned Development Projects (PDP) require sidewalks per LDRs.



Sidewalk Needs Citywide

- 82 Centerline Miles of Major Roads
- 1,174 Centerline Miles of Local Roads

91% of City roadways do not have sidewalks



Sidewalk Construction Major Roadways

- The Cape Coral Bike-Ped Master Plan adopted in 2017 recommends sidewalks on both sides of all major roadways.



CAPE CORAL BICYCLE + PEDESTRIAN MASTER PLAN

A Complete Streets
Implementation Strategy
for the City.

Adopted 2017

Sidewalk Construction

Local Roadways

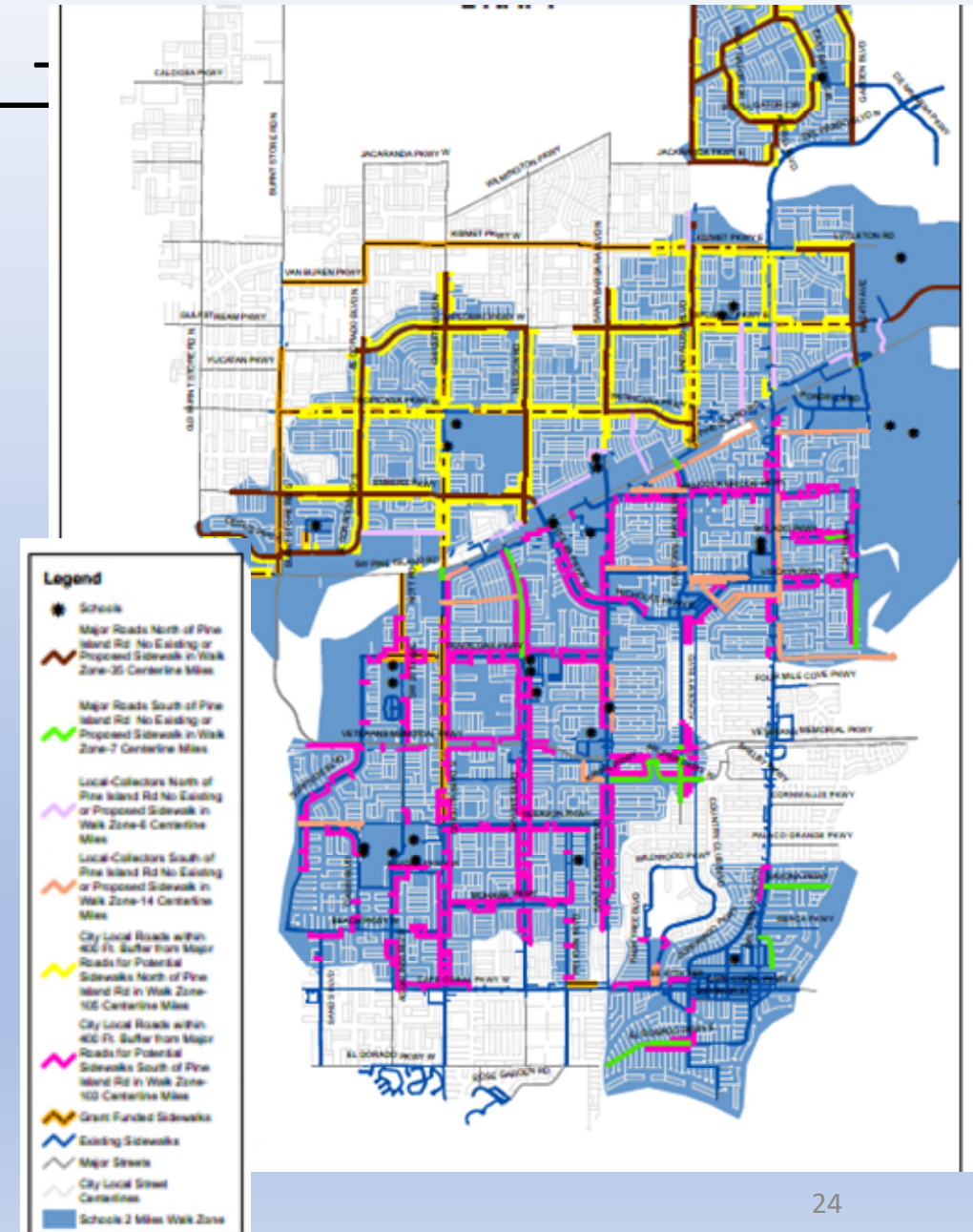
- Sidewalks on local roadways will require a new master plan to identify locations and priorities.
- A stormwater master plan will need to be completed. The existing open swale drainage system will need to be converted to a closed storm drainage system including pipe, catch basins and water quality detention areas (land acquisition will be required).
- Sidewalks on both major and local roadways should be constructed during the future phases of the Utilities Extension Program.



Sidewalks Needs – Primary System - 2 Mile Walking Distance from All Schools

- 42 Centerline Miles of Major Roads
- 163 Centerline Miles of Local Roads

**24% of all City Roadways
will have Sidewalks.**



Sidewalk Needs – Primary System - 2 Mile Walking Distance from All Schools - Costs

- Building sidewalks **both** sides of Major Roads (42 Centerline Miles):
 - **\$25,200,000 (*)**
- Building sidewalks on **both** side of Local Roads (163 Centerline Miles):
 - **\$244,500,000 (**)**
- TOTAL Planning Level Estimate:
 - **\$323,640,000 (***)**

(*) Assumes \$300,000/mile of 5-foot concrete sidewalks

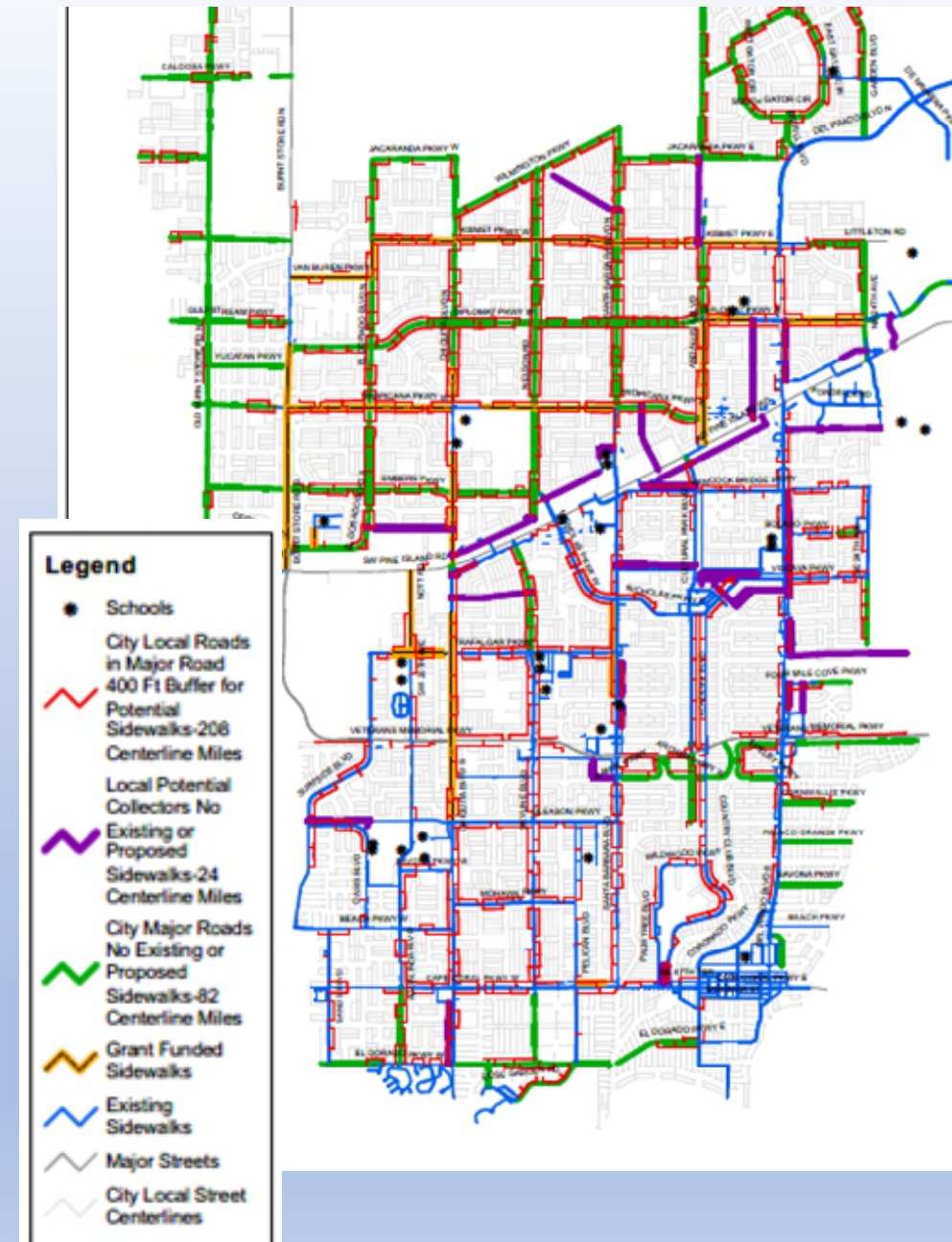
(**) Assumes \$300,000/mile of 5-foot concrete sidewalks and \$450,000/mile for drainage work for a total of \$750,000/mile

(***) Includes 20% Contingency

Sidewalks Needs – Primary System - Citywide

- 82 Centerline Miles of Major Roads
- 232 Centerline Miles of Local Roads

32% of all City Roadways will have Sidewalks.



Sidewalk Needs – Primary System – Citywide - Costs

- Building sidewalks **both** sides of Major Roads (82 Centerline Miles):
 - \$49,200,000 (*)
- Building sidewalks on **both** side of Local Roads (232 Centerline Miles):
 - \$348,000,000 (**)
- TOTAL Planning Level Estimate:
 - \$476,640,000 (***)

(*) Assumes \$300,000/mile of 5-foot concrete sidewalks

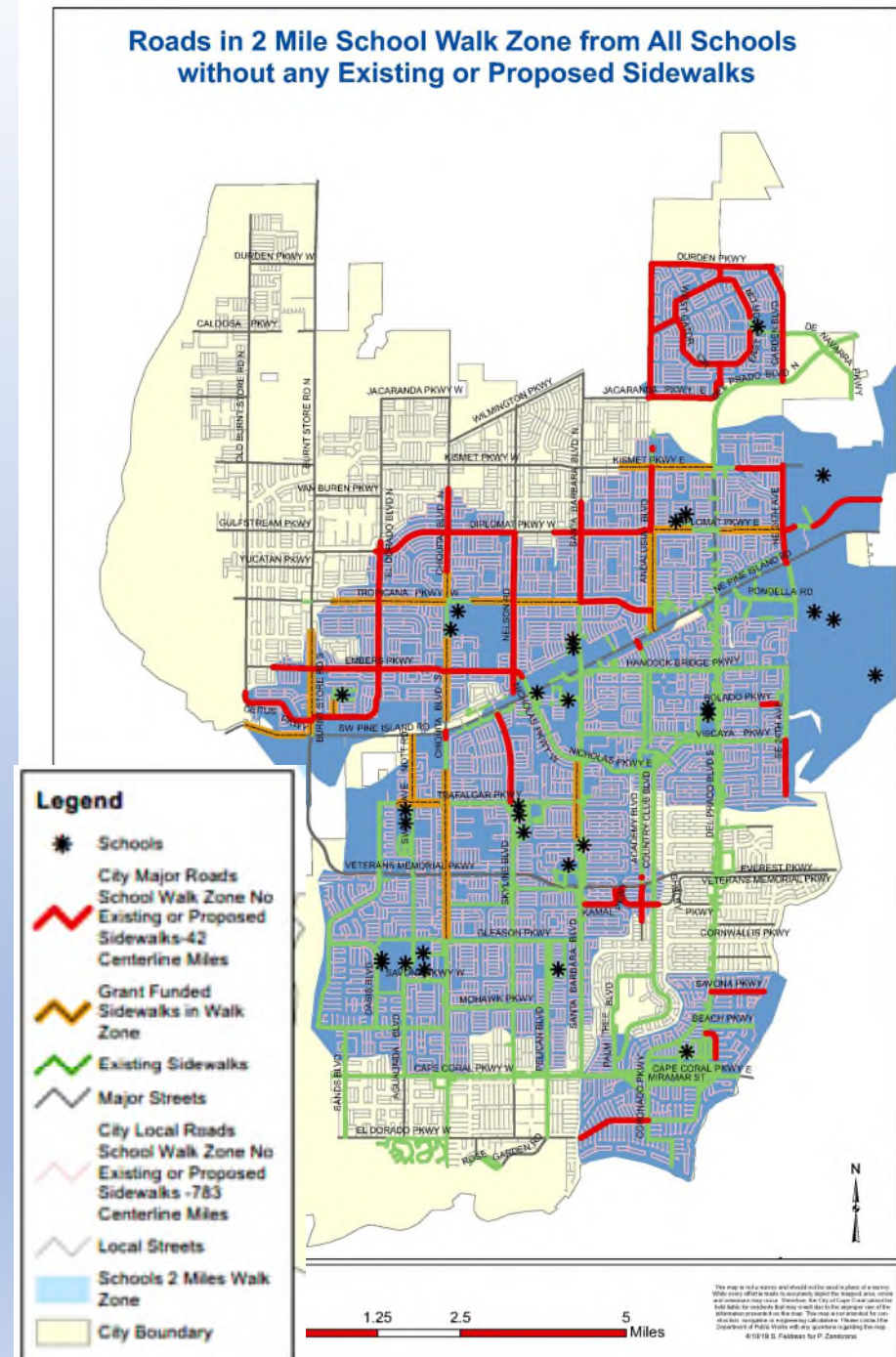
(**) Assumes \$300,000/mile of 5-foot concrete sidewalks and \$450,000/mile for drainage work for a total of \$750,000/mile

(***) Includes 20% Contingency

Sidewalks Needs – 2 Mile Walking Distance from All Schools

- 42 Centerline Miles of Major Roads
- 783 Centerline Miles of Local Roads

69% of all City Roadways will have Sidewalks.



Sidewalk Needs – 2 Mile Walking Distance from All Schools - Costs

- Building sidewalks **both** sides of Major Roads (42 Centerline Miles):
 - **\$25,200,000 (*)**
- Building sidewalks on **one** side of Local Roads (783 Centerline Miles):
 - **\$587,250,000 (**)**
- TOTAL Planning Level Estimate:
 - **\$734,940,000 (***)**

(*) Assumes \$300,000/mile of 5-foot concrete sidewalks

(**) Assumes \$300,000/mile of 5-foot concrete sidewalks and \$450,000/mile for drainage work for a total of \$750,000/mile

(***) Includes 20% Contingency

Sidewalk Needs – 2 Mile Walking Distance from All Schools - Costs

- Building sidewalks **both** sides of Major Roads (42 Centerline Miles):
 - **\$25,200,000 (*)**
- Building sidewalks on **both** side of Local Roads (783 Centerline Miles):
 - **\$1,174,500,000 (**)**
- TOTAL Planning Level Estimate:
 - **\$1,439,640,000 (***)**

(*) Assumes \$300,000/mile of 5-foot concrete sidewalks

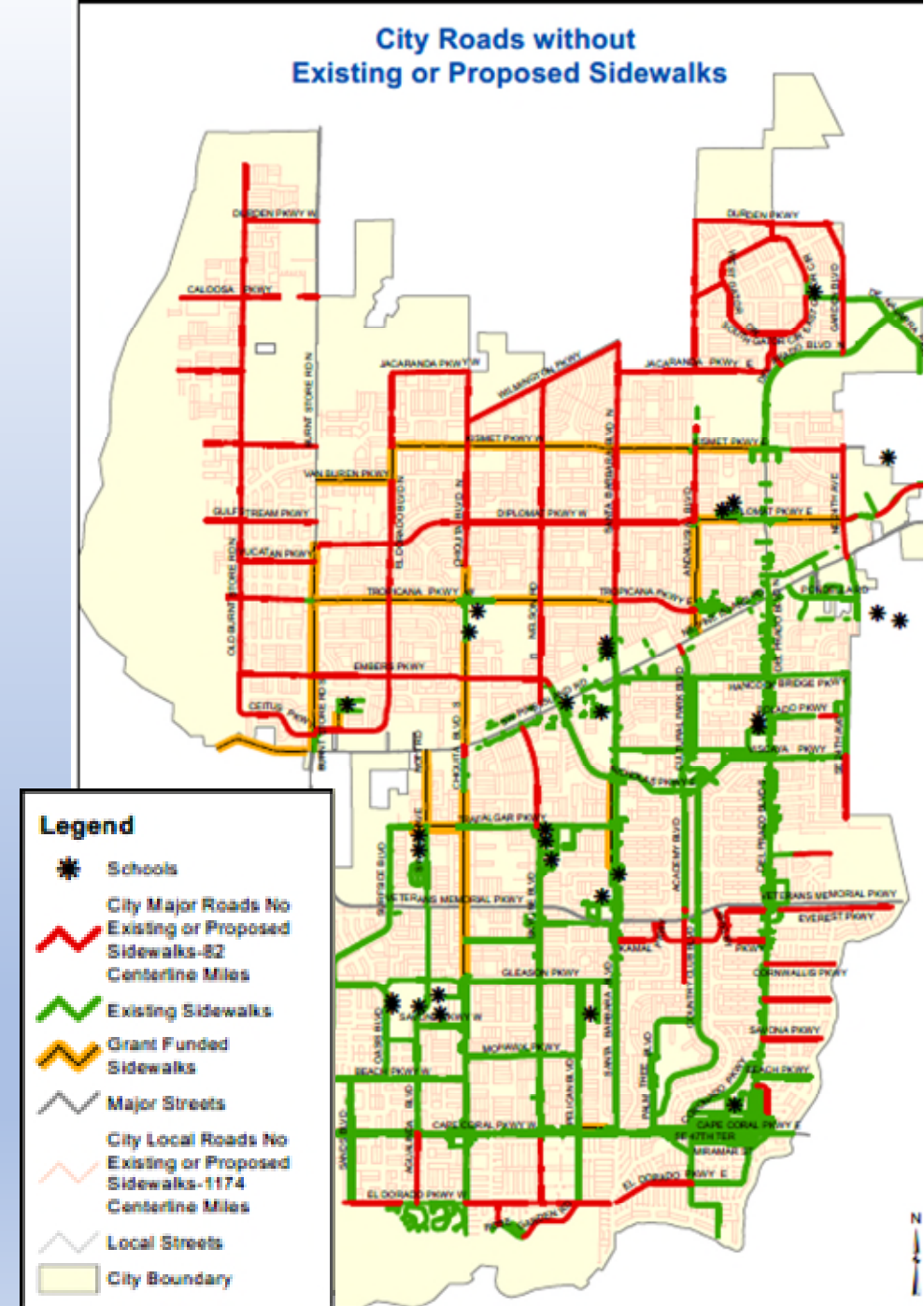
(**) Assumes \$300,000/mile of 5-foot concrete sidewalks and \$450,000/mile for drainage work for a total of \$750,000/mile

(***) Includes 20% Contingency

Sidewalk Needs Citywide

- 82 Centerline Miles of Major Roads
- 1,174 Centerline Miles of Local Roads

100% of all City Roadways will have Sidewalks.



Sidewalk Needs Citywide - Costs

- Building sidewalks **both** sides of Major Roads (82 Centerline Miles):
 - \$49,200,000 (*)
- Building sidewalks on **one** side of Local Roads (1,174 Centerline Miles):
 - \$880,500,000 (**)
- TOTAL Planning Level Estimate:
 - \$1,115,640,000 (***)

(*) Assumes \$300,000/mile of 5-foot concrete sidewalks

(**) Assumes \$300,000/mile of 5-foot concrete sidewalks and \$450,000/mile for drainage work for a total of \$750,000/mile

(***) Includes 20% Contingency

Sidewalk Needs Citywide - Costs

- Building sidewalks **both** sides of Major Roads (82 Centerline Miles):
 - \$49,200,000 (*)
- Building sidewalks on **both** side of Local Roads (1,174 Centerline Miles):
 - \$1,761,000,000 (**)
- TOTAL Planning Level Estimate:
 - \$2,172,240,000 (***)

(*) Assumes \$300,000/mile of 5-foot concrete sidewalks

(**) Assumes \$300,000/mile of 5-foot concrete sidewalks and \$450,000/mile for drainage work for a total of \$750,000/mile

(***) Includes 20% Contingency

Street Lights

Existing School Bus Street Lights

- Since 2015, the City of Cape Coral has installed 424 street lights at all semi-permanent bus stop locations with low-light pickup and drop-off provided by the Lee County School District.
- To date, all semi-permanent bus stops located within the City of Cape Coral have a street light in place, with 1 scheduled to be installed in 2019.



**FY 2015-2019
Streetlight Program**

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the subject area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for liabilities that may result due to the improper use of this information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Public Works with any questions regarding this map. 12/22/2019

Street Lights

- Since FY 2015, \$100,000 is budgeted annually from the General Fund for the Street Light Program.
- The program is managed by Public Works and street lights are installed according to the priorities previously set by City Council. These high priority locations include:
 - Priority 1: Semi-permanent School Bus Stops with stops before or after daylight hours. COMPLETE.
 - Priority 2 : Major Road Intersections
 - Priority 3 : Major Road Segments (Expected start FY 2020)
- Currently, Public Works is working on Priority 2, Major Road Intersections.

Street Lights at all Bus Stops – Costs and Implementation

- Installing street lights at all remaining bus stops identified today (1,246):
 - **\$1,000,000 (*)**
- Based on existing street light installation timelines by Lee County Electrical Co-Op (LCEC), installation of 1,246 street lights at all non semi-permanent bus stops can be phased over approximately 5 years. Staff will explore utilizing an outside contractor to reduce project duration.

(*) Assumes \$800/street light initial construction fee, based on average costs. Cost per street light can vary greatly depending on location and availability of existing infrastructure. Monthly lease and energy costs not included, approximately \$35/month per light, approximately \$525,000/year for 1,246 lights.

Street Lights at all Bus Stops – Costs and Implementation

- Additional costs will be incurred as bus stop locations are changed annually by the Lee County School District. New street lights will be required at all new bus stop locations. At this time there is approximately 4,000 bus stop changes annually in the City of Cape Coral.
- Staff is investigating costs and timelines for installing street lights at all intersections within the City.

Traffic Signs

Traffic Signs - Standard

- Installation of traffic control signage can notify drivers of the presence of a school bus stop and warn of students near the roadway.
- These signs can be fabricated in-house and installed by the City of Cape Coral Traffic Operations Division.
- These signs can be easily relocated and removed.
- It is assumed that 4 standard traffic signs will be posted at each intersection.



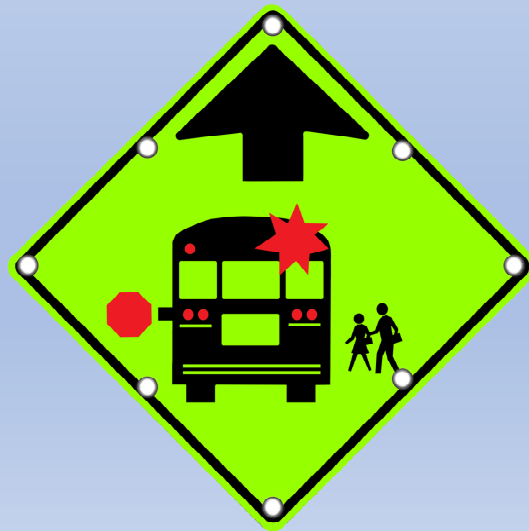
Traffic Signs – Solar Powered Flashing Beacon

- These signs must be purchased from a vendor, however can be installed by the City of Cape Coral Traffic Operations Division.
- Installation of Solar powered flashing beacon can notify drivers of the presence of a school bus stop and warn of students near the roadway.
- The beacon must be purchased from a vendor, however can be installed by the City of Cape Coral Traffic Operations Division.
- It is assumed that 1 flashing beacon will be posted at each intersection.



Traffic Signs – Solar LED Enhanced

- In addition to standard signs, there are models which are enhanced by LED lighting to bring attention to the sign message.
- These signs must be purchased from a vendor, however can be installed by the City of Cape Coral Traffic Operations Division.
- It is assumed that 4 standard traffic signs will be posted at each intersection.



Traffic Signs – Costs and Implementation

- Installing 4 standard traffic signs at all school bus stops (1,671):
 - **\$1,350,000 (*)**
- Installing 1 solar powered flashing beacon at each school bus stop (1,671):
 - **\$4,200,000 (**)**
- Installing 4 solar LED enhanced traffic signs at all school bus stops (1,671):
 - **\$13,500,000 (***)**

(*) Assumes \$200/traffic sign (Standard).

(**) Assumes \$2,500/solar powered flashing beacon.

(***) Assumes \$2,000/traffic sign (LED).

Sign life is expected between 5 and 10 years. Upon end of cycle, signage must be replaced.

Traffic Signs – Costs and Implementation

- Based on existing staffing levels, installation of 6,684 traffic signs at bus stops can be phased over approximately 5 years. Additional City staff or an outside contractor may reduce the installation duration. The signs included only include initial installation at all bus stops.
- Additional costs will be incurred as bus stop locations are changed annually by the Lee County School District. Signs will be required to be relocated to all new bus stop locations. At this time there is approximately 4,000 bus stop changes annually in the City of Cape Coral.

Education and Volunteerism

Education and Volunteerism

- Schools can potentially enhance the education of students and parents through:
 - Distribution of educational and informative materials.
 - Mandatory training of students and parents on safety initiatives, rules and regulations.
 - Regularly airing public service announcements on public television, school news and social media.
 - Distribution of lighted or reflective safety equipment and apparel to students and parents.
 - Utilizing willing parents or other adults to provide voluntary supervision of students at bus stops (upon background check).
 - Training of teachers and bus drivers to continuously provide the support needed to raise awareness for children.
 - Inform the public of the dangers of distracted driving and the presence of children at bus stops.

Best Practices

Best Practices

- All solutions require significant input from and coordination with the Lee County School District, Cape Coral Police Department and the Lee County Department of Transportation.
- The City of Cape Coral and the Lee County School District is currently working to review the current state of practice nationwide.
- In addition, the City of Cape Coral is working to identify additional opportunities to enhance safety for all students waiting at bus stops.

Best Practices

- There are many options available to further enhance bus stop safety within the City of Cape Coral. Currently, other potential solutions include:
 - Review of each bus stop and identify opportunities to consolidate the total number of stops.
 - Review the efficacy of school choice and the impacts on safety, and if school zones may potentially reduce the total number of bus stops.
 - Review the start times of schools in order to reduce/eliminate low-light pickup and drop-off.

Discussion

Item Number: B.(3)
Meeting Date: 5/20/2019
Item Type: DISCUSSION

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Discussion of Council Agenda Rules of Procedure

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan?

Planning & Zoning/Staff Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Back up materials from the May 13, 2019 Regular Meeting
Memo from Councilmember Cosden
Advisory Legal Opinion - Video conferences, Public Meeting
Advisory Legal Opinion - Municipalities, quorum requirements
Advisory Legal Opinion - Sunshine Law, use of Electronic Media Technology
Memo from City Attorney
Email Correspondence distributed at meeting by City Clerk

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

Type

Back up materials from the May 13, 2019 Regular

▣	Meeting	Backup Material
▣	Memo from Councilmember Cosden	Backup Material
▣	Advisory Legal Opinions - Video Conferences, Public Meetings	Backup Material
▣	Advisory Legal Opinion - Municipalities, Quorum requirements	Backup Material
▣	Advisory Legal Opinion - Sunshine Law, use of Electronic Media Technology	Backup Material
▣	Memo from City Attorney	Backup Material
▣	Email Correspondence distributed by City Clerk at meeting	Backup Material

RESOLUTION 87 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL, AMENDING RESOLUTION 3-01, AS AMENDED, WHICH ADOPTED RULES OF PROCEDURE FOR THE CITY COUNCIL AGENDAS AND MEETING, TO PROVIDE CLARIFICATION IN THE SCHEDULING OF VARIOUS ITEMS, AND TYPES OF MEETINGS; TO PROVIDE FOR ATTENDANCE AT MEETINGS REMOTELY BY ELECTRONIC MEANS; AND TO ESTABLISH GUIDELINES FOR COUNCIL REPORTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, City Council adopts a yearly calendar of regular meetings and occasionally finds it necessary to schedule additional meetings; and

WHEREAS, City Council desires to clarify the difference between a special meeting and the addition of a regular meeting not on the yearly calendar; and

WHEREAS, City Council also desires to be notified within a reasonable time of items that are added to an agenda after the packets have been distributed for the meeting; and

WHEREAS, City Council desires to provide an option to attend meetings remotely by electronic means for good cause; and

WHEREAS, City Council provides reports of their activities at each Council meeting; and

WHEREAS, City Council desires to define the purpose of their reports and the types of items to be covered at that time.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The Council Agenda Rules of Procedure are hereby amended as attached hereto as Exhibit A.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

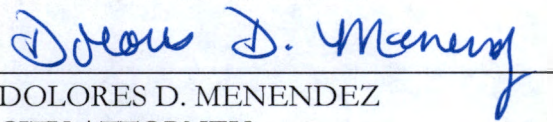
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Council Rules-Scheduling
4/23/19

COUNCIL AGENDA RULES OF PROCEDURE

A. MEETINGS HELD; TIMES AND DATES

City Council holds meetings to accomplish the business of the City. Depending on the type of business to be conducted or timeliness of the business, meetings can be in the form of Regular meetings, ~~Special meetings, or Committee of the Whole meetings, or Special meetings.~~ Each year, City Council shall approve a schedule of Regular meetings and Committee of the Whole meetings for the year. The schedule may be adjusted throughout the year by adding, deleting, or rescheduling Regular meetings and Committee of the Whole meetings upon the vote of City Council. Special meetings may be called for governmental efficiency, as set forth below.

Regular meetings are voting meetings where Council takes action on items on the agenda and public hearings are held for ordinances and resolutions. Unless otherwise resolved, regular meetings of the Cape Coral City Council shall convene at 4:30 p.m. on Mondays, as set forth on the yearly calendar of City Council Regular and Committee of the Whole meetings adopted by Council prior to January each year. In the event Monday is a paid holiday recognized by the City, which includes New Year's Day, Martin Luther King Jr.'s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, and Christmas Day, then no regular meeting of the City Council shall be scheduled for that week, unless otherwise resolved. Council shall hold not less than two regular meetings per month.

When setting its meeting schedule for the year, City Council shall decide whether to hold a regular meeting on any other holiday not recognized by the City as a paid holiday that happens to fall on a Monday during the course of the year. If Council votes to cancel a regular meeting that falls on a holiday not recognized by the City as a paid holiday, then Council shall also vote to decide whether to hold the meeting on a day other than this holiday or cancel the meeting for the entire week of the holiday.

Upon the setting of its regular meeting schedule for the year, City Council shall vote to adopt the schedule; however, additional meetings or special meetings may be called at any time upon vote of Council as provided herein. Additional regular meetings may be scheduled throughout the year when there is a need to schedule additional agenda items, or scheduled regular meetings may be rescheduled, upon vote of Council.

Committee of the Whole meetings shall be held when called by the Mayor or any four (4) members of Council upon at least a twelve (12) hour notice. Items scheduled for such meetings shall be informational for the general discussion of matters, and to provide Council with the opportunity to become familiar with issues facing the City and discuss the items with staff in order to have any questions or concerns resolved. Any votes, if taken, shall not be binding but shall only be a recommendation of the City Council.

Special meetings are voting meetings called when matters are not scheduled on a regular meeting due to time constraints or urgency and importance of the matter. The Mayor or any four members of Council may call special meetings, whenever practicable, upon at least a twelve-hour notice. When calling a special meeting, the subject matter for which the meeting is called shall be clearly defined.

The agenda shall be limited to only the subject matter for which the special meeting was called, and City Council shall not discuss any matter which does not appear on the agenda for the special meeting.

Meetings allow citizens the opportunity to provide input at the designated Citizens Input times, however, public hearings are not held at Committee of the Whole meetings and items scheduled for Public Hearing or Public Input are not to be addressed by citizens during Citizens' Input, but are to be addressed at the time of the Public Hearing or Public Input.

B. AGENDA PREPARATION AND AGENDA

For Regular meetings, all reports, communications, contract documents or other matters, including position approvals, discussion items, and consent agenda items shall be submitted as follows:

Monday, 3:00 pm (two weeks prior to regular meeting – submitted to City Manager
Tuesday, 3:00 pm (prior to regular meeting) – all packet materials submitted to City Clerk
Tuesday, 4:00 pm (prior to regular meeting) – agenda provided to Mayor for approval
Wednesday, 3:00 pm (prior to regular meeting) – packets distributed/~~published~~
Thursday, 4:00 p.m. (prior to regular meeting) - packets published

Backup documentation for all agenda items will be provided upon placement of the item on the agenda. Resolutions and Ordinances may be placed on the agenda if submitted by 12:00 noon on the Tuesday before the regular meeting of Council at which they are to be introduced, provided all required public notice and advertising are completed. The Council shall adopt its order of business on the agenda and, in the absence of Council action, the Mayor shall adopt the order of business on the agenda.

Citizen's petitions to council shall be submitted as a request in writing to the Mayor's office specifying the subject on which they will speak, along with the specific request and together with any backup information pertaining to the request. The petition to council shall be considered at a council meeting as soon as practicable after submission. The Mayor's office shall provide the petitions to council to the City Clerk's office no later than 3:00 p.m. on the Tuesday before the regular meeting of Council at which such matter is to be considered. The Council shall adopt its order of business on the agenda and, in the absence of Council action, the Mayor shall adopt the order of business on the agenda.

Items may occasionally be placed on the agenda after the deadlines stated above provided there is a clear necessity for the item to be heard by Council at that meeting. In the event an item must be put on an agenda after the agenda has been published, causing an addendum to the agenda to be published, City Council must be notified by the Clerk at the time the request is made that the item will be forthcoming. Except in extraordinary circumstances, any item that City Council has not been notified of by noon on the Friday before the meeting day shall not be placed on the agenda absent good cause shown. Any item placed on the agenda after the deadline may be subject to a Council vote to remove the item from the agenda.

For Committee of the Whole (COW) meetings all reports, communications, contract documents or other materials to support items on the COW agenda shall be submitted as follows:

Monday, 3:00 pm (week prior to COW meeting) – submitted to City Manager
Tuesday, 3:00 pm (week prior to COW meeting) – all packet materials submitted to City Clerk

Tuesday, 4:00 pm (week prior to COW meeting) – agenda provided to Mayor for approval
Wednesday, 3:00 pm (week prior to COW meeting) – packets distributed/~~published~~
Thursday, 4:00 p.m. (prior to COW meeting - packets published

All scheduled COW meetings shall follow the submitting schedule above. For additional or special COW meetings the submitting schedule should be followed unless time does not permit following the above schedule. In such cases packet materials will be distributed by the City Clerk's Office upon receipt from staff and/or Council to include both paper copies and electronically scanned documents.

All scheduled Special meetings shall follow the submitting schedule set forth above for COW meetings unless time does not permit. In such cases packet materials will be distributed by the City Clerk's office upon receipt from staff and/or Council to include both paper copies and electronically scanned documents.

C. COUNCIL ATTENDANCE/ABSENCES

(1) A Council member who for good cause cannot appear in person at a meeting may appear remotely by electronic means, providing that:

(a) There is a quorum physically present at the meeting location;

(b) There is good cause for why the member cannot attend in person;

(c) The member has provided notification to the City Council and City Clerk of his or her inability to attend in person and desire to attend electronically, at least two business days prior to the meeting, unless there is an exigent circumstance that prevents earlier notification; and

(4) When participating by remote electronic means, the member is visible and audible, or at least audible, to and from the members present at the meeting and the audience. In such case, the member has the same participation rights and voting privileges as though physically present.

“Good cause” means that the member cannot attend in person due to illness, personal or family matter, absence from the area, unavoidable scheduling conflict, or other good reason.

When appearing remotely the member is by law deemed to be present for all purposes and has all participation rights and voting privileges as if physically present.

(2) Pursuant to Section 4.11 of the Charter, any member who has three consecutive, unexcused absences from regular meetings will be removed from office. Absences are presumed excused, and are unexcused only by a motion to hold the absence unexcused and a majority vote in favor of that motion. Such motion and vote must occur no later than the next regularly scheduled Council meeting after the date absent.

€ D. PRESIDING OFFICER

The Mayor, or in his or her absence, the Mayor Pro Tem, shall, at the time the meeting convenes, call the meeting to order and chair the meeting. In the absence of both the Mayor and Mayor Pro Tem, the members may appoint a member to chair the meeting, but such appointment shall not extend beyond the arrival of the Mayor, the Mayor Pro Tem, or the adjournment for the day, whichever occurs first. A majority vote of all Council members present, but not less than four (4), shall be required to overrule a decision of the presiding officer.

Ð E. INVOCATION/INSPIRATIONAL MESSAGE, OR MOMENT OF SILENCE

After the meeting is called to order, the Councilmember scheduled to recite the invocation/inspirational message for that meeting shall have the option to recite one of the invocations/inspirational messages previously approved by City Council for such purpose for the Council's benefit may choose to observe a moment of silence for personal reflection, or may recite another message that complies with the restrictions contained herein. One Councilmember shall be scheduled for each meeting on a rotating basis in alphabetical order by last name for all meetings occurring during that, and then repeated accordingly. City Council hereby approves the following invocations/inspirational messages:

1. We pray/ask that tonight laws are rightly administered and enacted. We pray/ask tonight for guidance for our President, for all of our elected officials at the national level; for our State and County officials; and for this Council. May decisions be for the good of the people they serve. May Council always encourage due respect and virtue in life, and as we live out our daily existence in this community. May the Council execute laws and make decisions with justice and mercy, and seek to help all people live in freedom. May we always seek to preserve peace, to promote national happiness; and to continue to bring the blessings of liberty and quality for all people. Amen.
2. We come here tonight to celebrate the beauty of this City; the beauty of the weather that we have; and the beauty of the people who live here. We celebrate the fact that we have a government that listens to its people, in which we have a voice, in which we can speak and make suggestions. We celebrate tonight a government in which we can elect our officials and are heard. Amen.
3. Let us pray. Lord God, we are mindful of your promise to remain with us always. We are mindful that you work through your people, through those who open their lives to you. Lord, we pray this day, for that openness, for your will to be done in us, and through us. We seek Lord your special blessing upon this gathering, this meeting. May your spirit abound, and may our hearts always give you praise by what we do, and by what we say. Guide us and lead us, even as you call us, to guide and to lead. This is a prayer we ask, we ask it with trust, and with hope. For we pray as your faithful people always and forever. Amen.

Additional invocations/inspirational messages may be utilized provided that the tone, tenor and content of the invocation or inspirational message does not advance or disparage any specific religion. The invocation or inspirational message must be non-sectarian with elements of the American civil religion and must not be used to proselytize or advance any particular faith, belief, sect, creed or

religion or to disparage any particular faith, belief, sect, creed or religion. The invocation or inspirational message shall not refer to any particular religious holiday, significant religious date, holy day or religious event and shall not contain any direct quote from any sectarian book, doctrine or material.

E F. ROLL CALL; QUORUM

After a brief invocation or meditation, and the Pledge of Allegiance, a roll of the members shall be called and the names of members present and the members absent shall be entered in the Council minutes. Five Members of the Council shall constitute a quorum to do business.

F G. ORGANIZATIONAL MEETING OF COUNCIL

Following each general election, the first regularly scheduled meeting of the Cape Coral City Council shall commence as an organizational meeting. During the organizational meeting, matters pertaining to the organization of the City Council or the method or manner of how it conducts its business shall be considered. After the organizational matters have been considered, the City Council may conduct other city business with the majority consent of the City Council.

G H. ORDER OF BUSINESS

After the roll call, the first order of business shall be a vote on the adoption of the agenda for the meeting. Matters not listed on the agenda may be added to the agenda by a majority vote of all members of the Council prior to the adoption of the agenda for the meeting and not at any other time during the meeting.

The presiding officer may take matters out of their order on the agenda for the convenience of the public, unless overruled by a majority vote of Council members present, but not less than four (4). Any matter of a non-controversial nature may be placed on the consent agenda, which may immediately precede other matters on the agenda for the meeting. The matters on the consent agenda may be acted upon by a single motion by the Council without debate. A member of the Council or the Mayor may remove any matter from the consent agenda by requesting removal prior to the voting thereon.

H I. MOTION AND RESOLUTION

No motion or resolution shall be debated or voted on unless it has been seconded. The presiding officer may require a motion or resolution to be read in full unless the reading is dispensed with by unanimous consent of the Council. After a motion has been made, it is in the possession of the Council and, unless withdrawn before it is voted upon, or before adjournment that day, it shall be entered in the minutes, together with the name of the member offering it. No member may make two motions at the same time.

I J. ORDER AND DIVISION OF A QUESTION

A division of any question, which contains several points, may be made. A motion to strike and insert shall not be divisible. Except in the case of a privileged question or as otherwise provided by these rules, questions shall be put in the order in which they are moved. When filling blanks, or on any

other matter not otherwise provided for herein, a motion that puts the question farthest away from enactment shall be considered first.

J K. THE PREVIOUS QUESTION

A motion calling for the previous question must be seconded. If a motion for the previous question is ordered by the vote of the Council, it shall have the effect of cutting off all debate and bringing the Council to a vote on the question. When the previous question is decided in the negative, the main question remains under debate until disposed of by the vote or in some other manner.

K L. MOTION TO BE GERMANE

No motion or proposition on a subject, different from that under consideration, shall be admitted under the guise of its being an amendment.

L M. MOTION FOR RECONSIDERATION

When a question has been decided, either in the affirmative or the negative, it shall be in order for any member who voted with the prevailing side to move its reconsideration, provided that such a motion is made either on the same day or on or before the next regular scheduled Council meeting.

M N. PRECEDENCE OF MOTIONS

When a question is under debate, no motion shall be received except the following, the first five of which shall be decided without debate:

- (1) To adjourn
- (2) To recess
- (3) To table or postpone indefinitely
- (4) To commit or refer
- (5) For the previous question
- (6) To Continue or postpone to a day certain
- (7) To amend

The motions shall have precedence in the order listed.

N O. MOTION TO ADJOURN

A motion to adjourn shall always be in order except during roll call. When a motion to adjourn is made, it shall be in order for the presiding officer before putting the question to permit any member to state reasons which would seem to render adjournment improper at that time. But debate thereon shall not be had.

O P. DEBATE AND DECORUM

Every Councilmember, before speaking, shall wait to be recognized by the presiding officer. When two or more members wish to speak at the same time, the presiding officer shall designate the member to speak first. No member shall speak more than once until every other member wishing to speak on

the pending question has had an opportunity to do so. No member shall walk out of the meeting while a roll call is being taken. After roll call, any member wishing to leave the dais shall advise the presiding officer of his or her desire to do so prior to departing. No more than three (3) members shall leave the dais at any one time so as to maintain a quorum.

P Q. COUNCIL COMMITTEES

The Council may, from time to time, refer matters to a committee composed of members of the City Council to study an issue or matter, and report its findings and or recommendation to the City Council.

Q R. PUBLIC COMMENT OPPORTUNITIES

- (1) Citizens are given several opportunities to be heard concerning matters scheduled on the Council Agenda, and on any other matters of interest or concern to them. In order to promote an orderly system of holding a public meeting, to give every person an opportunity to be heard, and to ensure that individuals are not embarrassed or harassed as a result of the exercise of their right of free speech, the following rules and guidelines are established:
 - (a) When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state, or local law.
 - (b) When the City Council has placed a limit on the time a speaker may speak, such time limitation shall be announced by the Mayor. When the designated time limit has been reached by a speaker, the Mayor shall inform the speaker accordingly, and the speaker's remarks shall be terminated. A speaker may not yield any part of the speaker's time to any other person nor may any person yield his or her time to a speaker. Except during quasi-judicial proceedings, no speaker may be heard more than once, unless permitted to do so by a majority vote of the City Council.
 - (c) Speakers shall address their comments to the City Council as a whole, rather than to individual Councilmembers, City Staff, or to members of the audience. In order to avoid redundant comments, persons having the same or similar viewpoints on a subject are encouraged to appoint one representative speaker to comment on their behalf.
 - (d) Proper decorum shall be maintained at all times. Only persons who have been recognized by the presiding officer shall address the City Council or make audible remarks during a meeting. Unauthorized remarks, stamping of feet, whistling, or similar demonstrations shall not be permitted during any meeting of the City Council. Furthermore, during any meeting of the City Council, no person shall:
 - (i) Interrupt the Council's proceedings or the comments of any person recognized by the Mayor or any City Councilmember in any manner;

- (ii) Make personal or profane remarks or gestures;
 - (iii) Behave in a disorderly manner;
 - (iv) Display any banner, placard, or sign (except as part of a presentation to the City Council by a person recognized by the Mayor or a Councilmember.) Any banner, placard, or sign displayed as part of a presentation shall not bear a message that is personal, obscene, or profane;
 - (v) Distribute any handouts or materials to members of the audience; or
 - (vi) Refuse to follow the instructions of the Mayor or City Council or to comply with these policies or any other rules governing the Council's proceedings.
 - (e) Any person who engages in behavior that is prohibited herein and/or who is boisterous or disruptive in any manner to the conduct of a meeting shall be asked to leave by the presiding officer and may be escorted from the meeting room by the Police Department. Any person so removed from a Council meeting shall be barred from further attendance at that Council meeting unless expressly permitted to return by a majority vote of the City Council.
- (2) The following opportunities for citizen participation are scheduled on each Council Agenda:
- (a) Petitions to Council.

Citizens may submit in writing a specific request to Council to be heard at a Council regular meeting under Petitions to Council. Citizens who submit petitions to Council pursuant to Section B. shall be allowed a maximum of ten (10) minutes per petition, and the speaker shall be limited to the particular subject stated.
 - (b) Public Comment on Consent Agenda. Prior to Council addressing items on the Consent Agenda, citizens may address Council only on items listed on the Consent Agenda. Public comment shall be limited to a maximum of three (3) minutes per individual, with a maximum of sixty (60) minutes total, unless time is extended as described in subsection Q(3) below.
 - (c) Citizen's Input Time.
 - (i) Time is set aside for any citizen to address the City Council on matters within Council jurisdiction during Citizens' Input Time. No prior scheduling is necessary.

- (ii) Citizens' Input shall be limited to a maximum of three (3) minutes per individual, with a maximum of sixty (60) minutes total, unless time is extended as described in subsection Q(3) below.
- (iii) Items scheduled for Public Hearing or Public Input are not to be addressed by citizens during Citizens' Input, but are to be addressed at the time of the Public Hearing or Public Input.
- (iv) There shall be no discussion on the issues presented during Citizens' Input by City Councilmembers or City Staff during Public Comment. Once Public Comment has been closed, the items may be addressed in the order presented by first the Councilmembers, Mayor, City Manager, and City Attorney. During this time, without objection, the Mayor or Councilmember may recognize any other individual concerning the issue.

(d) Public Hearing/Public Input for Ordinances and Resolutions

At the time an ordinance is scheduled for public hearing, or a resolution is scheduled for public input, citizens have the opportunity to express their opinions concerning the ordinance or resolution being heard pursuant to Section T. and herein. Appropriate time limits may be placed on speakers by the presiding officer or by a majority vote of the City Council.

- (3) The Mayor and Council shall have discretion in implementing certain procedures as follows:
 - (a) The Council, by motion, or the Mayor, with the majority consent of the City Council, may extend time limits for citizen input and/or public comment at regular Council meetings or at COW meetings and also set time limits on the length of time each individual may speak.
 - (b) There shall be no public input on issues scheduled as Discussion items unless a majority of Council approves the recognition of a member of the public for the purpose of providing clarification or asking a relevant question. Any other public input during a Discussion item shall not be heard unless approved by a majority vote of City Council. However, citizens may speak during Citizen's Input on any matter scheduled as a Discussion item.

R S. ADVISORY COMMITTEES, BOARDS AND COMMISSIONS

The names, addresses, and background information of all persons to be considered for appointment by City Council to various City Advisory Committees, Boards, or Commissions shall be submitted in writing on a form provided by the City Clerk. Before Council action, the applications may be considered in the Committee of the Whole. Advisory committees, such as Task Forces, are to be composed of eight (8) representatives, one appointed by the Mayor and each Councilmember, unless otherwise decided by Council.

S T. ROLL CALL

Roll Call votes at City Council Meetings shall be taken in a rotating alphabetical order; that is, rotating one Council Member's name alphabetically after each Council Meeting.

T U. ORDINANCE AND RESOLUTION ADOPTION PROCEDURE

Ordinances and resolutions may be prepared and brought before City Council as initiated by the City Manager or City Attorney, or by the request of the Mayor or a City Councilmember.

- (1) When an ordinance or resolution is proposed by the Mayor or a Councilmember, the Mayor or Councilmember shall present the subject matter of the ordinance or resolution to City Council prior to proceeding with drafting the proposed ordinance in order for Council to decide if the concept is one that it would like to see developed. At least one (1) member of Council must concur with the initiating member in order for the initiating Councilmember or Mayor to advance the ordinance or resolution to staff and ultimately to Council. Although not required, the Mayor or Councilmember who initiates an ordinance or resolution may sponsor that ordinance or resolution.
- (2) Ordinances or resolutions initiated by either the City Manager or City Attorney do not need to be brought before Council for conceptual review. Ordinances and resolutions initiated by the City Manager or City Attorney may include, but are not limited to:
 - (a) Ordinances or resolutions required to be prepared upon application by members of the public, including but not limited to applications by property owners for land use and zoning amendments, vacations of plats, appeals, or planned development projects shall be prepared and brought before the City Council without any prior approval of the Council; and
 - (b) Ordinances or resolutions required by the City of Cape Coral Code of Ordinances, Land Use and Development Regulations, City Charter, or State Statutes shall be prepared to comply with the required regulation or legislation and brought before the City Council without any prior approval of the Council.
- (3) All ordinances and resolutions shall be reviewed and approved by the City Attorney or an Assistant City Attorney for legal sufficiency or form or both prior to the ordinance or resolution being brought before City Council.
- (4) At first reading of a proposed ordinance, the City Manager or City Attorney shall explain the proposed ordinance and answer questions of Councilmembers. The City Council shall set the date(s) of the public hearing(s) on the ordinance. At first reading, the City Council may amend a proposed ordinance; however, if an amendment encompasses substantive changes not within the subject matter described in the title of the ordinance, the ordinance will then be placed on a City Council Agenda for another first reading.
- (5) The provisions of this subsection shall be adopted to accommodate any requirements of State Statute for particular ordinances or types of ordinances.

- (6) Public Hearings on ordinances shall be conducted as follows:
- (a) The City Clerk shall read the title of the ordinance into the record.
 - (b) When applicable, City staff shall make a presentation.
 - (c) The Mayor shall, without comment, open the Public Hearing.
 - (d) Any person wishing to speak shall state their name prior to addressing council. Each individual wishing to address council on the ordinance shall have one opportunity to address City Council during the public hearing. Except during quasi-judicial proceedings, no speaker may be heard more than once, unless permitted to do so by a majority vote of the City Council.
 - (e) The Mayor shall close the Public Hearing.
 - (f) There shall be no discussion by City Council on the ordinance until a motion is made and seconded. Once each Councilmember has been given the opportunity to address the motion, the Mayor shall recognize Councilmembers in the order of the additional request to speak. The Mayor shall maintain a list of Councilmembers, as they are recognized, to avoid confusion as to the order of the requests. After all Councilmembers have been given full opportunity to comment on the motion, the Mayor shall have the final opportunity to address the motion prior to calling the roll.
- (7) At the time a resolution is presented to City Council for adoption, there shall be public input time allowing citizens to provide input on the proposed resolution. Citizens may provide public input concerning any resolution as follows:
- (a) When required by law, or when requested by the Mayor or a Councilmember, public input shall be scheduled and held at the time the resolution is considered by council. The procedure for such public input shall be the same as that identified for Public Hearings in Section T.(6) above;
 - (b) If the resolution is scheduled on the Consent Agenda, citizens may provide public input during Public Comment on the Consent Agenda; or
 - (c) If the resolution is scheduled on the agenda anywhere other than the Consent Agenda, and public input is not scheduled for when the resolution is being considered by Council, citizens may provide public input during the regularly scheduled Citizen's Input time.

V. COUNCILMEMBER REPORTS

At each regular meeting of City Council, the Mayor and Council members shall be given an opportunity to report to the City Council items or actions that pertain to or are directly related to City business that have not been scheduled on the agenda. Council members shall not use this time to

report on or address issues or actions that have no relevance to City business. Whenever practicable, an item shall not be voted on during the Reports of the Mayor and Council members, but be scheduled for a later agenda as a separate item.

UW. ROBERTS RULES OF ORDER

Matters not expressly covered by these rules shall be governed by the current edition of Robert's Rules, newly revised, as the parliamentary procedure for the City Council of the City of Cape Coral. A copy of said Robert's Rules shall be kept on file in the Office of the City Clerk of the City of Cape Coral.

VX. SUSPENSION OR AMENDMENT OF THE RULES

The concurrence of a majority of the members elect shall be required to amend or suspend any of the Permanent Rules of the City Council of Cape Coral.

W. COUNCILMEMBER ABSENCES

~~Pursuant to Section 4.11 of the Charter, any member who has three consecutive, unexcused absences from regular meetings will be removed from office. Absences are presumed excused, and are unexcused only by a motion to hold the absence unexcused and a majority vote in favor of that motion. Such motion and vote must occur on the next regularly scheduled Council meeting after the date absent.~~

MEMORANDUM

CITY OF CAPE CORAL
CITY COUNCIL OFFICES

TO: Mayor and Council Members

FROM: Councilmember Jessica Cosden

DATE: May 16th, 2019

SUBJECT: Resolution 87 – 19 (Council Agenda Rules of Procedure)

I'm writing to inform Council of my findings regarding Monday night's discussion of Section C – Council Attendance/Absences. I have reached out to the County and surrounding cities that are in close proximity of population.

Port St. Lucie and Fort Lauderdale allows their members to appear via telephone, videoconference or any other electronic media, if there is a medical reason or an "extraordinary circumstance". Resolution 18-R94 Exhibit "A" defines that a member must get approval in advance from the Council, be allowed to participate in the meeting as though he/she were there in person and shall not be counted in ascertaining a quorum for the meeting.

Lee County Board of Commissioners does not a formal policy but instead they adhere to the opinion of the Attorney General (AGO 98-28 and 03-41), which I will include for backup and defines, a member attending telephonically does not count towards a quorum, but once a quorum is established that member may vote.

Please let me know if you have any additional questions.

JC:cg

CC: City Council

Florida Attorney General Advisory Legal Opinion

Number: INFORMAL

Date: July 20, 2016

Subject: Videoconferences -- Public Meetings

The Honorable David Cheifetz
Mayor, Town of Manalapan
600 South Ocean Boulevard
Manalapan, Florida 33462-3398

Dear Mayor Cheifetz:

The Office of the Attorney General has received your inquiry as to whether the Manalapan Town Commission may conduct public meetings in which a quorum could consist of both commissioners who are physically present and commissioners who are not physically present but are participating by videoconference.

This office has addressed public meetings via electronic media in prior opinions that are cited in the following excerpt from the 2016 edition of the Government in the Sunshine Manual:[1]

"2. Authorization to conduct public meetings via telephone, video conferencing, computer, or other electronic media

a. State boards

In AGO 98-28, the Attorney General's Office concluded that s. 120.54 (5)(b)2., F.S., authorizes state agencies to conduct public meetings via electronic means provided that the board complies with uniform rules of procedure adopted by the state Administration Commission. These rules contain notice requirements and procedures for providing points of access for the public. See Rule 28-109, F.A.C.

b. Local boards

(1) Meetings

As to local boards, the Attorney General's Office has noted that the authorization in s. 120.54(5)(b)2., to conduct meetings entirely through the use of communications media technology applies only to state agencies. AGO 98-28. Thus, since s. 1001.372(2)(b), F.S., requires a district school board to hold its meetings at a 'public place in the county,' a quorum of the board must be physically present

at the meeting of the school board. Id. And see AGOs 09-56 (where a quorum is required and absent a statute to the contrary, the requisite number of members must be physically present at a meeting in order to constitute a quorum), and 10-34 (city may not adopt an ordinance allowing members of a city board to appear by electronic means to constitute a quorum). Cf. s. 163.01(18), F.S., authorizing certain entities created by interlocal agreement to conduct public meetings and workshops by means of communications media technology. However, if a quorum of a local board is physically present, 'the participation of an absent member by telephone conference or other interactive electronic technology is permissible when such absence is due to extraordinary circumstances such as illness[;] . . . [w]hether the absence of a member due to a scheduling conflict constitutes such a circumstance is a determination that must be made in the good judgment of the board.' AGO 03-41.

For example, if a quorum of a local board is physically present at the public meeting site, a board may allow a member with health problems to participate and vote in board meetings through the use of such devices as a speaker telephone that allow the absent member to participate in discussions, to be heard by other board members and the public and to hear discussions taking place during the meeting. AGO 94-55. And see AGOs 92-44 (participation and voting by ill county commissioner), and 02-82 (physically-disabled city advisory committee members participating and voting by electronic means).

(2) Workshops

The physical presence of a quorum has not been required where electronic media technology (such as video conferencing and digital audio) is used to allow public access and participation at workshop meetings where no formal action will be taken. The use of electronic media technology, however, does not satisfy quorum requirements necessary for official action to be taken. For example, the Attorney General's Office advised that airport authority members may conduct informal discussions and workshops over the Internet, provided proper notice is given, and interactive access by members of the public is provided. AGO 01-66. Such interactive access must include not only public access via the Internet but also at designated places within the authority boundaries where the airport authority makes computers with Internet access available to members of the public who may not otherwise have Internet access. Id. For meetings, however, where a quorum is necessary for action to be taken, the physical presence of the members making up the quorum would be required in the absence of a statute providing otherwise. Id. Internet access to such meetings, however may still be offered to provide greater public access. Id. Cf. AGO 08-65, noting that a city's plan to provide additional public access to on-line workshop meetings by making computers available at a public library 'should ensure that operating-type assistance is available at the library where the computers are located.'

However, the use of an electronic bulletin board to discuss matters over an extended period of days or weeks, which does not permit the public to participate online, violates the Sunshine Law by circumventing the notice and access provisions of that law. AGO 02-32. And see Inf. Op. to Ciocchetti, March 23, 2006 (even though the public would be able to participate online, a town commission's proposed use of an electronic bulletin board to discuss matters that foreseeably may come before the commission over an extended period of time would not comply with the spirit or letter of the Sunshine Law because the burden would be on the public to constantly monitor the site in order to participate meaningfully in the discussion). Compare AGO 08-65 (city advisory boards may conduct workshops lasting no more than two hours using an on-line bulletin board if proper notice is given and interactive access to members of the public is provided).

Moreover, there is no apparent authority for the use of electronic media technology to allow board members to remove a workshop or meeting from within the jurisdiction in which the board is empowered to carry out its functions and claim compliance with the Sunshine Law by providing the public electronic access to the remote meeting. Inf. Op. to Sugarman, August 5, 2015."

I hope this excerpt and the opinions cited are helpful to you. I recommend that you contact your Town Attorney for further guidance in this matter.

Sincerely,

Ellen B. Gwynn
Assistant Attorney General

EBG/tsh

[1] Government in the Sunshine Manual, pp. 16-17 (2016 ed.). The manual is available online at:
<http://www.myfloridalegal.com/sun.nsf/sunmanual>. Attorney General
Opinions are available online at:
<http://myfloridalegal.com/ago.nsf/Opinions>.

Florida Attorney General Advisory Legal Opinion

Number: AGO 2010-34

Date: August 25, 2010

Subject: Municipalities, quorum requirements

Ms. Elizabeth M. Hernandez
City Attorney
The City of Coral Gables
City Hall, 405 Biltmore Way
Coral Gables, Florida 33134

RE: MUNICIPALITIES - QUORUMS - PUBLIC MEETINGS - authority of city to alter quorum requirements for city's retirement board. s. 166.041, Fla. Stat.

Dear Ms. Hernandez:

On behalf of a majority of the members of the City of Coral Gables City Commission, you ask the following question:

May the City Commission adopt an ordinance for the city's retirement board declaring that the requirements to create a quorum are met if the members of the board appear via electronic means?

In sum:

The Coral Gables City Commission may not adopt an ordinance allowing members of the city's retirement board to appear by electronic means to constitute a quorum.

Municipalities are granted broad home rule powers by the constitution to exercise powers for municipal governmental, corporate, or proprietary purposes unless specifically prohibited by the constitution, general or special law, or county charter.[1] Section 166.041, Florida Statutes, sets forth the procedures for adoption of ordinances and resolutions by municipalities and specifically states:

"A majority of the members of the governing body shall constitute a quorum. An affirmative vote of a majority of a quorum *present* is necessary to enact any ordinance or adopt any resolution; except that two-thirds of the membership of the board is required to enact an emergency ordinance. . . ."[2] (e.s.)

For meetings where a quorum is required, this office has consistently suggested a conservative interpretation of the requirement to ensure the validity of official actions taken by a public body.[3] This office has concluded that, in the absence of a statute to the contrary, the requisite number of members must be physically present at a meeting in order to constitute a quorum.[4]

The term "quorum" is defined as "the number of members of a group or organization required to be *present* to transact business legally, usually a majority[;]"[5] and "[t]he minimum number of members (usu. a majority of all the members) who must be *present* for a deliberative assembly to legally transact business."[6] (e.s.) Thus, a quorum requirement, in and of itself, contemplates the physical presence of the members of a board or commission at any meeting subject to the requirement.

The City of Coral Gables ordinances creating the retirement board do not contain language referring to the physical presence of a quorum of the members for the transaction of board business.[7] As an administrative arm of the city's governing body, however, it would appear that the same legislative requirement for the physical presence of a quorum in order to conduct municipal business would apply when the retirement board is carrying out its delegated duties.[8] Inasmuch as the city could not by ordinance alter the statutory requirement of a quorum's physical presence prescribed in section 166.041, Florida Statutes, when it is conducting official business, it may not by ordinance alter the quorum requirements for the city's retirement board when the board is acting upon its delegated duties.[9]

The interaction between local and state legislation was specifically discussed by the Florida Supreme Court in *City of Miami Beach v. Rocio Corporation*:

"The principle that a municipal ordinance is inferior to state law remains undisturbed. Although legislation may be concurrent, enacted by both state and local governments in areas not preempted by the state, concurrent legislation enacted by municipalities may not conflict with state law. If conflict arises, state law prevails. An ordinance which supplements a statute's restriction of rights may coexist with that statute, whereas an ordinance which countermands rights provided by statute must fail." [10]

The City of Coral Gables, therefore, may legislate on any matter upon which the Legislature may act, so long as its ordinance does not forbid what the Legislature has expressly licensed or authorized, or permit what the Legislature has expressly forbidden. The issue of conflict between local ordinances and state law was addressed in *Jordan Chapel Freewill Baptist Church v. Dade County*. [11] The court in *Jordan Chapel* stated that:

"Legislative provisions are inconsistent if, in order to comply with one provision, a violation of the other is required. . . . [T]he sole test of conflict for purposes of preemption is the impossibility of co-existence of the two laws. Courts are therefore concerned with whether compliance with a County ordinance requires a violation of a state statute or renders compliance with a state statute impossible." [12] (emphasis in original)

In this instance, an attempt by the city to change by ordinance the quorum requirements for taking official action by the city or the retirement board as an administrative arm of the city would appear to conflict with the mandate in section 166.041(4), Florida Statutes, requiring the presence of a quorum at a meeting.

Accordingly, it is my opinion that the City of Coral Gables may not alter the quorum requirements to allow members who are not physically present, but participating by electronic means, to be counted toward the quorum.

Sincerely,

Bill McCollum
Attorney General

BM/tals

[1] See s. 2(b), Art. VIII, Fla. Const., and s. 166.021(4), Fla. Stat.

[2] Section 166.041(4), Fla. Stat. See also s. 166.041(6), Fla. Stat., stating:

"The procedure set forth herein shall constitute a uniform method for the adoption and enactment of municipal ordinances and resolutions and shall be taken as cumulative to other methods now provided by law for adoption and enactment of municipal ordinances and resolutions. By future ordinance or charter amendment, a municipality may specify additional requirements for the adoption or enactment of ordinances or resolutions or prescribe procedures in greater detail than contained herein. However, a municipality shall not have the power or authority to lessen or reduce the requirements of this section or other requirements as provided by general law."

[3] See, e.g., Inf. Op. to John C. Randolph, dated November 24, 1997, and Ops. Att'y Gen. Fla. 01-66 (2001), 03-41 (2003), and 08-65 (2008).

[4] See, e.g., Ops. Att'y Gen. Fla. 83-100 (1983), 89-39 (1989), and 01-66 (2001). Cf. s. 120.54 (5)(b)2., Fla. Stat., requires uniform rules for use by each state agency to provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology.

[5] Webster's New Universal Unabridged Dictionary p. 1588 (2003).

[6] Black's Law Dictionary p. 1284 (8th ed., 2004).

[7] See s. 50-82., et seq. Code of the City of Coral Gables.

[8] See s. 50-90., Code of the City of Coral Gables, stating:

"All actions and decisions of the retirement board shall require the concurrence of a majority of the members of the retirement board. Any action adopted by the retirement board and incorporated into a written memorandum signed by the chairman and the administrative manager shall have the same force and effect as a formal resolution adopted in an open meeting. . . ." (e.s.)

[9] See *Solomon v. City of Miami Beach*, 187 So. 2d 373 (Fla. 3d DCA 1966), cert. denied, 196 So.

2d 927 (Fla. 1967) (municipality may not do indirectly what it is prohibited from doing directly).

[10] *City of Miami Beach v. Rocio Corporation*, 404 So. 2d 1066, 1070 (Fla. 3d DCA 1981), *petition for review denied*, 408 So. 2d 1092 (Fla. 1981).

[11] 334 So. 2d 661 (Fla. 3d DCA 1976). *And see City of Kissimmee v. Florida Retail Federation, Inc.*, 915 So. 2d 205 (Fla. 5th DCA 2005) (generally the fact that local legislation imposes additional requirements on a person or business is not evidence of conflict); *F.Y.I. Adventures v. City of Ocala*, 698 So. 2d 583 (Fla. 5th DCA 1997) (if no issue of preemption, conflict with state statute is given a very strict and limited meaning; they must contradict each other in the sense that both legislative provisions cannot co-exist, *i.e.*, in order to comply with one, a violation of the other is required).

[12] *Id.* at 664.

Florida Attorney General Advisory Legal Opinion

Number: AGO 98-28

Date: April 6, 1998

Subject: Sunshine law, use of electronic media technology

Mr. Robert W. Hughes
Superintendent of Schools
School Board of Alachua County
620 East University Avenue
Gainesville, Florida 32601-5498

RE: PUBLIC MEETINGS--SCHOOL BOARDS--use of electronic media technology by absent board member to attend public meeting. ss. 120.54 and 230.17, Fla. Stat.

Dear Mr. Hughes:

You ask substantially the following question:

May members of a school board attend and participate in board meetings via electronic means?

In sum:

A school board may use electronic media technology in order for a physically absent member to attend a public meeting of the board if a quorum of the members is physically present.

You state that some members of the school board have expressed a desire to participate in board meetings via electronic means. Section 120.54(5)(b)2., Florida Statutes, allowing public meetings, hearings, or workshops of state agencies to be conducted by means of communications media technology, has been considered as authority for such action, but the question arises whether the Legislature intended to limit the statute's application to agencies of the executive branch of state government. Moreover, in the event it is determined that members of the board may attend and participate in the meeting electronically, you ask whether a quorum of members must be physically present at the meeting site.

This office recognized in Attorney General Opinion 92-44 that improvements in communications media technology have altered the concept of how members of a board or commission may participate in a public meeting. In that opinion, it was concluded that a county commissioner who was physically unable to attend a commission meeting because of medical treatment could participate and vote in a meeting by using interactive video and telephonic technology. The opinion noted, however, that the statutory requirements that a meeting of the county commission be held at any

appropriate public place in the county would require that a quorum of the members be physically present at the meeting.

Relative to meetings of a school board, section 230.17, Florida Statutes, states:

"(1) Except as provided in subsection (2), all regular and special meetings of the school board shall be held in the office of the superintendent or in a room convenient to that office and regularly designated as the school board meeting room.

(2) Upon the giving of due public notice, regular or special meetings of the board may be held at any appropriate public place in the county."

This statutory requirement is analogous to the requirement that meetings of the county commission be held at an appropriate place in the county.[1] Moreover, section 230.18, Florida Statutes, states that "[a] majority shall constitute a quorum for any meeting . . . [and] [n]o business may be transacted at any meeting unless a quorum is present[.]"

Thus, the rationale underlying the conclusion in Attorney General Opinion 92-44, as well as the plain statutory requirements cited above, lead to the conclusion that a quorum of the school board members must be physically present at a school board meeting. I am of the opinion, therefore, that a quorum of the members of the school board must be physically present at a meeting of the board in order for the meeting to comply with the Government in the Sunshine Law.

Section 120.54(5)(b)2., Florida Statutes, states that the uniform rules adopted by the Administration Commission must include

"[u]niform rules for use by each *state agency* that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. . . ."[2] (e.s.)

While there is no question that a school board is an "agency" for purposes of application of Chapter 120, Florida Statutes,[3] the plain language of section 120.54(5)(b)2., Florida Statutes, limits its terms only to uniform rules for state agencies. In section 120.54, Florida Statutes, the Legislature has chosen to use "agency" in some parts and "state agency" in others, giving a distinction to the terms that should be acknowledged.[4] While the uniform rules adopted by the Administration Commission to assure compliance with the requirements of Chapter 120, Florida Statutes, apply to all agencies subject to the Administrative Procedure Act, there is nothing to indicate that the more specific rules governing procedures to be followed by state agencies in conducting public meetings and hearings would have an equally broad application.[5]

Chapter 120, Florida Statutes, contains no provisions characterizing a district school board as a state agency. Moreover, this office recently determined that a district school board is not a part of the executive branch of government, nor are its employees state employees subject to the lobbying restrictions contained in section 11.062(2)(a), Florida Statutes.

[6] Members of the school board have been characterized as county officers.[7] Accordingly, absent a statute recognizing the district school board as a "state agency" for purposes of section 120.54(5)(b)2., Florida Statutes, I cannot conclude that the uniform rules adopted thereunder would apply.

Allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission. While the convenience and cost savings of allowing members from diverse geographical areas to meet electronically might be attractive to a local board or commission such as a school board, the representation on a school board is local and such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting.

District school boards have been granted home rule powers and may exercise any power for school purposes in the operation, control and supervision of the free public schools in their districts unless expressly prohibited by the State Constitution or general law.[8] This grant of authority would allow a district school board to adopt its own rules governing the use of electronic media technology for its meetings, subject to the limitation that a quorum of the board's members must be physically present at the meeting. Moreover, the board may wish to consider this office's previous opinions condoning the use of electronic media technology when an absent member is physically unable to attend a meeting due to medical treatment or physical infirmity.[9]

Accordingly, it is my opinion that a school board may use electronic media technology in order to allow a physically absent member to attend a public meeting if a quorum of the members of the board is physically present at the meeting site.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tls

[1] See s. 125.001, Fla. Stat., stating: "Upon the giving of due public notice, regular and special meetings of the board may be held at any appropriate public place in the county."

[2] Section 120.54(5)(b)2., Fla. Stat., further provides:

"The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a public meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for

public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this paragraph shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to public meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to public meetings, hearings, and workshops conducted by means of communications media technology, and shall be liberally construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, 'communications media technology' means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available."

[3] See s. 120.52(1)(c), Fla. Stat., defining "Agency" for purposes of Ch. 120 to include "[e]ach other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions[;]" and *Board of Public Instruction of Broward County v. State ex rel. Allen*, 219 So. 2d 430, 432 (Fla. 1969) (school district subject to Ch. 120, Fla. Stat.); *Mitchell v. Leon County School Board*, 591 So. 2d 1032 (Fla. 1st DCA 1991); *Witgenstein v. School Board of Leon County*, 347 So. 2d 1069 (Fla. 1st DCA 1977).

[4] See s. 120.54(8), Fla. Stat., requiring each "agency" to compile a rulemaking record, but further requiring each "state agency" to retain the record of rulemaking as long as the record is in effect.

[5] See Rule 28-8.003(2), Fla. Admin. Code, defining "Agency" for purposes of providing procedures to be followed by an agency which desires to conduct a meeting by means of communication media technology as "any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government."

[6] Attorney General Opinion 97-82 (1997).

[7] See *In re Advisory Opinion to Governor--School Board Member--Suspension Authority*, 626 So. 2d 684 (Fla. 1993), in which the Court held that district school board members are "county officers" for purposes of the Governor's suspension authority under provision of State Constitution and purposes of dual officeholding.

[8] See Ops. Att'y Gen. Fla. 86-45 (1986), 84-95 (1984), 84-58 (1984), and 83-72 (1983). And see s. 230.03(2), Fla. Stat., which provides:

"In accordance with the provisions of s. 4(b) of Art. IX of the State Constitution, district school boards shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law."

[9] See Op. Att'y Gen. Fla. 92-44 (1992) and Inf. Op. Att'y Gen. to Bryan W. Henry, dated July 26, 1982. Cf. Op. Att'y Gen. 94-55 (1994) (out-of-state member of museum board allowed by speaker phone to participate in discussions, to be heard by other board members and the public and to hear discussions taking place during board meeting).



CITY ATTORNEY'S OFFICE MEMORANDUM

TO: Mayor Coviello and City Councilmembers
FROM: Dolores D. Menendez, City Attorney
DATE: May 16, 2019
SUBJECT: Council Participation by Electronic Means

In the proposed Resolution 87-19 amending the Council Agenda Rules of Procedure, a provision has been formalized setting forth the City's policy concerning City Councilmembers participating and voting at meetings by electronic means under certain conditions. At the May 6th Council meeting, Council expressed a desire for more information concerning this provision including, but not limited to, which other communities in the region had policies regarding member participation through electronic means. A policy has not previously been formalized, however, City Council could now consider the request and vote to allow participation at a meeting under the provisions allowed by law.

As Council is aware, the Council currently does not have a formalized process for participation by absent members. Council considers each such request individually and votes to allow participation at meetings under the provisions allowed by law. Under those circumstances, Councilmembers have had, and continue to have, the ability to participate in a Council meeting electronically.

The Attorney General, in numerous opinions from 1992 until the present, has opined commissioners, councilmembers or other board members, are able to participate and vote by electronic means and not be in violation of the Sunshine Law as long as a quorum of the members of the board is physically present at the meeting site. The AGO's referencing remote participation generally reference medical situations, or extraordinary circumstances, as approved by the governing body. (AGO's 92-44, 94-55, 98-28, 02-82, and 2003-41) Most recently, AGO 2003-41 provides a clear explanation that,

...this office has considered the participation of an absent member by telephone conference or other interactive electronic technology permissible when such absence is due to extraordinary circumstances such as illness....

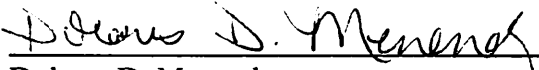
...where a rule or statute contemplates that a meeting will be held in a public place with the members physically present, the participation of an absent member in the meeting by telephone conference should be permitted only in extraordinary

circumstances and when a quorum of the board members is physically present at the meeting. Whether the absence of a member due to a scheduling conflict constitutes such a circumstance is a determination that must be made in the good judgment of the board.

There is no question that the practice of councilmembers participating by electronic means is permissible provided a quorum is physically present. The more questionable aspect is the reason for such absence. While circumstances such as illness and "extraordinary circumstances" have been opined to be allowable, other reasons requested by a councilmember may be determined to be acceptable, or not acceptable, by the City Council.

After contacting eight other local jurisdictions, which include Lee County, Fort Myers, Estero, Bonita Springs, Fort Myers Beach, Naples, Punta Gorda, and Charlotte County, I have found that four of the jurisdictions have written policies, and four are not written, but are decided on a case by case basis. The four jurisdictions with a written policy are Estero, Bonita Springs, Fort Myers Beach, and Naples. A summary of the written policies of the four jurisdictions is attached to this memo for your review.

If you have any questions, please feel free to contact me.


Dolores D. Menendez
City Attorney

DDM/bls

cc: John Szerlag, City Manager
Kimberly Bruns, City Clerk

ATTACHMENT - SUMMARY OF LOCAL JURISDICTIONS

ESTERO

(g) When a quorum is present and a Council Member or Council Members are participating by telephone or other electronic means, those Council Members participating by phone or other electronic means are authorized to participate fully and to vote on motions and all other matters presented to the Village Council.

(h) Members participating by phone must affirm that they have heard all proceedings with respect to the matter prior to voting.

BONITA SPRINGS

A majority of the whole number of members of the City Council shall constitute a quorum. No ordinance, resolution or motion shall be adopted by the City Council without the affirmative vote of at least four (4) members present. Pursuant to AGO's 2002-82 and 2003-41, a City Council member may participate and vote on matters by electronic means, including by telephone (or through the Internet) amplified through the meeting room and able to be heard by the Recording Secretary, when there is a finding by City Council of extraordinary circumstances and if they are unable to attend a public meeting so long as a quorum of the members of the board is physically present at the meeting site.

FORT MYERS BEACH

Participation by Videoconference

A Council member may participate in a Town Council meeting via videoconference if one of the following conditions is met:

1. There is a medical reason for unavailability, or
2. Permission is granted from the Council for an "extraordinary circumstance." A quorum of Town Council members must be met without the missing Council member in attendance.

NAPLES

Section 1. A council member, or a member of a board, commission or committee who for good cause cannot appear in person at a meeting may appear remotely by electronic means, providing that:

- a. There is a quorum physically present at the meeting location;
- b. There is good cause for why the member cannot attend in person;
- c. The member has provided notification to the council, board, commission or committee, or to the city clerk, of inability to attend in person and desire to attend electronically, at least two business days prior to the meeting, unless there is an exigent circumstance that prevented earlier notification; and

- d. When participating by remote electronic means, the member is visible and audible, or at least audible, to and from the members present at the meeting and the audience. In such case, the member has the same participation rights and voting privileges as though physically present.

Section 2. "Good cause" means that the member cannot attend in person due to illness, personal or family matter, absence from the area, unavoidable scheduling conflict, or other good reason. Except in urgent circumstances, the member must provide notification to the clerk at least two business days before the meeting.

Section 3. When appearing remotely the member is by law deemed to be present for all purposes and has all participation rights and voting privileges as if physically present.

Kimberly Bruns

From: Kimberly Bruns
Sent: Wednesday, April 17, 2019 2:05 PM
To: Jessica Cosden; Bonnie L. Scheuermann
Cc: Dolores Menendez
Subject: RE: Council Agenda Rules of Procedure

Jessica, thank you for the compromise with Point #1. I agree.

In reference to allowing Councilmembers to call in to voting meetings topic, I respectfully request the opportunity to review the language prior to the finalization of the Resolution.

Thank you.

Kimberly Bruns, CMC
Interim City Clerk
Cape Coral City Clerk's Office
1-239-242-3243 PHONE #3243
1-239-242-5344 FAX

Note: Florida has a very broad public records law. Most written communications to or from city staff regarding city business are considered to be public records and will be made available to the public and the media upon request. Therefore, your email message may be subject to public disclosure. Also, under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Please consider the environment before printing this email.

From: Jessica Cosden
Sent: Wednesday, April 17, 2019 11:39 AM
To: Kimberly Bruns <kbruns@capecoral.net>; Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>
Subject: RE: Council Agenda Rules of Procedure

Just a follow-up. If possible, I'd like to get this out of the way before hiatus. In addition, I want to add the language about allowing Councilmembers to call in to voting meetings (for obvious reasons!)

I thought more about your Point #1, Kimberly, and I think I have a compromise. Can we add language requiring an *explanation memo* or something similar for anything added to the agenda after the noon Friday cut-off?

Jessica Cosden
City of Cape Coral
Council Member, District 7
Office: 239.574.0437
Cell: 239.910.6565

From: Jessica Cosden
Sent: Monday, February 25, 2019 1:31 PM
To: Kimberly Bruns <kbruns@capecoral.net>; Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>
Subject: RE: Council Agenda Rules of Procedure

I hear you on Point #1, but there must be some reasonable cut-off point. I believe in some or all of the cases you provided, it was more the fault of the Councilmember/Mayor/City Manager for not getting the info to the Clerk's office fast enough. 2 of the 4 had no backup (they were just discussion items) and thus could have been added to the agenda at the start of the meeting without depriving the public of access to any backup documentation. As for the other 2, I don't know enough about them to understand why they were added after noon on Friday, but both seem like they should have been readied by the City Manager's office beforehand.

On Point #2, I agree and I am fine with your requested change.

Jessica Cosden
City of Cape Coral
Council Member, District 7
Office: 239.574.0437
Cell: 239.910.6565

From: Kimberly Bruns
Sent: Monday, February 11, 2019 9:48 AM
To: Jessica Cosden <jcosden@capecoral.net>; Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>
Subject: RE: Council Agenda Rules of Procedure

Here is a copy of the rules with the proposed changes, too. I neglected to upload them in the email below.

Kimberly Bruns, CMC
Interim City Clerk
Cape Coral City Clerk's Office
1-239-242-3243 PHONE #3243
1-239-242-5344 FAX

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Please consider the environment before printing this email.

From: Kimberly Bruns
Sent: Monday, February 11, 2019 9:44 AM
To: Jessica Cosden <jcosden@capecoral.net>; Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>
Subject: RE: Council Agenda Rules of Procedure

Please consider the following two points of information before finalizing:

#1 – Page 2, Item B, I have concerns about the additional language in yellow.

Items may occasionally be placed on the agenda after the deadlines stated above provided there is a clear necessity for the item to be heard by Council at that meeting. In the event an item must be put on an agenda after the agenda has been published, causing an addendum to the agenda to be published, City Council must be notified by the Clerk at the time the request is made that the item will be forthcoming. Any item that City Council has not been notified of by noon on the Friday before the meeting day shall not be placed on the agenda.

Reasoning: Additions after noon on Friday before a Monday Regular Meeting -

- The City Manager identifies a clear necessity and works with the Mayor for approval of any additions after the packets are published. Then, it is shared with the Clerk to complete the addendum and revised agenda which are initialed by the Mayor.
- Council Members identify a clear necessity and work with Council Office to request the Mayor of any additions after the packets are published.

The current process is - once the addendum is signed, the revised agenda and back up are distributed to the City Council. (Friday, via email and Monday, via email and paper.) Then, it is distributed to the public online.

By adding the last sentence, you create a future need to have a Special meeting or a situation where Council brings up the topic for vote at the beginning of a meeting or under reports without any time to make the information available to the public prior to the meeting.

I have attached a few examples that illustrate my point. Certainly, there are other circumstances, but these show 3 Council additions and 1 City Attorney/City Clerk addition that occurred after 12:00 p.m. on Friday after packets were published. Each of these would have been in violation.

#2 - Page 2, Item B, I have deleted the term published and added a Thursday reference to both the Regular meeting and the COW meeting packets.

~~/published~~

Thursday, 4:00 pm (prior to regular meeting) – packets published

Reasoning: The current process followed has been to allow Council time to review the packets before posting to the public so they can be prepared for questions from the media and the public. If I publish them at the same time, this eliminates that courtesy.

Thank you for your time and consideration of these points identified above.

Kimberly Bruns, CMC
Interim City Clerk
Cape Coral City Clerk's Office
1-239-242-3243 PHONE #3243
1-239-242-5344 FAX

Note: Florida has a very broad public records law. Most written communications to or from city staff regarding city business are considered to be public records and will be made available to the public and the media upon request. Therefore, your email message may be subject to public disclosure. Also, under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Please consider the environment before printing this email.

From: Kimberly Bruns
Sent: Tuesday, February 5, 2019 11:37 AM
To: Jessica Cosden <jcosden@capecoral.net>; Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>
Subject: RE: Council Agenda Rules of Procedure

I respectfully request until Monday, February 11, 2019 to have my comments submitted. Thank you!

Kimberly Bruns, CMC
Interim City Clerk
Cape Coral City Clerk's Office
1-239-242-3243 PHONE #3243
1-239-242-5344 FAX

Note: Florida has a very broad public records law. Most written communications to or from city staff regarding city business are considered to be public records and will be made available to the public and the media upon request. Therefore, your email message may be subject to public disclosure. Also, under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Please consider the environment before printing this email.

From: Jessica Cosden
Sent: Monday, February 4, 2019 3:13 PM
To: Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>; Kimberly Bruns <kbruns@capecoral.net>
Subject: RE: Council Agenda Rules of Procedure

Looks great. Thank you.

Jessica Cosden
City of Cape Coral
Council Member, District 7
Office: 239.574.0437
Cell: 239.910.6565

From: Bonnie L. Scheuermann
Sent: Friday, February 1, 2019 2:49 PM
To: Jessica Cosden <jcosden@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>; Kimberly Bruns <kbruns@capecoral.net>
Subject: Council Agenda Rules of Procedure

Councilmember Cosden,

Attached is a revised draft of the Council Rules. We have amended Paragraph U. to address your request concerning voting on items on Councilmember Reports. Please review and let us know if this is acceptable.

By copy of this email, we would ask that Kimberly also review the rules of procedure and let us know if she sees any items that may need further revision.

Also, as a reminder, this draft includes the existing section on invocations. Once the Mayor's proposed changes are heard by Council, it is possible that the section will be revised and updated if Council approves his proposed changes.

Please let us know if you have any questions.

Thank you,

Bonnie Scheuermann, CP
Sr. Paralegal
City Attorney's Office
City of Cape Coral
PO Box 150027
Cape Coral, FL 33915-0027
(239) 574-0408
bscheuer@capecoral.net

ADDENDUM

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

Monday, February 13, 2017

4:30 PM

Council Chambers

8. Consent Agenda

7. Resolution 35-17 Approval of Interlocal Agreement Between the City of Cape Coral and the Florida Governmental Utility Authority for Use of an Irrigation Water Interconnect; Department: Utilities; Dollar Value: \$4,000,000; (Water and Sewer Fund)

9. B. Introductions

2. Ordinance 13-17 Set Public Hearing Date for March 6, 2017
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance approving Master Equipment Lease No. TSM04511 between the Cape Coral Charter School Authority and DDI Capital for the lease of Lenovo N22 Chromebooks.

10. Unfinished Business

- C. Discussion of City Auditor Position

ADDENDUM

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

Monday, September 18, 2017

4:30 PM

Council Chambers

8.B. Business; Consent Agenda

- 10). Resolution 170-17 A resolution amending Resolution 132-17, which established proposed millage rates and public hearing dates for the 2017 Tax Year, by establishing new dates for the public hearing on the tentative budget and proposed millage rate and for the public hearing to finally adopt the budget and millage rate.

- 11). Resolution 171-17 A resolution amending Resolution 72-17, which established Early Voting dates and polling places for the City's 2017 Primary and General Elections and amending Resolution 123-17, which called for a Primary Election on September 12, 2017, by establishing new dates for Early Voting and the Primary Election.

Generated 09/18/2017 11:35 a.m.

ADDENDUM

AGENDA FOR THE SPECIAL MEETING OF THE CAPE CORAL CITY COUNCIL

Monday, June 18, 2018

4:30 PM

Council Chambers

6. Business –

P). Unfinished Business - LCEC Franchise Agreement discussion (Brought forward by Mayor Coviello)

Q). New Business – Waste Pro Ride Along that occurred on June 11, 2018 (Brought forward by Councilmember Nelson)

Generated 06/15/2018 2:45 pm

ADDENDUM

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

Monday, January 7, 2019

4:30 PM

Council Chambers

11. New Business –

- C). Formal Request to postpone the Emergency Hearing scheduled for January 8, 2019 regarding Emergency Suspension of Dixie Roadhouse/Rockade Extended Hours permit – Mayor Coviello

Generated 01/7/2019 10:00 am

Kimberly Bruns

From: Kimberly Bruns
Sent: Tuesday, April 23, 2019 9:01 AM
To: Jessica Cosden; Bonnie L. Scheuermann
Cc: Dolores Menendez
Subject: RE: Council Rules
Attachments: Final - Council Agenda Rules of Procedure.pdf

I agree (Yea). I will place it on the 5/13 agenda under New Business on the timeline.

Kimberly Bruns, CMC
Interim City Clerk
Cape Coral City Clerk's Office
1-239-242-3243 PHONE #3243
1-239-242-5344 FAX

Note: Florida has a very broad public records law. Most written communications to or from city staff regarding city business are considered to be public records and will be made available to the public and the media upon request. Therefore, your email message may be subject to public disclosure. Also, under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Please consider the environment before printing this email.

From: Jessica Cosden
Sent: Monday, April 22, 2019 12:23 PM
To: Bonnie L. Scheuermann <bscheuer@capecoral.net>
Cc: Dolores Menendez <dmenende@capecoral.net>; Kimberly Bruns <kbruns@capecoral.net>
Subject: RE: Council Rules

This is lovely! Thank you all for your help on this.

Kimberly, please respond with your Yea or Nay. Assuming it's a Yea, let's get this scheduled for the next available agenda – and please respond and let me know what that date will be.

Thanks again.

Jessica Cosden
City of Cape Coral
Council Member, District 7
Office: 239.574.0437
Cell: 239.910.6565

From: Bonnie L. Scheuermann
Sent: Friday, April 19, 2019 3:07 PM
To: Jessica Cosden <jcosden@capecoral.net>

Cc: Dolores Menendez <dmenende@capecoral.net>; Kimberly Bruns <kbruns@capecoral.net>

Subject: Council Rules

Councilmember Cosden,

Revisions have been made that revise the requirements for the submission of items to Council, as well as language allowing participation at Council meetings by electronic means. Please review the draft and let us know if you would like any further changes, if you would like to meet with our office and the City Clerk, or if you have no further comments and would like us to get this scheduled for the next available agenda.

By copy of this to Kimberly, we also request that you provide any further comments or concerns.

I will await your comments and direction.

Thank you,
Bonnie

Bonnie Scheuermann, CP
Sr. Paralegal
City Attorney's Office
City of Cape Coral
PO Box 150027
Cape Coral, FL 33915-0027
(239) 574-0408
bscheuer@capecoral.net

COUNCIL AGENDA RULES OF PROCEDURE

A. MEETINGS HELD; TIMES AND DATES

City Council holds meetings to accomplish the business of the City. Depending on the type of business to be conducted or timeliness of the business, meetings can be in the form of Regular meetings, ~~Special meetings, or Committee of the Whole meetings, or Special meetings.~~ Each year, City Council shall approve a schedule of Regular meetings and Committee of the Whole meetings for the year. The schedule may be adjusted throughout the year by adding, deleting, or rescheduling Regular meetings and Committee of the Whole meetings upon the vote of City Council. Special meetings may be called for governmental efficiency, as set forth below.

Regular meetings are voting meetings where Council takes action on items on the agenda and public hearings are held for ordinances and resolutions. Unless otherwise resolved, regular meetings of the Cape Coral City Council shall convene at 4:30 p.m. on Mondays, as set forth on the yearly calendar of City Council Regular and Committee of the Whole meetings adopted by Council prior to January each year. In the event Monday is a paid holiday recognized by the City, which includes New Year's Day, Martin Luther King Jr.'s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, and Christmas Day, then no regular meeting of the City Council shall be scheduled for that week, unless otherwise resolved. Council shall hold not less than two regular meetings per month.

When setting its meeting schedule for the year, City Council shall decide whether to hold a regular meeting on any other holiday not recognized by the City as a paid holiday that happens to fall on a Monday during the course of the year. If Council votes to cancel a regular meeting that falls on a holiday not recognized by the City as a paid holiday, then Council shall also vote to decide whether to hold the meeting on a day other than this holiday or cancel the meeting for the entire week of the holiday.

Upon the setting of its regular meeting schedule for the year, City Council shall vote to adopt the schedule; however, additional meetings or special meetings may be called at any time upon vote of Council as provided herein. Additional regular meetings may be scheduled throughout the year when there is a need to schedule additional agenda items, or scheduled regular meetings may be rescheduled, upon vote of Council.

Committee of the Whole meetings shall be held when called by the Mayor or any four (4) members of Council upon at least a twelve (12) hour notice. Items scheduled for such meetings shall be informational for the general discussion of matters, and to provide Council with the opportunity to become familiar with issues facing the City and discuss the items with staff in order to have any questions or concerns resolved. Any votes, if taken, shall not be binding but shall only be a recommendation of the City Council.

Special meetings are voting meetings called when matters are not scheduled on a regular meeting due to time constraints or urgency and importance of the matter. The Mayor or any four members of Council may call special meetings, whenever practicable, upon at least a twelve-hour notice. When calling a special meeting, the subject matter for which the meeting is called shall be clearly defined.

The agenda shall be limited to only the subject matter for which the special meeting was called, and City Council shall not discuss any matter which does not appear on the agenda for the special meeting.

Meetings allow citizens the opportunity to provide input at the designated Citizens Input times, however, public hearings are not held at Committee of the Whole meetings and items scheduled for Public Hearing or Public Input are not to be addressed by citizens during Citizens' Input, but are to be addressed at the time of the Public Hearing or Public Input.

B. AGENDA PREPARATION AND AGENDA

For Regular meetings, all reports, communications, contract documents or other matters, including position approvals, discussion items, and consent agenda items shall be submitted as follows:

Monday, 3:00 pm (two weeks prior to regular meeting – submitted to City Manager
Tuesday, 3:00 pm (prior to regular meeting) – all packet materials submitted to City Clerk
Tuesday, 4:00 pm (prior to regular meeting) – agenda provided to Mayor for approval
Wednesday, 3:00 pm (prior to regular meeting) – packets distributed/~~published~~
Thursday, 4:00 p.m. (prior to regular meeting) - packets published

Backup documentation for all agenda items will be provided upon placement of the item on the agenda. Resolutions and Ordinances may be placed on the agenda if submitted by 12:00 noon on the Tuesday before the regular meeting of Council at which they are to be introduced, provided all required public notice and advertising are completed. The Council shall adopt its order of business on the agenda and, in the absence of Council action, the Mayor shall adopt the order of business on the agenda.

Citizen's petitions to council shall be submitted as a request in writing to the Mayor's office specifying the subject on which they will speak, along with the specific request and together with any backup information pertaining to the request. The petition to council shall be considered at a council meeting as soon as practicable after submission. The Mayor's office shall provide the petitions to council to the City Clerk's office no later than 3:00 p.m. on the Tuesday before the regular meeting of Council at which such matter is to be considered. The Council shall adopt its order of business on the agenda and, in the absence of Council action, the Mayor shall adopt the order of business on the agenda.

Items may occasionally be placed on the agenda after the deadlines stated above provided there is a clear necessity for the item to be heard by Council at that meeting. In the event an item must be put on an agenda after the agenda has been published, causing an addendum to the agenda to be published, City Council must be notified by the Clerk at the time the request is made that the item will be forthcoming. Except in extraordinary circumstances, any item that City Council has not been notified of by noon on the Friday before the meeting day shall not be placed on the agenda absent good cause shown. Any item placed on the agenda after the deadline may be subject to a Council vote to remove the item from the agenda.

For Committee of the Whole (COW) meetings all reports, communications, contract documents or other materials to support items on the COW agenda shall be submitted as follows:

Monday, 3:00 pm (week prior to COW meeting) – submitted to City Manager
Tuesday, 3:00 pm (week prior to COW meeting) – all packet materials submitted to City Clerk

Tuesday, 4:00 pm (week prior to COW meeting) – agenda provided to Mayor for approval
Wednesday, 3:00 pm (week prior to COW meeting) – packets distributed/~~published~~
Thursday, 4:00 p.m. (prior to COW meeting - packets published)

All scheduled COW meetings shall follow the submitting schedule above. For additional or special COW meetings the submitting schedule should be followed unless time does not permit following the above schedule. In such cases packet materials will be distributed by the City Clerk's Office upon receipt from staff and/or Council to include both paper copies and electronically scanned documents.

All scheduled Special meetings shall follow the submitting schedule set forth above for COW meetings unless time does not permit. In such cases packet materials will be distributed by the City Clerk's office upon receipt from staff and/or Council to include both paper copies and electronically scanned documents.

C. COUNCIL ATTENDANCE/ABSENCES

(1) A Council member who for good cause cannot appear in person at a meeting may appear remotely by electronic means, providing that:

(a) There is a quorum physically present at the meeting location;

(b) There is good cause for why the member cannot attend in person;

(c) The member has provided notification to the City Council and City Clerk of his or her inability to attend in person and desire to attend electronically, at least two business days prior to the meeting, unless there is an exigent circumstance that prevents earlier notification; and

(4) When participating by remote electronic means, the member is visible and audible, or at least audible, to and from the members present at the meeting and the audience. In such case, the member has the same participation rights and voting privileges as though physically present.

“Good cause” means that the member cannot attend in person due to illness, personal or family matter, absence from the area, unavoidable scheduling conflict, or other good reason.

When appearing remotely the member is by law deemed to be present for all purposes and has all participation rights and voting privileges as if physically present.

(2) Pursuant to Section 4.11 of the Charter, any member who has three consecutive, unexcused absences from regular meetings will be removed from office. Absences are presumed excused, and are unexcused only by a motion to hold the absence unexcused and a majority vote in favor of that motion. Such motion and vote must occur no later than the next regularly scheduled Council meeting after the date absent.

C D. PRESIDING OFFICER

The Mayor, or in his or her absence, the Mayor Pro Tem, shall, at the time the meeting convenes, call the meeting to order and chair the meeting. In the absence of both the Mayor and Mayor Pro Tem, the members may appoint a member to chair the meeting, but such appointment shall not extend beyond the arrival of the Mayor, the Mayor Pro Tem, or the adjournment for the day, whichever occurs first. A majority vote of all Council members present, but not less than four (4), shall be required to overrule a decision of the presiding officer.

D E. INVOCATION/INSPIRATIONAL MESSAGE, OR MOMENT OF SILENCE

After the meeting is called to order, the Councilmember scheduled to recite the invocation/inspirational message for that meeting shall have the option to recite one of the invocations/inspirational messages previously approved by City Council for such purpose for the Council's benefit may choose to observe a moment of silence for personal reflection, or may recite another message that complies with the restrictions contained herein. One Councilmember shall be scheduled for each meeting on a rotating basis in alphabetical order by last name for all meetings occurring during that, and then repeated accordingly. City Council hereby approves the following invocations/inspirational messages:

1. We pray/ask that tonight laws are rightly administered and enacted. We pray/ask tonight for guidance for our President, for all of our elected officials at the national level; for our State and County officials; and for this Council. May decisions be for the good of the people they serve. May Council always encourage due respect and virtue in life, and as we live out our daily existence in this community. May the Council execute laws and make decisions with justice and mercy, and seek to help all people live in freedom. May we always seek to preserve peace, to promote national happiness; and to continue to bring the blessings of liberty and quality for all people. Amen.
2. We come here tonight to celebrate the beauty of this City; the beauty of the weather that we have; and the beauty of the people who live here. We celebrate the fact that we have a government that listens to its people, in which we have a voice, in which we can speak and make suggestions. We celebrate tonight a government in which we can elect our officials and are heard. Amen.
3. Let us pray. Lord God, we are mindful of your promise to remain with us always. We are mindful that you work through your people, through those who open their lives to you. Lord, we pray this day, for that openness, for your will to be done in us, and through us. We seek Lord your special blessing upon this gathering, this meeting. May your spirit abound, and may our hearts always give you praise by what we do, and by what we say. Guide us and lead us, even as you call us, to guide and to lead. This is a prayer we ask, we ask it with trust, and with hope. For we pray as your faithful people always and forever. Amen.

Additional invocations/inspirational messages may be utilized provided that the tone, tenor and content of the invocation or inspirational message does not advance or disparage any specific religion. The invocation or inspirational message must be non-sectarian with elements of the American civil religion and must not be used to proselytize or advance any particular faith, belief, sect, creed or

religion or to disparage any particular faith, belief, sect, creed or religion. The invocation or inspirational message shall not refer to any particular religious holiday, significant religious date, holy day or religious event and shall not contain any direct quote from any sectarian book, doctrine or material.

E F. ROLL CALL; QUORUM

After a brief invocation or meditation, and the Pledge of Allegiance, a roll of the members shall be called and the names of members present and the members absent shall be entered in the Council minutes. Five Members of the Council shall constitute a quorum to do business.

F G. ORGANIZATIONAL MEETING OF COUNCIL

Following each general election, the first regularly scheduled meeting of the Cape Coral City Council shall commence as an organizational meeting. During the organizational meeting, matters pertaining to the organization of the City Council or the method or manner of how it conducts its business shall be considered. After the organizational matters have been considered, the City Council may conduct other city business with the majority consent of the City Council.

G H. ORDER OF BUSINESS

After the roll call, the first order of business shall be a vote on the adoption of the agenda for the meeting. Matters not listed on the agenda may be added to the agenda by a majority vote of all members of the Council prior to the adoption of the agenda for the meeting and not at any other time during the meeting.

The presiding officer may take matters out of their order on the agenda for the convenience of the public, unless overruled by a majority vote of Council members present, but not less than four (4). Any matter of a non-controversial nature may be placed on the consent agenda, which may immediately precede other matters on the agenda for the meeting. The matters on the consent agenda may be acted upon by a single motion by the Council without debate. A member of the Council or the Mayor may remove any matter from the consent agenda by requesting removal prior to the voting thereon.

H I. MOTION AND RESOLUTION

No motion or resolution shall be debated or voted on unless it has been seconded. The presiding officer may require a motion or resolution to be read in full unless the reading is dispensed with by unanimous consent of the Council. After a motion has been made, it is in the possession of the Council and, unless withdrawn before it is voted upon, or before adjournment that day, it shall be entered in the minutes, together with the name of the member offering it. No member may make two motions at the same time.

I J. ORDER AND DIVISION OF A QUESTION

A division of any question, which contains several points, may be made. A motion to strike and insert shall not be divisible. Except in the case of a privileged question or as otherwise provided by these rules, questions shall be put in the order in which they are moved. When filling blanks, or on any

other matter not otherwise provided for herein, a motion that puts the question farthest away from enactment shall be considered first.

J K. THE PREVIOUS QUESTION

A motion calling for the previous question must be seconded. If a motion for the previous question is ordered by the vote of the Council, it shall have the effect of cutting off all debate and bringing the Council to a vote on the question. When the previous question is decided in the negative, the main question remains under debate until disposed of by the vote or in some other manner.

K L. MOTION TO BE GERMANE

No motion or proposition on a subject, different from that under consideration, shall be admitted under the guise of its being an amendment.

L M. MOTION FOR RECONSIDERATION

When a question has been decided, either in the affirmative or the negative, it shall be in order for any member who voted with the prevailing side to move its reconsideration, provided that such a motion is made either on the same day or on or before the next regular scheduled Council meeting.

M N. PRECEDENCE OF MOTIONS

When a question is under debate, no motion shall be received except the following, the first five of which shall be decided without debate:

- (1) To adjourn
- (2) To recess
- (3) To table or postpone indefinitely
- (4) To commit or refer
- (5) For the previous question
- (6) To Continue or postpone to a day certain
- (7) To amend

The motions shall have precedence in the order listed.

N O. MOTION TO ADJOURN

A motion to adjourn shall always be in order except during roll call. When a motion to adjourn is made, it shall be in order for the presiding officer before putting the question to permit any member to state reasons which would seem to render adjournment improper at that time. But debate thereon shall not be had.

O P. DEBATE AND DECORUM

Every Councilmember, before speaking, shall wait to be recognized by the presiding officer. When two or more members wish to speak at the same time, the presiding officer shall designate the member to speak first. No member shall speak more than once until every other member wishing to speak on

the pending question has had an opportunity to do so. No member shall walk out of the meeting while a roll call is being taken. After roll call, any member wishing to leave the dais shall advise the presiding officer of his or her desire to do so prior to departing. No more than three (3) members shall leave the dais at any one time so as to maintain a quorum.

P Q. COUNCIL COMMITTEES

The Council may, from time to time, refer matters to a committee composed of members of the City Council to study an issue or matter, and report its findings and or recommendation to the City Council.

Q R. PUBLIC COMMENT OPPORTUNITIES

- (1) Citizens are given several opportunities to be heard concerning matters scheduled on the Council Agenda, and on any other matters of interest or concern to them. In order to promote an orderly system of holding a public meeting, to give every person an opportunity to be heard, and to ensure that individuals are not embarrassed or harassed as a result of the exercise of their right of free speech, the following rules and guidelines are established:
 - (a) When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state, or local law.
 - (b) When the City Council has placed a limit on the time a speaker may speak, such time limitation shall be announced by the Mayor. When the designated time limit has been reached by a speaker, the Mayor shall inform the speaker accordingly, and the speaker's remarks shall be terminated. A speaker may not yield any part of the speaker's time to any other person nor may any person yield his or her time to a speaker. Except during quasi-judicial proceedings, no speaker may be heard more than once, unless permitted to do so by a majority vote of the City Council.
 - (c) Speakers shall address their comments to the City Council as a whole, rather than to individual Councilmembers, City Staff, or to members of the audience. In order to avoid redundant comments, persons having the same or similar viewpoints on a subject are encouraged to appoint one representative speaker to comment on their behalf.
 - (d) Proper decorum shall be maintained at all times. Only persons who have been recognized by the presiding officer shall address the City Council or make audible remarks during a meeting. Unauthorized remarks, stamping of feet, whistling, or similar demonstrations shall not be permitted during any meeting of the City Council. Furthermore, during any meeting of the City Council, no person shall:
 - (i) Interrupt the Council's proceedings or the comments of any person recognized by the Mayor or any City Councilmember in any manner;

- (ii) Make personal or profane remarks or gestures;
 - (iii) Behave in a disorderly manner;
 - (iv) Display any banner, placard, or sign (except as part of a presentation to the City Council by a person recognized by the Mayor or a Councilmember.) Any banner, placard, or sign displayed as part of a presentation shall not bear a message that is personal, obscene, or profane;
 - (v) Distribute any handouts or materials to members of the audience; or
 - (vi) Refuse to follow the instructions of the Mayor or City Council or to comply with these policies or any other rules governing the Council's proceedings.
 - (e) Any person who engages in behavior that is prohibited herein and/or who is boisterous or disruptive in any manner to the conduct of a meeting shall be asked to leave by the presiding officer and may be escorted from the meeting room by the Police Department. Any person so removed from a Council meeting shall be barred from further attendance at that Council meeting unless expressly permitted to return by a majority vote of the City Council.
- (2) The following opportunities for citizen participation are scheduled on each Council Agenda:
- (a) Petitions to Council.

Citizens may submit in writing a specific request to Council to be heard at a Council regular meeting under Petitions to Council. Citizens who submit petitions to Council pursuant to Section B. shall be allowed a maximum of ten (10) minutes per petition, and the speaker shall be limited to the particular subject stated.
 - (b) Public Comment on Consent Agenda. Prior to Council addressing items on the Consent Agenda, citizens may address Council only on items listed on the Consent Agenda. Public comment shall be limited to a maximum of three (3) minutes per individual, with a maximum of sixty (60) minutes total, unless time is extended as described in subsection Q(3) below.
 - (c) Citizen's Input Time.
 - (i) Time is set aside for any citizen to address the City Council on matters within Council jurisdiction during Citizens' Input Time. No prior scheduling is necessary.

- (ii) Citizens' Input shall be limited to a maximum of three (3) minutes per individual, with a maximum of sixty (60) minutes total, unless time is extended as described in subsection Q(3) below.
- (iii) Items scheduled for Public Hearing or Public Input are not to be addressed by citizens during Citizens' Input, but are to be addressed at the time of the Public Hearing or Public Input.
- (iv) There shall be no discussion on the issues presented during Citizens' Input by City Councilmembers or City Staff during Public Comment. Once Public Comment has been closed, the items may be addressed in the order presented by first the Councilmembers, Mayor, City Manager, and City Attorney. During this time, without objection, the Mayor or Councilmember may recognize any other individual concerning the issue.

(d) Public Hearing/Public Input for Ordinances and Resolutions

At the time an ordinance is scheduled for public hearing, or a resolution is scheduled for public input, citizens have the opportunity to express their opinions concerning the ordinance or resolution being heard pursuant to Section T. and herein. Appropriate time limits may be placed on speakers by the presiding officer or by a majority vote of the City Council.

- (3) The Mayor and Council shall have discretion in implementing certain procedures as follows:
 - (a) The Council, by motion, or the Mayor, with the majority consent of the City Council, may extend time limits for citizen input and/or public comment at regular Council meetings or at COW meetings and also set time limits on the length of time each individual may speak.
 - (b) There shall be no public input on issues scheduled as Discussion items unless a majority of Council approves the recognition of a member of the public for the purpose of providing clarification or asking a relevant question. Any other public input during a Discussion item shall not be heard unless approved by a majority vote of City Council. However, citizens may speak during Citizen's Input on any matter scheduled as a Discussion item.

R §. ADVISORY COMMITTEES, BOARDS AND COMMISSIONS

The names, addresses, and background information of all persons to be considered for appointment by City Council to various City Advisory Committees, Boards, or Commissions shall be submitted in writing on a form provided by the City Clerk. Before Council action, the applications may be considered in the Committee of the Whole. Advisory committees, such as Task Forces, are to be composed of eight (8) representatives, one appointed by the Mayor and each Councilmember, unless otherwise decided by Council.

S T. ROLL CALL

Roll Call votes at City Council Meetings shall be taken in a rotating alphabetical order; that is, rotating one Council Member's name alphabetically after each Council Meeting.

F U. ORDINANCE AND RESOLUTION ADOPTION PROCEDURE

Ordinances and resolutions may be prepared and brought before City Council as initiated by the City Manager or City Attorney, or by the request of the Mayor or a City Councilmember.

- (1) When an ordinance or resolution is proposed by the Mayor or a Councilmember, the Mayor or Councilmember shall present the subject matter of the ordinance or resolution to City Council prior to proceeding with drafting the proposed ordinance in order for Council to decide if the concept is one that it would like to see developed. At least one (1) member of Council must concur with the initiating member in order for the initiating Councilmember or Mayor to advance the ordinance or resolution to staff and ultimately to Council. Although not required, the Mayor or Councilmember who initiates an ordinance or resolution may sponsor that ordinance or resolution.
- (2) Ordinances or resolutions initiated by either the City Manager or City Attorney do not need to be brought before Council for conceptual review. Ordinances and resolutions initiated by the City Manager or City Attorney may include, but are not limited to:
 - (a) Ordinances or resolutions required to be prepared upon application by members of the public, including but not limited to applications by property owners for land use and zoning amendments, vacations of plats, appeals, or planned development projects shall be prepared and brought before the City Council without any prior approval of the Council; and
 - (b) Ordinances or resolutions required by the City of Cape Coral Code of Ordinances, Land Use and Development Regulations, City Charter, or State Statutes shall be prepared to comply with the required regulation or legislation and brought before the City Council without any prior approval of the Council.
- (3) All ordinances and resolutions shall be reviewed and approved by the City Attorney or an Assistant City Attorney for legal sufficiency or form or both prior to the ordinance or resolution being brought before City Council.
- (4) At first reading of a proposed ordinance, the City Manager or City Attorney shall explain the proposed ordinance and answer questions of Councilmembers. The City Council shall set the date(s) of the public hearing(s) on the ordinance. At first reading, the City Council may amend a proposed ordinance; however, if an amendment encompasses substantive changes not within the subject matter described in the title of the ordinance, the ordinance will then be placed on a City Council Agenda for another first reading.
- (5) The provisions of this subsection shall be adopted to accommodate any requirements of State Statute for particular ordinances or types of ordinances.

- (6) Public Hearings on ordinances shall be conducted as follows:
- (a) The City Clerk shall read the title of the ordinance into the record.
 - (b) When applicable, City staff shall make a presentation.
 - (c) The Mayor shall, without comment, open the Public Hearing.
 - (d) Any person wishing to speak shall state their name prior to addressing council. Each individual wishing to address council on the ordinance shall have one opportunity to address City Council during the public hearing. Except during quasi-judicial proceedings, no speaker may be heard more than once, unless permitted to do so by a majority vote of the City Council.
 - (e) The Mayor shall close the Public Hearing.
 - (f) There shall be no discussion by City Council on the ordinance until a motion is made and seconded. Once each Councilmember has been given the opportunity to address the motion, the Mayor shall recognize Councilmembers in the order of the additional request to speak. The Mayor shall maintain a list of Councilmembers, as they are recognized, to avoid confusion as to the order of the requests. After all Councilmembers have been given full opportunity to comment on the motion, the Mayor shall have the final opportunity to address the motion prior to calling the roll.
- (7) At the time a resolution is presented to City Council for adoption, there shall be public input time allowing citizens to provide input on the proposed resolution. Citizens may provide public input concerning any resolution as follows:
- (a) When required by law, or when requested by the Mayor or a Councilmember, public input shall be scheduled and held at the time the resolution is considered by council. The procedure for such public input shall be the same as that identified for Public Hearings in Section T.(6) above;
 - (b) If the resolution is scheduled on the Consent Agenda, citizens may provide public input during Public Comment on the Consent Agenda; or
 - (c) If the resolution is scheduled on the agenda anywhere other than the Consent Agenda, and public input is not scheduled for when the resolution is being considered by Council, citizens may provide public input during the regularly scheduled Citizen's Input time.

V. COUNCILMEMBER REPORTS

At each regular meeting of City Council, the Mayor and Council members shall be given an opportunity to report to the City Council items or actions that pertain to or are directly related to City business that have not been scheduled on the agenda. Council members shall not use this time to

report on or address issues or actions that have no relevance to City business. Whenever practicable, an item shall not be voted on during the Reports of the Mayor and Council members, but be scheduled for a later agenda as a separate item.

UW. ROBERTS RULES OF ORDER

Matters not expressly covered by these rules shall be governed by the current edition of Robert's Rules, newly revised, as the parliamentary procedure for the City Council of the City of Cape Coral. A copy of said Robert's Rules shall be kept on file in the Office of the City Clerk of the City of Cape Coral.

VX. SUSPENSION OR AMENDMENT OF THE RULES

The concurrence of a majority of the members elect shall be required to amend or suspend any of the Permanent Rules of the City Council of Cape Coral.

W. ~~COUNCILMEMBER ABSENCES~~

~~Pursuant to Section 4.11 of the Charter, any member who has three consecutive, unexcused absences from regular meetings will be removed from office. Absences are presumed excused, and are unexcused only by a motion to hold the absence unexcused and a majority vote in favor of that motion. Such motion and vote must occur on the next regularly scheduled Council meeting after the date absent.~~