

AGENDA
VENICE CITY COUNCIL
COUNCIL CHAMBERS – 401 West Venice Avenue

April 8, 2008 – 1:30 P.M.

*This meeting will be broadcast on Comcast Channel 21 on Wednesday, April 9, and
Saturday, April 12, 2008 at 9:30 a.m. For further information, log on to www.venicegov.com*

CALL TO ORDER

ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

I. SERVICE AWARDS

25-Year Service Award

Johnnie L. Poole, Solid Waste Foreman, Public Works Department, Solid Waste
Division

II. BOARD APPOINTMENTS

Historic Preservation Board

Elizabeth J. Intagliata to Complete the Term of Janis L. Fawn from April 8, 2008
to September 30, 2008

Oversight Committee for Interlocal Agreement on School Facility Planning

Emory Harrison as the City of Venice Representative to Serve a Term from
April 8, 2008 to February 28, 2009

Environmental Task Force

Ernie Zavodnyik to Serve as Ex-officio

III. APPROVAL OF MINUTES

Special Meeting

Convocation of Governments - January 18, 2008
Fire Service Fee Workshop – February 20, 2008

IV. AUDIENCE PARTICIPATION

Excluding Public Hearings (Five Minutes Each Speaker)

V. NEW BUSINESS

A. PRESENTATIONS

1. Jean Trammell, Chair, Historic Preservation Board: Lord House Update (10 min.)
2. Fire Chief John Reed: Municipal Service Taxing Unit (10 min.)

B. ORDINANCES – FIRST READING

1. Ordinance No. 2008-08, Extending Inclusion of the City in the Sarasota County Emergency Medical Services Municipal Service Taxing Unit

VI. PUBLIC HEARINGS

1. Rezone Metes and Bounds, APAC Southeast, Inc.; Venice Mining and Minerals, LLC; Miami Valley Ready Mix of Florida, Inc.; and Cemex, Inc; ±288 Acres, Northeast Quadrant of the City North of Laurel Road and East of Knights Trail Road, from OUE-1 (Open Use Estate) to PID (Planned Industrial Development), 05-13RZ
 - a) Public Hearing (Quasi-Judicial)
 - b) Ordinance No. 2008-07 (First Reading)
2. Request from Waterford Master Owners Association, Inc., to Abandon and Convey a Portion of Capri Isles Boulevard Pursuant to Florida Statute 336.125; Retaining a Public Easement for Private and Public Utilities; Approving the Agreement to Abandon and Convey a Road and Right-Of-Way and to Retain an Easement; and Approving the Quit-Claim Deed Reserving a Public Easement
 - a) Public Hearing
 - b) Resolution No. 2008-12

VII. ADMINISTRATIVE REPORTS

- A. City Attorney
- B. Finance Director
- C. City Clerk - Changing Start Time of Regular Council Meetings to 9:30 a.m.
- D. City Manager

Consent Items:

- ITEM 1 - Acceptance of Cooperative Funding from Southwest Florida Water Management District; \$300,000; Cost to Demolish and Construct a Stormwater Pond at 115 U.S. Bypass 41 South

- ITEM 2 - Proceed with Pole and Streetlight Installation on East Gate Drive,
Pursuant to Agreement between Florida Power and Light and City
of Venice

VIII. COUNCIL REPORTS

IX. AUDIENCE PARTICIPATION

X. ADJOURNMENT

* * * * *

*If you are disabled and need assistance, please contact the City Clerk's office
at least 24 hours prior to the meeting*

NOTE:

The agenda materials can be viewed at www.venicegov.com or a CD in pdf format containing all background information for this meeting is available upon request to the City Clerk's office for a \$2 fee. Adobe Acrobat Reader will be needed to open the file.

No stenographic record by a certified court reporter is made of this meeting. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at this meeting upon which any appeal is based.

CITY OF VENICE CODE OF ORDINANCES Section 2-53(3): Audience Participation

The Council will hear comments, concerns or questions from any citizen present at the meeting on matters not on the Agenda, it being understood that any single presentation must be limited to five minutes. Citizen's comments will be permitted on Agenda items at the time the item is under consideration by Council if a speaker card has been submitted to the City Clerk prior to Council's consideration of the items.

MINUTES OF A REGULAR MEETING
CITY COUNCIL, VENICE, FLORIDA

APRIL 8, 2008

A Regular Meeting of the City Council was held this date in Council Chambers at City Hall. Mayor Martin called the meeting to order at 1:30 p.m.

ELECTED OFFICIALS AND OTHERS PRESENT

Roll was called with the following elected officials present: Mayor Ed Martin, Vice Mayor John K. Moore, and Council Members Sue Lang, John Simmonds, Rick Tacy (2:43), Vicki Noren (1:38), and Ernie Zavodnyik.

Also present: City Attorney Bob Anderson, City Clerk Lori Stelzer, City Manager Marty Black, Finance Director Jeff Snyder, Recording Secretary Judy Gamel, and for certain items on the agenda: Planning and Zoning Director Tom Slaughter.

INVOCATION AND PLEDGE OF ALLEGIANCE

The City Clerk offered the Invocation followed by the Pledge of Allegiance led by Mayor Martin.

Mr. Simmonds left the dais at 1:32 p.m. and returned at 1:33 p.m.

Mr. Black left the dais at 1:32 p.m. and returned at 1:36 p.m.

I. SERVICE AWARD

Mayor Martin presented a 25-year service award to Johnnie L. Poole, Solid Waste Foreman, Public Works Department, Solid Waste Division.

Ms. Noren arrived at 1:38 p.m.

II. BOARD APPOINTMENTS

Mr. Moore **moved** to approve the Mayor's recommendation to appoint Elizabeth J. Intagliata to the Historic Preservation Board to complete the term of Janis L. Fawn from April 8, 2008 to September 30, 2008. **Seconded** by Mr. Zavodnyik. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

Mr. Simmonds **moved** to approve the Mayor's recommendation to appoint Emory Harrison as the City of Venice representative to the Oversight Committee for Interlocal Agreement on School Facility Planning to serve a term from April 8, 2008 to February 28, 2009. **Seconded** by Mr. Moore. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

Ms. Lang **moved** to approve the Mayor's recommendation to appoint Ernie Zavodnyik to serve as Ex-Officio to the Environmental Task Force. **Seconded** by Mr. Moore. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

III. APPROVAL OF MINUTES

Mr. Moore **moved** to approve minutes of the Special Meetings held January 18 and February 20, 2008. **Seconded** by Mr. Simmonds. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

IV. AUDIENCE PARTICIPATION

1:42) Herb Levine, 802 Harbor Drive, discussed Grove Terrace and urged council members to consider a rent-to-own program.

V. JEAN TRAMMELL, CHAIR, HISTORIC PRESERVATION BOARD: LORD HOUSE UPDATE

Ms. Trammell discussed rehabilitation funding sources; provided historical background on Joseph Lord, the original builder and occupant, and the Higel family who also lived in the house; and displayed photographs of former occupants of the house. Ms. Trammell concluded with an outline of fund raising efforts, grant requests, partnerships with schools and organizations, and volunteer recruitment efforts.

Don O'Connell, 500 Hauser Lane, expressed concerns with regard to the project's slow progress.

Discussion followed regarding declining funding and the house providing educational opportunities.

VI. FIRE CHIEF JOHN REED: MUNICIPAL SERVICE TAXING UNIT (MSTU)

Chief Reed defined the MSTU as a funding mechanism adopted by ordinance as an ad valorem tax for municipal services, which, in this case, is ambulance service provided to city residents by Sarasota County. This district was created in 2002 and includes the municipal boundaries of Venice. Chief Reed requested approval of Ordinance No. 2008-08.

VII. ORDINANCE NO. 2008-08, EXTENDING INCLUSION OF THE CITY IN THE SARASOTA COUNTY EMERGENCY MEDICAL SERVICES MUNICIPAL SERVICE TAXING UNIT – APPROVED ON FIRST READING

Ms. Stelzer read the ordinance by title only.

Ms. Noren **moved** that Ordinance No. 2008-08 be approved on first reading. **Seconded** by Ms. Lang.

ROLL CALL: MS. LANG, YES; MR. ZAVODNYIK, YES; MR. MOORE, YES; MR. SIMMONDS, YES; MS. NOREN, YES, MAYOR MARTIN, YES. MOTION CARRIED.

There was **consensus** to reorder the agenda and hear the Capri Isles Boulevard public hearing at this time.

VIII. PUBLIC HEARING: REQUEST FROM WATERFORD MASTER OWNERS ASSOCIATION, INC., TO ABANDON AND CONVEY A PORTION OF CAPRI ISLES BOULEVARD PURSUANT TO FLORIDA STATUTE 336.125; RETAINING A PUBLIC EASEMENT FOR PRIVATE AND PUBLIC UTILITIES; APPROVING THE AGREEMENT TO ABANDON AND CONVEY A ROAD AND RIGHT-OF-WAY AND TO RETAIN AN EASEMENT; AND APPROVING THE QUIT-CLAIM DEED RESERVING A PUBLIC EASEMENT

Ms. Stelzer read the Notice of Public Hearing. Mayor Martin opened the public hearing and Ms. Stelzer stated no written communications had been received.

Mr. Black reviewed the request conveying private ownership and maintenance responsibilities of the property to the Waterford Master Owners Association, Inc. The request gives the association better control of roadway access and maintenance and is consistent with all other roads in the subdivision. Mr. Black explained the city would retain a public easement for utilities.

Responding to Ms. Noren, Mr. Black explained that Capri Isles Boulevard would not be extended to Laurel Road.

No one in the audience came forward to speak on the petition and Mayor Martin closed the public hearing.

IX. RESOLUTION NO. 2008-12, REQUEST FROM WATERFORD MASTER OWNERS ASSOCIATION, INC., TO ABANDON AND CONVEY A PORTION OF CAPRI ISLES BOULEVARD PURSUANT TO FLORIDA STATUTE 336.125; RETAINING A PUBLIC EASEMENT FOR PRIVATE AND PUBLIC UTILITIES; APPROVING THE AGREEMENT TO ABANDON AND CONVEY A ROAD AND RIGHT-OF-WAY AND TO RETAIN AN EASEMENT; AND APPROVING THE QUIT-CLAIM DEED RESERVING A PUBLIC EASEMENT – APPROVED AND ADOPTED

Ms. Stelzer read the resolution by title only.

Mr. Zavodnyik **moved** to approve and adopt Resolution No. 2008-12. **Seconded** by Ms. Noren.

ROLL CALL: MS. LANG, YES; MR. MOORE, YES; MR. SIMMONDS, YES; MR. ZAVODNYIK, YES; MS. NOREN, YES; MAYOR MARTIN, YES. MOTION CARRIED.

X. PUBLIC HEARING: REZONE METES AND BOUNDS, APAC SOUTHEAST, INC.; VENICE MINING AND MINERALS, LLC; MIAMI VALLEY READY MIX OF FLORIDA, INC.; AND CEMEX, INC; ±288 ACRES, NORTHEAST QUADRANT OF THE CITY NORTH OF LAUREL ROAD AND EAST OF KNIGHTS TRAIL ROAD, FROM OUE-1 (OPEN USE ESTATE) TO PID (PLANNED INDUSTRIAL DEVELOPMENT), 05-13RZ

(2:20) Mayor Martin announced this is a quasi-judicial procedure and Ms. Stelzer read the Notice of Public Hearing. Mayor Martin opened the public hearing and council members stated no ex-parte communications had been received relative to the petition. Ms. Stelzer stated she received a series of e-mails between Ms. Donna Boyer, the Sarasota County government, and the City of Venice. Responding to Mr. Moore, Ms. Stelzer advised that a copy of the latest e-mail was handed out to council members at the meeting. Ms. Stelzer swore in everyone offering testimony.

Mr. Slaughter, being duly sworn, presented an overview of the request, displayed site photographs and an aerial map of the area, and discussed adjacent property uses, standards of review, and annexation land use entitlements. He also displayed land use and zoning maps, and discussed PID (Planned Industrial Development) zoning district standards, traffic flow, permitted uses, and special exceptions. Mr. Slaughter pointed out that PID is a stand alone district that is fine tuned for each application. Permitted uses have been grandfathered in, but require establishment through zoning. None of the uses contemplated in the applicant's rezoning or under the City of Venice's pre-annexation agreement are included in the listing of prohibited uses. Mr. Slaughter concluded his presentation by noting that Planning Commission recommended approval of the petition.

Mr. Tacy arrived at 2:43 p.m.

Discussion followed regarding the absence of limitations, lack of regulations, the city not having jurisdiction over county property, and permitted uses.

(2:58) Mr. Anderson explained that pre-annexation agreements obligated the city to rezone this property to a zoning district within the city's zoning code.

Discussion followed regarding the absence of anything to mitigate, permitted uses falling under special exceptions, determining correct zoning, standards and conditions that govern permitted uses, and site and development plan approval.

Bruce Franklin, ADP Group, being duly sworn, handed out a packet of information entitled "Memorandum in Support of Rezone Application 05-13RZ" and provided a history of the project beginning with the city contacting the property owner regarding relocation of the cement plant. Approval of this petition will complete a process begun approximately ten years ago. Mr. Franklin explained that council previously approved a rezoning to PID for Rinker Materials which was the same as today's request, which was delayed because it was a large scale comprehensive plan amendment. He noted separation landscaping and dimensions that were negotiated and incorporated into the pre-annexation agreement. Mr. Franklin commented that the original application was for ILW (Industrial Light Warehousing) which permits more flexibility than PID.

Dana West, Managing Director of Biological Research Associates, being duly sworn, indicated that all of the parcels were in compliance with appropriate regulatory approval, permits, and ordinances. Mr. West explained the parcels are subject to numerous federal, state, and county requirements and regulations for water use, stormwater and industrial discharge, air emissions, wildlife, and wetlands, and informed council members that at least 35 different agency inspections occurred on these four parcels in the last three or four years. He continued that all four parcels were found in compliance with appropriate requirements, including air emissions. Mr. West explained, however, the parcels were no longer subject to a Sarasota County earth moving ordinance as a result of annexation into the city, and pointed out that staff addressed air emission issues with the applicant under the pre-annexation agreement.

Jeff Russell, attorney for the applicants, being duly sworn, reviewed portions of the pre-annexation agreement relating to designating Gene Green Road as a commercial industrial area.

Responding to Mr. Moore, Mr. Franklin indicated the property's county land use classification was rural, and the zoning classification was consistent with OUE-1, which permits by special exception uses that exist today. He continued that the County Commission approved stipulations were included in the pre-annexation agreement with the city.

(3:24) Discussion ensued regarding hours of operation and a complaint regarding trucks lining up and idling.

Mr. Black clarified the difference in complaints routed through the Venice Police Department versus violations under terms of the pre-annexation agreement.

Discussion continued regarding operations on property adjacent to the Venetian Golf and River Club (VG&RC), layout of the golf course in relation to subject property, landscaping and setbacks, five acres designated by the city for a reclaimed water pond, new cement plant location, timetable for ceasing operations, and noise.

Mr. West stated that active cement/asphalt and cement production facilities were 1,300 feet or farther from the VG&RC, the proposed Cemex plant location was one to two miles to the north of VG&RC, the excavation area existing along the immediate northern area would cease in 2011, and the small portion on the southern border would be a city-owned facility at that time. He added that all of the facilities were subject to the city's noise ordinance.

Recess was taken from 3:37 p.m. until 3:52 p.m.

Donna Boyer, 149 Rimini Way, being duly sworn, commented on noise and air quality and requested that council members delay or deny rezoning until land use and compatibility issues were resolved. Ms. Boyer also requested establishment of a city code similar to Sarasota County code standards.

Fred Gibson, 122 Martellago Drive, being duly sworn, requested that existing issues be addressed as soon as possible and stated there was no disclosure regarding these operations when he purchased his home in VG&RC.

Dean Calamaras, former mayor of Venice currently residing in Georgia, being duly sworn, commented that plans began in 1998 to relocate the cement plant to the proposed location, which was a rural area at that time.

Bill Dwyer, 402 Montelluna Drive, being duly sworn, requested denial or delay of the petition, displayed photographs, and commented on berm height.

(4:21) Marshall Happer, 117 Martellago Drive, being duly sworn, handed out and read from written comments regarding annexation of the property and mining operations being allowed as a special exception, and requested denial unless adequate restrictions were put in place.

Discussion followed regarding a conceptual site and development plan being included in the agenda packet and certification of agreements and evidence of unified control by the city attorney.

Michael Rigdon, 118 Treviso Court, being duly sworn, speaking for 230 couples who are members of the VG&RC Community Association, commented on buffering, light shields, and noise and dust control stipulations.

Pamela Perry, 117 Mestre Court, being duly sworn, spoke in opposition to the rezone and indicated the need for a vision for North Venice.

Richard Anderson, 278 Montelluna Drive, being duly sworn, displayed an aerial photograph and discussed buffering.

Mr. West, displaying an aerial photograph, pointed out subject parcels and rebutted comments with regard to property acquired by the county to build a reservoir and hours of operation.

(4:52) Mr. Franklin clarified zoning codes relating to an asphalt plant and a residentially zoned property, and discussed monitoring operations.

Mr. Russell remarked that the applicants had abided by all aspects of the pre-annexation agreement and requested approval of the rezone.

Discussion ensued regarding county-owned property, county GIS maps that incorrectly show county property as being within city limits, there being no documentation with regard to a special exception granted by Sarasota County concerning berm height requirements, the conceptual site and development plan that was submitted as part of the petition, hours of operation, installing light shields, noise and dust, liability violations, delaying action until May meeting, reviewing the special

exception request in conjunction with the rezoning request, property owner not needing a special exception for permitted uses, selecting the proper zoning district, stipulations that do not violate the pre-annexation agreement, scheduling of the second reading, and a VG&RC meeting with Sarasota County and City of Venice officials.

(5:31) Mr. Anderson explained that Mr. Tacy was not present for all of today's quasi-judicial testimony and was, therefore, not able to vote on this issue.

Mayor Martin closed the public hearing.

XI. ORDINANCE NO. 2008-07, REZONE METES AND BOUNDS, APAC SOUTHEAST, INC.; VENICE MINING AND MINERALS, LLC; MIAMI VALLEY READY MIX OF FLORIDA, INC.; AND CEMEX, INC; ±288 ACRES, NORTHEAST QUADRANT OF THE CITY NORTH OF LAUREL ROAD AND EAST OF KNIGHTS TRAIL ROAD, FROM OUE-1 (OPEN USE ESTATE) TO PID (PLANNED INDUSTRIAL DEVELOPMENT), 05-13RZ – APPROVED ON FIRST READING

Ms. Stelzer read the ordinance by title only.

Mr. Moore **moved** to approve Ordinance No. 2008-07 on first reading subject to City Attorney, City Manager, and city staff review of concerns with lights, dust, noise, buffering, and enforcement, on first reading. **Seconded** by Mr. Simmonds.

Discussion ensued regarding adding review of concerns to the motion in order to provide council members an additional comfort level, being sensitive to public concerns, protecting residents in pre-annexation agreements, industry needs versus quality of life for neighboring residents, and relocation of solid waste and public works facilities to the north Venice area.

ROLL CALL: MR. MOORE, YES; MS. NOREN, YES; MS. LANG, YES; MR. ZAVODNYIK, NO; MR. SIMMONDS, YES; MAYOR MARTIN, YES. MOTION CARRIED.

XII. CITY ATTORNEY'S REPORT

Mr. Anderson commented on the short term rental lawsuit and recommended that city resources be utilized to develop an appropriate regulatory scheme with regard to short term rentals.

There was **consensus** for the city not to pursue an Appeal of the Order on the Petition for Writ of Certiorari for Milo vs. City of Venice and use resources to develop a regulatory scheme regarding short term rentals.

XIII. FINANCE DIRECTOR'S REPORT

Mr. Snyder had no report.

XIV. CITY CLERK'S REPORT

Ms. Stelzer outlined recommendations from the Agenda Committee to temporarily set the start time of regular council meetings to 9:30 a.m. until a new ordinance is in place, and direct staff to prepare an ordinance including an option for start times of 9:30 a.m., 1:30 p.m. and 6:00 p.m.

Discussion followed regarding impact to public input, delaying a decision until the next council meeting, flexibility of times, accommodating attorneys, and setting public hearing times.

(5:56) Jeff Boone, Venice resident, stated he believed that starting meetings at 9:30 a.m. worked against public input.

Marty Dover, Venice resident, expressed concerns regarding low attendance at 9:30 a.m. meetings.

Dan Boone, Venice resident, commented that everyone should have an opportunity to attend council meetings.

Discussion followed regarding employee overtime costs and all day meetings keeping staff from their regular duties.

Ms. Stelzer handed out information on the history of the Palm Arboretum.

Mr. Tacy left the meeting at 6:16 p.m.

XV. CITY MANAGER'S REPORT

- ITEM 1 - Acceptance of Cooperative Funding from Southwest Florida Water Management District; \$300,000; Cost to Demolish and Construct a Stormwater Pond at 115 U.S. Bypass 41 South, Funds Available in Account No. 480-0950-541.63-00
- ITEM 2 - Proceed with Pole and Streetlight Installation on East Gate Drive, Pursuant to Agreement between Florida Power and Light and City of Venice, Funds Available in Public Works General Maintenance Budget Account No. 001-0921-519.43-00, Streetlight Installation and Monthly Power Usage, Estimated Electrical Costs \$12.00 per Month Plus an Additional \$3.18 per Month for Ten (10) Years to Cover Cost of New Pole and Installation

Ms. Noren **moved** to approve Items 1 and 2 of the City Manager's Report. **Seconded** by Mr. Simmonds. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

Mr. Black discussed the April 21, 2008 joint meeting with Sarasota County and the municipalities regarding criminal justice facilities planning, city and county staff meetings to discuss Joint Planning Agreement issues, draft of the strategic plan, the proposed performing arts center, and workshop schedules.

There was **consensus** that the Comprehensive Planning Workshop remain scheduled for Friday, April 11, 2008.

XVI. REPORT BY MR. ZAVODNYIK

Mr. Zavodnyik reported that the newly formed Environmental Task Force would meet on Friday, May 9, 2008.

Mr. Zavodnyik handed out an e-mail concerning Ordinance No. 204 which designates residential areas according to race.

There was **consensus** for the City Clerk to Perform a Legislative History on Ordinance No. 204.

XVII. REPORT BY MS. LANG

Ms. Lang reported on the April 5, 2008 Venice Housing Authority workshop which dealt with the redevelopment of Grove Terrace.

XVIII. REPORT BY MR. MOORE

Mr. Moore discussed funding and planning for the proposed performing arts center and agreed to participate in planning discussions with the Sarasota County School Board.

Mr. Moore urged anyone who owns or has interest in historic properties to attend the April 9, 2008 Historic Preservation Board Workshop.

XIX. REPORT BY MS. NOREN

(6:29) Ms. Noren commented on meeting and workshop schedules.

XX. REPORT BY MR. SIMMONDS

Mr. Simmonds had no report.

XXI. REPORT BY MAYOR MARTIN

Mayor Martin discussed correspondence to the Federal Aviation Administration officials in Orlando requesting a meeting.

Mike Pachota, Sharky's owner, offered an update on impacts of parking lot construction on his business.

Discussion followed regarding permit deadlines and landscaping.

Jim Leis, 445 Mahon Drive, discussed Tramonto Vista Park and concerns with funding and compliance with the bond referendum.

Discussion followed regarding reviewing bond documents and public relation campaign materials.

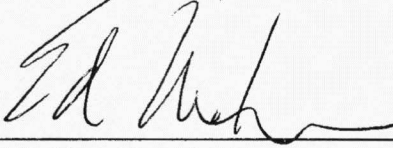
Maxine Barritt, 1041 Capri Isles Boulevard, reviewed the *Venice Visions* city newsletter which outlined Tramonto Vista Park amenities.

There was **consensus** to direct staff to review compliance with the bond referendum for Tramonto Vista Park.

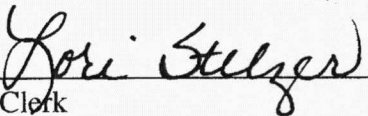
XXII. ADJOURNMENT

There being no further business to come before council, the meeting was adjourned at 6:53 p.m.

ATTEST:



Mayor – City of Venice



City Clerk

AGENDA
VENICE CITY COUNCIL
COUNCIL CHAMBERS – 401 West Venice Avenue

September 23, 2008 – 1:30 P.M.

*This meeting will be broadcast on Comcast Channel 21 on Wednesday, September 24, and
Saturday, September 27, 2008 at 9:30 a.m. For further information, log on to www.venicegov.com*

CALL TO ORDER

ROLL CALL

I. UNFINISHED BUSINESS

ORDINANCES – FINAL READING AND PUBLIC HEARING

1. Ordinance No. 2008-07, Rezone Metes and Bounds, APAC Southeast, Inc.; Venice Mining and Minerals, LLC; Miami Valley Ready Mix of Florida, Inc.; and Cemex, Inc; ±288 Acres, Northeast Quadrant of the City North of Laurel Road and East of Knights Trail Road, from OUE-1 (Open Use Estate) to PID (Planned Industrial Development), 05-13RZ (Quasi-judicial)

II. ADJOURNMENT

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MINUTES OF A REGULAR MEETING
CITY COUNCIL, VENICE, FLORIDA

SEPTEMBER 23, 2008

A Regular Meeting of the City Council was held this date in Council Chambers at City Hall. Mayor Martin called the meeting to order at 1:30 p.m.

ELECTED OFFICIALS AND OTHERS PRESENT

Roll was called with the following elected officials present: Mayor Ed Martin, Vice Mayor John K. Moore, and Council Members Sue Lang, Vicki Noren, John Simmonds, Rick Tacy, and Ernie Zavodnyik.

Also present: City Attorney Bob Anderson, City Clerk Lori Stelzer, Interim City Manager Nancy Woodley, Recording Secretary Judy Gamel, and for certain items on the agenda: Planning and Zoning Director Tom Slaughter.

I. ORDINANCE NO. 2008-07, REZONE METES AND BOUNDS, APAC SOUTHEAST, INC.; VENICE MINING AND MINERALS, LLC; MIAMI VALLEY READY MIX OF FLORIDA, INC.; AND CEMEX, INC; ±288 ACRES, NORTHEAST QUADRANT OF THE CITY NORTH OF LAUREL ROAD AND EAST OF KNIGHTS TRAIL ROAD, FROM OUE-1 (OPEN USE ESTATE) TO PID (PLANNED INDUSTRIAL DEVELOPMENT), 05-13RZ – CONTINUED

Mr. Anderson provided a brief history of the petition noting the property was annexed into the city on June 22, 2004, and pre-annexation agreements that identified permitted uses including concrete production and storage, and a Comprehensive Plan amendment approved on November 8, 2005 that provided an industrial/commercial land use designation. Mr. Anderson reminded council members that consideration of this petition was bound by the pre-annexation agreements, the Comprehensive Plan, and terms and conditions of the Land Development Code.

Mayor Martin announced this was a quasi-judicial procedure and Ms. Stelzer read the ordinance by title only.

Mr. Moore **moved** that Ordinance No. 2008-07 be placed on final reading. **Seconded** by Mr. Tacy. **MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.**

Mayor Martin opened the public hearing. Mr. Moore disclosed telephone conversations with Marshall Happer scheduling a tour of the Venetian Golf and River Club subdivision adjacent to mining operations. Mr. Moore continued that the tour did not take place but he did accompany Stormwater Supervisor Al King on a tour of the area. Ms. Noren disclosed an unaccompanied site visit to the area. Ms. Lang stated she no longer served on the Council of Neighborhood Associations board. Mayor Martin disclosed he copied Ms. Stelzer with e-mails received by him regarding the petition. Council members confirmed that all e-mail and written communications received by them regarding this petition had been provided to Ms. Stelzer and made part of the record of today's

proceeding. Mr. Moore presented Ms. Stelzer with an April 1, 2008 e-mail from Mr. Happer referencing mining operations. Ms. Stelzer stated she received 80 e-mails and written communications, two in support, 65 in opposition, and 12 undetermined.

Mayor Martin explained that anyone wishing to speak needed to complete a Request to Speak card containing an oath that their testimony was truthful.

Dan Lobeck, attorney for the intervenors, being duly sworn, submitted a pending motion to intervene as full party participants, requested that Marshall Happer identify himself, and confirmed it was Mr. Happer's sworn testimony that factual allegations contained in the motion to intervene as full party participants were true and accurate.

Jeff Russell, attorney for the applicant, being duly sworn, had no objection to the motion to intervene, and offered Mr. Lobeck an equal amount of time for witness testimony.

Council members had no objections to Mr. Lobeck's motion to intervene.

(1:48) Mr. Slaughter, being duly sworn, requested that the prior staff report including Comprehensive Plan and Zoning Code references, exhibits, presentation, and prior testimony presented at the April 8, 2008 council meeting be entered into the record of this meeting. Mr. Slaughter displayed an aerial photograph of the property and discussed Standards of Review, PID Standards, and permitted uses. Mr. Slaughter displayed a drawing depicting portions of the mining properties located within city limits, pointed out the southern boundary of the Venice Minerals property adjacent to the Venetian Golf and River Club (VG&RC) subdivision, and reviewed stipulations proposed by staff which include restricted permitted use; building setbacks; buffering; lighting control; limitation of stockpile height, mitigation of noise, light, and dust from mobile operations; safeguarding air quality; and noise abatement.

Discussion followed regarding Sarasota County mining activities, existing permitted activities, citing code violations, county meetings with VG&RC residents, air quality policies, and movement of dirt off site.

Mr. Lobeck displayed a drawing depicting portions of the mining properties located within city limits and questioned Mr. Slaughter regarding permitted uses and restrictions on permitted uses.

Recess was taken from 2:27 p.m. until 2:35 p.m. to allow Mr. Slaughter to review permitted uses contained in the PID zoning ordinance.

Mr. Lobeck displayed a photograph of a dirt pile visible over existing buffering and questioned Mr. Slaughter regarding visibility of mining operations from existing buffering and VG&RC homeowner lots.

(2:58) Jeff Russell, representing the applicant, being duly sworn, questioned Mr. Slaughter regarding permitted uses, setbacks and buffers, site visits, roadway watering, code enforcement violations, and stockpile height.

Mr. Anderson questioned Mr. Slaughter regarding stockpile height.

Mr. Russell handed out exhibits, presented background information concerning relocation of certain cement plants from downtown Venice to the current location, annexation into the city, buffering, the city exercising police power, stockpile height, amending the pre-annexation agreement, and mining operations on county property.

(3:26) Bruce Franklin, Professional Planner with the ADP Group, acting as an expert witness for the applicant (Tab 1 of exhibits), being duly sworn, referenced the adopted conceptual master plan for VG&RC (Tab 4 of exhibits), and answered questions from Mr. Russell regarding the master plan's purpose, existing VG&RC residences, buffers, distance of residences from mining operations, WCI establishing sufficient buffers in acknowledgement of mining operations when VG&RC was built, and supporting proposed stipulations.

Dana West, Biological Research Associates, acting as an expert witness for the applicant (Tab 2 of exhibits), being duly sworn, referenced the Venice Parcels Permit List (Tab 5 of exhibits), and answered questions from Mr. Russell regarding ordinances that regulate mining activities, Sarasota County Land Development Regulations (Tab 6 of exhibits), emissions testing and inspections reports (Tab 7 of exhibits), compatibility issues, distances between mining operations and VG&RC residences (Tab 8 of exhibits), and stockpiles.

(4:00) Responding to Mr. Anderson, Mr. West stated he did not know the height of the stockpiles at the time of annexation in June of 2004, but noted that stockpile heights fluctuate with time.

Discussion ensued regarding stockpiles and berms.

Mr. Lobeck questioned Mr. West regarding the scope of his expertise and berm measurements.

(4:28) Mr. Russell read and entered into the record the affidavit (Tab 9 of exhibits) signed by Stormwater Supervisor Al King and verifying there was a low probability that any pollutants would leave the sites under conditions observed during his site visits.

Russell Kemp, Environ International Corporation, acting as an expert witness for the applicant (Tab 3 of exhibits), being duly sworn, responding to questions from Mr. Lobeck, stated he was not an expert in concrete recycling, shell mining, and rock mining. Mr. Kemp advised he was an expert in rock crushing facilities in the ceramic tile industry and other non-metallic mineral processing industries.

Mr. Lobeck objected to Mr. Kemp testifying as an expert witness.

Mr. Anderson stated Mr. Kemp would be allowed to testify and it would go to the weight of his testimony.

Mr. Russell questioned Mr. Kemp regarding his experience with dust emissions, violations of pre-annexation agreements relative to dust particulates (Tab 5 of exhibits), permit requirements, site visits, compliance test reports, compliance reports (Tab 7 of exhibits), facility inspections, inspections indicating compliance with rules, vegetative buffers, and minimal probability of particulate migration.

Mr. Kemp responded to questions from Mr. Lobeck regarding his scope of expertise and dust pollution.

Mr. Russell informed council members his case was concluded.

Mr. Lobeck reviewed issues that he believed provided legal impediments to approval of the rezoning including absence of unified control.

Mr. Anderson clarified he previously provided a certification of evidence of unified control and a development agreement.

Mr. Lobeck argued that the development agreement did not meet code requirements and, therefore, the certification of evidence of unified control is without sufficient foundation to comply with ordinance requirements. Mr. Lobeck explained other legal impediments related to the necessity of separate rezonings and uses for each parcel, and an inadequate Site and Development Plan.

Recess was taken from 5:16 p.m. until 5:42 p.m.

Mr. Moore **moved** to end the meeting at 6:30 p.m. and recess until Wednesday morning. **Seconded** by Mr. Tacy.

Discussion followed regarding altering the record, availability of expert witnesses, and audience members planning to speak.

Council members concurred with Mr. Moore's suggestion.

Mr. Lobeck said he was willing to forego the remainder of the testimony until the meeting was reconvened, and suggested that council allow testimony from Mr. Happer and audience members.

Mr. Anderson pointed out that remaining testimony may take all day.

Discussion ensued regarding scheduling conflicts and rescheduling the meeting continuation.

Mr. Anderson recommended that Mr. Lobeck continue his opening statement.

Mr. Lobeck agreed to continue the meeting at another time.

Mr. Moore **withdrew** his motion.

John Fanelli, 198 Montelluna Drive, displayed an aerial photograph and photographs of mining equipment, and discussed the proximity of his residence to mining operations and the effects of mining operations on his quality of life.

Responding to Mr. Lobeck, Mr. Fanelli confirmed that references to “equipment” referred to mining equipment.

Mayor Martin questioned Mr. Fanelli concerning stockpiles being visible behind trees and berms.

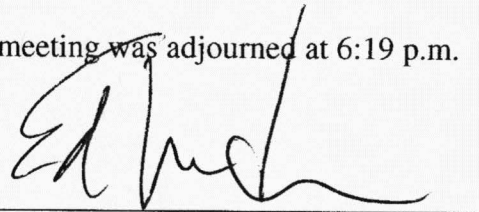
Mr. Lobeck indicated that photographs depicting inadequate buffering would be presented when this hearing was reconvened and requested if council approved the rezoning, that his client’s conditions and modifications be included.

Mr. Moore **moved** to continue the Final Reading and Public Hearing for Ordinance No. 2008-07, Rezone Metes and Bounds, APAC Southeast, Inc.; Venice Mining and Minerals, LLC; Miami Valley Ready Mix of Florida, Inc.; and Cemex, Inc; ±288 Acres, Northeast Quadrant of the City North of Laurel Road and East of Knights Trail Road, from OUE-1 (Open Use Estate) to PID (Planned Industrial Development), 05-13RZ, until a date to be determined by the City Clerk after conferring with all involved parties. **Seconded** by Mr. Simmonds. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

Mr. Anderson confirmed that council members could confer with staff regarding this issue.

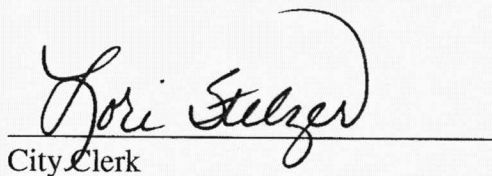
II. ADJOURNMENT

There being no further business to come before council, the meeting was adjourned at 6:19 p.m.



Mayor – City of Venice

ATTEST:


City Clerk

AGENDA
VENICE CITY COUNCIL
COUNCIL CHAMBERS – 401 West Venice Avenue

November 3, 2008 – 9:30 A.M.

CALL TO ORDER

ROLL CALL

I. UNFINISHED BUSINESS

ORDINANCES – FINAL READING AND PUBLIC HEARING

1. Ordinance No. 2008-07, Rezone Metes and Bounds, APAC Southeast, Inc.; Venice Mining and Minerals, LLC; Miami Valley Ready Mix of Florida, Inc.; and Cemex, Inc; ±288 Acres, Northeast Quadrant of the City North of Laurel Road and East of Knights Trail Road, from OUE-1 (Open Use Estate) to PID (Planned Industrial Development), 05-13RZ (Quasi-judicial)

II. ADJOURNMENT

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*If you are disabled and need assistance, please contact the City Clerk's office
at least 24 hours prior to the meeting*

NOTE:

The agenda materials can be viewed at www.venicegov.com or a CD in pdf format containing all background information for this meeting is available upon request to the City Clerk's office for a \$2 fee. Adobe Acrobat Reader will be needed to open the file.

No stenographic record by a certified court reporter is made of this meeting. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at this meeting upon which any appeal is based.

CITY OF VENICE CODE OF ORDINANCES Section 2-53(3): Audience Participation

The Council will hear comments, concerns or questions from any citizen present at the meeting on matters not on the Agenda, it being understood that any single presentation must be limited to five minutes. Citizen's comments will be permitted on Agenda items at the time the item is under consideration by Council if a speaker card has been submitted to the City Clerk prior to Council's consideration of the items.

MINUTES OF A SPECIAL MEETING
CITY COUNCIL, VENICE, FLORIDA

NOVEMBER 3, 2008

A Special Meeting of the City Council was held this date in Council Chambers at City Hall. Mayor Martin called the meeting to order at 9:35 a.m.

ELECTED OFFICIALS AND OTHERS PRESENT

Roll was called with the following elected officials present: Mayor Ed Martin, Vice Mayor John K. Moore, and Council Members Sue Lang, John Simmonds, Rick Tacy, and Ernie Zavodnyik. Vicki Noren was absent.

Also present: City Attorney Bob Anderson, City Clerk Lori Stelzer, Interim City Manager Nancy Woodley, Finance Director Jeff Snyder, and Recording Secretary Judy Gamel.

I. ORDINANCE NO. 2008-07, REZONE METES AND BOUNDS, APAC SOUTHEAST, INC.; VENICE MINING AND MINERALS, LLC; MIAMI VALLEY READY MIX OF FLORIDA, INC.; AND CEMEX, INC; ±288 ACRES, NORTHEAST QUADRANT OF THE CITY NORTH OF LAUREL ROAD AND EAST OF KNIGHTS TRAIL ROAD, FROM OUE-1 (OPEN USE ESTATE) TO PID (PLANNED INDUSTRIAL DEVELOPMENT), 05-13RZ – POSTPONED

Mayor Martin opened the continuation of the September 23, 2008 public hearing.

Jeffrey S. Russell, attorney for the applicant, being duly sworn, requested a continuance due to the entire council not being present for the full hearing. Mr. Russell continued that the new elected council member could participate after reviewing records of prior proceedings, but he preferred that the new council member be present for as much live testimony as possible.

Dan Lobeck, attorney for the intervenors, being duly sworn, objected to the request for a continuance citing it would be highly prejudicial to his client, adding it would be the third continuance for this hearing.

Responding to Mr. Anderson, Mr. Lobeck stated his clients would be prejudiced by being inconvenienced, incurring additional costs, and losing Mr. Tacy as a decision maker.

Mr. Simmonds indicated he was ill and may not be present for today's full session.

Mr. Russell reiterated that scheduling of the proceedings should allow for participation of a full council.

Mr. Anderson noted that in the past a continuance was granted if having less than a full council would hinder the presentation and decision making process. Mr. Anderson explained the importance of due process to both sides.

Council members discussed advantages and disadvantages of continuing the hearing and whether or not a full council would be in attendance.

Mr. Russell argued there was a possibility that only four council members would be present by the end of the day, and emphasized it was his client's right to have this petition heard by as many council members as possible.

Mr. Lobeck and Mr. Russell argued case law regarding the absence of a full council being a denial of due process to an applicant and whether or not there was prejudice.

Mr. Anderson clarified it took four affirmative votes to approve a rezone petition.

(9:59) Mr. Simmonds **moved** to proceed today based on the fact that it would be an inconvenience to return for a third hearing. **Seconded** by Ms. Lang.

Discussion followed regarding Mr. Simmonds being ill and the possibility he may have to leave.

Mr. Simmonds withdrew the motion.

Mr. Moore **moved** to grant a continuance with the condition that a new hearing date be agreed upon prior to the end of today's meeting. **Seconded** by Mr. Tacy.

Discussion ensued regarding coordinating dates with council members.

Mr. Moore **amended** the motion to continue the hearing without conditions.

ROLL CALL: MR. TACY, YES; MS. LANG, NO; MR. ZAVODNYIK, YES; MR. MOORE, YES; MR. SIMMONDS, NO; MAYOR MARTIN, YES. MOTION CARRIED.

Mr. Lobeck requested that council members review the briefing book he submitted today and would be provided as evidence at the rescheduled hearing.

Mr. Anderson confirmed that the briefing book would come into evidence at the continued hearing.

Mr. Russell requested permission to hand out information that he will submit as evidence at the continued hearing.

Mr. Anderson reviewed a problem with attendance at the November 10, 2008 Special Meeting concerning the City of Venice v. the Venice Pier Group. He stated that Mr. Tacy and Mr. Moore will have reached the end of their terms, and Mr. Tacy's elected replacement and Mr. Moore will not be sworn in until November 12, 2008, leaving a five member council to participate in the hearing. Mr. Anderson advised a postponement which would enable Mr. Moore to vote on this issue.

Ms. Lang **moved** to postpone the November 10, 2008 Special Meeting. **Seconded** by Mr. Zavodnyik.

Discussion followed regarding whether or not to schedule a private attorney-client session for City of Venice v. the Venice Pier Group.

Mr. Anderson indicated that rescheduling the November 10, 2008 meeting would allow distribution of all settlement documents well in advance. He did not anticipate another private attorney-client session because the settlement proposal was ready for presentation to council at a regular meeting.

MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

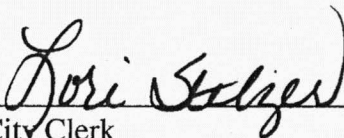
Discussion ensued regarding correcting the gap between the conclusion of terms and the swearing in of elected officials.

Mr. Anderson advised this could be corrected by adopting a charter amendment.

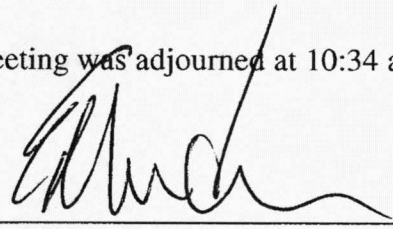
II. ADJOURNMENT

There being no further business to come before council, the meeting was adjourned at 10:34 a.m.

ATTEST:



City Clerk



Mayor – City of Venice

AGENDA
VENICE CITY COUNCIL
COUNCIL CHAMBERS – 401 West Venice Avenue

February 6, 2009 – 9:00 A.M.

CALL TO ORDER

ROLL CALL

I. UNFINISHED BUSINESS

ORDINANCES – FINAL READING AND PUBLIC HEARING

1. Ordinance No. 2008-07, Rezone Metes and Bounds, APAC Southeast, Inc.; Venice Mining and Minerals, LLC; Miami Valley Ready Mix of Florida, Inc.; and Cemex, Inc; ±288 Acres, Northeast Quadrant of the City North of Laurel Road and East of Knights Trail Road, from OUE-1 (Open Use Estate) to PID (Planned Industrial Development), 05-13RZ (Quasi-judicial)

II. ADJOURNMENT

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CITY OF VENICE CODE OF ORDINANCES Section 2-53(3): Audience Participation

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MINUTES OF A SPECIAL MEETING
CITY COUNCIL, VENICE, FLORIDA

FEBRUARY 6, 2009

A Special Meeting of the City Council was held this date in Council Chambers at City Hall. Mayor Martin called the meeting to order at 9:00 a.m.

ELECTED OFFICIALS AND OTHERS PRESENT

Roll was called with the following elected officials present: Mayor Ed Martin, Vice Mayor Sue Lang, and Council Members Kit McKeon, John K. Moore, Vicki Taylor, John Simmonds, and Ernie Zavodnyik.

Also present: City Attorney Bob Anderson, City Clerk Lori Stelzer, Interim City Manager Nancy Woodley, Finance Director Jeff Snyder, Recording Secretary Judy Gamel, and for certain items on the agenda: Planning and Zoning Director Tom Slaughter.

I. ORDINANCE NO. 2008-07, REZONE METES AND BOUNDS, APAC SOUTHEAST, INC.; VENICE MINING AND MINERALS, LLC; MIAMI VALLEY READY MIX OF FLORIDA, INC.; AND CEMEX, INC; ±288 ACRES, NORTHEAST QUADRANT OF THE CITY NORTH OF LAUREL ROAD AND EAST OF KNIGHTS TRAIL ROAD, FROM OUE-1 (OPEN USE ESTATE) TO PID (PLANNED INDUSTRIAL DEVELOPMENT), 05-13RZ – APPROVED AND ADOPTED

Mayor Martin opened the continuation of the September 23 and November 3, 2008 public hearings.

Responding to Mr. Anderson's query regarding ex-parte communications, Mr. Zavodnyik disclosed his conversation with Mr. Rigdon.

Ms. Stelzer stated she received written communications regarding the settlement agreement.

Mr. Slaughter, being duly sworn, confirmed that staff reviewed the ordinance and determined it was consistent with the Code of Ordinances.

Jeffrey S. Russell, attorney for the applicant, being duly sworn, indicated the applicant accepted the settlement agreement including the stipulations requested by Sarasota County.

Dan Lobeck, attorney for the intervenors, being duly sworn, discussed the settlement and requested approval of the rezone.

(9:16) Marshall Happer, 117 Martellago Drive, being duly sworn, handed out and reviewed the proposed agreement including measures preventing air and noise pollution, maintaining and augmenting vegetative buffers, and removing mining operations and creating a reservoir once excavations are completed. Mr. Happer urged council members to approve the pre-annexation agreement process to include provisions that protect adjacent properties.

(9:40) Alan Roddy, Assistant Sarasota County Attorney, being duly sworn, indicated the settlement reflected stipulations requested by the County Attorney's office with regard to easements.

Mr. Lobeck stated the intervenors accepted the settlement agreement including the stipulations by Sarasota County.

Michael Rigdon, 118 Treviso Court, being duly sworn, expressed gratitude that all parties worked together to reach a settlement.

John Moeckel, 185 Treviso Court, Venetian Golf and River Club Community Association President, being duly sworn, commended everyone involved for reaching a settlement.

Mayor Martin closed the public hearing.

Ms. Lang **moved** that Ordinance No. 2008-07 be approved and adopted with the stipulations as presented in "Exhibit A". **Seconded** by Mr. Zavodnyik.

Discussion ensued regarding specifying the correct Exhibit A.

Recess was taken from 9:50 a.m. until 10:10 a.m.

Ms. Woodley left the dais and was replaced by Assistant City Manager Mary Holcombe.

Mr. Russell and Mr. Lobeck agreed on Exhibit A, three pages, entitled Stipulations Rezone No. 05-13RZ, noting the bottom right hand corner of each page as Page 5 of 7, Page 6 of 7, and Page 7 of 7 of Ordinance No. 2008-07.

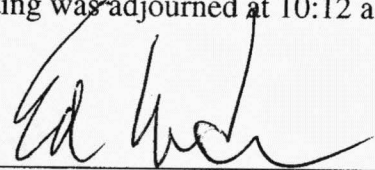
ROLL CALL: MR. MCKEON, YES; MS. LANG, YES; MR. ZAVODNYIK, YES; MR. MOORE, YES; MR. SIMMONDS, YES; MS. TAYLOR, YES; MAYOR MARTIN, YES. MOTION CARRIED.

Mr. McKeon pointed out the city was investigating bringing the berm that will go around the proposed reservoir down onto city property.

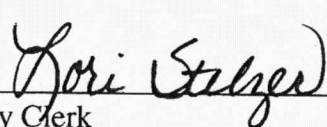
II. ADJOURNMENT

There being no further business to come before council, the meeting was adjourned at 10:12 a.m.

ATTEST:



Mayor – City of Venice



City Clerk