

From: Kelly Fernandez - Persson & Cohen [<mailto:kfernandez@swflgovlaw.com>]
Sent: Wednesday, November 01, 2017 10:44 AM
To: John Holic <JHolic@Venicegov.com>
Cc: Donna Barton - Persson & Cohen <dbarton@swflgovlaw.com>; Dave Persson - Persson & Cohen <dpersson@swflgovlaw.com>; Lori Stelzer <LStelzer@Venicegov.com>
Subject: RE: Hurricane Preparedness

Mayor,

We have been reviewing the scope of the City's emergency management authority, including that provided by Section 252.38. Dave and I spoke and believe we should be in a position to discuss this at the November 28th Council meeting.

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From: Donna Barton - Persson & Cohen
Sent: Tuesday, October 31, 2017 11:11 AM
To: Kelly Fernandez - Persson & Cohen
Subject: FW: Hurricane Preparedness

I'm sure David will see this when he can but I thought I would pass on to you as well in his absence.

Donna G. Barton
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From: John Holic [<mailto:JHolic@Venicegov.com>]
Sent: Tuesday, October 31, 2017 11:09 AM
To: Donna Barton - Persson & Cohen
Subject: FW: Hurricane Preparedness

Hi Donna,
This is not urgent, but I thought I should forward it to you as Dave is not currently available.
Thanks,
John Holic

From: John Holic
Sent: Tuesday, October 31, 2017 11:07 AM
To: Edward Lavallee <elavallee@venicegov.com>
Cc: 'Dave Persson - Persson & Cohen' <dpersson@swflgovlaw.com>; Lori Stelzer <LStelzer@Venicegov.com>; Shawn Carvey <SCarvey@Venicegov.com>; Frank Giddens <FGiddens@Venicegov.com>; 'chines@scgov.net' <chines@scgov.net>
Subject: Hurricane Preparedness

Ed,
As we move forward in preparing for future protection of our residents, I would like to have F.S. 252.38 discussed by our City Attorney. I am providing a copy of an email sent by Commissioner Hines to Tom Harmer and a host of others on September 15, 2017; I do not know if this is the entire F.S. 252.38 or not, but I have added bold to the portion regarding Municipalities:

From: "Charles D. Hines" <chines@scgov.net>
Date: September 15, 2017 at 9:34:20 AM EDT
To: Tom Harmer <tharmer@scgov.net>
Cc: Stephen DeMarsh <sdemarsh@scgov.net>, Richard Collins <rcollins@scgov.net>, Jonathan Lewis <jrlewis@scgov.net>, Steven Botelho <sbotelho@scgov.net>, Mark Cunningham <mcunning@scgov.net>, Robin Bayus <rbayus@scgov.net>, Michele Scheibe <mscheibe@scgov.net>, Jody Mann <jmann@scgov.net>, Jeanette Gates <JGates@Venicegov.com>, Robert Daniels <RDaniels@Venicegov.com>, Tom Knight <Tom.Knight@sarasotasheriff.org>
Subject: **Post Irma review**

Gentlemen: As part of the review of our Post-Irma emergency management systems, protocols, command and control and inter-local- agreements please be sure that the review of the opening of the VCC by the City of Venice, in disregard and against the recommendations of our Emergency Management Director is reviewed in light of Florida Law and State emergency management powers.

This is very important for the next emergency event so that all of our municipalities/schools/the Sherriff/Police Chiefs, are on the same page on how decisions will be made and who has the final say on which shelters will be opened and which ones will not. Then, should a municipality chose to ignore that position, please make it clear what the next step by the County will

be.....deferring to a City and leaving people in a questionable building I hope is not the answer. I understand we want to promote inter-governmental cooperation, but laws, such as F.S. 252.38, are in place, so that when emergencies happen, potentially unqualified, untrained, well-meaning people are not directing and giving orders about what to do or not do, where to go or what buildings are safe, etc.

The more I think about what happened, and even worse what could have happened by allowing 400 people into a building that is only rated for category 3 winds, that is very close to the Gulf, when Irma was a strong 4 and potentially increasing to a 5, with accompanying significant storm surge, (should it had continued on its then projected path), was irresponsible and put the lives of our citizens at risk. This should have only been allowed or even considered if there were no other alternatives. In this situation we know that was not the case, as there were many open shelter spaces in safer, better designed locations throughout the County. Transportation issues could have been resolved with a few buses offering rides from the VCC, for those who drove there did not feel comfortable driving themselves to the open shelters.

I understand that we released the running of the VCC to the City when the City decided to ignore our recommendations, however; if this would have gone bad, (remember the roof at shelter that collapsed in Arcadia during Hurricane Charlie), the injured and our community would have looked to us to answer why did you let this happen.....Florida law puts these decisions on the County. I look forward to improving our systems and am so thankful for the way this turned and for all of the positives that did happen in the operations of this emergency situation.

Again thank you all for all of your hard work and professionalism. Hopefully this weekend is a little more quiet and you all can get some well deserved rest and relaxation.

252.38 Emergency management powers of political subdivisions.—

Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. [252.31-252.90](#), each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. [252.31-252.90](#), each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.

(b) Each county emergency management agency created and established pursuant to ss. [252.31-252.90](#) shall have a director. The director must meet the minimum training and education qualifications established in a job description approved by the county. The director shall be appointed by the board of county commissioners or the chief administrative officer of the county, as described in chapter 125 or the county charter, if applicable, to serve at the pleasure of the appointing authority, in conformance with applicable resolutions, ordinances, and laws. A county constitutional officer, or an employee of a county constitutional officer, may be appointed as director following prior notification to the division. Each board of county commissioners shall promptly inform the division of the appointment of the director and other personnel. Each director has direct responsibility for the organization, administration, and operation of the county emergency management agency. The director shall coordinate emergency management activities, services, and programs within the county and shall serve as liaison to the division and other local emergency management agencies and organizations.

(c) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized and, in addition, shall conduct such activities outside its territorial limits as are required pursuant to ss. [252.31-252.90](#) and in accordance with state and county emergency management plans and mutual aid agreements. Counties shall serve as liaison for and coordinator of municipalities' requests for state and federal assistance during postdisaster emergency operations.

(d) During a declared state or local emergency and upon the request of the director of a local emergency management agency, the district school board or school boards in the affected area shall participate in emergency management by providing facilities and necessary personnel to staff such facilities. Each school board providing transportation assistance in an emergency evacuation shall coordinate the use of its vehicles and personnel with the local emergency management agency.

(e) County emergency management agencies may charge and collect fees for the review of emergency management plans on behalf of external agencies and institutions. Fees must be reasonable and may not exceed the cost of providing a review of emergency management plans in accordance with fee schedules established by the division.

(2) MUNICIPALITIES.—Legally constituted municipalities are authorized and encouraged to create municipal emergency management programs. Municipal emergency management programs shall coordinate their activities with those of the county emergency

management agency. Municipalities without emergency management programs shall be served by their respective county agencies. If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and requirements applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.

This above email should be included in our research packet for future action. As Venice does have a municipal emergency management program, we should obtain in writing from the county such information on the Community Center as the Elevation Certificate (I am sure they have this on file as it would be difficult to declare a facility as a Hurricane Shelter without that knowledge), maximum occupancy, staffing requirements, and any other information Deputy Fire Chief Giddens feels is important to have so that we can coordinate our activities with those of the county emergency management agency. Up until this point, Venice just staffed its EOC, I think from this point forward we must be more proactive to better protect our residents. Other than a couple of articles in the newspaper, I have heard nothing from the county as to what Venice will do in the event of another emergency event like Irma. As of tomorrow, we are only 7 months away from the start of a new Hurricane season, not much time to plan, build or modify existing buildings.

One other rumor that I heard, not confirmed in writing that I know of, is that the Community Shelter will not be used as a Hurricane shelter at all in the future, regardless of the intensity of the storm. I think we should find out if there is any truth to that rumor immediately as that would leave Venice without any shelter within easy access for our residents. If this rumor is true, we need to find out what the county intends to do for transportation of Venice Residents to wherever the shelter may be.

In addition, I think it might be appropriate to suggest that the county update its materials. The Venice Community Center is listed as 19 feet above sea level (ASL) on their chart, yet in a newspaper article it was stated that it is only 13 feet ASL. The Sarasota County GIS data base lists it as 15.78 feet ASL. The true elevation should be on the Elevation Certificate that the county should provide, however, we need to make sure it gets transferred to the information brochures. As I have included an email from Commissioner Hines in this email, I have courtesy copied him so that he is aware of my request.

John
