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November 29, 2005

Office of The Secretary  
Federal Communications Commission  
Washington, DC 20554

**RE: MB Docket No. 05-317**  
**Television Station Section 339(a)(2)(D)(vii) Waiver Request**

Ladies and Gentlemen:

Fort Myers Broadcasting Company ("FMBC") requests a waiver for local network affiliated Station WINK-DT, Channel 9, Fort Myers, Florida, of the beginning of testing under the provisions of Section 339(a)(2)(D)(vii) of the Communications Act of 1934, as amended, 47 U.S.C. Section 339(a)(2)(D)(vii). Specifically, FMBC asks that subscribers of satellite carriers be prohibited from receiving digital strength testing with respect to Station WINK-DT. FMBC submits that timely completion of WINK-DT's facilities has been delayed by substantial litigation surrounding the WINK-DT channel allotment; by substantial litigation surrounding grant or denial of WINK-DT's construction permit application and related applications of Station WBSP-CA, Naples, Florida; by adverse construction conditions caused by Hurricane Charley striking Station WINK-TV and surrounding areas on August 13, 2004; by adverse construction conditions caused by Hurricane Wilma striking Station WINK-TV and surrounding areas on October 24, 2005; and by unusually high demand for construction-related goods and services in Charlotte County, Florida, in South Florida in general and throughout the State of Florida as a result of the rebuilding required as a result of multiple hurricane strikes over the last two hurricane seasons. This combination of adverse events beyond the control of FMBC constitutes force majeure, justifying a testing waiver under the provisions of 47 U.S.C. Section 339(a)(2)(D)(viii).

**Delays in Authorizing WINK-DT**

The DTV channel originally allotted to WINK-DT was channel 53, a channel which would not be available for continued DTV operations after the DTV transition. On May 1, 2000, FMBC petitioned the FCC to change the WINK-DT allotment to Channel 9, an in-

core DTV Channel. Simultaneously FMBC amended its pending application for a new DTV construction permit to specify operation on DTV Channel 9.

By Notice of Proposal Rule Making MM Docket No. 00-180, DA 00-2211, released October 2, 2000, the Commission proposed modifying the DTV table of allotments to substitute DTV Channel 9 for DTV Channel 53 at Fort Myers, Florida. The ensuing allotment proceeding and related application proceedings generated more than forty pleadings over a period of four years.<sup>1</sup> Petitions for reconsideration of actions in the DTV rule making proceeding and the WINK-DT construction permit proceeding are still pending before the FCC, although neither petition seeks reversal of the allotment or reversal of the grant of WINK-DT's initial construction permit. Nevertheless, the intense litigation surrounding the Channel 9 DTV allotment at Fort Myers and the WINK-DT application delayed grant of WINK-DT's initial construction permit by several years.

### **Construction Delays**

Construction of WINK-DT is a very large and expensive project. FMBC was required to completely rebuild its television studios and master control facilities to accommodate digital transmissions. FMBC's 1500 foot television tower was redesigned and strengthened to accommodate an 85 foot long stacked DTV/FM antenna weighing 41,000 pounds. Access roads to the tower were repaired to accommodate the heavy equipment necessary to rebuild the tower. The existing transmitter building was reconfigured to accommodate construction of an addition to house the new DTV transmitter. This building addition would prove to be the bottleneck that prevented timely completion of the WINK-DT facilities. FMBC has no realistic ability to complete the project without this building addition. The WINK-DT facilities must be constructed to withstand a direct strike from a major hurricane. Nothing less than a very substantial transmitter building can serve this purpose.

The WINK-TV DTV Timeline appended hereto as Exhibit No. 1 relates the most significant events in FMBC's efforts to design and construct WINK-DT. These efforts were well underway prior to the October 29, 2004 grant of WINK-DT's construction permit. Nevertheless circumstances constituting force majeure have delayed institution of over-the-air DTV service from WINK-DT.

Specifically, Keith Stuhlmann, FMBC's Director of Engineering, had been planning for the station's digital studio/master control rebuild since at least October 2003. FMBC

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<sup>1</sup> These pleadings are identified in the WINK-TV DTV Timeline appended hereto as Exhibit No. 1.

issued the \$930,999.10 purchase order for phase one of the digital studio/master control project on July 14, 2004. Similarly, FMBC's design work on the WINK-TV rebuild began in November 2003. By March 1, 2004, FMBC has received the initial tower analysis from Kline Iron and Steel.

In the interest of maintaining chronological order, FMBC notes that on August 13, 2004, Hurricane Charley made landfall as a Category 4 hurricane in Charlotte County, Florida. Charlie hit WINK-TV's studios in Fort Myers and WINK-TV's transmitter site in Charlotte County.

FMBC continued to work on its digital studio/master control rebuild in September and October 2004. On October 13, 2004, Harris Corporation provided FMBC with the final quote on the WINK-DT DTV transmitter and related equipment. This was two weeks before grant of WINK-DT's construction permit and almost six weeks before the Video Division denied reconsideration of the WINK-DT channel allotment. FMBC accepted this Harris proposal December 15, 2004, issuing a \$599,387.93 purchase order to Harris.

On January 11, 2005, FMBC executed a tower design analysis change order with Kline Iron and Steel, resulting in a revised design analysis and, ultimately, in Kline's March 4, 2005 revised proposal for modifying the WINK-TV tower. On March 10, 2005, FMBC issued a \$573,560.00 purchase order to Kline Iron and Steel for the tower work necessary to construct WINK-DT.

In July 2005 construction at the WINK-TV transmitter site commenced, with the reconstruction of the access road to the 1500 foot WINK-TV tower. On July 14, 2005, FMBC accepted Nu-Cape Construction's proposal for \$39,050 in road work and site preparation. Ultimately, FMBC would issue Nu-Cape purchase orders for \$52,250 for filling and grading the road and tower site.

Kline Iron and Steel substantially completed its tower reinforcing work on August 30, 2005. It then proceeded to install the FM/DTV antennas, transmission line and related equipment.

Hurricane Wilma hit Collier County (and Fort Myers in Lee County) on October 24, 2005. It continued across the Florida peninsula striking Miami-Dade, Broward and Palm Beach Counties.

After Hurricane Wilma, the tower crew assigned to the WINK-DT project was pulled to secure a UHF antenna that broke away from a 700 foot tower in Pembroke Park, Florida. That tower, which was built in 1958, is adjacent to a residential area and the loose UHF antenna was a threat to life and property. A new tower crew was subsequently employed to finish the remaining work on the WINK-TV tower.

The construction matter which ultimately became the bottleneck in implementing FMBC's plans for WINK-DT was the addition to the transmitter building necessary to shelter the DTV transmitter. As previously noted, hurricane activity makes it impossible to shelter the WINK-DT transmitter in anything less than a very substantial structure. In the last 15 months, the WINK-TV studios and transmitter site have been hit by two major hurricanes, Charlie and Wilma.

As in the case of the WINK-DT studio/master control project and the WINK-DT tower project, the WINK-DT transmitter building project began before grant of the WINK-DT construction permit. The day FMBC obtained its final DTV transmitter quote from Harris, it obtained a proposal from Johnson Engineering for an environmental analysis of the transmitter building project. On October 19, 2004, FMBC contacted Nu-Cape Construction to act as construction manager of the transmitter building project. By November 4, 2004, FMBC had accepted Johnson Engineering's proposal and was meeting with the contractor, architect and engineers to plan the transmitter building addition. The consensus at that meeting was that construction of the transmitter building addition would take four months.

Actual design of the transmitter building addition took longer than expected. It was not until early July 2005 that the initial architectural plans were completed and, at that point, the work of the civil engineer was not complete. Among the causes for this delay was the unusually high demand for services of architects, engineers and contractors in Charlotte County, Florida due to (a) massive reconstruction of the area after Hurricane Charley and (b) a building boom in new construction which occurred simultaneously with reconstruction from Hurricane Charley. The problems caused by the hurricane and the unusually high demand for construction related goods and services are recounted in the Declaration of Bernard "Butch" McGovern appended hereto as Exhibit No. 2 and in the newspaper articles appended hereto as Exhibit No. 3.

On August 2, 2005, the architects sent Nu-Cape Construction the drawings necessary to apply for a building permit for the WINK-DT transmitter building addition. At that time, FMBC believed that Nu-Cape Construction had filed an application for a building permit, but this belief was incorrect. Nu-Cape Construction still lacked a current survey of the transmitter site and was attempting, in vain, to obtain a new survey from the project's civil engineer. The building permit application could not be filed without the survey.

It took Nu-Cape Construction two additional months to obtain an updated site survey from the civil engineering firm. The actual building permit application for the addition to WINK-TV's transmitter building was filed September 30, 2005. Charlotte County has not yet granted this building permit application. FMBC is informed that the high volume of permitting work before Charlotte County building officials has slowed the permit approval process.

FMBC has employed its current team of architects, engineers and contractors with good results in past projects at its stations. The present delays in constructing the addition to the transmitter building were unforeseen and were largely due to matters outside of FMBC's control. These delays have been accompanied by increases in labor and materials costs brought on by supply shortages and high demand.

The adverse conditions encountered by FMBC in its transmitter building project are not likely to abate in the near term. All of South Florida, from Key West North to Palm Beach County and West to Charlotte County, has suffered significant hurricane damage in the last two years. The services of architects, engineers, contractors and every manner of construction tradesmen are in short supply. The building and zoning officials in South Florida counties will continue to experience high volumes of permit applications as businesses and residences are rebuilt. It takes years, not months, for an area to fully recover from a major hurricane. It is in this adverse environment that FMBC has rebuilt its studios, master control facilities, tower site and tower to accommodate WINK-DT.

The addition to the WINK-TV transmitter building remains to be constructed. Nothing more can be accomplished to initiate over the air service from WINK-DT until Charlotte County issues a building permit. At that point, the contractor believes it can build the transmitter building addition in four months. The DTV transmitter for this project was ordered almost a year ago. It is ready to ship and can be installed as soon as suitable space, power and air conditioning are available in the transmitter building addition.

FMBC has taken steps to mitigate the impact of delays in implementing over the air service from WINK-DT. It has negotiated retransmission consent agreements with local cable television systems to carry the WINK-DT digital feed and is supplying this digital programming service to CATV headends via a fiber optic connection. Cable penetration rates in the Fort Myers-Naples DMA exceed 75 percent. So cable carriage of the WINK digital television signal is a significant step in serving the local television market.

Office of The Secretary  
November 29, 2005  
Page 6

In view of the foregoing, FMBC submits that a combination of unforeseen events beyond its control have prevented it from initiating over-the-air service from WINK-DT. These regrettable circumstances constitute force majeure, justifying waiver of Section 339(a)(2)(D)(vii) to prevent initiation of testing of WINK-DT's signal strength.

Respectfully submitted,



Joseph A. Belisle  
Counsel for Fort Myers Broadcasting Company

JAB/kp

cc: Nazifa Sawez, Esq.  
Mr. Gary Gardner

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**EXHIBIT 1**

## WINK-TV DTV TIMELINE

<u>DATE</u>	<u>DESCRIPTION</u>
July 9, 1997	Fort Myers Broadcasting Company (FMBC) obtains proposal from Andrew Corporation for stacked UHF (Channel 53)/VHF (Channel 11) antenna and waveguide.
June 18, 1999	Richard Chalk of Harris Corporation writes to Keith Stuhlman of FMBC regarding antenna patterns and coverage for a UHF DTV facility.
August 26, 1999	Keith Stuhlmann of FMBC contacts Du Treil Lundin & Rackley regarding their availability to consult on DTV matters.
September 15, 1999	FMBC hires DuTreil Lundin and Rackley to prepare DTV engineering.
September 28, 1999	FMBC receives Du Treil Lundin & Rackley DTV report.
October 19, 1999	FMBC receives Du Treil Lundin & Rackley report for a top mounted DTV antenna.
October 29, 1999	FMBC applies for a construction permit to build a new DTV Facility on Channel 53, Fort Myers, Florida.
November 8, 1999	FMBC obtains quote from Harris Corporation for Channel 53 DTV transmission, monitoring and testing equipment.
December 13, 1999	FMBC obtains quote from Thomcast for Digital Television transmitting, monitoring and testing equipment for a Channel 53 Facility.
January 7, 2000	Dan Sessler of Harris Corporation emails Keith Stuhlman of FMBC regarding 2 Tube DTV transmitter quote.
January 19, 2000	FMBC obtains Thomcast proposal for a 40 kilowatt Dual Tube 8-VFB Digital IOT equipped water cooled UHF TV transmitter.

<u>DATE</u>	<u>DESCRIPTION</u>
January 28, 2000	Harris Corporation provides Keith Stuhlmann of FMBC a quote for a UHF DTV transmitter and associated monitoring and test equipment.
February 28, 2000	Harris Corporation provides Keith Stuhlmann of FMBC with quote for a one (1) tube upgradable to two (2) tube UHF transmitter.
March 27, 2000	Harris Corporation provides quote to Keith Stuhlmann of FMBC for a UHF DTV transmitter and associated monitoring and test equipment.
April 24, 2000	Du Treil, Lundin & Rackley issues report on modifying DTV table of allotments to specify DTV Channel 9 in lieu of DTV Channel 53 at Fort Myers, Florida.
April 26, 2000	Harris provides Keith Stuhlmann of FMBC quote for a VHF solid state DTV transmitter and associated DTV testing and monitoring equipment.
May 1, 2000	FMBC files a Petition for Rulemaking, RM - 9956, proposing to substitute DTV Channel 9 for DTV Channel 53 at Fort Myers, Florida.
May 1, 2000	FMBC files an amendment to its DTV Construction Permit Application, BPCDT-19991029ADW to specify operation on DTV Channel 9.
May 1, 2000	Harris Corporation provides FMBC quote for a VHF DTV transmitter and associated monitoring equipment.
August 30, 2000	Keith Stuhlmann reviews DTV coverage on SAM.PROXIMITYTV.COM

<b>DATE</b>	<b>DESCRIPTION</b>
October 2, 2000	FCC releases Notice of Proposed Rulemaking, MM Docket No. 00-180, proposing to allot DTV Channel 9 in lieu of DTV Channel 53 for WINK-DT Fort Myers, Florida.
November 13, 2000	FBMC files Comments of Fort Myers Broadcasting Company in MM Docket No. 00-180.
November 22, 2000	Post-Newsweek Stations, Florida, Inc. ("Post-Newsweek") files Comments in Opposition to WINK-TV DTV Allotment Proposal, in MM Docket No. 00-180.
November 22, 2000	Cox Broadcasting Inc. ("Cox") files Comments in MM Docket No. 00-180, opposing FMBC's proposal.
December 11, 2000	FMBC files reply comments in MM Docket No. 00-180.
December 11, 2000	Media General Communications Inc. files Reply Comments in MM Docket No. 00-180.
December 11, 2000	Caloosa Television Corporation ("Caloosa") files Reply Comments in MM Docket No. 00-180.
December 11, 2000	Post-Newsweek files Reply Comments in MM Docket No. 00-180.
March 23, 2001	Joseph Belisle writes Clay Pendarvis on behalf of FMBC, requesting expeditious resolution of rulemaking proceedings in MM Docket No. 00-180.
June 25, 2001	Joseph Belisle emails John Morgan on behalf of FMBC concerning relief from DTV build out schedule.
June 29, 2001	FMBC files Request for Temporary Waiver of Rule 73.624 in BPCDT-19991029ADW.

<u>DATE</u>	<u>DESCRIPTION</u>
August 31, 2001	FMBC files Petition for Reconsideration or, in the Alternative for Declaratory Ruling with respect to the grant of Caloosa's Class A license for Station WBSP-CA, Naples, Florida, BLTVA-20010712AIK.
September 13, 2001	Caloosa files Opposition to Petition for Reconsideration or in the Alternative for Declaratory Ruling, BLTVA-20010712AIK.
September 24, 2001	Post Newsweek files Comments in Support of Caloosa Opposition, BLTVA-20010712AIK.
September 27, 2001	FMBC files Reply to Opposition to Petition for Reconsideration or in the Alternative for the Declaratory Relief, BLTVA-20010712AIK.
November 27, 2001	FMBC obtains a quote for a low power VHF DTV transmitter from Harris Corporation.
February 26, 2002	FMBC files Form 337 seeking additional time to construct DTV station.
April 2, 2002	FMBC files Informal Objection to grant of Caloosa's application, BLTVL-20020321AAV.
May 20, 2002	Caloosa files for a license to cover Class A construction permit for WBSP-LP, BLTVA-20020520AAQ.
May 30, 2002	FMBC files Informal Objection to Caloosa's application for license to cover, BLTVA-20020520AAQ.
June 12, 2002	Caloosa files Opposition to Informal Objection of Fort Myers Broadcasting Company BLTVA-20020520AAQ.
November 20, 2002	FCC issues Report and Order, MM Docket No. 00-180 allotting DTV Channel 9 to Fort Myers, Florida in lieu of DTV Channel 53.

<u>DATE</u>	<u>DESCRIPTION</u>
November 26, 2002	Caloosa files Emergency Motion to Vacate Report and Order in MM Docket No. 00-180.
December 9, 2002	FMBC files Opposition to Emergency Motion to Vacate Report and Order in MM Docket No. 00-180.
December 16, 2002	Caloosa files Rely to Opposition to Emergency Motion to Vacate Report and Order in MM Docket No. 00-180.
December 20, 2002	Post-Newsweek files Petition for Reconsideration of Report and Order in MM Docket No. 00-180.
December 20, 2002	Cox files Petition for Reconsideration of the Report and Order in MM Docket No. 00-180.
December 20, 2002	Caloosa files Petition for Reconsideration in MM Docket No. 00-180
December 20, 2002	Caloosa files Informal Objection to WINK-DT construction permit application, BPCDT-19991029ADW.
January 8, 2003	FMBC files Opposition to Informal Objection filed by Caloosa in BPCDT-19991029ADW.
January 15, 2003	FMBC retenders its May 1, 2000 amendment to BPCDT-19991029ADW as an electronic filing.
February 27, 2003	FMBC files Opposition to Petition for Reconsideration of Cox Broadcasting Inc., MM Docket No. 00-180.
February 27, 2003	FMBC files Opposition to Petition for Reconsideration or Modification of Post-Newsweek Stations Florida, Inc. in MM Docket No. 00-180.
February 27, 2003	FMBC files Opposition to Petition for Reconsideration of Caloosa Television Corporation in MM Docket No. 00-180.
March 12, 2003	Caloosa files Rely to Opposition to Petition for Reconsideration in MM Docket No. 00-180.

<b>DATE</b>	<b>DESCRIPTION</b>
March 12, 2003	Cox files Reply to Opposition to Petition for Reconsideration in MM Docket No. 00-180.
April 18, 2003	FMBC and Caloosa execute Settlement Agreement.
April 28, 2003	FMBC and Caloosa file Joint Request for Approval of Settlement Agreement in MM Docket No. 00-180, in BPCDT-19991029ADW, and BLTVA-20010712AIK and in BLTVA-20020520AAQ.
October 17, 2003	Keith Stuhlmann completes FMBC inventory of equipment for Digital Conversion of WINK-TV Master Control and Studio Facilities.
November 13, 2003	Keith Stuhlmann of FMBC obtains Kline Towers' tower study proposal for DTV and FM antennas.
November 19, 2003	Gary Gardner of FMBC accepts Kline Towers' tower study proposal.
November 25, 2003	Montclair Communications, Inc. ("Montclair") and Waterman Broadcasting Corp. of Florida ("Waterman") file their Informal Objection to grant of FMBC's DTV application, BPCDT-19991029ADW.
November 25, 2003	Montclair and Waterman file Comments of Montclair Communications Inc. and Waterman Broadcasting Corp. of Florida on Joint Request for Approval of Settlement Agreement.
November 25, 2003	Montclair and Waterman file a Petition to Deny Caloosa's application implementing the Settlement Agreement with FMBC, BPTVA-20030418AAE.

<b><u>DATE</u></b>	<b><u>DESCRIPTION</u></b>
December 2, 2003	Jean LeCordier of Kline Towers emails Keith Stuhlmann of FMBC regarding present tower inventory and proposed changes to tower inventory.
December 4, 2003	Ed Claar of FMBC emails Jean LeCordier of Kline Towers additional information on tower inventory.
December 5, 2003	FMBC files requests for extension of time to respond to the November 25, 2003 pleading filed by Waterman and Montclair.
December 8, 2003	Klein Iron and Steel bills FMBC for down payment on tower design analysis.
December 10, 2003	FMBC obtains VHF DTV transmitter proposal from Thales.
December 16, 2003	FMBC pays \$3,600.00 down payment on Kline Iron and Steel TV/FM Tower Study.
December 22, 2003	FMBC files comments opposing the Petition to Deny filed by Montclair and Waterman with respect to Caloosa's application, BPTVA-20030418AAE.
December 22, 2003	FMBC files Response to Comments of Montclair Communications Incorporated & Waterman Broadcasting Corp. of Florida on Joint Request for Approval of Settlement Agreement.
December 22, 2003	FMBC files Opposition to Informal Objection filed by Montclair and Waterman with respect to FMBC's application, BPCDT-19991029ADW.
December 23, 2003	FMBC prepares equipment inventory and proposed changes for WINK-TV Tower to be used in Kline Tower design and analysis.

<b>DATE</b>	<b>DESCRIPTION</b>
March 1, 2004	Kline Iron and Steel submits design analysis of WINK-TV Tower.
March 29, 2004	FMBC pays remaining \$3,600.00 for Kline Iron and Steel Tower analysis.
May 3, 2004	FMBC obtains proposal from Professional Communications Systems ("PCS") for digital master control and studio equipment and installation services for "Phase 1" of the DTV Studio Project.
July 14, 2004	FMBC issues purchase order for \$930,999.10 to PCS for Phase 1 of the DTV Studio Project
July 14, 2004	FMBC issues purchase order for \$131,532.22 to PCS for Phase II of the DTV Studio Project.
July 22, 2004	FMBC obtains written proposal from PCS for studio and master control equipment for Phase II of DTV Studio Project.
July 23, 2004	FMBC pays PCS \$250,000 initial payment for DTV Studio/Master Control Project.
August 13, 2004	Hurricane Charlie destroys Charlotte County, Florida.
August 27, 2004	FMBC obtains quote from GSI Globecomm for video switching equipment.
September 1, 2004	FMBC issues purchase order to GSI Globecomm for \$9,880.00 of video switching equipment.
September 8, 2004	Joseph Belisle emails Clay Pendarvis on behalf of FMBC regarding status of FMBC DTV application for construction permit.
September 23, 2004	Joseph Belisle emails Clay Pendarvis on behalf of FMBC regarding WINK-TV Tower coordinates.

<b>DATE</b>	<b>DESCRIPTION</b>
September 23, 2004	Joseph Belisle emails Nai Tam on behalf of FMBC regarding correction of WINK-DT tower coordinates in DTV data base.
September 27, 2004	FMBC pays PCS an additional \$200,000 for the DTV Studio/Master Control Project.
October 1, 2004	FMBC amends application, BPCDT-19991029ADW, to correct longitude of tower.
October 6, 2004	Action by Chief, Video Division declaring Caloosa's license for WBSP-CA, in Naples, Florida forfeit and dismissing Joint Request for Approval of Settlement Agreement.
October 7, 2004	FMBC obtains proposal from Pete's Electric Service for Uninterruptible Power Supply ("UPS") and UPS bypass switch.
October 8, 2004	Joseph Belisle emails Nai Tam on behalf of FMBC inquiring into discrepancies in data for WINK-TV and WINK-DT in FCC records.
October 13, 2004	FMBC obtains proposal from Harris Corporation for VHF DTV transmitter and associated services and equipment.
October 13, 2004	Johnson Engineering sends FMBC a contract for environmental due diligence for an addition to the WINK-TV transmitter building.
October 19, 2004	Keith Stuhlmann of FMBC calls Bernard McGovern to hire Nu-Cape Construction as Construction Manager for the WINK-TV transmitter building project in Charlotte County, Florida.
October 19, 2004	Bernard McGovern emails Keith Stuhlmann regarding transmitter building project.

<b>DATE</b>	<b>DESCRIPTION</b>
October 28, 2004	Joseph Belisle emails Rick Chessen on behalf of FMBC seeking information regarding replication/maximization dates for new DTV construction permits.
October 29, 2004	Invoice from Pete's Electric Service for installation of UPS and UPS bypass switch.
October 29, 2004	FCC grants the initial WINK-DT construction permit, BPCDT-19991029ADW.
November 4, 2004	FMBC files FCC Form 381, Pre-Election Certification Form with respect to WINK-DT.
November 4, 2004	Gary Gardner of FMBC executes contract with Johnson Engineering for environmental due diligence on transmitter building project.
November 4, 2004	Keith Stuhlmann of FMBC meets with Bernard McGovern of Nu-Cape Construction, Chris Lee of Christopher J. Lee Architects and representatives of Anchor Engineering Consultants Inc. and Johnson Engineering to plan transmitter building project.
November 5, 2004	Caloosa files Petition for Reconsideration of the dismissal of its pending applications for WBSP-CA, Naples, Florida and the forfeiture of WBSP-CA's license.
November 9, 2004	FMBC obtains quotes from PCS for stream tracker, digital audio monitor and related equipment.
November 11, 2004	FMBC issues purchase orders in amounts of \$12,924.27 and \$14,667.03 to PCS for a stream tracker and digital audio monitors.
November 12, 2004	FMBC obtains quote from PCS for a device control engine and related serial ports upgrade module.

<b>DATE</b>	<b>DESCRIPTION</b>
November 15, 2004	FMBC issues \$11,305.78 purchase order to PCS for a device control engine and related equipment.
November 16, 2004	FMBC receives quote from Broadcasting General Store ("BGS") for digital audio recorder/playback for TV Master Control.
November 17, 2005	FMBC issues purchase order in amount of \$4,123.14 to BGS for digital audio recorder/playback.
November 17, 2004	FMBC receives quotes from BGS for Wholer Level Meter 6 channel AES/EBU.
November 17, 2004	FMBC files Comments on Caloosa's November 5, 2005 petition for reconsideration.
November 17, 2004	FMBC obtains proposal from C-Cor Incorporated for transport encoders and decoders and related equipment.
November 19, 2004	FMBC issues purchase order in amount of \$1,847.25 to BGS for audio meters.
November 19, 2004	Fiber Solutions invoices FMBC for installation of CAT. 5e data drops.
November 23, 2004	Action of the Chief Video Division Media Bureau denies Petitions for Reconsideration in MM Docket No. 00-180 and denies informal objections with respect to FMBC's DTV CP application, BPCDT-19991029ADW.
November 23, 2004	FMBC issues purchase order in amount of \$19,554.45 to C-Cor Incorporated for transport encoders and decoders to be used to feed DTV signal to CATV systems.
November 29, 2004	FMBC issues purchase order in amount of \$474.45 to Fiber Solutions Inc. for three CAT 5 cable runs to router/master control equipment.

<b>DATE</b>	<b>DESCRIPTION</b>
November 30, 2004	FMBC pays an additional \$200,000.00 to PCS for the DTV studio/Master Control project.
November 30, 2004	FMBC obtains estimate from TD Computer Outlet Inc. for a computer system for the router/master control switcher.
December 6, 2004	FMBC obtains quotes from PCS for items of master control/studio equipment.
December 8, 2004	FMBC obtains quote from Norpak Corporation for an HDTV encoder/insertter and related software.
December 9, 2004	Joe Zuba of Dielectric emails Keith Stuhlmann of FMBC seeking data on transmission lines for proposed antennas.
December 10-13, 2004	FMBC issues four purchase orders totaling \$12,934.87 to PCS for additional studio/master control equipment.
December 13, 2004	FMBC issues purchase order in amount of \$2,757.00 to TD Computer Outlet for computer system for router/master control switches.
December 14, 2004	Keith Stuhlmann sends Johnson Engineering environmental due diligence report to Nu-Cape Construction.
December 15, 2004	Bernard McGovern sends Keith Stuhlmann a letter outlining the services to be provided by Nu-Cape Construction with respect to the WINK-TV transmitter building addition.
December 15, 2004	FMBC issues purchase order in the amount of \$599,387.93 to Harris Corporation for DTV transmitter and associated services and equipment per October 13, 2004 Harris proposal.
December 15, 2004	FMBC pays Harris Corporation \$199,795.98 down payment on DTV transmitter.

<b>DATE</b>	<b>DESCRIPTION</b>
December 16, 2004	Bernard McGovern of Nu-Cape Construction emails Keith Stuhlmann regarding interpretation of environmental study and suggestions for proceeding with development order for transmitter building addition.
December 16, 2004	FMBC issues purchase order in the amount of \$526 to Tiger Direct, Inc. for an LCD monitor arm and bracket.
December 16, 2004	Building Systems Evaluation Inc. relocates sprinkler heads in computer tech room.
December 20, 2004	George T. Mann General Contractor, Inc. issues invoice for demolition of old studio, installing a computer floor, plastering and electrical work.
December 21, 2004	FMBC issues purchase order in amount of \$4,844.19 to George Mann for work on TV Master Control.
December 22, 2004	FMBC obtains quote from PANTROPIC POWER to move remote annunciator in control room.
December 22, 2004	FMBC issues purchase order in the amount of \$360.00 to PANTROPIC Power Products to move generator remote panel in control room.
December 23, 2004	FMBC pays Johnson Engineering \$2,785.00 for environmental work.
December 23, 2004	Caloosa files a Petition for Partial Reconsideration of the Video Division's November 23, 2004 action with respect to MM Docket No. 00-180 and the grant of FMBC's DTV construction permit, BPCDT-19991029ADW.
December 28, 2004	FMBC issues purchase order in amount of \$585.00 to Fire Sprinkler Systems for work in sprinkler systems in master control area.

<b>DATE</b>	<b>DESCRIPTION</b>
January 3, 2005	FMBC issues purchase order in amount of \$7,381.00 to Norpak Corporation for HDTV Encoder/Inserter and associated software.
January 4, 2005	FMBC issues purchase order in amount of \$2,981.07 to PCS for demultiplexer.
January 11, 2005	Bernard McGovern of Nu-Cape Construction emails Keith Stuhlmann regarding Johnson Engineering's lack of progress relating to development order.
January 11, 2005	FMBC executes Tower Design Analysis change Order for Kline Towers' analysis of WINK-TV Tower.
January 25, 2005	Kline Towers issues design analysis of WINK-TV Tower per change Order No. 1.
January 28, 2005	FMBC files its FCC Form 382, Digital Channel Election Form, First Round Election.
February 1, 2005	Chris Lee (Architect) emails engineers, contractor and FMBC regarding plans to meet at WINK-TV transmitter site to review proposed addition to transmitter building .
February 4, 2005	Christopher J. Lee Architects faxes Keith Stuhlmann following up on February 1 meeting; describing scope of design project; and requesting additional design information.
February 4, 2005	Tony Fonseca of Dielectric emails Keith Stuhlmann following up on previous meeting regarding tower and antenna modifications. Kline Iron and Steel is owned by Dielectric and this email sets out the scope of tower modifications.
February 8, 2005	Ed Claar of FMBC emails Tony Fonseca of Dielectric regarding need to change specifications of Tower modification.

<b>DATE</b>	<b>DESCRIPTION</b>
February 10, 2005	Tony Fonseca emails Keith Stuhlmann and Ed Claar of FMBC attaching revised proposal for Tower modification and antenna installation.
February 18, 2005	Chris Lee (Architect) emails Keith Stuhlmann of FMBC regarding need for information on (1) electrical load data and rough-in requirements for transmitters; (2) peak and stand by heat rejection data and normal operating durations for transmitters; (3) ambient temperature and humidity limits for transmitter operation and; (4) remote alarm requirements for loss of temperature.
February 21, 2005	FMBC issues purchase order in amount of \$1,500.00 to Dielectric/Kline Towers for second structural analysis of tower for DTV/NTSC/FM antennas.
February 22, 2005	FMBC issues purchase order in amount of \$2,585.26 to Future Controls for ductwork in new Master Control.
February 23, 2005	FMBC issues purchase order in amount of \$369.00 for LCD Monitor for Master Control.
February 28, 2005	FMBC issues purchase order in amount of \$1,260.00 to Fire Sprinkler Systems to reconfigure sprinkler system in Master Control.
March 1, 2005	Caloosa files Supplement to Petition for Reconsideration and a petition for leave to file the supplement with respect to dismissal of Caloosa's applications for WBSP-CA, Naples, Florida.
March 3, 2005	FMBC issues purchase orders totaling \$4,765.14 to BGS for monitoring equipment.

<b>DATE</b>	<b>DESCRIPTION</b>
March 4, 2005	Christopher Lee, Architect, emails Bernard McGovern, building contractor, regarding lack of news from Johnson Engineering. Additional data is needed for analyzing the air conditioning equipment to determine loads and impact on emergency generator and electrical loads.
March 4, 2005	Tony Fonseca of Dielectric emails Keith Stuhlmann and Ed Claar a revised proposal for modifying the WINK-TV Tower.
March 7, 2005	FMBC issues purchase order in the amount of \$1,585.04 to Graybar Electric, Inc. for electrical supplies for equipment racks in the Master Control rebuild project.
March 7, 2005	George T. Mann General Contractor Inc. issues invoice for demolition, sheet rock, patching, cabinetry, windows, lighting and ceiling for master control project.
March 8, 2005	FMBC issues purchase order in the amount of \$26,741.67 to George Mann for construction services.
March 10, 2005	Gary Gardner of FMBC signs Dielectric proposal for Tower modification.
March 10, 2005	FMBC issues purchase order in the amount of \$573,560.00 to Dielectric/Kline Towers for tower reinforcing, antenna installation, removal of guy cables, and transmission line work.
March 16, 2005	FMBC pays \$248,337.00 down payment for Dielectric/Kline Towers services reinforcing WINK-TV Tower and installing antennas and transmission line.
March 30, 2005	Johnson Engineering provides FMBC with professional services agreement covering site planning, boundary survey, South Water Management District review, and permit assistance.

<u>DATE</u>	<u>DESCRIPTION</u>
April 5, 2005	Gary Gardner signs professional services agreement with Johnson Engineering on behalf of FMBC.
April 5, 2005	FMBC issues purchase order in the amount of \$351.56 to Future Controls for grill work in the master control room.
April 6, 2005	Johnson Engineering prepares site plan for proposed transmitter building addition.
April 13, 2005	FMBC issues purchase order in the amount of \$9,147.00 to TD Computer Outlet for switches and base cards to be used to control the router in the master control room.
April 15, 2005	FMBC issues purchase order in the amount of \$12,283.46 to George Mann for construction services in connection with rebuilding and repairing TV master control.
April 22, 2005	Joseph Belisle emails Clay Pendarvis on behalf of FMBC with respect to replication/maximization deadline.
April 22, 2005	FMBC issues purchase order in the amount of \$2,380.00 to Fiber Solutions Inc. for 6 fiber optic cable runs from the new DTV router network switches to the computer room.
April 28, 2005	FMBC obtains quote from PCS for digital character generator and graphics system.
April 29, 2005	FMBC issues purchase order in the amount of \$7,960.85 to PCS for digital character generator and graphics system.
May 2, 2005	FMBC pays Johnson Engineering \$1,053.00 for services on DTV transmitter building project.
May 4, 2005	FMBC obtains quotation on timecode generator/reader from PCS.
May 9, 2005	FMBC issues purchase order in the amount of \$2,941.73 for timecode generator/reader to PCS.

<b><u>DATE</u></b>	<b><u>DESCRIPTION</u></b>
May 17, 2005	FMBC issues purchase order in the amount of \$4,100.00 to Smith Fence Company of Fort Myers for fence work at transmitter site.
May 25, 2005	FMBC obtains proposal from Fiber Solution for installation and termination of 500 feet of fiber.
June 1, 2005	Final acceptance and punch list for PCS's work on DTV master control and studios.
June 3, 2005	FMBC obtains quotation from PCS for equalizing distribution amplifier.
June 3, 2005	FMBC obtains proposal from Future Controls for relocation of air conditioning condensing units at WINK-TV transmitter building.
June 3, 2005	FMBC issues purchase order in the amount of \$3,288.48 to George Mann for construction services on master control rebuild project.
June 3, 2005	FMBC issues purchase order in the amount of \$885.57 to PCS for equalizing distribution amplifier.
June 13, 2005	Gary Gardner accepts Future Controls proposal for relocating air conditioning condensing units at WINK-TV transmitter site.
June 23, 2005	FMBC issues purchase order in the amount of \$173.88 to Honeywell for moving security equipment in connection with work on WINK-TV transmitter site.
June 23, 2005	FMBC issues purchase order in the amount of \$363.50 to Fire Sprinkler System for relocating sprinkler heads at tech center due to new ceiling grid.

<b>DATE</b>	<b>DESCRIPTION</b>
June 23, 2005	FMBC issues purchase order in the amount of \$6,120.00 to Fiber Solutions Inc. for installing 500 feet of fiber cable.
June 24, 2005	FMBC receives quotations from PCS for frame synchronizer/delay drives.
June 27, 2005	FMBC issues purchase order in the amount of \$1,346.86 to George Mann for repair of TV production audio room.
June 27, 2005	FMBC issues purchase order in the amount of \$3,372.25 to PCS for frame synchronizer/delay drives.
June 28, 2005	FMBC receives quotation from PCS for fiber optic transmitters and receivers.
July 1, 2005	Christopher J. Lee Architect, Inc. Anchor Engineering Consultants Inc. and Liebl & Barron Structural Engineering issue initial drawings for WINK-TV building expansion.
July 11, 2005	FMBC issues purchase order in the amount of \$33,393.40 to PCS for fiber optic transmitters and receivers to feed HDTV signal from the studio to the HDTV STL.
July 12, 2005	FMBC receives a \$9,190.00 proposal from Owen Ames Kimball (parent of Nu-Cape Construction) for a new air conditioning equipment pad at transmitter building.
July 12, 2005	FMBC receives a \$39,050.00 proposal from Owen Ames Kimball for road work at the WINK transmitter site.
July 12, 2005	Dave Dale of Nu-Cape emails Keith Stuhlmann regarding road construction and site preparation at the WINK tower site.
July 14, 2005	Gary Gardner accepts Owen Ames Kimball's July 12, 2005 proposals for concrete work and road repair on behalf of FMBC.

<u>DATE</u>	<u>DESCRIPTION</u>
July 19, 2005	FMBC receives quotations from PCS for amplifiers.
July 19, 2005	FMBC issues purchase order in the amount of \$362.50 to PCS for amplifiers.
July 23, 2005	Dielectric issues plans for WINK-TV tower modification.
July 26, 2005	PCS provides FMBC with quotations for 4 channel Audio Digital to Analog converters.
July 27, 2005	FMBC issues purchase orders in the amount of \$3,415.24 to PCS for digital to analog converter.
August 2, 2005	Christopher J. Lee Architects, Inc. and Anchor Engineering Consultants, Inc. supply Nu-Cape Construction with signed and sealed permit issue drawing for use in the building permit application for the WINK-TV transmitter building.
Early August, 2005	Nu-Cape Construction tenders building permit application for WINK-TV transmitter building. Charlotte County, Florida planning officials refuse to accept the building permit application because it does not include a recent survey of the site.
August 4, 2005	FMBC issues purchase order in the amount of \$1,430.00 to Smith Fence Co. of Fort Myers for removing fencing at transmitter site for construction crew access to guy anchors.
August 4, 2005	PCS provides FMBC with a quotation for a dual LCD rack amount panel monitor.
August 5, 2005	FMBC issues purchase order to PCS in the amount of \$3,444.17 for a dual LCD rack mount panel monitor to preview the logomotion and the CG crawl from the news room computer system.

<u>DATE</u>	<u>DESCRIPTION</u>
August 8, 2005	Mike Woods Construction issues invoice for installing two cement anchors at transmitter site for tower work.
August 16, 2005	FMBC issues purchase order to Park Manufacturing Co. for elevator roller wheels to use on WINK-TV tower elevator.
August 16, 2005	PCS provides FMBC with a quote for a reclocking distribution amplifier.
August 17, 2005	FMBC issues a purchase order in the amount of \$2,360.82 to PCS for an amplifier.
August 17, 2005	FMBC issues a purchase order in the amount of \$2,155.84 to be BGS for transmission line elbows.
August 17, 2005	FMBC pays Mike Wood Construction \$500.00 to install two cement anchors needed for tower work.
August 19, 2005	FMBC issues purchase order in the amount of \$9,190.00 to Nu-Cape Construction for a concrete pad for air conditioning compressors at the WINK transmitter building.
August 19, 2005	FMBC issues a purchase order in the amount of \$38,709.00 to Nu-Cape Construction for filling and grading temporary access roads at WINK transmitter site.
August 19, 2005	FMBC issues purchase order in the amount of \$1,155.26 to BGS for transmission line end caps.
August 22, 2005	FMBC issues a purchase order in the amount of \$991.48 to Dielectric Communications for transmission line pieces.
August 24, 2005	FMBC obtains a quotation from PCS for serial control of a Panacea light.
August 24, 2005	FMBC issues a purchase order in the amount of \$232.58 for a serial control option for a Panacea light.

<b>DATE</b>	<b>DESCRIPTION</b>
August 24, 2005	FMBC issues a purchase order in the amount of \$880.00 to Florical Systems, Inc. for a control interface for the Leitech HD switcher.
August 25, 2005	Precision Communications Inc. relocates a 6 foot dish on the WINK-TV tower.
August 26, 2005	FMBC issues purchase order in the amount of \$1,068.72 to Fiber Solutions Inc. for fiber jumpers connecting the studio with the fiber cable run to the STL dog house
August 29, 2005	Johnson Engineering sends invoice for revisions of site plan, finalizing with architects plan, drafting and design for proposed building addition and driveway extension at WINK-TV tower.
August 30, 2005	FMBC pays Johnson Engineering \$585.99 on its August 29, 2005 invoice.
August 30, 2005	James Legg of Dielectric emails Keith Stuhlmann of FMBC regarding completion of steel work on WINK-TV tower.
August 30, 2005	FMBC files DTV extension request BEPCDT-20050830ABY
September 1, 2005	Johnson Engineering sends signed and sealed site plans for Charlotte County building department to Nu-Cape Construction.
September 1, 2005	FMBC issues purchase order in the amount of \$13,541.00 to Nu-Cape Construction for additional rock fill at WINK-TV tower site.
September 6, 2005	FMBC signs retransmission consent agreement with Comcast for cable carriage of the WINK-TV digital signal.

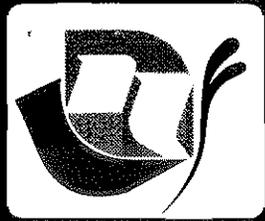
<b>DATE</b>	<b>DESCRIPTION</b>
September 9, 2005	FMBC issues purchase order in the amount of \$8,193.48 to Lightning Master Corp. for lightning protection on new antennas.
September 9, 2005	FMBC begins delivery of HDTV signal to Comcast Cable over fiber link to CATV headend.
September 12, 2005	Fort Myers Broadcasting Company issues purchase order in the amount of \$8,131.00 to Future Controls for relocating air conditioning condensers at WINK transmitter building.
September 13, 2005	Joseph Belisle emails Clay Pendarvis on behalf of FMBC regarding progress to initiate DTV Service from WINK-TV.
September 14, 2005	FMBC amends its pending application to extend DTV Construction permit.
September 16, 2005	FMBC pays \$1,200.00 to Precision Communications for relocating a 6 foot receive dish on the WINK-TV tower.
September 19, 2005	FMBC makes final payment of \$129,603.02 to PCS for WINK-TV master control/studio construction project.
September 20, 2005	FMBC issues purchase order in the amount of \$1,421.84 to BGS for transmission line and gas pass connectors.
September 26, 2005	FMBC pays \$212,710.95 to Dielectric Communications for work on the WINK-TV tower.
September 27, 2005	Bernard McGovern of Nu-Cape emails Mark Theis of Johnson Engineering regarding the need for survey information to apply for the WINK transmitter building permit.
September 29, 2005	Johnson Engineering issues invoice to FMBC for site plan, surveyor, drafting and design for proposed building addition and drive way extension at WINK-TV tower.

<b>DATE</b>	<b>DESCRIPTION</b>
September 30, 2005	Johnson Engineering transmits signed and sealed boundary surveys for Charlotte County Building Department to Nu-Cape Construction.
September 30, 2005	Nu-Cape Construction applies for building permit for WINK transmitter building addition.
October 3, 2005	FMBC issues purchase order in the amount of \$1,012.00 to Johnson Engineering Inc. for services identified in September 9, 2005 invoice.
October 6, 2005	FMBC issues purchase order in the amount of \$6,651.71 to BGS for digital audio processing equipment.
October 23, 2005	FMBC issues purchase order in the amount of \$1,416.86 to Dielectric/Kline Towers for cut piece of six and one-eighth inch (6 1/8) transmission line.
October 24, 2005	Fort Myers, Florida is struck by Hurricane Wilma. WINK-TV receives damage to studio building and tower installations.
October 25, 2005	Joseph Belisle emails Barbara Kreisman on behalf of FMBC requesting (a) that the WINK-DT construction permit be tolled (b) that the Use-It-or-Lose-It deadline for WINK-DT be tolled or (c) that FMBC be granted additional time to file for extension of its DTV CP and interference protection.
October 26, 2005	FMBC signs retransmission consent agreement with Time Warner and begins delivering DTV signal to Time Warner headend.
October 31, 2005	Joseph Belisle emails Barbara Kreisman on behalf of FMBC requesting until November 29, 2005 to supplement WINK-DT's pending Form 337 and to request extension of the WINK-DT use-it-or-lose-it deadline.

<b>DATE</b>	<b>DESCRIPTION</b>
November 1, 2005	Shaun Maher emails Joseph Belisle approving extension of time requested in the October 31, 2005 email to Barbara Kreisman.

G:\Broadcast\2005\Fort Myers\Misc\DTV Timeline.wpd

EXHIBIT 2



# Nu-Cape Construction

1406 S.E. 46th Lane, Suite #4, Cape Coral, FL 33904

Phone: (239) 542-0073 • Fax: (239) 542-6288

Web Site: [www.owen-ames-kimball.com](http://www.owen-ames-kimball.com)

Via fax and overnight mail.

October 19, 2005

Mr. Joseph Belisle  
Leibowitz & Associates, P.A.  
Suite 1450  
SunTrust International Center  
One Southeast Third Avenue  
Miami, Florida 33131

**FAXED**  
10/19/05

RE: Fort Myers Broadcasting Company  
Construction of WINK T.V. Transmitter Building

Dear Mr. Belisle,

In response to your request as it relates to the to the design and construction timeline project know as WINK T.V. Transmitter Building, I offer the following:

#### **October 2004**

Nu Cape Construction's first contact with the client was on October 19, 2004 when Mr. Keith Stuhlmann director of engineering for WINK T.V. and I spoke via telephone concerning an upcoming project to construct a facility to house some new television transmission equipment. Nu Cape Construction's role would be to act as the construction manager. Given that, Mr. Stuhlmann told me that they had already engaged Christopher J. Lee Architects, Inc ( Chris Lee) and Johnson Engineering, Inc. ( Johnson) to provide the required design services.

#### **November – December 2004**

On November 4, 2004 I met with Keith Stuhlmann, Chris Lee, Anchor Engineering and Johnson to discuss the project scope and general time line. A concept floor plan and concept details of the structure was discussed. It was agreed that Johnson should begin the civil design work and Chris Lee would coordinate the architectural, structural, mechanical and electrical disciplines. Based upon the preliminary discussions we felt that actual construction work would be completed within three to four months.



A Division of  
Owen-Ames-Kimball Company



**Mr. Joseph Belisle**  
**October 19, 2005**  
**Page 2 of 3**

Recognizing that the site lies near environmentally sensitive areas, WINK T.V. requested that Johnson prepare an environmental assessment of the property. The main purpose of this document was to provide an evaluation of the subject property to determine if the project would impact jurisdictional wetlands or protective species. The general intent of this activity is to confirm if the project would require special state, federal or local environmental permits. Such permits require additional engineering and can substantially increase the overall time frame required to permit the project. Therefore, this study is common practice for land development and construction projects in this area. Johnson completed the environmental due diligence report in November 2004. The results were positive and WINK T.V. was not required to apply for any State, Federal or Local environmental permits.

#### **January 2005 – February 2005**

During this time frame the design team was periodically in contact with WINK T.V. to review material specifications and design details. On February 1, 2005 the entire team met on site to review progress and review site specific issues. The general agreement was that the construction plans would be ready for permit and subcontractor bidding by the end of June 2005.

Due to the civil engineer's heavy work load it was difficult for them to provide deliverables as promised. Despite our constant pressure they did not keep pace with the other members of the design team.

#### **August 2005 - Present**

On August 2, 2005 our office received the signed and sealed permit drawings from Chris Lee. In order to apply for a permit in Charlotte County a site drawing and survey is also required at the time of submission. On September 1, 2005 Johnson provided our office with the required site drawing. However, the survey had not been completed. Again, Johnson's extensive workload prevented them from completing the survey in a timely manner.

I picked up the required survey on September 30, 2005 and promptly submitted the permit documents to the Charlotte County Department Community Development Department. As of the date of this writing the permit had successfully made it through six of the eleven required reviews. Upon receipt of the required building permit Nu Cape Construction is ready to start the construction phase. We anticipate the entire project to be completed within the previously estimated four month period.





Mr. Joseph Belisle  
October 19, 2005  
Page 3 of 3

In closing, it would benefit you to know that for the last several years we have seen an overwhelming demand for all construction related including labor, materials and subcontractors. The end result is that during this period of time our local construction industry and design community have struggled to meet client's aggressive time frames and increased interest in our services. Additionally, the increased activity has placed a burden on those authorities who issue permits and provide inspections.

A number of factors can be contributed to this including the four hurricanes making landfall in the state in 2004; one storm making a direct hit on Charlotte County. Additionally, the geographically area of the proposed project is within one of the fastest growing markets in the United States. In fact, residential and commercial construction volume continue to be at a record setting pace. Candidly, a majority of our current projects face issues similar to our clients undertaking specifically, an above average duration for design and permitting.

I am hopeful that this document provides some helpful insight into the progress we have made on behalf of WINK T.V. specifically related to the construction manager of their transmitter building.

I declare under penalty of perjury that the facts stated above are true.

Very truly yours,  
Nu Cape Construction

Butch McGovern  
General Manager

CC: #116 owner file  
Keith Stuhlmann – WINK T.V.  
Gary Gardner- WINK T.V.

**EXHIBIT 3**

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Article published Jan 1, 2005

## **2005 A YEAR TO REBUILD**

### **Charlotte gets a chance to chart a new course in growth**

By [Patrick Whittle](#)

CHARLOTTE COUNTY -- The next 12 months will bring unprecedented change to Charlotte County's economic climate and housing makeup.

It will come in the form of private investment, public projects and federal government assistance.

And, for better or worse, it will separate the longtime blue-collar retirement community from its history.

In the coming year, the county will consider:  
A billion-dollar federal rebuilding project that will serve as a road map for the rebuilding of Charlotte's businesses and homes.  
The rezoning of large swaths of commercial districts and residential areas, and the turf wars that are certain to ensue.  
A plan to demolish the storm-damaged Memorial Auditorium in Punta Gorda with a conference hotel.  
The building of low-income housing.

It's a chance to emerge from General Development Corp.'s stagnant legacy, and a chance for politicians, developers, business leaders and residents to begin a new one.

The discourse will center on a single theme: the opportunity to build bigger and better than before.

For all its destruction, Punta Gorda Mayor Steve Fabian said, Hurricane Charley also delivered an opportunity to rebuild, "with a new vigor in ways we may otherwise not have known."

#### A new Charlotte

For years, county commissioners have lamented the county's "original sin," General Development Corp.'s platting of hundreds of thousands of single-family lots throughout the county.

Because of the narrow business strip that GDC left behind, the county has few large, vacant commercial tracts.

Although the effort to reverse the GDC legacy could trigger neighborhood battles and spur testy public meetings before city and county officials, both the public and private sectors are engaged as never before in planning the county's future to maximize its business corridor.

Preliminary indications are that it's paying off.

Last month, a record quarter-billion dollars of new private investments were announced in the county.

"And that's just the tip of the iceberg," said Betty Williams, county economic development director.

For all their charm, many structures in Charlotte County and Punta Gorda were cheaply built to long-outdated codes. Changes to zoning codes left a helter-skelter mix of residential and commercial development.

After the hurricane, the County Commission made it possible for commercial property owners along U.S. 41 to apply to rezone residential lots behind their businesses so they could expand.

Major projects that weren't on the radar before Aug. 13 involving Hilton Hotels, a Publix distribution center and The Winslow at Bahia Limon condominium complex were all announced in December.

Public-sector planners have also been busy, starting with FEMA's billion-dollar recovery plan.

Although state and federal officials caution it will take several years to implement the plan, developers are forging ahead.

The FEMA plan includes \$165 million worth of projects to improve the county's supply of affordable and low-income housing, an \$8 million revitalization of the U.S. 41 corridor, and improvements to downtown Punta Gorda.

In a letter to the Charlotte County Commission, FEMA Acting Regional Director Mary Lynne Miller said: "The terrible damages wrought by Hurricane Charley ... have ... created a unique opportunity for sustainable redevelopment in the future."

The community faces a major rebuilding quandary in Punta Gorda, where there is a proposal to replace the storm-bludgeoned Memorial Auditorium with a conference center and hotel. The FEMA plan calls for a new \$22.7 million convention complex.

County tourism officials think the complex would help attract visitors year-round, fill hotel rooms and boost commerce in the off-season. But resistance, legal and otherwise, is expected.

In any case, the decision could be a harbinger of Charlotte's commitment to rebuild bigger than before.

The county can have the waterfront property between the U.S. 41 bridges provided the facility is used by the public. A "reverter clause" allows the city to get the property back if there is no public use for it.

Any plan to have a mixed, public-private facility could spark legal battles.

And some county leaders, such as Commissioner Adam Cummings, don't want to lose the crafts shows, fairs and other community events that rented the auditorium.

Commissioner Matt DeBoer has expressed skepticism that a conference center would be as successful as some predict.

Still, redevelopment ideas that seemed out of reach before Hurricane Charley now appear possible. In Punta Gorda, leaders are dreaming up a riverwalk that would link Laisley Park to Fishermen's Village.

With the destruction of downtown's two most prominent waterfront properties -- the Holiday Inn and Memorial Auditorium -- that may now be possible.

Hit close to home

Charley's devastation created a stiff test for the county's low-income housing stock. Winds demolished 154 public housing units in Punta Gorda, forcing residents to relocate to other housing authorities across the state. Jean Farino, who directs the local Housing Authority, said former residents call her office nearly every day.

"They ask, 'When can we come back?' " Farino said. "This is their home."

The temporary displacement is offset by the opportunity to create more apartments and develop a stronger sense of community. The old complex east of U.S. 41 has long been thought of as separate from the surrounding area.

Housing officials hope to break ground on an \$18 million complex in June that will provide a roof for a mix of moderate- to low-income households.

The Housing Authority is asking the federal government for \$10 million in tax-exempt bonds to help it build 192 low-income units. The drab housing that once existed would be replaced by a modern apartment complex with a pool, exercise room, computer room and other perks.

To help recover its debt, the authority plans to rent some of the units at market rate to people of all incomes, while reserving most of the apartments for low-income residents.

The storm also increased the cost of some private low-cost housing.

Lower-priced rental housing, near Easy Street and other Port Charlotte neighborhoods, hasn't been nearly as affordable since Charley thinned out the affordable housing stock.

Jim Sweeney, development director for the Punta Gorda Housing Authority, said a home that rented for \$600 a month may now fetch \$1,000 or more.

"The numbers are huge," Sweeney said. "It's all over \$1,000, and it's not coming back."

Many owners will have to get loans to make up the large gaps between the cost of repairing their homes and the payout from insurance, Sweeney said. Many will have no choice but to

increase rents to recoup their investments.

### Focus on Punta Gorda

In Punta Gorda, the first challenge of the year will be to map out a new direction for the city. The city's Community Redevelopment Agency will hold a two-day design workshop later this month.

Some buildings and signs along U.S. 41 that had been considered eyesores were destroyed by the storm. Business owners can now make dramatic changes to enhance the city's character.

A developer who had planned to demolish and redevelop the old Punta Gorda mall in two sections ended up razing all of the buildings after the hurricane. And the city has snatched up properties that had not been available before the storm.

In the coming months, the city is expected to adopt a new set of codes and existing land-use regulations that will create a more pedestrian-friendly downtown.

Commercial developments will require more landscaping, the buildings will be closer to the streets and parking will be to the side or rear.

Charley also destroyed or heavily damaged about 30 historic houses and businesses that helped fashion the city's legacy.

The city might create new historic districts, including one on the east side, an economically depressed neighborhood that could benefit from such a designation.

The city will also rebuild two dozen public buildings.

City officials predict that in five years Punta Gorda will have a new look, a new feel.

"The time is right to try and achieve those things and to think forward," said David Hennis, the city's director of community development. "The major challenge is going to be a little patience."

Staff writers Jamie Manfuso, Jenny Lee Allen, Michael A. Scarcella and Stephen Frater contributed to this report.

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Article published May 6, 2005

## **Charlotte may create jobs to handle construction crush They'd primarily be building inspectors, plans reviewers and license investigators**

By JAMIE MANFUSO

CHARLOTTE COUNTY -- It can take 10 weeks here to get a new roof inspected and more than seven weeks to receive a home-building permit.

There aren't enough hours in the day for Charlotte County's two licensing investigators to respond to every complaint they get about contractors.

Now, nearly nine months after Hurricane Charley, county officials want to change all that by creating 27 positions – building inspectors, plans reviewers, licensing investigators and customer service reps among them.

The County Commission is scheduled to decide Tuesday whether to approve the new positions, which would cost about \$1.7 million a year.

But the board's approval wouldn't necessarily mean that all 27 jobs would be filled any time soon. The county will have to compete with other local governments, as well as the construction industry, to find and hire the employees.

Building inspectors and plans examiners are particularly hard to reel in.

"Everybody in the area is hunting for the same positions we are," said Jim Evetts, the county's building official.

He said some of the jobs might not be filled until the end of the year.

"All the contractors are busy," he said. "They're having to pay their employees more to keep them. And that's where we've been getting our inspectors from."

The county recently hired some inspectors on a contractual basis and plans to bring them on full-time if the commission creates the positions.

There are now about 80 people working in construction services, Evetts said.

The county's community development department analyzed its staffing needs for many weeks before making the request for more help.

Commissioner Matt DeBoer said he was disappointed that it had taken as long as it has for staff to request the positions.

"The board has been expressing to staff since shortly after Hurricane Charley that if they need any help, just ask for it," he said.

There's little doubt that the county needs help.

The week before Charley, 376 permits of all types were waiting for review. On Thursday, that number was 1,561.

The number of single-family home permits increased from 1,785 in 2003 to 2,182 the next year. In the first four months of 2005, the county issued 819 single-family permits -- a pace of more than 2,400 for the year.

The wait on a single-family permit has increased from about 25 days in early August to 50 or more days today.

The frenzy of hurricane-related construction work, as well as a surge in construction not related to the storm, is swelling the cash reserves held by the building department.

In the three-year period ending in September 2004, the county collected \$1.5 million more in fees than it had spent.

But the community development office forecasts that, this budget year alone, construction services will take in \$4.5 million more in fees than it spends on operating costs.

Money for 22 of the 27 positions requested would come from those permit and inspection fees. The annual cost would be nearly \$1.4 million.

Five of the positions being requested -- two licensing investigators, two building investigators and a secretary -- would be funded by tax dollars at a cost of about \$355,000 a year.

"We know that both the revenue and the work is there, so I would guess that we're going to support it," DeBoer said.

Some county officials expressed concern that, as hurricane-related work begins to decline, the county may not have enough fees to support the new positions. According to a county staff report, up to 15 of those positions may have to be eliminated in a year. But Commissioner Tom Moore said layoffs might not be necessary, given the county's building boom.

In addition to backlogs in licensing and permitting, the county is struggling to police its contractors.

Erin Mullen-Travis, who oversees the county's licensing investigators, said the new help can't come soon enough.

"Right now all they're doing is putting out fires ... and going after the unlicensed contractors, because we're getting bombarded with calls about it," she said.

One day this week the office received seven complaints about unlicensed contractors.

The two licensing investigators have been so busy that they haven't had time to prepare disciplinary cases against contractors for the Construction Industry Licensing Board, she said.

The county might also get two new building investigators who will work to make sure that unsafe structures are addressed. If property owners don't repair such buildings, the county can follow a drawn-out process to get the buildings demolished. Mullen-Travis estimates that there are 5,000 to 7,000 buildings made unsafe by the hurricane.

The two current building investigators have been locating the unsafe homes, but "they haven't even scratched the surface."

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Article published Jul 15, 2005

## **Study: 1 million Floridians left with damage**

By MARINA BLOMBERG  
NYT REGIONAL NEWSPAPERS

GAINESVILLE -- As Floridians weather an already active 2005 hurricane season, a new University of Florida survey shows that as late as May 2005, more than 1 million Floridians still needed repairs on their houses from last year's hurricanes.

A survey of more than 2,000 residents by the Bureau of Economic and Business Research at the university in May concluded that 696,000 Floridians are still working on repairing damage caused by the four hurricanes that hit the state last year, and that another 348,000 have not even started fixing hurricane-related damage.

The survey reported that about 2.6 million housing units were damaged by the four hurricanes, which amounts to 32 percent of the state's 8.1 million housing units. The state's population is about 17.6 million.

"What was surprising was the very large number of damaged units. Thirty-two percent of the respondents to the survey said they had sustained some type of damage. This reflects the scope of the impact," said Stan Smith, the report's co-author.

Smith is director of the Bureau of Economic and Business Research and co-author with Chris McCarty, director of the UF Survey Research Center.

McCarty said more than a million housing units still in disrepair may be surprising to people who live in Gainesville, but not to people in Punta Gorda or Pensacola.

"TV footage of the most recent hurricane going through Pensacola showed a lot of blue tarps still up," he said.

The survey estimates that of Florida's 8.1 million housing units, 35,000 were destroyed, 649,000 sustained major damage and nearly 1.9 million sustained minor damage.

What did people learn from their experience?

According to the survey, about 10 percent of the population made structural modifications, 8 percent cut down or trimmed trees, 4 percent bought generators and 1 percent found safer places to live.

How will they plan for a future season?

According to the respondents, 13 percent will cut down or trim trees, 11 percent will buy generators, 5 percent will move to safer homes and 2 percent say they plan to leave the state.

"The longer people lived in Florida, the less likely hurricanes would make them think about moving away," Smith said. "The highest proportion of people who said they might leave had moved here the last five years. If they go back further, they don't consider it."

The survey also evaluated the evacuation rates of state residents during the hurricanes, calculating that 25.5 percent of Floridians left their homes for at least one hurricane, while 3 percent evacuated for all four, meaning 4.5 million people left their homes at least once for the storms, a "huge number," Smith said.

Among other questions, the survey asked why people left their homes (13.7 percent for structural damage, 72.3 percent because of loss of utilities), where they stayed (72.7 percent with friends/relatives, 14 percent in hotels/motels) and how long (61.4 percent for less than a week, 20.3 percent for one to two weeks, and 3.4 percent for more than six months).

This is the first time a survey on the effects of a hurricane has been conducted since 1993, the year after Hurricane Andrew.

Hurricane Andrew was the single most devastating storm ever to strike Florida, leaving 25 dead and \$22 billion in damage. But the 2004 season's combined storms -- which occurred between Aug. 12 and Sept. 25 -- are considered more devastating. They caused 80 deaths and more than \$20 billion in damage, and the storms covered more of the state, damaged more housing units and forced far more people to leave their homes than Andrew.

It was the first time in recorded history that four storms struck Florida in the same year.

Smith said the findings will serve several purposes.

"It will give us a comprehensive picture of what happened last year," he said. "There's been relatively little information on these types of things. In the past, you'd get bits and pieces from FEMA or the insurance industry, but nothing that put together this type of information, what people did before and after hurricanes.

"Secondly, it will help in planning for future hurricanes, about the number of people evacuating, where they tended to go, how long they were gone, the effect of loss of utilities," Smith said.

Smith said he hopes the survey will not have a sequel in 2005.

"I really hope we don't have to do this again, because I hope we have a season this year that is not nearly as severe," he said.



# Hurricane Charley: One year later; In Charlotte, 'normal' still a long way off; Destruction gives way to hope and determination

By VICTOR HULL victor.hull@heraldtribune.com  
Sarasota Herald-Tribune (Florida)  
August 13, 2005

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## CHARLOTTE COUNTY

Hurricane Charley vanished over the horizon here a year ago, but the killer storm still permeates daily life.

People can't escape daily reminders in the vacant lots where landmarks once stood and the skeletal remains of buildings that look like they collapsed yesterday.

Strangers meet in grocery stores, doctors' offices and restaurants, their talk inevitably drifting toward Charley's aftermath: who's still waiting for a kitchen or pool cage repair, who finally got the county to approve their new roof, who got ripped off by which contractor.

"You can't work a day without hearing 'Charley' at least 100 times," says Christy Brown, an assistant manager at Ace Hardware in downtown Punta Gorda, slammed by Charley's potent center. "It's a constant topic of conversation."

Temporary trailers and storage sheds are as much a part of the landscape as pine and palm trees -- at least those that weren't reduced to splinters. Thousands of people, otherwise homeless, live in the makeshift spaces. Others work, do their banking or get a haircut in them.

The unsettled surroundings add to a sense that Charlotte, long a comfortable, affordable magnet for blue-collar retirees seeking their piece of the Florida dream, is a community in transition. Far from what it once was, Charlotte remains uncertain of what it will become.

Reconstruction has been painfully slow for many older residents, forcing some to move away. Lower-wage earners in the county's service economy have been pushed out by the destruction of cheap housing.

On the other hand, property values are soaring despite the widespread damage, enticing land speculators and wealthier people. A construction boom has drawn laborers from across the country.

Amid the upheaval, Charlotte residents have shown a dogged determination. They've cleaned up massive piles of debris. Schools flourished despite double sessions. Mobile home parks are reemerging, and tourists are returning. Mom-and-pop businesses improvised to reopen their doors.

Kim and Gerard Campanella have kept their bicycle shop running from five semi-trailer containers and a tent beside U. S. 41 in Port Charlotte.

They've battled mold, heat, insurance problems, eviction and burglary. Business is down 90 percent. They've gone from eight employees to one.

And that's at work; their home was damaged, too.

"I'm just numb," says Kim Campanella, 34.

They could have quit.

Instead, the Campanellas work under the blazing August sun, making plans to build a new store.

"I've just worked too hard and too long to throw it away," Kim says.

#### Painful recovery

Charlotte County residents awoke last Aug. 13 expecting to be sideswiped by a Category 2 hurricane. Forecasters had projected Charley to make landfall in the Tampa Bay area.

But as the day wore on, the hurricane quickly intensified, then turned and made a beeline for the Southwest Florida coast.

The storm roared into Charlotte Harbor and through the populated heart of the county, unleashing its 145 mph-plus winds on Punta Gorda and Port Charlotte neighborhoods closest to the Peace River's banks.

The extent of the damage was only beginning to sink in when an eerie darkness -- about 90,000 Charlotte utility customers were without power -- shrouded the debris-strewn landscape.

As the shock wore off, people worked feverishly to restore order.

By many measures, Charlotte has made an extraordinary recovery. Even without a Rudy Giuliani-esque figure to rally the community of Northeastern and Midwestern transplants, individuals, neighborhoods and business owners worked relentlessly to reclaim their lives.

One-third of the community's schools were damaged or destroyed, yet students were back two weeks later. Primary elections were held less than a month after the storm.

Almost half of the housing in this county of about 160,000 people was damaged. But teachers, doctors, nurses, government workers and utility employees managed to restore critical services.

The debris consumed nearly two years' worth of the county's landfill.

U.S. 41, where motorists had to navigate through downed power lines and intersections without traffic signals, now hums with vehicles. Commerce is picking up, with hundreds of stores and restaurants slammed by the storm having reopened.

One indicator of the rebound: While nearly one-third of the county's hotel beds were knocked out by the storm, by this summer, tax collections on temporary lodging nearly had caught up to pre-hurricane levels.

But the initial adrenaline burst after the storm has been replaced by a sinking realization that "normal" is still a long way off.

"I don't think we're as far as anybody would like us to be," said Bob Hebert, who is directing the recovery for the Charlotte County government. "I think, realistically, we're looking at three to five years before we get back to where we

were.

"People have been pretty resilient. But now, a year later, it's getting old."

Still waiting

The magnitude of the reconstruction task has sometimes overwhelmed county, state and federal officials -- a task complicated by Frances, Ivan and Jeanne, the three hurricanes that followed Charley in Florida's record-setting 2004 storm season.

At the peak, the Federal Emergency Management Agency brought in 2,248 trailers for temporary housing for the hundreds of families whose homes were uninhabitable. Destruction of the county's affordable housing stock, combined with an influx of rebuilding crews, helped drive up housing costs.

That, in turn, has dramatically affected the labor market and made it tough on household budgets.

"People can't afford to live here anymore," Hebert said. "That is probably our biggest single issue."

The tight labor pool prevented the county from hiring enough inspectors, planners and other workers. At one point, the Charlotte building department had a backlog of 4,000 houses awaiting roofing inspections. One-third of the roofs were failing because of shabby construction, unlicensed contractors or permit problems.

Material shortages, including shingles, nails, drywall and cement, also slowed reconstruction.

And unethical contractors took homeowners' money without finishing, in some cases even starting, work.

"I don't know anybody that's had a good experience," said Max Farrell, a former Charlotte County commissioner who lives in the hard-hit Deep Creek neighborhood. "Nobody's done what they said they'd do on any kind of schedule."

Local contractors say their profession has been tainted by crews from other states that flooded the area. They've also been hurt by a shortage of qualified laborers.

Jerry Hoffman, 60, said he paid a contractor \$1,500 to remove what remained of his damaged Punta Gorda mobile home. The contractor cashed the check, but by April, the mobile home still was in a heap. Hoffman later flew from Chicago, tracked the contractor down and got the mess removed.

"I hope to have everything done by November," said Hoffman as he waited on a steamy July morning for another contractor, who was late to measure his lot for a replacement mobile home. "I want to be back for the winter."

Archie and Helen Gibson, both 79, can see their new mobile home; they just can't live in it. Instead, they're in a cramped FEMA trailer, parked just a few feet from the new mobile home parked on their lot since January.

Because of a dispute with the mobile home seller about defects, the Gibsons have withheld final payment and the sales company won't turn over the title.

"It's been hell," Archie Gibson says, his eyes tearing up. "I'm about to lose my wife. I bet she's aged five years in the last year."

Archie hurt his leg cleaning up a tree that was knocked down. Doctor bills cost him \$5,000. He and Helen lived with mold and rats in temporary housing for four months after the storm. They didn't get power to their temporary trailer until February, relying instead on an extension cord to a neighbor's home.

They've paid hundreds of dollars to store their belongings, with the rest stuffed in the trailer.

"It's been too long," said Helen, adding that she's now on medication for her nerves. "My patience is shot. Everyday, it seems like I go around, see something wrong and get mad all over again. It's been a long year, and I wouldn't go through it again."

Personal loss

Retirees like the Gibsons have been Charlotte's heart and soul since the 1960s, giving Charlotte the second-highest median age for a county in the nation, 53.4 years.

Accurate estimates on how much Charley changed that character will not be available for some time.

But residents in mobile home parks and other neighborhoods have reported that, at least initially, many of the older and frail elderly had to leave.

The trying conditions forced some to move north with family. Others' insurance didn't cover replacement of cheaper mobile homes destroyed by Charley with new models meeting current building codes.

Hoffman said a substantial number of the older residents in his Parkhill mobile home community moved out.

"It's a shame, really," Hoffman said. "It hurts. A lot of people left and never came back. I'd say 50 percent of the people are new. It did disrupt a lot."

Fannie Steadley, 85, lost more than her mobile home to the storm. She held out in her damaged trailer, where she had lived since 1981, as long as she could. The floor was buckled and she had to haul water from a Punta Gorda canal to flush the toilet.

She stayed with a friend for a while, but finally had to make a decision. Even if she replaced her mobile home, she knew she'd have a hard time getting up and down the steps required by modern flood protection rules.

"I didn't think I could do that," Steadley said.

In January, she settled into an assisted living home across the Peace River, in Charlotte Harbor. She said she was the youngest person on Bayberry Street when she moved in 24 years ago, and the oldest when she left this year.

"I like my facility," she said. "It's not the best in the world, but I have a room by myself and I'm perfectly satisfied."

Nevertheless, once she settled in, the magnitude of what she had been through finally hit.

"When everything was moved in, I felt like sitting and crying all the time," she said. "It was like that for a couple of months."

University of South Florida researcher Lisa Brown, who has been studying the storm's impact on Charlotte County's elderly, found that stress, anxiety and other signs of mental health "distress" had increased compared with October.

Twenty percent of those surveyed felt they were prepared to deal with the hurricane and its aftermath. One-third felt very confident about their ability to handle a future crisis, and 26 percent said their physical health had deteriorated.

## Gradual makeover

Steadley said it bothers her to see the remaining signs of damage where she has lived so long, especially the trees "looking like huge toothpicks."

She calls the storm "a reminder we're not in control of this world." And she expects the community where she has spent the past 47 years to be permanently changed.

"It's not going to get back to how it was," she said. "I think you'll be able to see hurricane damage five years from now. Maybe I'm wrong. I hope I am."

The trees stripped by Charley's winds are sprouting stubby new growth, but the replacement of buildings is much slower.

The vacant lots where structures have been demolished, especially in Punta Gorda's historic district, are a reminder that the community's appearance will change.

Some say it will be for the better.

Questions remain about the fate of prime commercial spots, but older waterfront neighborhoods and the aging business corridor on U.S. 41 alike are getting dramatic makeovers. Sparkling new roofs, bright coats of paint and remodeled offices are replacing mildewed shingles and dingy strip centers.

Becky Bovell, Charlotte's tourist development director, said the new buildings will help expand and update the commercial districts and lodging.

"I think it will really change the face of Charlotte County as a vacation destination," she said.

But Frank Desguin, the county's property appraiser and a lifetime local resident, said some of the changes are hard to watch, especially in Punta Gorda's historic core.

"It's certainly a sense of loss," said Desguin, 53. "You try not to think about it too much."

# STORM 2005

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## Punta Gorda strives to break Charley's grip

By [Kimberly Miller](#)  
Palm Beach Post Staff Writer

Sunday, August 14, 2005

PUNTA GORDA — It's been a year since the gentle gulf breezes turned on the residents of this Peace River town, kicking off an unforgettable season of storms in Florida with Hurricane Charley's 145-mph winds.

An estimated 11,000 homes were made uninhabitable by Charley, which surprised residents shortly after 4 p.m. Aug. 13, 2004, with its ferocity and a last minute jag to the right. One in seven businesses was destroyed. At least \$200 million in damage was done to Charlotte County schools. By the end, 31 people were dead.

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### One year later...



[Slideshow](#) of the areas torn apart by Hurricane Charley.

Today, new yellow and white manufactured homes paid for with insurance money sprout like daisies in mobile home parks once piled 15 feet high with twisted debris and moldering belongings.

A downtown is being reborn as damaged buildings are razed and ancient zoning rules changed to reflect 21st century ideals of urban beauty — recessed strip malls with room for landscaping.

City officials say Charley put Punta Gorda on the map, giving the country a glimpse of a still obtainable paradise and pushing up taxable property values 6 percent this year.

But this still is a place where progress is measured with the reopening of the Long John Silver's restaurant, or the Badcock Furniture store, and not everyone is on the fast-track road to recovery.

Across the railroad tracks from where plans for a shiny new city are being drawn, the Newsome family of six lives in a 10-foot-by-10-foot tent in a ramshackle homeless shelter after a tree bisected their rented three-bedroom trailer home during Charley.

They have no air conditioning for relief from the August heat. Ants sting their feet and legs if they stand still for too long in the dirt outside their makeshift home. John Newsome wakes each morning at 4 to drive his bumperless Ford the 63 miles to his construction job in Naples, but he still can't afford to pay the first, last and deposit he needs to get his family into an apartment.

Nearly 1,300 people still live in a Federal Emergency Management Agency mobile home park set up in a former cow pasture and sandwiched between the county jail and Interstate 75. There are no trees or grass among the seemingly endless rows of white barracks-like trailers. The sandy fill used to level the pasture and raise it above muck level amplifies the summer heat to such temperatures that residents call the place "the desert" and are rarely seen outside during the day.

Many of those housed in the park are poor or blue collar workers who lived in public housing — 95 percent of which was destroyed by Charley. Their average income is \$19,776 a year, and they wonder where they will go when their free government leases begin expiring in February and they're forced to



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find affordable housing in a county that no longer has any.

Saturday, Punta Gorda threw a party downtown to celebrate how far the area has come since that devastating day one year ago when the town clock stopped at 4:27 p.m.

Ruth Ann Whipple, whose newly remodeled pink manufactured home in Windmill Village is a testament to that recovery, looked forward to the party last week. Making pickles in her cool and tidy kitchen that overlooks a canal and listening to classical music, she said she was excited to see which of her neighbors would return for the anniversary. Most of Windmill Village's residents will be moving into new homes supplied by insurers.

Across town, John Newsome had no plans to attend the party. Waking up sweaty in his cramped tent in the shelter, he would spend another day explaining for the umpteenth time to his straight-A 12-year-old son why he can't have a PlayStation 2.

"I'm not really worried about video games right now, son," Newsome said last week to the child's repetitive plea for the toy. "I have to think about how to feed you."

### Residents' mantra: They didn't see it coming

It's been repeated so many times during the past year, but it's still one of the first things residents will say about Charley — they didn't see it coming.

The Category 2 storm summoned Category 4 strength in a matter of hours. And as they listened to forecasters say *Tampa, Tampa*, their lights went out and the winds began as Charley took a late sharp turn up Charlotte Harbor like a tornado battering the edges of Punta Gorda and Port Charlotte.

Charley marked the beginning of Florida's reawakening for the first time since Hurricane Andrew. The residents of Charlotte County hadn't yet been schooled in how to watch the cone of the forecast, instead of focusing on a direct target.

Although not the most deadly (Ivan killed 52 people), or costliest (Frances is estimated at \$9 billion in damages), Charley proved to be the most powerful of last year's hurricanes. The proof of that terrible muscle can still be seen here a year later in the blown-out hull of the Professional Center office building downtown and the sad looking Good Times Lounge on Aqui Esta Drive. Family-owned for 20 years, the lounge is now a shell filled with messy insulation and burnt timbers.

"This is not the kind of thing you come back from overnight," said Wayne Sallade, director of Charlotte County Emergency Management, who estimates the county received up to \$3 billion in damage. "Here we are a year later, and people's lives are still in upheaval. Recovery is not a two- to three-month process, it's a five- to six-year process."

And in some ways, it got off to a rocky start. Although FEMA already was rushing people to Florida even as Charley's winds continued to harass the state, local officials were overwhelmed dealing with their own tragedies, said David Dunn-Rankin, publisher of the *Charlotte Sun*.

The 40,000-circulation family-owned paper never missed a day of publication, handing reporters' notebooks to employees whose job is not normally news gathering and relying on *The Bradenton Herald* to print the product. Cut off from the rest of the world, without power and phones, the paper became a lifeline for many, and Dunn-Rankin decided to deliver free papers to every house still standing for six weeks following the storm.

It was an unusual move for a daily newspaper whose directive is to grow circulation and profits, but Dunn-Rankin said in that kind of situation the paper decided "just to do the right thing." Dunn-Rankin himself emerged as a leader. When he called local officials, prodding them to step forward, he realized that their lives were so destroyed that they couldn't take the lead.

"In an emergency, you need someone to step up and say, 'You need this done, and this done and this done,' but there was nobody," Dunn-Rankin said about those first days following Charley. "If you didn't get up on your roof and fix it yourself, it didn't get fixed. For a variety of reasons, these people couldn't step forward."

Just last week, the chairman of Charlotte County's Board of County Commissioners announced she was suffering post-traumatic stress disorder following the destruction of her Port Charlotte home in Hurricane Charley. She urged others to take heed of the signs of mental crash and burn.

But, like many residents, Dunn-Rankin believes positive things can result.

"We have an opportunity to build a bigger and better community," he said.

### **Trailers still common in front of razed homes**

In historic downtown Punta Gorda, planters once again are filled with pretty purple flowers, and the handful of restaurants back in business have full lunch rushes. The city clerk's office moved back into city hall three weeks ago, following nearly a year's worth of reconstruction, and the wrecked 115-year-old First Presbyterian Church of Punta Gorda finally was knocked down Monday, leveling another reminder of Charley's wrath.

Students did go back to school Wednesday, some in their own buildings, others in portable classrooms, after six schools were totaled by the storm.

But over on Harbor View Road in Port Charlotte, Terry Frey, his wife, Kathy, a dog and two cats live in a 28-foot trailer in the front yard of their still-gutted two-bedroom house.

Frey bought the place, land and all, for \$53,000 in 1973. He said it's going to cost \$153,000 to fix the home, and he's still waiting on insurance money.

Inside the slender trailer, Frey pulled out a picture of himself in the 2004 edition of *Time* magazine's "The Year in Review." He's sitting in front of his damaged home after the storm, a shotgun propped on his thigh and a spray painted sign: "Looters will be killed." They already had swiped his ceiling fans when he left for a few hours to take a shower at his son's house.

"It's really turned our life upside down, but at least we're here to talk about it," Frey said last week. "Yeah, we lost a bunch of stuff, but we survived."

Trailers like Frey's are prevalent in the area. They are set up in front of homes in varying stages of reconstruction or deconstruction. Those provided by FEMA, like the manufactured homes in FEMA village, have 18-month leases.

Michael Cross has lived in FEMA village for eight months with his wife, two daughters and a son. Before the storm, he rented a three-bedroom, two-bath house for \$850 a month. He's hoping his landlord, who is fixing up the home, will let him back in at that price. But Cross's friend starting looking for places recently and found that \$800 rentals are now going for twice that.

"The clock is ticking for these folks," Sallade said about FEMA village residents.

The Newsome family is facing no such government deadline, but mentally, they wonder how long they can stay in their stifling tent at the Bread of Life Mission in Punta Gorda.

They were renting a trailer in Naples when Charley destroyed everything they had.

The family stayed in hotels for a couple of months. At \$70 a night, they quickly exhausted their savings and had to borrow money from John Newsome's boss. Newsome said he was told wrongly that you couldn't get a FEMA trailer unless you owned your home, so he never applied and now has missed the deadline.

"At least we're all alive," Newsome said.

At Saturday's party, dubbed the "Spirit of Punta Gorda," emergency manager Sallade was chosen to help unveil a memorial sculpture made from Hurricane Charley debris. He said he hopes the celebration marking the year anniversary of the storm also will mark the end of Charley's grip on Charlotte County.

"From my perspective, it's time to let Charley go," Sallade said. "That doesn't mean everything is hunky-dory, but we need closure."

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Hurricane Recovery

## Post-Charley repair backlog persists

By Mary Wezina  
mary.wezina@news-press.com  
Originally posted on August 14, 2005

The counter-clockwise winds of Hurricane Charley touched the barrier island of Cayo Costa at 3:45 p.m., Aug. 13, 2004.

By nightfall, they had turned the lives of thousands of Southwest Floridians topsy-turvy.

Today, thousands of people in Lee and Charlotte counties still wait for repairs to damage caused by Charley's wind and rain.

Tarps meant to be temporary solutions still cover roofs; pool cages are gone, or their twisted remains sit untouched.

In dollars-and-cents terms, Charley bit a \$639 million chunk out of the tax rolls in Lee County in 2004, along with an \$800 million to \$1 billion tax bite in Charlotte County.

The drop was temporary, though. An ongoing building boom has resulted in a rise of 29.6 percent in Lee's tax rolls, and a 24 percent increase for Charlotte in 2005.

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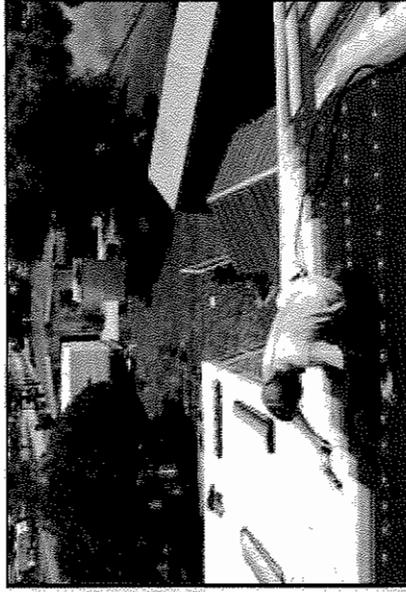
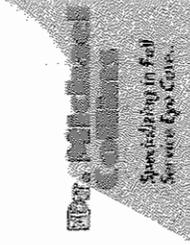
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ANDREW WEST/news-press.com

Rob Morris volunteers his time rebuilding the home of Kathy Preston on Easy Street in Port Charlotte recently. Blue roofs still dot the streets one year after Hurricane Charley.

### ABOUT THIS SERIES

- **Saturday:** The News-Press pairs hard numbers with an essay on the people and places forever changed when a hurricane named Charley swept through Southwest Florida on Aug. 13, 2004.
- **Today:** A year after Hurricane Charley arrived, people whose homes were damaged still have trouble getting repairs made to roofs and pool cages.

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Shortages are a major part of delays in getting repairs done -- shortages in cement products, roof tiles, asphalt shingles, screening, aluminum, steel and skilled labor.

Those shortages have persisted through the year, said Michael Reitmann, of the Lee Building Industry Association.

"Let's put it this way — it hasn't gotten any better," Reitmann said.

For one thing, unincorporated Lee County, Cape Coral and Fort Myers had a record number of single-family home permits issued in June — nearly 2,000, he said.

That means contractors building new homes are competing for materials and labor with those doing repairs.

Reitmann said a major shortage of skilled labor exists, referring primarily to roofers.

But John Milligan of the Aluminum Association of Florida Inc. said the lack of skilled workers to build pool enclosures is still a big problem.

"It's bad, bad," said Milligan, who also owns Freedom Aluminum of Fort Myers. "If 10 skilled laborers would move into this county they'd be hired the same day."

Aluminum supplies are getting a bit better, but screening is still hard to get, he said.

In addition to materials being short, costs have skyrocketed, Reitmann said.

If Southwest Florida escapes another hurricane, things should improve, Reitmann said.

"If we have one storm and there's major damage," he said, "we will continue to have a problem."

**EVERYBODY WAITS**

Reitmann said he had to get his own pool cage replaced after Charley and had to wait until June.

"I'm in the industry," he said. "I waited in line with everybody else."

Joyce McGonigle and her husband, Phil, of Cape Coral also waited — until July 31. They had paid CDS Aluminum Inc. \$2,500, half the price of a new pool enclosure, two weeks after Charley hit.

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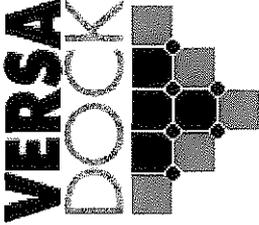
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The hurricane picked up the old pool cage, twisted it, popped bolts, ripped away screening, then left it standing askew, she said.

After they signed the contract, the couple couldn't get anyone on the phone, so they visited the CDS office in Fort Myers at least four times to see what the holdup was.

They were told they would have to wait their turn, McGonigle, 62, said. In May, the couple were told they were 79th on the list.

"My husband made me be quiet. He said, 'Don't say a word. Just sit there and smile,' " she said.

### **GECKOS FIND A HOME**

McGonigle and her husband got used to living with geckos that made their home in the destroyed cage, she said.

"I swear to God, we have families of them out here," she said.

In Charlotte County, an estimated 25,000 roofs were damaged and had to be replaced because of Hurricane Charley, said chief building official Jim Evetts. Probably 70 to 80 percent have been reroofed, he said.

In Punta Gorda, about 84 percent of 7,200 structures sustained damage, said city building official Randy Cole.

"There are still a substantial number needing repair," he said.

### **HOMETOWN HANDYMEN**

During the first week of August, at least 25 blue-tarped roofs in various states of disrepair could be spotted in one section of Port Charlotte along Easy Street and several sidestreets.

The need for new roofs is such that Gov. Jeb Bush has allowed general contractors, who usually can't re-roof structures they didn't build, to join licensed roofing contractors in doing repairs, Evetts said. Bush's order applies to shingle roofs only, Evetts said.

In some places, such as a home on Easy Street just off U.S. 41, residents stopped waiting for professionals. They did the repairs themselves.

On Aug. 2, Robert Morris, 41, and Bill Blow, an artist, clambered about the roof and other parts of the home of their neighbor, Kathy Preston.

The home was about 50 percent destroyed, the men said. Besides the new roof, they were helping to replace Preston's doors and windows.

They already had done repair work on their own homes instead of waiting for contractors and roofers.

Off Easy Street on Key Lane, Marlene Ellis, 61, expected to see her contractor appear any day to finally replace her roof.

"This is the third tarp I've had," she said. "It's UV treated. It shredded the first week."

Yet the yard of her damaged white bungalow was filled with native Florida plants along with a small backyard bower of gardenias, roses and a grapefruit tree, bent and gnarled from the storm.

She goes to the backyard for peace and calm.

"I couldn't fix the inside, so I fixed the outside," she said.

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## **Storm worries Charlotte's 'blue roofers'** **Plastic roofs and a passing hurricane make a bad combination**

By [Patrick Whittle](#) and JAMIE MANFUSO  
STAFF WRITERS

CHARLOTTE COUNTY -- More than 4,000 homes damaged by Hurricane Charley still have temporary blue roofs on them, and a 45-mph gust of wind can blow even the best one off.

Then comes water damage, then mold and a new blue tarp.

It's a cycle fresh in people's minds Thursday as Hurricane Katrina hit Florida's east coast, with heavy rains and winds up to 75 mph.

Port Charlotte's Melissa Benner is on her second blue roof, and it's starting to leak. More than a year after Hurricane Charley hit her home, the furniture from her master bedroom is still stacked in a Florida room.

She has buckets ready for Katrina.

"I expect to be using them a lot in the next couple days," she said.

More than 600,000 Floridians fitted their roofs with blue tarps last year, and the remaining "blue roofs" are one of the most visible reminders of last year's hurricanes.

They're often a sign that a homeowner has had a hard time securing a contractor to do repairs.

Carol Harris, of Cindy Avenue in Punta Gorda, is on her fourth tarp, and she has decided to tear her house down rather than put up another one.

"As soon as a storm hits or something, two days later it blows away," said Harris, who lives in a trailer on her property. "It just lays there, and the rain comes in."

There are two basic types of blue roofs dotting Florida's hardest-hit communities.

The U.S. Army Corps of Engineers applied 136,000 temporary roofs made of sturdy plastic sheeting to homes after the 2004 hurricanes. Volunteers added another 7,000. They are good for 12 to 18 months, county officials said.

The Federal Emergency Management Agency also handed out 500,000 weaker blue tarps made of canvas or plastic. Homeowners bought thousands more of those at stores like The Home Depot. They are meant to be shorter-term solutions.

The Army Corps installed more than 11,000 of the sturdy plastic sheets in Charlotte County.

How the roofs fared in last year's hurricanes depends on factors such as the type of house it is covering and the severity of damage the house sustained, said FEMA spokeswoman Frances Marine.

Charlotte County Commissioner Sara Devos, who lost her home to Hurricane Charley, said even if Katrina doesn't bring severe weather to Charlotte, it will bring stress.

"I definitely think we're going to have enough wind where it might blow some of the tarps off," she said. "It reminds us of our vulnerability quite a bit."

The storm could pose the biggest threat to blue-roofed homes in St. Lucie and Palm Beach counties, which sustained damage in Hurricanes Frances and Jeanne.

Mac McLaughlin, president of the Palm Beach County Convention and Visitors Bureau, said that county opened shelters Thursday, and blue-roofers figured to make up a good portion of the clientele.

McLaughlin said Palm Beach County has "relatively few" homes with blue roofs left, but it make sense for them to seek shelter even with a Category 1 hurricane bearing down.

"That's jumping the gun, but it's preparedness," he said.

Some of Charlotte County's blue roofs are on abandoned homes, where lawns are overgrown and owners are nowhere to be found. Many are on homes that are unlivable.

Others are sheltering people like Benner.

She and her husband, Corky, could have gotten part of their roof fixed in the fall, but they were advised to get the entire roof done at once.

Work on her new roof is supposed to start next week.

The Benners rode out Charley in a small closet with three cats, two dogs and a 6-foot-long iguana. At the storm's peak, it was so loud they had to shout to each other.

Melissa Benner said she's nervous about Katrina. "Right now, I feel very vulnerable."

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