

Chairman Recker and Councilors,

In an active community such as ours, we have engaged residents willing to offer **opinions** on a variety of issues at any time, but despite the headlines and comments the asbestos issue is not new, public health and safety are not threatened, and this has not been resolved from a regulatory **standpoint**. The issue under dispute is the amount of asbestos-cement pipe removed with the project. The City has previously defended challenges by residents, including lawsuits and recall petitions, and continues to work through the regulatory fact-finding process with the Environmental Protection Agency (**EPA**). There are no new developments, and the information shared last week outlines the next step in this process, with the EPA letter containing its preliminary findings and requesting a meeting to review the information provided and to discuss settlement or the next step forward.

The best estimate of the amount of asbestos-cement pipe still in use on the Island is probably in the range of 60-80 miles of pipe, so in Marco Island and throughout Florida disposal of asbestos-concrete pipe is **common**. Unused pipe is most often filled with cement grout and abandoned in **place**. Consistent with this type of work, in the construction of the Collier project the contractor (Quality Enterprises) removed piping in conflict with construction and new lines, and based on the amount of grout used to fill the remaining lines Quality estimates that less than 260' of pipe was **removed**. EPA has been using truck manifests and measures to try to determine if this is correct, and the correspondence over the past few years has been limited to this fact-finding **process**.

I will summarize my understanding on this issue with a few comments:

* The asbestos cement pipe dug up in the Collier Boulevard pipe has been removed and disposed of at a hazardous material landfill, and signed off by EPA and the Florida Department of Environmental Protection. There is no continuing health or safety **issue**.

* Site C - now the grassed site planned for the Veteran's Memorial - was the responsibility of the City. The site was used for

Comment [m1]: The city manager in yet another effort to malign citizens confuses opinions with facts. Instantly when a citizen states something the syndicate make it into "opinions". Disagree and proof is opinions. That is why the staff is in this mess.

Comment [E2]: If this is true, the CM had a fiduciary responsibility to reveal to the bond underwriter and the bond rating agencies that Marco was exposed to potential regulatory problems that could result in substantial fines. There is no indication in the bond prospectus that this was done. I submit that this is a serious infraction of SEC regulations.

Comment [E3]: QE and the City propose to determine the length of A-C pipe that was removed by an ass-backwards method. No direct measurement of the amount of A-C pipe that was removed was ever made by QC or the city although dumping records are supposed to indicate the amount of A-C pipe that is being put in the hazardous-waste area of the landfill. Regulations require on-site certified asbestos-handling inspection but QE had no one on their payroll who was qualified and their on-site manager testified to that effect in the CARES depositions. The city/QE provided only 4 dumping asbestos dumping records --- 3 on 10 March 2006 and 1 on 16 March 2006 -- totaling 98,620 pounds. Even if this were to be taken as true, it does not include the A-C pipe fragments found on Site C. Photographs were taken by Butch Neylon and I ...

Comment [m4]: Yes -- but when done legally.

Comment [E5]: True but it is questionable how much A-C pipe was filled with grout and "abandoned in place" on Collier Boulevard. Clearly no measurements were made or the data would have been made available by QE and the City Staff. I have photographs of lengths of A-C pipe filled with grout and lying on the side of Collier Boulevard. ...

Comment [E6]: Mr. Thompson's statement is in contradiction to the information supplied to the EPA by the QE/City's attorneys. (Who, by the way, paid for these attorney's work and why were the City and QE represented by the same firm?)

Comment [m7]: This comment is blatantly false. Check the CARES lawsuit and check the Naples' records (where the asbestos remediation was taken). Even the complicit FDEP own records show otherwise. Check how much Naples was paid, and how QE was credited - thereby having the city taxpayers pay for the cleanup

Comment [E8]: The EPA will never be able to determine the amount of pipe in the landfill from the truck manifests because they either no longer exist or weren't given to the EPA. As I stated earlier, the attorneys were only able to come up with 4 truckloads and there were FAR more than that dumped in the landfill. During the hullabaloo QE ...

Comment [E9]: Bullshit! It is precisely because the amount cannot be determined that the EPA is asking the questions it is. There is no way now to determine how much asbestos lies beneath Collier Boulevard and Veterans Park. Whether it constitutes a "continuing" health hazard is questionable. As long as it remains buried, it probably doesn't but if ...

storage of plate-sized wood chips created when Quality Enterprises - at the request of and at no cost to the City - removed and chipped the Australian Pines on the site. With the approach of Hurricane Wilma (October, 2005) the City asked the contractor to stack concrete pipe on top of the chips to keep them from blowing away. The contractor used cement pipes and, possibly unknown to the contractor at the time, used some asbestos-concrete pipe for this weight. Some of the asbestos-cement pipe was broken in the process, and the City had the debris properly disposed in a separate Collier County landfill cell. Storage and disposal at Site C is not in dispute.

* Site A - now the grassed area used for the Farmer's Market - was the responsibility of Quality Enterprises. Site A was a storage site with two separate piles for concrete and debris from the Collier Boulevard project. This included soil with broken asbestos-cement pipe from the South Collier section, and the DEP did measure asbestos fibers in this debris pile. Although the finding of asbestos fibers seems to be common on Marco Island and throughout Florida, Quality decided to resolve the issue and to bear the expense of removing the entire debris pile as regulated material, and did so in accordance with EPA standards and with on-site monitoring by DEP.

The attachments with this note include the following correspondence from 2009, and although the file attachments are extensive, all are available in our office:

1. March 17, 2009, letter from EPA to Steven Thompson, with the cover sheet for the response.
2. April 21, 2009, response letter to EPA from Pat Genzler (joint response from Quality and the City) - note, the manifests are extremely large files and were submitted on CD.
3. August 12, 2009, Second Request for Additional Information from EPA to Steven Thompson.
4. September 10, 2009, response letter to EPA from Pat Genzler (joint response from Quality and the City) - again, the attachments were extremely large and submitted on CD.
5. September 10, 2009, supplemental response letter to EPA submitted by the City's attorneys - Lewis, Longman and Walker. This

Comment [E10]: More Moss Bullshit! That pipe was moved to cover the mulch is undoubtedly true. That the contractor should not have known that it was A-C pipe makes them liable. Government regulations require a certified asbestos technician be on site whenever asbestos-containing material is removed. Bill Utser testified in the CARES depositions that he knew nothing about asbestos handling nor was there anyone on the job who did until QE sent one of their workers to school when the A-C hit the fan! Mike Daniels stated that he knew that there was "old" A-C pipe under Collier because he was there when the Boulevard was first constructed. If the City Staff knew of the existence of A-C pipe under Collier and didn't warn QE, the city bears responsibility.

It is very likely that the pipe moved to Site C were not large lengths but crushed pipe taken from the debris pile. It's much easier to move crushed debris with a backhoe than large lengths of pipe which would have to be chained to the machine. Remember the move was made during a hurricane. Which would you do? Scoop up some debris or chain on each length of pipe individually, cross the street, place it on the mulch pile and unchain it? In that debris pile was crushed A-C pipe. Most likely it had been intended to be used as fill for Collier Boulevard or QE would have moved it to the dump earlier. Instead it got used to "fill" Site C and, considering there were countless dump trucks of "fill" moved to the Hazardous Land Fill during the cleanup, one can suspect that the City's estimate of the amount of A-C pipe removed from Collier Boulevard is totally bogus. (I guess there might not have been so much because Tucker claimed a few old men drugged it over their in their car trunks and buried it 3 feet deep one night and it increased and multiplied like rabbits so it took several more cleanups to get rid of. He even had pictures taken with an infrared flash!) Is this a cover-up? Or is this a cover-up?

Comment [E11]: A distinction without a difference to explain why Moss willingly spent \$75,000 of taxpayer money to clean up Site C ... the first time!

Comment [E12]: And exactly HOW come this was not included in the calculations of how many feet of A-C pipe were dug up and destroyed on Collier?

Comment [m13]: Only where and because asbestos has been improperly handled.

Comment [E14]: Damned nice of them!

Comment [E15]: On-Site monitoring was by the same asbestos-remediation firm that CARES employed to verify the existence of asbestos to start with. The city then hired them away from us, in a very real sense suborning our witness. Sherrill Culver, Iglehart's man on the scene who couldn't find asbestos when standing on it, blessed off on the cleanups ... all three of them!

Comment [E16]: Was the City Council aware of these communications? If not, why not? I submit that failure to report these requests to the bond underwriter and bond rating agencies is tantamount to fraud.

response also included a CD with large files.

6. October 19, 2009, e-mail from EPA attorney requesting clarification of your affidavit submitted as part of the September 10 response.

7. October 28, 2009 - Response to EPA's Request for Clarification submitted by Lewis, Longman and Walker.

For the past two years there has been little or no movement on this issue, and although the expenses on challenges related to the STRP have been much more expensive, the City has spent a total of about \$8,906 in legal fees on this issue.

This may assist you in your consideration on this issue.

Steve

Steven T. Thompson, City Manager

Comment [E17]: I believe this is the one that asks for clarification of Rony Joel's retraction that A-C pipe was crushed in the open on Collier Boulevard and, later, on Site A. On it's face, it is difficult to believe that a man of Rony Joel's experience could not identify A-C pipe when he saw it. It took Butch Neylon all of 5 minutes to teach Diane and I (total neophytes) how to identify it! Every piece of pipe Butch and Roger picked up and submitted for analysis contained asbestos. Batting Average: Neylon 1.0000; Hall 1.0000; Joel 0. Can you buy that?

Also, the letter in which it is stated that Rony had never mentioned his "mistake" again is false. Both he, Moss and Daniels mentioned it under oath during the depositions. It was Mike Daniels whom Rony testified rushed into his (Rony's) office the day after the infamous council meeting to tell him he had made a terrible mistake. So, according to Rony, he (Rony) rushed into Moss' office and said: "Boss, Boss Moss, I made a terrible mistake. That wasn't asbestos-cement pipe I saw crushed, Mike just told me it was plain concrete storm drain." Note that the "plain concrete storm drain" transmogrified into "fiberglas-reinforced" water or sewer main. They ought to get their stories straight.

Comment [E18]: Can you really buy that their attorneys handled all this paperwork, had the facts explained to them by the city and prepared their responses to the EPA for less than 9 grand?

Comment [m19]: A question: Will Thompson, Joel, Moss, Reinke, Trotter, Minozzi, Tucker's Estate personally guarantee that ALL asbestos has been removed from where it was crushed and buried? Will they personally guarantee that when the asbestos was pulverized all asbestos fibers were cleaned from wherever they fell? If not, then they need to stop this charade and be prosecuted.