CITY OF GULFPORT
CITY COUNCIL WORKSHOP
AGENDA MEMORANDUM

FROM: James E. O'Reilly, City Manager

DATE: September 17, 2013 **AGENDA ITEM:** 7-d

RESOLUTION: 2013-65

SUBJECT: Biggert-Waters Flood Insurance Reform Act of 2012.

RECOMMENDATION: That City Council considers approving a resolution asking that the United States Congress, and specifically Florida Senators Bill Nelson and Marco Rubio and U.S. Representative Bill Young, take immediate action to delay, amend or repeal the Biggert-Waters Flood Insurance Reform Act of 2012.

BACKGROUND:

In July 2012, the U.S. Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 which calls on FEMA, and other agencies, to make a number of changes to the way the National Flood Insurance Program is run. Some of these changes already have occurred, and others will be implemented in the coming months. The changes will mean premium rate increases for some - but not all - policyholders over time.

ANALYSIS:

Biggert-Waters Flood Insurance Reform Act of 2012

1. What is the Biggert-Waters Flood Insurance Reform Act of 2012?
The Biggert-Waters Flood Insurance Reform Act of 2012 (BW12) is a law passed by Congress and signed by the President in 2012 that requires changes to all major components of the program, including flood insurance, flood hazard mapping, grants, and the management of floodplains. Many of the changes are designed to make the NFIP more financially stable, and ensure that flood insurance rates more accurately reflect the real risk of flooding. The changes will be phased in over time.

2. Why was the Biggert-Waters Flood Insurance Reform Act of 2012 passed?
Flooding has been, and continues to be a serious risk in the United States - so serious that most insurance companies have specifically excluded flood damage from homeowners insurance. To address the need, in 1968 the U.S. Congress established the NFIP as a Federal program. It enabled property owners in participating communities to purchase flood insurance if the community adopted floodplain management ordinances and minimum standards for new construction. However, owners of existing homes and businesses did not have to rebuild to the higher standards, and many received subsidized rates that did not reflect their true risk. Over the years, the costs and consequences of flooding have continued to increase. For the NFIP to remain sustainable, the premium structure must reflect the true risks and costs of flooding. This is a primary driver for many of the changes required under the law.

3. What changes to insurance operations are anticipated?
Many of the proposed changes are designed to increase the fiscal soundness of the NFIP. For example, beginning this year there will be changes addressing rate subsidies and a new Reserve Fund charge will start being assessed. There are also provisions to adjust premium rates to more accurately reflect flood risk. Other provisions of the law address coverage modifications and claims handling. Studies will be conducted to address issues of affordability, privatization and reinsurance, among other topics.

4. Will all policy holders see changes in insurance rates as a result of BW-12?
More than 80% of policyholders (representing approximately 4.48 of the 5.6 million policies in force) do not pay subsidized rates. About 20 percent of all NFIP policies pay subsidized rates. Only a portion of those policies that are currently paying subsidized premiums will see larger premium increases of 25% annually starting this year, until their premiums are full-risk premiums. Five percent of policyholders – those with subsidized policies for non-primary residences, businesses, and severe repetitive loss properties – will see the 25% annual increases immediately. Subsidies will no longer be offered for policies covering newly purchased properties, lapsed policies, or new policies covering properties for the first time.

80% of all NFIP policies that already pay full-risk premiums will not see these large premium increases. Most policyholders will see a new charge on their premiums to cover the Reserve Fund assessment that is mandated by BW-12. Initially, there will be a 5% assessment to all policies except Preferred Risk Policies (PRPs). The Reserve Fund will increase over time and will also be assessed on PRPs at some undetermined future date. Additional changes to premium rates will occur upon remapping, the provision calling for these premium rate changes will not be implemented until the latter half of 2014.

5. In general, which properties will be most affected by changes in rates?
Answer: Rate changes will have the greatest effect on properties located within a Special Flood Hazard Area (SFHA) that were constructed before a community adopted its first Flood Insurance Rate Map (FIRM) and have not been elevated. For many communities the initial FIRM would have been adopted in the 1970s & 1980s. Your local insurance agent will be able to provide you the initial FIRM date for your community.

Many of these pre-FIRM properties have been receiving subsidized rates. Subsidies are already being phased out for non-primary residences. Starting this fall, subsidies will be phased out for businesses; properties of one to four residences that have experienced severe repetitive loss; and properties that have incurred flood-related damages where claims payments exceed the fair market value of the property. Premiums for these properties will increase by 25% per year until they reach the full risk rate.
Subsidies are not being phased out for existing policies covering primary residences. However, the subsidy provided to primary residences could still be lost under current conditions that apply to all subsidized policies. Subsidies will be immediately phased out for all new and lapsed policies and upon sale of the property. There may also be premium changes for policyholders after their community is remapped. But that provision of the Act is still under review and will be implemented in the future.

6. What happens if a policy with subsidized rates is allowed to relapse or the property is sold?
Starting this fall, for all currently subsidized policies, there will be an immediate increase to the full risk rates for all new and lapsed policies and upon the sale/purchase of a property. Full risk rates will be charged to the next owner of the policy.

7. What does "full risk rate" actually mean?
Simply put, it means that the premium reflects both the risk assumed by the program (that is, the expected average claims payment) and all administrative expenses. In the case of flood insurance, this means the premium takes into account the full range of possible flood losses, including the rare but catastrophic floods as well.

8. How can someone find out what a property's full risk rate will be?
Of the many factors that determine the full risk rate of a flood structure, the single most important is the elevation of the structure in relation to the Base Flood Elevation (BFE). A community's Flood Insurance Rate Map (FIRM) indicates the area of the community that has a 1% or greater annual chance of flooding. That area is called the Special Flood Hazard Area, or high-risk zone. Put another way, the BFE is the elevation where there is a 1% or greater annual chance of flooding. For a property in the high-risk zone, you need to know the elevation of the structure in relation to the BFE. Generally, the higher the elevation above the BFE, the lower the flood risk. The information is shown on an Elevation Certificate, which is a form completed and signed by a licensed engineer or surveyor. So to determine the premium for a property in a high-risk zone, you first need an elevation certificate. Then, an insurance agent can calculate the premium based on the amount of coverage desired.

9. What percentage of policies nationwide, and in high risk zones, actually receives these subsidized rates?
More than 80% of policyholders (representing approximately 4.48 of the 5.6 million policies in force) do not pay subsidized rates. About 20 percent of all NFIP policies pay subsidized rates. However, only 5 percent of policyholders - those subsidized policies covering non-primary residences, businesses, and severe repetitive loss properties - will see immediate increases to their premiums.

10. When will NFIP Grandfathering be eliminated?
Currently, the NFIP Grandfather procedure provides eligible property owners the option of using risk data from previous Flood Insurance Rate Maps (FIRMs) if a policyholder maintained continuous coverage through a period of a FIRM revision of if a building was constructed "in compliance" with the requirements for the zone and BFE reflected on a previous FIRM. A provision of BW-12, however, requires FEMA to use revised flood risk data (zone and BFE) after a man revision. The legislation provides a 5-7year mechanism to phase-in the new rates. This provision impacts the NFIP Grandfather procedure and will be implemented in the latter half of 2014. Many of the precise details of this implementation are still under development.

11. Is there any option for people who are now in a flood zone, did not have substantial damage, but now the BFE is 10 feet higher than previously and face dramatic rate increases?
FEMA's Hazard Mitigation Assistance (HMA) programs provide funds for projects that reduce the risk to individuals and property from natural hazards. These programs enable mitigation measures to be implemented before, during and after disaster recovery. Local jurisdictions develop projects that reduce property damage from future disasters and submit grant application so the States. The states submit applications to FEMA based on state criteria and available funding. The HMA programs include, the Hazard Mitigation Grant Program (HMGP) - The Hazard Mitigation Grant Program provides grants to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of HMGP is to reduce the loss of life and property due to natural disasters, and to enable mitigation measures to enable mitigation measures to be implemented during recovery from a disaster. Flood Mitigation Assistance (FMA) - the Flood Mitigation Assistance program provides funds on an annual basis so that measures can be taken to reduce or eliminate risk of flood damage to buildings insured under the NFIP.

FINANCIAL IMPACT:

No financial impact related to adoption of Resolution.

MOTION:

I move to approve a resolution asking that the United States Congress, take immediate action to delay, amend or repeal the Biggert-Waters Flood Insurance Reform Act of 2012.

RESOLUTION 2013-65

A RESOLUTION OF THE CITY OF GULFPORT, FLORIDA, OPPOSING AND URGING AN AMENDMENT TO OR REPEAL OF THE BIGGERT-WATERS NATIONAL FLOOD INSURANCE PROGRAM REFORM ACT OF 2012; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the real estate sector of the economy is a crucial part of the entire Local, State and Federal Economy and its recovery and is one of the major economic drivers of tourism and quality of life throughout the City of Gulfport as well as in the entire State of Florida and Nation; and

WHEREAS, the real estate sector reaches into every aspect of business success since this act affects every business owner's ability to run a successful business due to the age of many commercial buildings. An owner who wants to sell their building will find that a new owner is now pay many thousands of dollars more for flood insurance thereby changing the return on investment, the very salability of the business operation. Business owners will face lease increases to cover the new flood insurance rate and find the profitability diminished, perhaps below viability; and

WHEREAS, Congress passed the National Flood Insurance Act of 1968 specifically to ensure flood insurance coverage is available on reasonable terms and conditions to citizens who have a need for such protections; and

WHEREAS, The National Flood Insurance Program (NFIP) plays a critical role in the location, placement, and construction of homes and structures within a community and provides for an estimated 5.68 million NFIP policies nationwide; and

WHEREAS, under the NFIP, participating communities with structures located and built in the Special Flood Hazard Areas (Flood Zones A and V); and are backed by federal lender institutions are required to purchase mandatory flood insurance policies; and

WHEREAS, on July 6, 2012 the President signed into law the Surface Transportation Bill (H.R. 4348), which included the Biggert-Waters National Flood Insurance Program Reform Act (BW-12); and

WHEREAS, the "Act" (BW-12) re-authorizes the National Flood Insurance Program (NFIP) through 2017, but also puts into place many significant reforms as a result of the high losses incurred by the program in 2005 from Hurricane Katrina and in 2012 from Super Storm Sandy for the program to be financially solvent; and

WHEREAS, these reforms outlined below include dramatic and in many cases Immediate changes for structures built Pre-Firm (Section 205 of the "Act"), and structures that were built Post-Firm (Section 207 of the "Act") as well as lowering the threshold for what is deemed to be a substantial improvement; and

WHEREAS, the "Act" will implement actuary insurance rates for homeowners, business owners, and prospective buyers upon the sale or purchase of real property or a lapse in insurance coverage after July 6, 2012; and

WHEREAS, Section 205 of the "Act" removes historical subsidized insurance rates for all non-primary residences and business properties that have been lawfully constructed prior to the first Flood Insurance Rate Maps (Pre-Firm) and are now subject to receive "Full Risk Rates" at a rate of 25% a year until the "Full Risk Rate" is achieved; and

WHEREAS, Section 207 of the "Act" removes historical subsidies for any structure (grandfathered or non-subsidized) that is affected by a FIRM designation to a Special Flood Hazard Area and will be subject to receive "Full Risk Rates" at a rate of 20% per year until the "Full Risk Rate" is achieved; and

WHEREAS, the "Act" redefines the term "substantial improvement" discouraging the remodeling, and renovation of existing structures by lowering the threshold for "substantial improvement" from 50% of the value of the structure to 30%; and.

WHEREAS, nationwide NOAA data shows that 52% of the U.S. population lives in a coastal water shed county; and over 50% of the U.S. population lives near a river, creek, bay, sound, lake, stream, or ocean and that such percentages are obviously much higher in Florida, in Pinellas County and in the City of Gulfport; and

WHEREAS, the City Council of the City of Gulfport and its citizens are extremely concerned that the "Act" will financially impact home and business owners; devalue properties; discourage construction; hinder real estate sale transactions; and may result in foreclosures to owners who have lawfully constructed their homes and businesses as allowed by the NFIP within flood plains and the State's building code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULFPORT, FLORIDA:

Section 1. The City Council urges the United States Congress, and specifically Florida Senators Bill Nelson and Marco Rubio and U.S. Representative Bill Young, to take immediate action to delay or repeal those portions of the Act that impose a punitive and unjust financial burden on coastal real property owners as a result of the Biggert-Waters National Flood Insurance Program Reform Act of 2012 and FEMA's revised Base Flood Elevation Maps or, as an alternative:

a. Consider legislation to establish a National Disaster Fund;
b. Amend the Biggert-Waters National Flood Insurance Program Reform Act to provide for a slower rate of increase to flood insurance rates over a greater time period to meet Full Risk Rates;
c. Extend the grandfathering provisions for all existing policy holders who have lawfully constructed their homes per the State Building Code and upon transfer;

d. Reinstate the substantial improvement threshold at the historical limit of 50% of the value of the structure;
e. Address the cost savings that could be incurred through the rate making processes by participating NFIP communities that engage in Federal Storm Damage Reduction projects; and
f. Have specific State building codes, or enhanced construction standards that would further limit flood loss and decreases the amount of damage community-wide.

Section 2. The City Council hereby urges Congress to direct an independent examination to: Review the National Flood Insurance Program's (NFIP) proposed actuarial rates; NFIP solvency; and assesses the burden that the Biggert-Waters Act of 2012 will impose on policy holders.

Section 3. The City Council urges Congress to develop more reasonable and rational methods to NFIP solvency that will not damage the economy or its fragile recovery.

Section 4. The City Clerk is hereby directed to forward a copy of this Resolution to United States Senator Pat Toomey (R-PA), United States Senator Mary Landrieu (D-LA), United States Senator David Vitter (R-VA), United States Senator Bill Nelson (D-FL), United States Senator Marco Rubio (R-FL), U.S. Representative Bill Young (R-FL) and Rick Scott, Governor of the State of Florida.

Section 5. This resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 17th day of September, 2013, by the Council of the City of Gulfport, Florida.

Samuel Henderson, Mayor

ATTEST:

Lesley DeMuth, City Clerk