

**February 16, 2010**

Good Morning, Everyone.

Thank You For Being Here On This Very Nice Sunny, But Cool, February Morning.

I Would Like To Call The Meeting To Order.

It's Tuesday, February The 16th.

As Always, We Like To Start Our Meetings With An Invocation, And This Morning Pastor Peter Weeks From The Zion Lutheran Church, If You Could Please Rise.

We'll Follow By The Pledge Of Allegiance.

Pastor, Welcome.

Oh, Eternal Father, We Ask That You Would Guide The Board Of Commissioners With Your Holy Spirit.

Grant Them Wisdom And Discernment, Firmness In Resolution That We Might Be Governed Peaceably And Quietly.

In Your Son's Name We Pray, Amen.

High Pressure Amen.

I Pledge Allegiance To The Flag Of The United States Of America, And To The Republic For Which It Stands, One Nation Under God, Indivisible, With Liberty And Justice For All.

Please Be Seated.

We Have A Very Busy Morning, And We're Going To Start Out With Some Ceremonial Presentations.

Our First Presentation Will Be The Presentation Of The Paul Of Burton Citizen Of The Year Award, Which Will Be -- Who Will Be Doing That? Libby, You'll Be Handling It? Good Morning.

This Is One Of Our Favorites.

Good Morning, Commissioners.

Libby Walker With Public Resources.

I Am Here With Booch Demark To Present The Paulette Burton Citizen Of The Year Award.

We're Here Today For The 19th Annual Citizen Of The Year Award.

This Award Memorialises Paulette Burton Who Was A Leading Civic Activist.

She Spent Incredible Amounts Of Hours Trying To Improve The Life For All Of Us.

Tragically, In May Of 1991 She Died In An Automobile Accident.

Her Good Friend And Fellow Civist Steve Maxwell Encouraged The Board Of County Commissioners To Sponsor This Award.

This Year We Received 16 Nominations.

The Board Met, And Out Of The List Of 16 Nominations, To Four Finalists.

The Four Finalists Are Here With Us Today.

The Selection Advisory Committee Was Comprised Of And If They're In The Audience, I Would Like Them To Please Stand.

Carrie Call, Matt Caldwell, Kirk Beck, Fran Myers, Nelly Slaton, Team Maxwell, And Robbie -  
- Thank You.

Ok.

They're Not Here With Us Today.

Well, We Thank Them, At Any Rate.

The Board Of County Commissioners Then Out Of The 16 Nominees They Narrowed It -- It Was Narrowed Down To Four.

The Board Of County Commissioners Then Chose The Winner Of The Paulette Burton Award.

We Are Fortunate Today That There Are Memories Of The Burton Family Joining Us, And As Part Of The Ceremony, We Would Like Jack Smith, Paulette's Brother, To Please Come Forward And Say A Few Words For Us.

[ Applause ] Thank You Very Much, And It's An Honor To Be Here.

It's The First Time I Have Been Here, And I Would Like Her Daughters.

Paulette Had A Twin Sister, Pauline.

Pauline's Daughters Are Here.

This Is So Special To Have So Many Family Here, And Thank You For Being Part Of This Ceremony.

This Is My Sister, Sandy, Who Is Involved In Politics Too.

She Lives In Douglasville.

It's A Family Thing.

My Uncle Jack.

My Mother's Brother Who Also Works With The Government Up There, And This Is My Twin Sister's -- My Mother's Twin Sister, Pauline's, Two Daughters, Suzy And Diane, Who Have Moved To Fort Myers, So My Uncle Jack Is Going To Speak Quickly.

Thank You.

I'm Going To Make It Very Short And Sweet.

My Sister Paulette Was Before Her Time.

She Was The Original Tea Party, And I Know That Very Well.

Thank You Very Much.

Thank You.

Chairman Hall: Ok.

I Would Like Now To Call The Runner-Up Forward To Receive Their Certificate.

The Last Person Called Forward Will Be The Citizen Of The Year.

The Runner-Ups Are From Lehigh Acres Serving On The Lehigh Regional Planning Council And Neighborhood Restoration Committee, The Lehigh Chamber Of Commerce, Founder Of The Westminster Code Violation Task Force, George Semanski.

[ Applause ] From North Fort Myers, Working With The Sunquist Neighborhood Task Force, Keep America Beautiful, And Goodwill.

Also Known As The Soda Can Lady, Which Supports The Ronald Mcdonald House, Mary Miller.

[ Applause ] A Very Prominent Person Working In The Health Care Industry, Working With The Rotary Club Of Fort Myers, Fgc And Social Work Advisory Board And The Chamber Of Southwest Florida Trustee Member, Samara Beckwith.

[ Applause ] And The 19th Annual Citizen Of The Year Award Goes To Miss Roxie Smith, Fort Myers Beach.

[ Applause ] Roxie Has Spent Countless Hours Working With Fort Myers Chamber Of Commerce Board Of Directors And Its Foundation, Fort Myers Beach Local Planning Agency, Lee County Tourist Development Council, Lee County Coastal Advisory Did He, And Florida Commission Of Tourism Board Of Directors.

She Was Instrumental In The Time Square Redevelopment And Molly The Trolley.

We Thank And We Congratulate All The Nominees And Ms. Smith.

[ Applause ] Chairman Hall: What We'll Do Is Have The Commissioners Stand Behind Or Have You Move Forward, And I Want To Thank The Chamber Of Commerce Presenting Ms. Roxie With A Bouquet Of Flowers.

I Think You Have Some Other Presentations.

We'll Let Them Present You With Their Gifts For You.

I Hope These Turn Out.

Chairman Hall: Again, Thank You All So Much And To The Burton Family.

We Couldn't Do This Without You.

You're Right.

Your Mother And Aunt And Sister Was Ahead Of Her Time, And We're So Honored To Have The Opportunity To Recognize Her Once A Year And The Citizens Who Are Trying To Fill Those Very Big Shoes And That We'll Hear From Our Actual Winner This Year, And If You Could Have Your Seat, And I'll Thank You.

To All Of The Contestants And Our Four Runners-Up.

First Of All, Thank You So Very, Very Much For This Honor, And As Far As I'm Concerned, We're All Winners.

The Real Joy For Me Has Been Working With All Of You.

You Make It Fun To Do.

You Make It Very Rewarding, And It's A Very Worthwhile Thing That We Do.

For That I Thank You.

It's Been A Joyful Ride For Me, And If I Could Go Through On Just A Little Personal Note For A Minute.

It's Been Probably The Most Difficult Year Of My Life, But I Thank You.

This Reward Helps.

Thank You So Much.

It's Nice To Do The Work, But It's Nice To Have Somebody Say Thank You.

Thank You.

[ Applause ] Chairman Hall: All Of Us Here Recognize What Makes This A Unique County In The State.

The Citizens And Volunteerism.

Our Warm Thank You To All Of You.

Next We Have Another Presentation, Which Is The Candy Petro Award, And Booch, Are You Doing That Award As Well? Chris Is Doing That Award.

If I Would Read My Agenda, It Says Human Resources.

Thank You, Chris.

I Apologise.

That's Ok.

Good Morning, Commissioners.

Chris Brady From Human Resources.

I Am Accompanied With Bethany Figaro From Human Resources, And Candy's Son James And His Daughter, Jenna.

This Morning We Are Here To Recognize The Nominees And Recipients For The 2009 Candy Petro Memorial Award.

Candy Works The Lee County Human Resources For Eight Years Before Passing Away In 1987 Following A Struggle With Leukemia.

Candy Has Always Displayed A Tremendously Positive Attitude Towards Life And Her Cheerful Disposition Was Infectious To Those She Came In Contact With.

As We -- The Nominees For This Honorable Award All Exhibit A Positive Attitude Towards Work And Life, Promotion Of Harmony In The Workplace, And Are Inspirations Towards Others.

If I Can Have The Board Come Down And Greet The Nominees As Well As County Administration.

As I Call Each Name, I Will Ask That Each Of The Nominees Come Forward To Receive Their Award And Greet The Commissioners And County Administration And If You Would Please Remain Up Front Until All Nominees Have Been Called, We Will Take A Group Photo At The End.

Now, In Recognition Of The Outstanding Employees Who Are Nominated For This Award, Our Nominees Are Donna Demond, Parks And Recreation.

[ Applause ] Donna Began Her Career With Lee County On December 4th, 2008, As An Administrative Assistant.

Donna Is Genuinely Interested In People And Customer Service At The Top Of Donna's Priority List.

Donna Expresses Genuine Concerns For Co-Workers And Patrons.

Donna Is Always Open To Listen And Encourages People To Be A Better Version Of Themselves.

Our Next Nominee Is Booch Demarchi From Public Resources.

[ Applause ] Booch Has Been Working With Lee County Since October 17th, 1958.

When He Started As A Recreations Manager In The Parks And Recreation Department.

In 1989 He Moved Into Public Resources As An Information Specialist Where He Became Truly One Of The Great Representatives Of Lee County.

In More Than 24 Years With Lee County, He Has Quietly Been Getting Things Done.

He Has Earned The Respect Of His Co-Workers, Including The Board Have County Commissioners And Has Received Overwhelming Kudos From Survey Participants For His Dealings With The Public.

He Is Rarely Without A Smile To Accompany His Positive Outlook.

He Always Keeps A Cheerful Disposition Even While Fighting Adversity.

Our Next Nominee, Unfortunately, Could Not Be Here Today, But Is Karen Lawsenberg From Human Resources.

[ Applause ] She Will Bejen Lawsenberg Will Be Accepting On Her Behalf.

She Started In The Human Resources Department As An Administrative Assistant.

Karen Always Greets Everyone Who Comes To Her With A Genuine Warmth And Always

With A Smile.

Karen Always Treats Everyone With Respect And Kindness As She Explains To Them With Patience And Knowledge What It Is That They Need To Know.

Karen's Willingness To Help And The Effort She Puts In To Helping Never Diminishes Even As She Went Through An Extremely Difficult Time In Her Life.

Our Next Nominee Is Debbie Dearn From Parks And Recreation.

[ Applause ] Debbie Started Her Career With Lee County On November 13th, 1986 As A Recreation Supervisor.

Now As A Manager Of Parks And Recreation, Debbie Is A Strong Advocate Of All Department Employees By Helping Them To Achieve Their Goals And Pushing Them To Be The Best They Can Be.

Debbie Looks At Things In Life With A Positive Attitude, Even When Faced With Adversity.

Debbie Is An Excellent Mentor And Leader Within Parks And Recreation.

Debbie's Positive Attitude Through A Very Trying Time Is An Inspiration To All Of Us And Has Helped Us Believe In Ourselves And In Each Other.

Our Next Nominee Is Sandy Gore, And I Don't Believe Sandy Is Here Today.

If We Could Get -- I Appreciate That.

Thank You.

Sandy Gore Is From Animal Services.

Her Career With Lee County Started October 10th, 1987.

As A Customer Service Specialist With Animal Services, Sandy Smiles And Lights Up The Front Lobby.

Sandy's Positive Energy Carries Through The Office.

Sandy Always Sees The Positive And Has The Calm Demeanour About Her.

Even Though Sandy Has Had A Rough Time, She Does Not Let It Show.

She Helps Everyone In Animal Services Make It Another Day.

Before I Announce The Winner, I Would Like To Congratulate Each Of The Year's Nominees.

Your Positive Attitudes Are Truly An Inspiration To All Of Us.

[ Applause ] Reporter: I Would Also Like To Give This Very Special Thank You To James And Jenna For Being Here Today With Us As We Present These Awards.

And This Year's 2009 Candy Petra Memorial Award Winner Is Booch Demarchi.

[ Applause ] Please Take A Picture.

We All Have To Kind Of Do A Left Shift.

Are We Ok? Maybe I Was Wrong.

Maybe -- Yeah.

I Was Wrong.

Ok.

Are We There? One, Two, Three.

And One More.

One, Two, Three.

Thank You.

[ Applause ] Chairman Hall: Booch.

Booch, We Would Like To Hear From You.

You Don't Get Away.

You've Got To Talk.

You Know How This Works.

You're Tearing Up The Equipment.

First, An Acknowledgment To The Board For Sponsoring What's An Excellent Award.

Second, Thank You To Human Resources, The Department That Manages And Administers And Makes It All Happen On Behalf Of The Board.

What I Would Like To Say I Have Since October When I Was Diagnosed With Lung Cancer, I Have Been Blown Away By My Peers, The Amount Of Peers A Large Army Who Have Been Supportive And Shown Love And Shown Just A Warmth Towards Me In Wishing Me Well.

Another Person Who Has Been Very Instrumental In My Hopeful Recovery Is My Supervisor Libby Walker.

Your Schedule Can Be Erratic When You're Sick.

She Has Been Very Helpful And Patient With Me And Allowing Me To Do What I Have To Do To Work And Try To Get Better.

But My Wife.

[ Applause ] Having Ginger By My Side Every Waking Hour, I Wouldn't Be Standing Here Now.

I Love You, Honey.

I Love You.

[ Applause ] Commissioners All Conclude As Someone Said Earlier Everyone -- Everyone Should Get This Award, But There's Only One, So I Accept This On Behalf Of All The Nominees For Work Well Done And Keep On Keeping On.

Thank You.

[ Applause ] Chairman Hall: Every Week We Recognize Accomplishments In This Community From Our Employees And Residents, And It's Nice To Have So Many Of Our Members Of Our Community Here So That You Can See Firsthand The Quality Of People Serving You.

We Get The Limelight Because We're The Elected Officials, But In Order To Keep This County Moving, We Have Incredible Employees That Are Dedicated To You As Well As This Community, And I Hope You See Firsthand The Quality Of The People That Work For You On Behalf Of Our County, So I Want To Thank All The Employees For This Award.

It's Certainly One We Hold Very Dear To Our Hearts.

Thank You, Commissioners.

Next, I Have Another Just Privilege To Present The Michael D. Rip And Approval Resolution Supporting Designating Metro Parkway Extension To The Michael G Ripp Parkway.

Is Jackie Ripp Here? Jackie, 23 You Could Come Forward.

Most Of Us Know Mike.

He Was Our Florida D.O.T. Representative, And Just A Great All-Around Guy.

Mike's Favorite Thing To Do Was To Get Off Work And Head Out To Buckingham And Sit On The Porch And Have A Beer, And That's The Kind Of Guy He Was.

He Got Things Done.

He Made Sure That The Community Was Involved.

He Always Made Himself Available, And Jackie, It's Our Privilege -- This Board's Privilege To Be Able To Read This Resolution And Support The Naming Of Metro Parkway.

On Behalf Of The Board, The Resolution Reads, "Whereas Michael Gri Approximate P, Past Director Of Transportation Development For Florida Department Of Transportation District One Provided Outstanding Service To Its Citizens Of Lee County From August 1989 Until His Death In March Of 2008.

Whereas, Mike's Creativity In Identifying Alternative Funding Sources And His Ability To Deliver Projects Were Instrumental In Bringing \$1 Billion Of Transportation Improvements To Lee County And Southwest Florida.

Such As The Widening Of State Road 78, State Road 80, State Road 82, U.S. 41, Business 4 1, Replacement Of The Edison Bridge Over The Caloosahatchee River, And The Iroc I-75 Project.

Whereas Mike's Personal Expert Ties And Joy Of Life Was Taking Transportation From Concept To Completion.

Whereas His Perseverance To Moving Transportation Improvements To Southwest Florida Have Touched The Lives Of Residents And Visitors To This Area Making A Real Difference To People Who Travel In Lee County, And Whereas Mike's Charm And Enthusiasm Persuaded Many To Follow His Lead And Demonstrate Their Love For Lee County Through Ongoing Involvement In Community Projects, Causes, And Events.

Whereas Mike's Commitment To The Metro Extension Project Began With The Project Development And Environmental Study In The Early 1990s, And Continued Throughout Production To Make This Job Construction Ready And Whereas Mike's Knowledge, Insight, Understanding, And True Dedication Brought Environmental Agencies, Transportation Partners, And Residents Together To Realise The Metro Parkway Extension Project.

Now, Therefore, Be It Resolved The Board Of County Commissioners Of Lee County, Florida, Does Hereby Support And Urges The Florida Legislature To Designate Metro Parkway Extension In Lee County State Road 739 From 6 Mile Cypress Parkway To U.S. 41 The Michael G.Ripp Parkway And Further Demonstrate Support By Locally Knowing It As Such.

Dually Executed The 14th Day Of February, And Signed By Myself The Chairwoman Of The Board.

Jackie, We Present This To You.

Chairwoman Hall: We're Going To Take A Photograph.

One, Two, Three.

I Just Want To Say It's A Great Honor To Accept This.

I've Got To Say That It Was Interesting Because I Had People Say I Got Here A Lot Quicker Because Projects That Mike Did, And I Heard That There Was A Lot Of Controversy On The Wording And For Everybody That Really Knew Mike The Best, We All Know That This Is Actually Going To Be Called The Hill Billy Highway.

Mike Was A Hillbilly Through And Through, And Just Really Loved His Heritage.

This Is A Great Honor.

Thank You Very Much.

Chairwoman Hall: Been One Of Those Mornings.

Again, I Thank You For Your Patience.

Yes.

Commissioner Judah, Thank You So Much.

For Those Of You Who Don't Know, Mike Was Such An Integral Part Of What We Do.

Jackie, You Have Many Friends And People.

There Was A Little Reception This Morning For Mike, And What I Would Like To Do Is Ask All Of Those People To Come Up And Have One Picture With Jackie And The Board As A Memory For Jackie On This Day Of Our Support For The Mike G.Repp Highway.

If You Could All Come Forward.

Norm And Johnny.

Ron Hamill.

Heather, Joe.

All Of You.

Phil.

You Know, I Know You Worked With Him.

Wane Daltry.

We Have One Opportunity, And I Want Jackie -- I See Dr. Hammond In The Back.

Don't Be Shy.

We Want Jackie To Have A Nice Memory Of This Day, And I Think It's Important.

Thank You, Commissioner Judah.

Thank You For Not Making Me Name All Of You.

Mike Is Chuckling At Us Right Now As We're Trying To Organize Ourselves For A Group Photo.

One, Two, Three.

One More, Please.

One, Two, Three.

Chairwoman Hall: Thank You Very Much.

Thank You.

[ Applause ] Chairwoman Hall: Finally, But Not Least, We're Going To Recognize Engineers Week, Because We Really Can't Get Things Done Without The Engineering To Support It.

Is Walter Gelcher Here With The Cal Autosa Chapter State Director? No? Scott.

Oh, Great.

If You Could Come Forward And Go To The Podium.

Certainly My Honor Having Played My Career Out In An Architectural And Engineering Firm.

I Recognize The Expertise That You Provide In Making Sure Our Buildings Stand After They're Designed By The Architects, And We Appreciate That.

It's My Honor To Read This Resolution.

Whereas Engineers Help To Design, Construct, And Maintain The Public And Private Infrastructure And Facilities That Contribute To The Quality Of Life Of All Residents Of Lee County, And Whereas Maintaining The Quality Of Life In Lee County During These Uncertain Economic Times Depend In Part On Engineers, Developing Innovative, Creative, And Highly Efficient Solutions To Rid Of Technical Problems.

Easy For Me To Say.

Whereas, Above All Else In The Process Of They Are Profession, Engineers Hold Paramount The Health, Safety, And Welfare Of All Persons.

Through This Celebration Of Engineers Week Each Year, The Caloosa Chapter Of The Nearing Society Is Dedicated To Developing And Sustaining A Dynamic Engineering Profession By Insuring A Diverse And Well Educated Future Engineering Work Force And By Raising The Public's Understanding And Appreciation Of Engineering Contributions To Society, And Whereas The Board Wishes To Recognize And Honor All Engineers Who Live

And Work In Lee County And Who Practice The Profession Of Engineering In An Honorable, Responsible, And Competent Manner And Those Students Who Have Chosen To Be Educated In The Field Of Engineering.

Now, Therefore, It Be Resolved By The Board Of County Commissioners Of Lee County, Florida, To Send Greetings And Best Wishes Of All Observing Engineering Week, February 14th Through 20th, 2010, Dually Executed The 16th Day Of February, 2010 And Signed By Myself, The Chairwoman Of The Board Of County Commissioners.

[ Applause ] One, Two, Three.

Thank You.

If We Could Hear A Few Words From You.

Well, We Appreciate This.

It's Been An Interesting Year For Engineers, And It's An Interesting Day To Be On This Docket.

This Is Really Pretty Exciting.

One Thing I Do Want To Say From All The Engineers, It Has Been Difficult, But We Have Found That Lee County Has Really Made A Strong Effort To Help Engineers By Dividing Up Projects Doing Whatever You Can To Keep The Work Local And We've Always Appreciated That, And It's Been Helping A Lot Of Firms Out There, And I Just Wanted To Thank You For That.

Thanks Again.

Chairwoman Hall: Thank You.

[ Applause ] Chairwoman Hall: Now We'll Go On To The Recap.

On This Morning's Recap, Item 12-B Is Being Asked To Defer The Aar Money Made Available Has Been Pulled From The Project.

I Have A Motion.

I Have A Motion By Commissioner Janes.

I Have A Second By Commissioner Bigelow.

Further Discussion? Is. Comm. Judah: Let Me Get A Clarification Here.

Has The Money Been Pulled, Period, Or Has It Been Filled U Pulled For Extended Period Of Time Where We Can Anticipate Receiving The Money At Some Future Date? Scott, D.O.T., For The Record.

This Is The Excess Money That's Left Over From The Various Stimulus Projects When They Came In Under Bid.

That's \$400,000 And Some.

F Dot Is Looking To Reallocate That To Some Other Projects Rather Than To Six Mile.

We're Still Keeping The Original \$4 Million Plus Of Stimulus Money And Another \$1 Million Worth Of Grant Money.

Comm. Judah: I'm Sorry.

There May Be A Little Tick In That Mike.

There You Go.

That Will -- You Sounded Kind Of Garbled, With All Due Respect.

What I'm Trying To Understand, Though, Is That It Was My Impression That This Money Actually Would Go Towards The Six Mile Parkway Project To Get That Accomplished, Get That Widened, And Are You Saying Now Instead The Money Will Be Diverted To Other Projects? That's What The F Dot Has Told Us.

They Were Looking At Other Options To Reallocate Just The \$400,000 And Some.

Comm. Judah: Are We Still Going To Be Able To Do The Widening Of The Six Mile Project? Yes.

The Original County -- Or The \$1 Million Grant Money Is Still There And The \$4 Million Plus Of The Stimulus Money Is Also Still There.

When We Get To Bids And We Know What The Bids, And Then We Will Bring That Forward Along With The Balance Of The Funding For Board Approval.

Comm. Judah: So This In No Way Is Going To Derail The Six Mile Project? I'm Sorry.

It Won't.

Comm. Judah: Thank You.

Thank You, Madam Chair.

Chairwoman Hall: All Those In Favor? Opposed? Motion Carries Unanimously.

Then We Have Two Walk-On Items.

The Wci Bankruptcy Court Issue And Then Some Direction On The Oak Tree In Front Of The Courthouse.

Yes.

We Do Have A Large Crowd, And We Do Ask That If You Have Cell Phones Or Pagers Or Any Other Electrical Devices That You Put Them On Silent Or Vibrate.

That Will Help Keep Our Meeting Moving Smoothly, And Out Of Respect For Our Speakers, Which Now We're Going To Go To Public Comments On The Consent And The Administrative And/Or Or Walk-On Items, And My Speaker This Morning Is Tommy Perry.

Madam Chair, Before We Allow The Speakers Coming Forward, Can I Maybe Suggest That This 11:30 Workshop Be Pushed To After Lunch, Because I Know We Have A Lot Of Speakers On Two Significant Walk-On Items Here, So I Think We're Looking At A Rather Protracted Meeting Here This Morning.

Chairwoman Hall: I Don't Know What The -- I Apologise.

I Guess I Would Like To The Role Of The Board.

We Do Have Probably An Hour Of Tdr Discussion.

Do You Want To Push That To 1:30? I Don't Know What Everyone's Schedule Is.

If We Started At 11:30, Which Is Highly Unlikely, I Would Think At This Time, That's After 12:30, So Might As Well -- Chairwoman Hall: I'm Just Asking.

Again, Everyone Has Appointments That They Scheduled In The Afternoon, So -- Comm. Bigelow: Can The Madam Chairman Make This Decision After A Little Of This.

I Know I Have A 2:00 Appointment.

I'm Not Sure I Can Get That Arranged.

Chairwoman Hall: Why Don't We See How The Day Goes, And We'll See What We Do As We Get Towards The End.

Thank You.

We'll Go Back To The Order Of Our Agenda, And Mr. Perry.

Again, I Apologise.

Will Be Followed By Mel Burnson.

Good Morning.

My Name Is Tommy Perry.

I'm The Engineer.

I Work For Jim English.

I'm Here To Speak Today On The Babcock Settlement.

Chairwoman Hall: Use The Microphone.

Thank You.

I'm Tommy Perry, And I Am An -- I'm Here Today To Speak On The Babcock Settlement Which We Oppose.

The Portion Of The Settlement That I Have Looked At -- Or The Project That I Have Looked At Is The Discharge Rates And The Lab Will Discharge From The Project.

The Water Main District Has Proposed New Allowable Discharge Rates.

Those Were Expressed In Csm Or Cubic Feet Per Second Per Square Mile.

That's Analogous To Gallons A Minute Per Day Per Square Mile.

In The Lee County Turf Water Management Plan, To Give You An Idea, The Six Mile Site Has A 37.1 Csm.

Imperial River Is 59.

Orange River Is 55.

Estero River Is 42.

Caloosahatchee Is 30.1.

Marsh Point Is 108, And Whiskey Creek Is 108 Csm.

In The Areas That Are Receiving Discharge From The Babcock Project, The Csm In The Lee County Wild Management Plan, Trout Creek Is 39.

Owl Creek Is 32, And Telegraph Creek Is 39.

The Water Management District Has A Number For All Charlotte County, Which Discharges Towards The Caloosahatchee River Of 26.9.

Historically The Babcock Branch Has Been Developed At A Rate Of 39 Csm.

The Proposed Project Will Discharge 72 Csm To Trout Creek.

It Will Discharge 83.6 Csm To Owl Creek, And 25.1 Csm To Telegraph Creek.

You Need To Look At Those Numbers A Little Bit More Closely Than Just What It Discharges At The Property.

There Are Inflow That Flows Into The Prom.

If We Go Just To The Developed Portion Of The Project, Then In Trout Creek There's A Discharge Of 64.9 Csm.

94.4 Csm.

135 Csm, 106 Csm, And 89 Csm.

Those Are All Distinct Basins And Trout Creek That Are Discharging From This Project, Developed Area Within The Project.

In Owl Creek Within The Project There's Three Basins.

92.6 Csm, 178 Csm, And 179 Csm.

Then In Telegraph Creek There's One Basin.

It's At 94.4 Csm.

Now, At The Property Line It Does Reduce Back Down To 25 Csm, And That's Because Basins One And Two, Which Are 15,763 Acres And 34,208 Acres Are Upstream Of The Project.

Those Are Discharging At A Rate Of 16.1 And 14.4 Csm.

When They Average The Numbers And Give The Amount At The Property Line, It Doesn't Seem As Large As What It Is Off Their Developed Property.

The Permit As It's Being Issued Today Would Allow Them To Go To These Liabile Discharge Rates, And They Have Proposed Slightly Lower Numbers Which Result In The Proposed Discharge At The County Line, But Those Numbers Could Increase Using These Allowable Discharge Rates, And You Have No Recourse To Go Back And Challenge Those, So We Would -- We Have Had An Expert Look At The Model That Was Used To Develop These Numbers.

Our Expert Has Found Flaws In The Model.

The Counties Have An Expert Look At The Model.

I Have Had One Conversation With Him In His Preliminary Analysis, And He Said He Found Flaws In The Model.

We Would Request That You Continue To Pursue This Issue.

Thank You.

Chairwoman Hall: Thank You.

Next Will Be Mel Burnson.

Mel Is Coming Up To -- Just For Those Of You Not Used To Our Public Speaking, We Have Little Buttons At The Top, And There's Three Minutes, And When The Button Goes To Yellow, That Means You Have One Minute, And When It Hits Red, We Hope You Are Finished.

That Will Give You An Idea Of How To Put Your Comments Into Context.

Mel, Good Morning.

How Are You? Good Morning.

Good Morning, Members Of The Commission.

Thank You For Allowing Me To Speak Here This Morning.

Briefly, I Represent Jim English.

I Have Been Before You Before On The Babcock Matter.

I Believe It's Agenda Item 14-C.

I Represent Jim English, As I Said, And We Oppose The Proposed Settlement.

The Proposed Settlement Suggests That The Babcock Group Would Complete Some Studies And Then Once They're Complete, There Would Be Some Sort Of Reconsideration Or Relook At The Permit That Is Proposed To Be Issued As A Result Of The Water Management District's Decision.

Our Concern With That Framework Or Structure Is There Is Absolutely No Deadline Or Requirement For Completion Of The Any Of The Studies The Babcock Group Is Supposed To Do.

There Is Some Language In The Proposed Settlement Suggesting That There Would Be A Review Of The Existing Permit.

I Don't Read Anything In There That Mandates Any Change If The Proposed Studies Come Out Different Than What Know Is Assuming In The Applicant Presents It.

The Situation That Exists, If You Approve This Settlement And The Permit Goes Through, Is That The Permit Would Go Through As Currently Written And As Mr. Perry Has Indicated To You, The Bottom Line On The Numbers That He Gave You Is That This Would Result In Several Times The Amount Of Water That Currently Goes Into Those Creeks, Trout Creek And The Other Creeks Along The North Bank Of The Caloosahatchee River In That Area Than Goes There Now.

Those Creeks Already Suffer A Great Deal Of Flooding In Excess Of What Historically

Occurred.

You Have Property Owners There That Are Regularly Under Water Already.

They're Going To Be Receiving A Lot More Water Right Now.

That's Going To Be Pursuant To A Permit That's Been Issued By The District And Approved If You Approve This Settlement, We Would Urge You Not To Do That.

We Would Ask That The County Remain Involved And Continue In This Process In Opposition.

Finally, There Is A Second Permit Challenge Which We Have Issued, Which Is Part Of A Petition For Administrative Hearing Where Three Property Owners In The Area Being The County, The State, And The Babcock Group, Are Supposed To Work Together For This One Large Area Of 89,000 Acres.

None Of Those Issues Are Addressed In The Proposed Settlement.

Those Issues Will Continue To Go Forward.

We Have Filed On Behalf Of Mr. English A Petition, And We Would Ask The County To Remain Engaged And Involved In That Process.

I Believe They Have -- I Believe Your Staff Has Some Of The Same Concerns We Have With Regards To How That Permit Is Supposed To Work.

We Would Like You To Reject The Proposed Settlement, But If We -- If You Accept It, We Would Ask That You Continue To Remain Engaged On The Issue As To How The Pre3 Property Owners Are Supposed To Work Together To Carry Out The Purposes Of The Permit.

Thank You.

Chairwoman Hall: Jim English Who Will Be Followed By Jack Meeker.

Good Morning.

Thank You, Madam Chairman.

I'm Jim English From Iowa.

I Speak To You This Morning Not Only As A Life-Long Resident And A Property Owner Out There In The Affected Area, But Also As A Taxpayer And A Voter In Lee County.

What's Going On Out There, What's Being Proposed And What Will Be Approved If This Permit Goes Through As It's Definitely E Presently Configured Is Going Affect \$50 Million Worth Of Land That You All Just Purchased With Our Tax Money.

In Addition, It's Going To -- Those Of Us That Live Out There Are Going To Be Flooded Worse Than We Are Now.

In Our Case, Me And My Family, All The Water That We're Going To Receive Is Going To Run Off Of Lee County Land, So You're All Going To Be Involved In This For A Long Time.

I Would Like To Suggest To You That This Situation You Got Down There In The Southwest Part Of The County Started 25 Years Ago When They Permitted I-75, And People Don't Realize What The Situation Is When These Permits Are Issued.

Few Prove This Thing, You're Going To Send It To Us To Sentence Us To 25 Years Of Living Hell As Far As Trying To Operate In This Kind Of A Flooded Environment.

I Respectfully Request That You All Don't Go Forward With Any Settlement Until The Permit Is Brought In To Compliance With District Permit And Criteria.

I See My Lights On.

I'm Not Through, But I'll Quit.

Thank You Very Much.

Chairwoman Hall: Thank You, Jack.

Sorry, Jim.

[ Applause ] Now, These Are The People's Chambers, And We Allow Our Guests To Speak And Visitors To Speak Without Clapping Or Booing Or Cheering Or Comments From The Audience Because We Want People To Feel They Can Say Whatever They Choose To Say In This Building So, I Just Ask You To Please Hold Your Applause, Hold Any Other Comments That You Have An Urge To Say So That We Can Respect Each Of Our Speakers And The Opinions That They'll Be Sharing With This Board Of County Commissioners.

We Truly Want To Have The Attention On The Peek Speaker And Their Comments, Whatever Their Personal Or Professional Opinions Are Without Any Comments From The Audience, So I Would Ask That You Respect Each Of Our Speakers' Comments This Morning Without Any Emotion.

Thank You.

Mr. Meeker.

Good Morning, Commissioner.

Jack Meeker From Estero.

I Would Like To Congratulate The Board For Signing The Red Sox Stadium Where It Is.

I'm Still A Yankee Fan.

I Have Said That Before, But I'm Still In Favor Of The Red Sox.

I Think The Idea That You Are Going To Use For Financing The Self-Financing Idea, Borrowing Money From One Fund Or From Another Fund, And Then Repaying It With Tourist Tax Dollars Makes A Lot Of Sense.

To Bond This Thing And To Pay The Kind Of Interest And The Bond Attorney's Fees Is Kind Of Crazy.

If You Have The Money, You Are Going To Do It, And I Applaud You For Looking At This Financing, And I Would Encourage Alboard Members To Support This.

Thank You.

Chairwoman Hall: Thank You, Jack.

Ellen Peterson Who Will Be Followed By Carl Voe.

Good Morning, Ellen.

Good Morning.

Ellen Peterson From Estero.

I'm Here To Speak To The Babcock Permit Settlement That We're Talking About Going Through, But I Would Like To Let You Notice That Jim And I Are Hanging In There.

We Move A Little Slower Now Than We Did 20 Years Ago, But We're Still Out Here.

We're Still Both Very Concerned About Our County.

This Settlement, I Think, Is Probably The Worst Idea That We Could Have.

I Do Think If Babcock Was Going To Do Something And The Meetings And Meetings That We've All Gone To Over The Last Month, They Would Have Done It By Now.

This Was Proposed Back In August, And They Haven't Come Forward With A Plan.

Why Would We Think They're Going To Do It Any Time Within The Next Few Months? It Just Doesn't Seem Logical To Me.

If They Are Going To Do Something, Let's Let Them Do It And Take It Before An Administrative Law Judge So That It Can Be Judged And We'll Have A Chance To Present Arguments As Well.

Chairwoman Hall: Thank You, Ellen.

Carl Voe Who Will Be Followed -- You Got Two Cards Up Here.

1-A And Babcock.

Good Morning.

My Name Is Carl Voe, And It's A Privilege To Live In Lee County.

For The Record, My Name Is Carl Voe.

A Red Sox Plan.

I Am Here Representing The Responsible Growth Management Coalition And The Caloosa Group Of The Sierra Club Who Voted To Recommend To The Board That You Hold Off On Approving The Settlement Of The Southwest Water Management Board And The County Until Our Groups Can Study This.

We Only Learned About This Thursday Afternoon And We Haven't Really Had A Chance To Analyse It And Study It.

We Would Like That Privilege.

We Asked Respectfully For That -- For Or Two Groups, And I Think That It Behooves You To Talk To Jim English With The Water Quality People And With Water Management Board And Go Out And Even Look At His Property And See His Concerns.

You Know, The New County Manager Was For More Public Involvement, And Talked To Jim, And He Has Very Little Contact With The County Over This Issue, And Maybe It's The County Should Invite Him To Come Out And Look At That Land With Him.

I Think This Would Be Ms. Hall's Goal To Have More Public Involvement, Which Has Want Been -- Occurred.

I Called On Thursday Afternoon And Did Not Receive A Call Back, So I Am Not Sure, You Know, Where -- I See My Light Is On, So I Think We Need, Respectfully, To Hold Off On This, And, Secondly, I Hope That You Would Go Before The Hearing Board As Ellen Said, But We Have Our Time This Weekend.

The County Can Be There To Read About The Approval.

Secondly, I'm Talking On The Red Sox.

You Know I'm An Avid Fan, And The Truck Has Arrived, And All Their Equipment Is Here To Play Ball.

Can't Wait.

But I Think If You Believe The Stadium That Is Smaller, That You Design It So You Can Add 3,000 To 5,000 Seats Easily Down The Road Because 30 Years Is A Long Time, We Might Have Another Million People Here Who Would Like To See The Red Sox, And If You Only

Have 12,000 Or 10,000 In The Stadium, You Need More Time For That.

I Mean, More Space For That.

I Was Looking At The Light.

Oh, Goodness.

An Interesting Aside.

You Know, There's Rabid Red Sox Fans, And I Was Watching The Olympics, Was It Last Night Or The Night Before, And The Gal That -- It Was The Night Before.

The Gal That Won The Mogul Downhill Is An Avid Red Sox Fan, And She Had A Red Sox Jersey On Under Her Ski Jacket, And She Took Gold For The Americans, And I Thought That's Quite A Red Sox Fan.

Almost More Than Me.

Chairwoman Hall: Thank You, Carl.

Well, Lastly, I Say Let's Rob Peter To Pay Paul And So We Have The Money For The -- To Build This Thing.

Thank You.

Chairwoman Hall: Thank You, Carl.

Christy.

Yeah.

Lois: She Will Be Followed By Peter.

Good Morning.

Christy On Behalf Of The Planning Panel.

I'm Speaking To You About The Consent Agenda That's Coming Up About Carrying Over Some Of The Funds Left Over From Community Planning From Last Year Into This Year And Hope That You Would Agree To Do That.

Upper Capital Captiva Is Ready To Go On Phase Two Of Its Community Planning.

We've Already Met Three Times, And We've Also Received The Support Of The Upper Captiva Civic Association And They'll Pledge \$5,000 Towards Our Project.

So We Hope That You Consider Taking Some Of Those Carry-Over Moans And Apply Them Towards The Community Planning Panel.

Thank You.

Chairwoman Hall: Thank You, Christine.

By The Way, These Are Some Of The People That Are In Support Of Community Planning On Upper Captiva Island.

Chairwoman Hall: Steven Followed By -- She's Talking About Monet.

The Transfer Of Dollars.

She's Saying Some Of That Should Go To Community Planning.

Comm. Judah: Got You.

Thank You For Letting Us Speak About This.

I'm Also Here In Support Of The Upper Captiva Planning Panel.

We've Been Working At This Over Five Years, And I Think That It's Going Very, Very Well For Us.

We're One Of Those Small Communities And Mr. James Knows That Nobody Knows Where We Are.

They Treat Us Like A Gated Community.

In Reality We Are A Full Community.

We Don't Have The Services They Have In Town Here.

You Know, Just Dirt Roads.

We Have No Garbage, No Sewer, No Streetlights, And No Police.

We Need To Be Thinking About Some Of These, What's Going To Happen 20 Years From Now, 30 Years From Now, And To Do A Growth Smart Planning Is What We've Been Working On, And We Would Like To Have Your Support As Well.

I Thank You Very Much.

Chairwoman Hall: Thank You.

Steve Watkin Will Be Followed By Margaret.

Good Morning.

My Name Is Steve Bradkin.

I'm President Of Citizen Bay Shore Community.

I'm Here To Speak On Many Of Citizens Bay Shore Community.

We Requested Administrative 14-C To Consider Approval Of Settlement In Lee Versus Babcock Property Holdings Llc In The South Florida Water Management District Be Withdrawn From The Agenda And Rescheduled For A Later Date.

We Learned Of The Proposal Settlement Last Thursday And Need Time So We're Able To Comment On It.

Our Research Director Was Listed As An Interested Party For The Case And Did Not Receive A Notice From South Florida Water Management About The Settlement.

We Have A Public Records Request Submitted For Information Regarding The Settlement And We Need Time To Review All The Information Before The Board Of County Commissioner Considers Approval.

It's My Understanding That The Erp Will Not Be Final Until Jim Fwlish's Petition For Administrative Hearing Is Resolved, Which I Have Been Told Is Scheduled To Be Heard On June 7th.

Therefore, There's No Need For The Settlement To Be Considered Today.

It's An Important Issue Affecting The Future Of Our Area.

We've Attended Southwest Florida Meetings -- Management District Meetings On The Erp And Would Appreciate The Opportunity To Continue To Participate In The Process.

In Regard To The Public Records Request From David Ellen Told Me Yesterday That The Two Pages On The Website Are Really All That's Available For The Public To See And I Do Absolutely Appreciate Very Much That He Took The Time Without An Appointment To Talk To Me Yesterday And Give Me Some Information.

I Do Appreciate That.

What's On The Website Is Just This Two-Page Thing, And We're Somehow Led To Believe That This One Paragraph That I Have Highlighted Resolves All Of The Issues That We Have With The Erp.

I Don't Know If It Does Or Not, But We've Not Had The Opportunity To See Everything And Look It Over And Be Able To Comment On It.

At Any Rate, We Were Told That Other Information Was Privileged And That We Couldn't See It Until After Approval Of The Amendment.

Jim English's Lawyer Sent Us This 29-Page Document, Which For Some Reason The County Would Not Provide And I'm Sure There's More Documents That We Would Like To See In

Order To Be Able To Comment On This.

I Notice On Page -- Aye Not Had Time To Review All This.

I Got This Last Night.

On Page 3 Of The Document It Says "This Case Is Complicated.

The Permit Itself Consists Of A 43-Page Staff Report And Some 50 Exhibits.

The Permitted Project Is Enormous." Somehow We're Led To Believe That This One Paragraph Is Going To Resolve Everything.

Your Commissioners Always Encourage Public Participation.

We Need All The Information And We Need Time To Review It If We're Going To Be Able To Comment, We Hope The Encouragement You Give Us To Participate Is Sincere.

If You Do Decide To Go Ahead And Consider The Settlement Today, We Ask That You Please Reject It.

Thank You Very Much.

Margaret Banion For The Record.

I'm Speaking In Favor Of Consent Agenda 1-A, The Carry-Over Funds.

As Christy Said, Upper Captiva Has An Application For Implementation Funding At A Total Of \$30,000 From The County.

The Community Has Been Working Very Hard And In Many Ways Is Almost An Ideal Community Planning Process Where Early On We Identified Important Priorities For The Community, Identified Differences, Worked Through Those Differences, Built Consensus With The Staff, And Came Out With A Community Plan That's Workable For Their Community.

At This Point We're Ready To Implement Some Of Those Policies.

Attorney Bob Pritt Asked Me To Speak For Him As Well That He And I For The Center For Public And Social Policy Are Ready And Able To Do The Work To Assist This Community With Their Application.

When It Comes Forward, We Are Hoping That You Support That Application.

Thank You.

Chairwoman Hall: Karen Kamener, Who Will Be Followed By Richard -- Get My Glasses On.

Richard Goodston.

Good Morning, Karen.

Good Morning.

Hi.

My Name Is Karen Kamener, For The Record, And I Lived In Bay Shore For Over 25 Years.

The First Page Is An Example Of 2003 Johnson Engineering Work, And You're Familiar With The Bay Shore Area, And I Just Put A Red X On There For My House And One For Debbie Jackow, And Those Blue Circles Are The Prone Flooding Areas, And I Think I Have Sent Enough Pictures Out Of My Property And I Think It's Amazing That Both Henderson Grade And My House Are Not In The Blue Areas.

Actually, I Showed This To An Engineer, And He Said The Whole Area Should Be Blue.

That Just -- I Have Other Documents Too That Question Johnson Engineering's Work.

Then The Second Set Of Documents Are What I Got From Jim English's Lawyer.

I Don't Know If They're The Privileged Information Or Not, But It's Got The Continuance In It, And Various Other Documents.

I've Been Reading This For Babcock For About Two Years, And I Notice There's Some Documentation In The Continuance, I Believe It Is That There's A Bunch Of Permits That Are Referenced, But You Can't Find The Back-Up Information.

I Went To The Sdep Website And Googled A Couple Of These Permanent Measurements E Numbers, And I -- I Mean, I Googled It And I Punched It In At Fdep, And I Can't Find Any Of The Documentation.

Based On All These Concerns And Inconsistencies In Both The Petition And The Continuances, I Just Found It Really Amazing That There's A Document In Here And The Person Deciding What Paragraph Should Go In The Staff Report Is Babcock, And I Would Think That If This Is -- These Are Concerns Of Lee County's And Do You Want To Protect The Public, That You Would Be Calling The Shots And Not Partners Of Babcock Llc.

Babcock Holdings Llc.

I Am Begging You To Arrange It So That We Can All Discuss This And Figure Out What Our Future Is Going To Hold, Because Things Were Messed Up Down In The Crew Area Of Bonita Springs, And According To Paving Paradise, It Cost \$30 Million For The Government To Clean It Up, And They Still Haven't Finished.

I Saw The Governing Board Video Where Charles Roy Said We Don't Have The Money To Finish Cleaning Up This Mess.

We Think Lee County Should Do It.

I Have No Clue.

Oh, And In This Study With The Blue Circle, Its That Everything North Of Null Bridge Should Be Bought Out If You Want To Deal With The Flooding Problems, And That's Up Into Charlotte County.

It Says That The Bottom In The Conclusion That The -- There Is No Real Way To Solve The Problems Out There.

You'll Never Be Able To Afford It.

Actually, It Should Be A Water Storage Area, And It Should Remain Open Land And Wetlands So That People Don't Have To Put Up Burms And All The Other Stuff, And The Water Can Just Sit On People's Land And Do What It Needs To Do And Clean Up Before It Gets To The River.

Thank You Very Much.

Chairwoman Hall: Thank You, Karen.

Richard Followed By Orl Custer.

Good Morning.

My Name Is Richard Gregson.

My Wife And I Are 13-Year Veterans Of The Edgewater Neighborhood.

I Am Here Today With My Wife, Gale, To Try To Convince You That It Is Time For Lee County Commission To Step Forward And Help Defend The Constituents Against Acts And Nonactivity Of An Unscrupulous Developer Has Continually Gained The System With Their Tactics Of Delays To Completely Bow Out Of Any Responsibility To Follow Lee County's Ordinance And/Or Development Requirements.

During The Late 1990s And Early 2002s I Served Several Years As The President Of The Edgewater Homeowners Association And As Chairman Of The Lakes County For The Master Association At Gulf Harbor.

During That Time I Had Many Meetings With Representatives At Wci Communities Regarding Lake Issues.

Our Homeowner Association Board With An Attorney Negotiated To Turnover The Edgewater Community From Wci To The Community Residents.

Although There Are Many Tough Negotiations, In The End We Concluded A Very Successful Agreement And Our Residents Seem To Be Generally Pleased With The Result.

In My Position As Chairman Of The Lakes Committee, I Found The Developer Intransigent

With Regard To The Lakes.

My Contact Within The Wci Communities Was Very Knowledgeable About The Issues Facing Cwci Regarding The Turnover Of The Lakes To The Community And Meeting The Various Requirements Of Lee County, But When It Came To Resolving Many Of The Outstanding Issue, It Was Just One Stall Tactic After Another And Continued Delays.

Once The Incident Comes To Mind While Serving As The Edgewater Board And Lake Committee, A Letter From Wci Was Sent To Many Residents Of Edgewater Indicating That Wci Was Going To Address The Erosion Issue By Having Rip-Rap Installed On The Lake Banks Of Individual Residences.

As President Of The Edgewater Homeowners Association, I Look To Wci's On Site Op Way Copy Of The Letter In Hand And Informed Them That I Thought The -- A Permit For This Work Might Be Required By The County.

I Was Ignored.

Wci Proceeded Have The Work Completed, And I Don't Believe A Permit Was Ever Acquired For That Project.

I Am Also Aware Of Several Retaining Walls That Have Been Installed In Various Areas Of Gulf Harbor Community To Alleviate Bank Erosion, I Believe All Without The Required Permits.

Additionally, I Have Had Continual Contact With The Lee County Staff Regarding Lake Issues That Wci Would Need To Do To Able The Lakes Into Compliance With The County Code And Gulf Harbor Development Of Lee County.

I Found The County Staff To Be Knowledgeable, Sympathetic, And Helpful In Developing The Proper Remediation Of The Issues, But In The End The County Was Complicity In Allowing Wci To Get Continual Extensions For Their Required Works So They Wouldn't Have To Address Many Of The County's Outstanding Lake Issues.

Again, I Feel It's Time For Lee County To Step Forward And Protect Our Constituencies Regarding The Issues With Wci Communities.

We Are Looking For You To Inject Yourselves Into This Dispute And Challenge The Order Confirming The Second Amendment, Joint Chapter 11 Plan Of Reorganization For Wci, The Bankruptcy Court To The District Of Delaware On October 26, 2009.

In Summary, I Ask You To Make Wci Communities Live Up To The Ordinances, The Very Codes And Ordinances That We Elected You To Uphold And Enforce.

Chairwoman Hall: Thank You.

Earl Custer Will Be Followed By Earl Freeman.

Thank You, And Good Morning.

My Name Is Earl Jeanne Custer.

I Am The President Of The Gulf Harbor Master Association Which Represents Over 3,000 Residents In A Community That Consists Of 1,614 Home Sites.

Our Board Has Been Diligent In Its Responsibilities Since Owner Controlled The Master Association From Wci.

The Layout Of The Community, Including The Surface Water Management System With Major Modifications, Including Changing Lake Slopes, Filling In Lakes, And Changing The Size Of The Lakes.

In 2003 Wci Turned Over Control Of The Master Association To The Homeowners.

In The Fall Of 2003 The Master Association Commissioned A Study To Report On The Community Infrastructure And Deficiencies.

Upon Right Of The Study With Major Deficiencies In The Storm Water Management Systems, Discussions And Negotiations Dragged On With Wci Regarding These Items For Over Two Years.

Finally, The Master Association Filed Suit Against Wci In October Of 2006.

In February 2006 Lee County Issued Four Notices Of Violations To Wci Regarding The Surface Water Management System To Be Maintained By The Master Association And Additional Citations To Other Portions Of Gulf Harbor.

Throughout 1996 Four More Citations Were Issued By The County And On November A Violation Notice Was Issued That If Remedies Were Not Commenced Within 15 Days, These Violations Would Be Scheduled Before The County Hearing Examiner.

Lee County Staff In An Attempt To Work With Wci Then Commenced An Odyssey Of The Phase.

In August 2007 Wci Filed Four Separate Limited Development Orders.

After Denial In October 2007 Wci Resubmitted Plans Which Were Denied Four Months Later.

Then Through A Series Of Extensions, Wci Took Over A Year And A Half Before It Submitted Its Next Response In January Of 2009.

During This Period In August 2008, Wci Filed For Bankruptcy.

During This Same Period, The Master Association Retired -- Retained Wilson Associates And Commission Preparation Of A Survey Of The Lakes Which Was Provided To Lee County And To Wci.

As To The Development Order Applications, Wci Filed A Response In January Of 2009 And

It Was Denied By County Staff.

Wci Filed Again In September 2009 Which, Again, Was Denied By County Staff.

Wci Announced Through Neil Montgomery In October 2009 That Wci Had No Consultants No, Employees, And No Money And, Therefore, Would Not Continue With Activity.

Chairwoman Hall: I Need To You Wrap Up.

We Are Asking, Requesting Today That The Word Of County Commissioners Officially Object To Wci's Change In Bankruptcy Plan With Changes -- Which Change Retains The Service Water Management System In The Insolvent Wci Corporation And Not Transfer It To The Newly Created Corporation As Set Forth In Wci's Original Bankruptcy Plan.

Thank You For Your Time.

Chairwoman Hall: Thank You.

Mr. Earl Freeman.

Who Will Be Followed By Bernard Colts.

My Name Is Earl Freeman, And I Have Been A Permanent Resident Of Gulf Harbor Since 1995.

During That Time, I Have Had The Privilege Of Being On The Board -- Or Had The Privilege Of Being On The Board Of The Master Association For Nine Years.

Two Of Chicago Served As Treasurer And Six Of Which I Served As President.

During That Time, I Attended A Multitude Of Meetings Concerning The Lakes With Wci, South Florida Water Management People, And Various Members Of Lee County, Also With Commissioner Judah And Other Representatives.

I Can Tell You That The South Florida Water Management People Did Extensive Studies And Had A Plan To Work With Wci To Get Our Lakes Remedied.

For Some Strange Reason Over A Period Of Time They Backed Off, And They Left Us Without Any Alternative Except To Depend Wholly On The County To Help Us.

Almost At Every Meeting That We Had With The County We Came Back Encouraged.

We Were Told That We Would Not Allow Wci -- Wci Would Not Be Allowed To Put A Band-Aid On This Problem.

They Would Have To Come Up With A Permit Fix.

Back And Forth They Went With Plans To Fix And It Never Got Done.

I Think What We're Asking For Your Help In Today Is To Make Sure That We Don't Allow Wci To Walk Away And Stick The Residents Of Gulf Harbor With A Problem That Should Have Been Handled And Would Have Been Handled If The South Florida Water Management People And The County Were Allowed To Do Their Job.

Thank You.

Chairwoman Hall: Bernard Colts Who Will Be Followed By Don Machek.

My Name Is Bernard.

I Have Been A Resident In Gulf Harbor Since 1996.

When Our Building Was Built, 22 Of Them, Wci Turned It Over To Us.

The Turnover We Got Engineers And Found There Were 68 Serious Code Problems.

On A 50-Page Document.

68 Code Problems Were Missed.

How They Got Missed, I Don't Know, But It Kind Of Set The Theme For Every Other Community In Gulf Harbor, The Marina, Et Cetera.

Continually, Code Problems That We Have Had To Fix.

The Same Is True Of The Lakes.

Where Was The County If We Missed One Lake, That Would Be One Thing, But All Of The Lakes Are Out Of Compliance.

Where Were The Inspectors? We Have A Developer Who Has Used The Law To Escape A Moral Responsibility They Have, And They Continue To Do It.

We A County That Is Above The Law When It Comes To The Failure Of Inspectors To Do The Job Properly.

I Mean, Simple Things Like Hurricane Straps Were Missed On 22 Buildings.

It Is Time For Morality To Trump The Law And Protect Our Rights.

It Is The Commission's Responsibility To Assist Us And N Rectifying This Problem As The County Has The Responsibility To Enforce The Rules And Failed Us In Some Ways.

We Ask That You Stay The Gulf Harbor Situation.

Thank You.

Chairwoman Hall: Don, Please.

I Appreciate That.

Thank You.

Don Machek Who Will Be Followed By Beverly Grady.

Good Morning.

I'm Don Machek.

I'm A Resident Of Gulf Harbor, And I Just Want To Reiterate The Importance Of This Issue And Support The Statements Of My Fellow Members.

Thank You.

Chairwoman Hall: Thank You, Mr. Machek.

Beverly Grady.

Good Morning, Madam Chairman.

My Name Is Beverly Grady Representing Gulf Harbor Master Association, And I Wanted To Clarify.

We Had -- We Have A Presentation Ready To Present That Would Consist Of Me And Bob, Our Bankruptcy Attorney From Delaware.

Do You Want It Now, Because It's A Little Longer Than The Three Minutes.

Or At The Time The Item Comes Up, Which We Think Would Be Appropriate.

Chairwoman Hall: This Is The Time For Public Comment.

David, Under Your Item, Are You Giving Ms. Grady Some Opportunity To Give Us Some Dialogue To The Board.

This Is Public Comment, Which Is Three Minutes, Which Is A Total Of Six Minutes.

I'm Looking To You To Give Us Some Guidance Here.

Madam Chairman, I'm Going To Leave That With The Board, But I Would Suggest That If Ms. Grady And Mr. Grady Wish To Make A Presentation To The Board When The Item Comes Up, That Might Be Appropriate.

Chairwoman Hall: Ok.

Is That -- Would That Be The Consensus Of The Board? That It Would Be Appropriate For Her To Make Her Presentation When The Item Comes Up Under Walk-On? Is That All Right

With The Board? We Would Prefer That You Wait.

We'll Bring You Back At The Item.

Thank You.

Chairwoman Hall: I Have No Other Blue Cards.

Is There Anyone Else From The Public Who Away Like To Speak To Anything That's On The Consent Agenda, The Administrative Agenda, Or The Walk-On? Debbie Jackow.

If You Could Fill Out A Blue Card For Us.

That Would Be Great.

Come Forward.

Comm. Judah: Did Mr. English Provide You A Card? Chairwoman Hall: Yes, I Have A Card For Mr. English.

Comm. Judah: Another One? Chairwoman Hall: No.

I'm Sorry.

No.

Comm. Judah: Didn't He Just Hand You Something? Chairwoman Hall: We'll Handle It.

We'll Make Everybody Who Wants To Speak Gets To Speak, And Everybody Who Wants A Card Gets A Card.

No Problem.

Good Morning, Debbie.

How Are You? I'm Fine.

Good Morning.

My Name Is Debbie Jackow, And I Would Like To Request A Postponement Of The Erp For The Babcock Ranch.

The Addition Of The Paragraph In The Letter To David Owen Dated February 4th, 2010 Does Not Begin To Address The Laundry List Of Concerns The County Had With This Permit As Listed In Lee County's Petition For Formal Administrative Hearing On October 16th,2009.

The Babcock Ranch Needs To Be Developed In A Responsible Fashion Because It Will Affect Lee County Profoundly.

In This 30-Page Document The Disputed Issues As Listed In Lee County By Lee County.

It Will Not Cause Adverse Water Quality To The Receiving Waters And Lands.

This Should Not Cause Flooding To Property In Lee County.

Should Not Cause Adverse Impact To Existing Surface Water Storage.

It Will Not Adversely Impact The Value Of Functions Provided To Wildlife And Fish And Listed Species On Wetlands.

It Will Not Adversely Affect The Quality Of Receiving Waters.

Lee County Disputes Whether The Application Has Provided Reasonable Assurance Located In, On Or Over The Wetlands Or Other Surface Waters Will Not Be Contrary To Public Interest.

Lee County Disputes Whether The Application That's Provided Reasonable Assurance The Project Will Not Cause Unacceptable Impacts On Wetlands And Surface Waters.

On Page 6 The Ultimate Facts Warrant Reversal Authorization Permit For 6,082.1 Acres Is Inappropriate And Premature As A Complete Conceptual Of The Entire Project Has Not Yet Been Reviewed.

It Has Not Provided Historic Hydrology And Attempted To Remediate The Hydrology And Considering It In The Design Of The Project.

It Has Not Provided The Service Water Management System Will Reduce The Pollutant Loads.

I, And All Of Us, Respectfully Request That This Decision Be Postponed.

This Is Such A Huge Project.

There Are So Many Variables That Have Not Been Addressed And It's One Paragraph Put In For The Staff Report That Does Not Address At All Of These -- If You Have Not Looked At This, Which We Were Handed To By Karen, Does Not At All Address These Issues.

I Respectfully Request That You Postpone This Until June The 7th.

Thank You.

Chairwoman Hall: Thank You.

Again, Is There Anyone Else From The Public Who Would Like To Comment On The Consent, The Administration, Or Walk-On Items On The Agenda Today? Seeing No One, We're Going To Close Public Comment And Before We Go To The Consent Agenda, Let's Take A Two-Minute Break And Come Back Right At 11:00.

Thank You.

Chairwoman Hall: Good Morning.

Let's Go Ahead And Get Back Started.

Comm. Judah: Are You Ready For The Consent Agenda? Chairwoman Hall: I'm Going To Try.

Next The Consent Agenda, And Items To Be Pulled.

Commissioner Bigelow.

Comm. Bigelow: Thank You, Madam Chair.

I Have 12-A And 12-B.

Chairwoman Hall: Commissioner Judah? Comm. Judah: 5-B.

Chairwoman Hall: Commissioner Janes.

Comm. Janes: 5-A.

Chairwoman Hall: I Would Really Appreciate If The Chamber Could Come To Order.

If You Want To Continue Your Discussion, We Do Have A Conference Room In The Back That We Would Like To Get Through This Meeting Today So We Can Get On To Your Issues.

Thank You.

With That -- I Have A Motion By Commissioner Judah.

I Have Nothing.

And I Have A Second By Commissioner Mann.

Further Discussion? The It Carries.

Comm. Bigelow: Thank You, Madam Chair.

First Of All, This Is A Longstanding Objection.

It's A Protest.

Chairwoman Hall: Ok.

Comm. Bigelow: It's A Description Of Commissioner Judah's Vote He Took.

I Do Have A Question.

Chairwoman Hall: Ok.

Comm. Bigelow: This Is For Those Tuning In To The Audience And At Home.

This Is To Award And Authorize Staff Construction Management Agreement For The Construction Management For Cape Coral And Midpoint Plaza One-Way Conversion, And This Would Go To Compass Construction.

Paul, Thank You For Being Here.

I Notice That There's 15 Submittals.

As We Requested Letters Of Qualification, So 15 Firms Responded.

Five Firms Were Selected For Telephone.

It Doesn't Say.

I Assume Telephone Interviews.

For The Record, Paul Wingard, That's Correct.

Although They Were Actually Interviews That They Came In For.

Comm. Bigelow: So They Weren't Telephone Interviews? That's Correct.

Comm. Bigelow: They Were In Person.

How Did You Go From 15 To Five? The Reason I Ask That Question Is Because In The Following Item, Which I Also Pulled, It Describes How You Ran The Responders All Through The Selection Committee, So Can You Tell Me How You Went From 15 To 15 In This Case? Well, It's A Two-Step Process.

The Initial Letter Of Qualification Comes In With Their Proposal Talking About How They Might Build A Job, What They Have Available For Staff, Just The Entire Requirements That Are Asked For.

15 Firms Submitted.

The Committee Got Together, Met, Reviewed Those 15 Proposals.

After We Each Had The Opportunity To Review Them Separately, You Know, On Our Own, The Committee Got Together And Narrowed The 15 Down To Five At The First Meeting.

Those Five Were Then Initially Set To Do Telephone Interviews, But We Changed That To Do Face-To-Face Interviews.

One Of The Five Dropped Out, So We Actually Got Four Presentations.

Again, Back To That Selection Committee And Out Of Those Four We Selected One Which Is Ranking Compass First In The List.

Comm. Bigelow: So The Committee, Which Consisted Of Public Works Director, D.O.T. Director, And Yourself, Deputy Director, Met To Consider All 15 Together? That's Correct.

Comm. Bigelow: Ok.

I Didn't Know That.

I Mean, It Wasn't Stated Such Here.

Ok.

Madam Chair, Again, I'm Going To -- Chairwoman Hall: Ok.

Comm. Bigelow: Let Me Finish.

We Don't Have Predetermined Criteria By Which All Of These In This Case 15 Applicants Are Judged, And, Secondly, To Make Up The Committee, I Think Introduces The Possibility, Underscore Word Point, For Undue Influence.

That's My Objection.

Chairwoman Hall: Thank You.

I Have A Motion For Commissioner Judah.

I'll Second It For Discussion.

Comm. Judah: Again, The Process Is -- I Want To Thank You Personally.

I Thought You Did A Great Job Last Night.

It Was One More Tv Station That Covered You On The News With The Improvements Of The One-Way Conversion To Enhance Public Safety.

Thank You For Your Good Job.

Chairwoman Hall: Further Discussion? All Those In Favor? Opposed? The Motion Carries 4-1.

Comm. Bigelow: I'm Sorry.

Chairwoman Hall: Mr. Bigelow Descending.

Item 12-B.

Comm. Bigelow: Thank You.

This Is To Concur, Again, With A Selection Committee Conclusion, And I'll Just -- This Is --  
Chairwoman Hall: I Have A Motion To -- I Have A Motion By Commissioner Judah.

I Have A Second By Commissioner Mann.

Further Discussion? All Those If Favor.

Opposed.

The Motion Carries 4-1, Commissioner Bigelow Descending.

Commissioner Judah, 5-B.

Comm. Judah: Have I To Pull 5-B Because This Is One Of Those Rare Instances Where We  
Actually Have A Business Out There In The Community, In This Case Regents Bank, That's  
Actually Grown From The Easement To The County Without Compensation For The  
Presence Of The Widening Of The Project.

I Just Want To Thank Them Personally And Move On.

Chairwoman Hall: I Have A Motion By Commissioner Judah.

Second By Commissioner Janes.

Is There Further Discussion? All Those In Favor? Opposed? Motion Carries Unanimously.

Ok.

Commissioner Mann, Item 1-A.

Comm. Mann: 1-A.

Yes, Madam Chair.

That's The Internal Rearrangement Of Dollars To Be Made Available For The Initial  
Construction Costs, Engineering, Design, And Early Construction Costs Of The Red Sox  
Stadium.

I Don't Know If I Need To Say Anything, But I Needed To Place On The Record My  
Continual Concerns.

All Five Of Us Initially Supported The Red Sox Stadium, And We -- That Was After We Had  
Half A Day Or Better.

In Fact, Part Of Two Meetings Devoted To How We Were Going Fund This.

We Determined That We Could Fund It Through The Tourist Development Tax Dollars That Would Be Available And Ultimately We Would Bond It Against The Anticipated Revenues Of The Tourist Development Tax.

I Was Comfortable With That.

When The Initial Commitment Was Made To The Sox, I Went With That Because Of That.

I Fell Off The Track A Little Shortly Thereafter When The Contract Arrangement Between Us And The Sox Seemed To Be So Heavily Weighted On The Sox Bin Fit.

That Notwithstanding, I Have Tried To Do What Was Responsible Recognizing That A Majority Of This Board Was Going In The Direction Of Building The Stadium.

Even As Recently As Yesterday I Have Supported The Zoning Change That Was Required There, So I'm Not Trying To Irresponsibly Throw Roadblocks Into A Project That I See Going On Down The Road.

My Concern Is Now As It Always Has Been, That All Of Our Funding Committed So Far Has Come From Different Types Of Our Taxing Base.

We Are Yet To Lean On That Original Commitment Where It Was Tourist Development Tax Money.

I Didn't Mind Building This.

Even In A Recession.

You Get An Incidental Bump In Economic Stimulus As Long As It Was My -- And I See A Lot Of Them Visiting Here Today -- My Snow Bird Friends Who Were Paying For It By Renting A Room And Buying Meals And They Pay The Tax Then To Our Tourist Development Group.

That Money Hasn't Yet Shown Itself And What I'm Concerned About Is Our Continual Reliance On Loan Dollars As We Borrow Huge Amounts To Run Our Own Budget This Year And Anticipated Next Year's Budget As Well And The Year 2012 As We Mentioned Last Week In A Workshop That We Had For Three Days.

I'm Just Concerned About That Continual Reliance, And This Doesn't Even Require Payback.

It's Given Us A Lot Of Cushion Until The Year 2039 As We Use The Basis.

I'm Concerned About That.

I Understand The Mathematics.

I Understand I Think Why The Majority Is Doing That.

I'm Still Frightened About The Overreliance On Those Long Dollars Now In A Recession Time When We Are So Desperately Short Of The Necessary Monies To Even Balance The

Budget.

We're Going To Need Those Dollars, And I'm Reluctant To Set Them Aside Even For This Purpose That Momentarily Looks Like It Saves Money, And It Probably Does, But I Appreciate -- I Appreciate The Commission's Time.

I Don't Mean To Sound Like A Lecture Or Broken Record, But I Needed These Thoughts On The Record.

Thank You, Madam Chair.

Chairwoman Hall: I Feel Your Concern, And Even As Early As Yesterday, I Checked In With The County Manager And Have Sat Down With Pete Whitten So That We Can Bring Back The Strategy For The Financing For The Red Sox Stadium Because You Are Correct.

We Do Need To Look At What Is The Best Strategy From The Bonding, To The Financing, To Paper Loan, So I Don't Want Anyone To Walk Away By Supporting This Today.

This Is Not Ultimately The Way This Will Look, So I Want To Assure You That As Chair, I Am Working Very Closely With Staff To Bring Back To This Final Financial Strategy On What We're Going To Move Forward With The Stadium Short-Term And Long-Term.

I Think We're Going To Have To Look At That Strategy Due To The Economic Times, Whether A Bond Is Appropriate, Whether It's A Short-Term -- A Longer Short-Term Loan Than We Anticipated, And, You Know, 16 Months And Moving On To Bond, But, Again, I Have Asked Karen To Work With Me To Prepare A Presentation So We Can Have A Very Open Discussion Very Focused On Those Financing Components Because I Do Share Your Same Concern, And I Want The Board To Be Able To Have The Time To Discuss That Financing In An Open Forum With Plenty Of Time To Ask The Appropriate Questions With The Appropriate Bond Council, Financial Consultant, As Well As Our Own Internal Staff.

I Assure You This Is Want The Last Time You Will See This.

Nor Will It Be The Last Time The Tdc Board Will Look At This As Well.

I Appreciate Your Support In Keeping Us Moving Forward So We Meet Our Deadline That Is We Have.

There's A Lot More To Discuss About The Financing In The Final Form.

Do I Have A Motion? Comm. Janes: Madam Chair.

Chairwoman Hall: I Have A Motion By Commissioner Judah And A Second By Commissioner Janes.

Chairwoman Hall: Commissioner Bigelow.

Comm. Bigelow: I Want To Make Sure Authorize Those That Are Listen And Viewing In, This Is Not Increasing The Funding For The Project Itself.

What It Actually Does Is Help To Spread The Internal Financing To Another Account.

In This Case The Vehicle Replacement Fund.

Right Now That Vehicle Replacement Fund Reserve Is Receiving A -- About A Quarter Percent Interest For The Taxpayers.

By Borrowing From That Fund Internally, We Will Be Paying That Fund At 1.5%.

That Is A Greater Rate Of Return To The Taxpayers.

What It Helps To Do Is Go Back To Spring Or Early Summer Of 2008 And I Won't Belabor This Much Longer Except To Say As A Community Did We Want To Retain The Boston Red Sox? I Think What We're Seeing Now With The Effort By Collier County To Have Brought The Cubs Over From Mesa, Arizona, We Realize Now How Serious Sarasota Was In Trying To Attract The Red Sox Initially.

They Now Have The Baltimore Orioles Up In That Part Of The Region.

That Clearly The Red Sox Were Going To End Up Taking Flights From The City Of Palm Springs And Either Going To Arizona, Going To Sarasota Or Some Other Location, And So This Board Acted Very Divisively, And I Believe Appropriately To Recognize The Huge Economic Impact To This Society To The Community On A Yearly Basis In Terms Of Revenue To Motels, Hotels, Restaurants, Retail Stores.

Madam Chair, I Realize This Board.

I Believe Needed To Make The Commitment To Keep The Red Sox, And In Doing So, Need To Find The Most Appropriate Financial Mechanism To Do So It's Not Placed On The Other - - On The Burden On The Backs Of The Taxpayers Of Lee County.

So To That End, I Think It Was Appropriate That We Are Using The Tourist Tax Dollars To Pay For The Stadium.

The Internal Financing I Thought Was A Brilliant Stroke Of Genius, Quite Frankly, On The Part Of Our Budget Director And Administration From The Standpoint Instead Of Going Up The Bond At This Time, We Reserve The Flexibility Of Going After The Bond Market When That Market Is Favorable, But Right Now To Be Able To Do The Internal Financing And Pay And Provide A Greater Return To The Taxpayers As Opposed Paying 5.5%, It's A Tremendous Opportunity For Us To Move Forward, And I Think That What Is Now Being Proposed Takes The Additional Burden Off The Nsdu And Provides For Capacity To That Fund, And As I Said, Spreads Out The Financing So It Allows Us To Move Forward With That Project.

I Anticipate, And I Think The Board Will Too, Come July, August When This Project Will Be Under Construction, We're Talking About 1,000 Jobs, And Then, Of Course, The Money That Starts To Flow Into The Community Once That Stadium Is Built.

I Just Want To Put That In Perspective Because In Today's Paper The Reasoning Was There Behind This Going Forward.

Thank You, Madam Chair.

Chairwoman Hall: I Appreciate The Update.

Didn't Read The Paper.

Don't Get A Chance To Read It Every Morning.

Mr. Bigelow.

Comm. Bigelow: Thank You, Madam Chair.

I Guess Dow Have Some Questions For Pete Or Diana, Whoever, But Let Me First Respond To Some Comments That Were Made Up Here.

I Think Commissioner Mann, The Record Would Reflect That All Five Of Us Are In Agreement As To What The Goal Here Is, And That Is To Retain The Red Sox.

I Think It's Just A Matter Of How We're Going To Get There, How We've Had Chosen The Majority Vote To Get There, And I Think That's Probably Where You And I, Commissioner Mann, Are Thinking Alike And That We Would Prefer A Different Route Maybe For Different Reasons, Though.

I Don't Think I've Supported Any Aspect Of This Project Except To Juggle The Tourist Tax -- Or Tax Dollar Allocations In Order To Repay This, And That Was The First Vote We Took On This Issue, And I Supported That.

If Anything, It Came Later When I Kept Having Major Concerns With.

I Would Have To Disagree Very Strongly With The Idea That The Stroke Of Genius To Use Property Tax Dollars To Fund This Project With.

I Just Don't Think It Is Fair To Taxpayers Who Paid The Property Tax Dollars, Having No Clue When They Did So, That It Was For The Purpose Of Building A Fourth Baseball Facility, A Fourth Baseball Facility Here In Lee County With Only Two Teams In Hand To Occupy Them.

I Include Terry Park In There.

It's A Historical Facility.

It's Beautiful.

It's World Class.

It Could Still Provide A Spring Training Venue For A Team.

What We, In Effect, Are Doing Is Adding Another Facility To Our Inventory, And We Have Not Yet Figured Out How To Find A Third Team, Much Less A Fourth Team.

So I'm Really -- I'm Being As Go-Along As I Can, But Trying To Make Sure That, You Know, I Do Have My Dissenting Voice Heard Here.

With Respect To This Particular Item, Though, I Think It's Too Easy To Kong Fuse What We're Doing, And I Would Like To Hear From Pete.

Perhaps If You Could Explain, A, What It Is You're Doing Exactly And, B, Why You Are Doing It This Way.

Let Me Ask This Question.

Why Aren't We Just Taking This \$17 Million From The Vehicle Replacement Fund, Loaning It To The Red Sox Project Fund, Ok, And Sending \$17 Million From The Red Sox Fund Back To The Nstu? You Don't Understand Why That Money Has To Come From The Vehicle Replacement Fund Straight To Them.

So When We're Repaying The Monies, We Repay It From Tourist Tax Dollars Directly To The Vehicle Replacement Fund Or To The Nstu.

I Don't Understand It.

It Seems To Me That It's Kind Of Like -- I Mean, I Don't Know Any Any Other Way To Say It, But It Looks Like A Money Laundering Situation.

I Know It's Not That, But I Just Don't Understand Why We Have To Move The Vehicle Replacement Money, Which Comes From All Sorts Of Various Sources.

Not Just Property Tax Dollars, But It Comes From -- It Comes From A Whole Host Of Myriad Of Places.

Can You Tell Me Why We're Doing It? Away We're Doing And Why We're Doing It This Way? Pete Wenton.

You Could Describe It That Way.

It Would Be A Two-Step Process Instead Of A One-Step Process.

The Project Cost Is Not Increased.

The Loan Itself Is Not Increased.

That Money Was Moved Over Into Project Account Last June.

Away We're Simply Doing Is Spreading The Internal Loan That We Have Because To Take The Pressure Off The Unincorporated Nstu, And Because Of The Vehicle Replacement Fund

Because We're Down 400 Positions From A Few Years Ago, And We Don't Have The Need To Replace Nearly As Many Vehicles.

We Have A Large Chunk Of Funding In There That We Have No Current Use For.

Ok.

So You Are Saying The Rationale For Doing It This Way Is To Avoid A Two-Step Process.

Ok.

Yesterday When We Met Privately You And I And Diana Talked About This.

You Mentioned Potentially Forgiving The Loan As A Possibility.

That Is Always From Day One Been A Major Concern For Me That Tourist Locally Will Not Be Happy.

They're Not Highly Happy Right Now Because Of So Many Other Possible Projects That Are At Risk Because We're Going To Spend The Lion's Share On Baseball.

And That We Made, This Board, If I'm Hearing, May Choose To Forgive It.

That Would Make This Had Unpalatable Given That Much More Unpalatable Later, I Would Think, But I -- If It's \$17 Million In The Vehicle Replacement Fund To The Nstu -- It's Adding Money To The Nstu Fund, Which Was Robbed Because -- Or Nearly Depleted With The \$75 Million -- Really What We're Doing Is Spreading The Loan.

The Loan Is No Longer \$75 Million From Unincorporated Nsti Balance.

That's How You Are Increasing The Fund Balance.

You Really Won't Be Doing It -- A Transfer.

Where Is It Written? Where Is The Policy Directive Here That Both Of These Borrowing Sources Will Be Made Whole? Because They're Both Loans At This Point, And We -- The 20% Of The Tourist Tax For 2009-2010, It Had Been Bundled.

It's Been Budgeted For Repayment Into The Unincorporated Nstu And Now The Unincorporated Nstu, And If You Approve This Item, Also The Vehicle Replacement Fund.

And That -- Those -- The Actual Cash Transfer Will Be Done At The End Of The Year, But It Has Been Accounted For In All Of Our Budgets For 2009-2010.

We Are Using That 20% Of The Tourist Tax.

Comm. Bigelow: I Know, But It Doesn't Say In Here That Tourist Tax Dollars Will Be Used To Refund The Vehicle Replacement Fund.

Under What Action Accomplishes It? Just Budget And Balance Reflect Preliminary Actual Balances For Those Funds Where It Was Requested.

The Carry-Over Request.

It Doesn't Talk To Whether Or Not The Tourist Tax Money Will -- Chairwoman Hall: Let's Have The Motion Of The Maker Of The Motion Include That In His -- Comm. Judah: Absolutely.

Chairwoman Hall: Since I Have Seconded For Discussion, The Secunder Does Agree.

Your Point Taken, Commissioner Bigelow, And We Will Add That In So There's No Misunderstanding.

The Record Will Reflect That Assuming This Motion Passes, All Loans Regarding The Red Sox Stadium Have A Repayment From The Tourist Development Tax Dollars That Will Be Budgeted Annually For That Purpose.

Comm. Bigelow: Ok.

I Would Like To Hear From Our -- I'm Sorry.

Fleet Manager Just For The Record.

Chairwoman Hall: Don't Go Far, Pete.

Comm. Bigelow: I Would Like To Know.

The Question I Have And What I Would Like To Hear On The Record Is That This \$17 Million Loan Will Not Jeopardize Or Put At Risk Any Acquisition That Is You Have Anticipated.

Currently, Commissioner, We Have About \$22 Million In The Fund, And Because We Have Obviously Slowed Down.

We Have Been Being Prudent In What We're Purchasing And What We're Replacing.

We Approach County Administration And Said, You Know, This Money Is There.

If There's A Need, It's Not Our Money.

It's The County's Money.

So We Offered It Up, And It Still Leaves Us \$5 Million.

It Will Make -- Continue To Be Very Prudent In What We Spend And What We Do, But, Yet, We'll Still Give Us A Cushion On Any Big Ticket Items.

You Know, We May Have To Just Really Take A Look On Whether Or Not We Need To Buy It And We're Doing That, And We Feel That The \$5 Million Will Give Us Some Time For The

Next Couple Of Years And We'll Be Adequate.

Comm. Bigelow: I Mean -- It Sounds Like That Presupposes That You Are Going To Get Money From The Tourist Tax Quickly, And I Don't Think We Can Know That.

I Don't Think That's A Scenario We Can Predict Right Now.

I Mean, You May Have \$5 Million.

You Are Going To Be Making Purchases, And, I Mean, Everything Is Looking Bad, So That's \$5 Million That May Have To Go Decades Or A Decade Maybe.

Right? I Mean, You're Prepared For That? Well, We Built It Before, And If We Needed To Rebuild It Again, We Can, But We Are Going Under The Distinction That It Is A Loan At This Point In Time And That There Would Be Some Income, However Minimal That Might Be.

Yes, We Are Willing To Do Whatever It Takes To Help The County Get Through This Time.

Comm. Bigelow: That's A Significant Cut To Your Budget There.

Yes, Sir.

Comm. Bigelow: I Mean, That -- I Can't Know What Kind Of Purchases You Will Need To Make.

Chairwoman Hall: You Have The Opportunity To Vote No On This Item, Because I Don't -- Again, I Think What I Have Said To You In Previous Two, Your Comments Is That The Actual Final Financing This May Only Be Until The End Of The Year.

Then Everything May Go To A Bond.

We Don't Know Yet.

Comm. Bigelow: We Don't Know Yet.

Exactly.

That's Another Unknown.

Chairwoman Hall: I Know, But Today's Item Is Are You Supporting On Making The Transfer Or Not? That's Really What's Before Us Today.

Comm. Bigelow: All Right.

Well, I'm Concerned What We're Doing To Our Fleet.

I Think It Puts Us At Too Great A Risk.

I Don't Think I'm Going To Be Able To Support It.

Chairwoman Hall: Pete, The Only Question I Have Is When We Have These Fund Balances And We've Had Three Days Of Planning Looking At The Various Fund Reserves To Have Flexibility.

We've Built Our Fleet Reserves To Quite A Substantial Amount.

Would This Normally As You Are Going Through This To Be Transferred Back In To Be Asked For It To Come Back Out If Necessary? I Know You Are Looking At All Of These Pots Right Now And Getting Them Down To An Amount.

We Just Went Through A Millage Decrease To Buy Down The Library Reserves And We're Seeing, You Know, What Happened There.

When Are You Looking At These Big Pots Where We Have No Foreseeable Use For That Level Of Reserve, Wouldn't You Have Normally Made The Recommendation For Us To Come Over Anyway? Yes, We Would Have.

We Need To Move This Out Regardless Of The Loan Or The Other Red Sox Stadium.

The Net Effect Of This Is Increasing The Fund Balance And The Unincorporated Minutes In The Nstu, But That Was Our Goal Basically.

Chairwoman Hall: I Think It's Been Confused With Trying To Say This Is A Loan From Fleet, And I Guess That's Where My Confusion Lies.

If I'm Moving It To The Nstu To Increase The Budget By 17 Million Are Planning To Replace The \$17 Million To Fleet Reserves? If That Is The Answer Is Yes, Then I Need To Know Because I Think That's A Huge Reserve Account To Be Having There, Which Is More Of A Budgetary Issue Than It Probably Is A Transfer.

That's Where My Confusion Lied In This Issue.

I Just Assumed That You Were Bringing Because The Reserve Is So Large, Bringing It To The Nstu To Give Us The Flexibility To Use It As We Deem Necessary.

If Are You Telling Me No, That's Not What We're Doing, This Is Actually A Physical Loan To Fleet And The Physical Loan To The Nstu, Then I Guess -- Is That What You're Saying? That's The Way It's Structured This Time.

Over Time, Over A Longer Term You Could Look At That, But I Guess What We Didn't Want To Get Into Was An Argument That We Were Somehow Forgiving That Portion Of That 20% Of The Tourist Tax.

Chairwoman Hall: I Didn't Perceive That, But Ok.

We Have One More, Commissioner Bigelow, And, Please, Go Forward.

Comm. Bigelow: I've Sat Through Three Budgetprocesses Here And Voted Against Three

Budgets That Were Presented Last Three Years.

I Just Don't Understand If You Think That \$17 Million Taken Out Of Fleet Vehicle Replacement Fund Doesn't Put Them At Risk, Why Wasn't It Then Presented During The Budget -- Three Budgets Prior That There's So Much Money In The Fleet Vehicle Replacement Fund That We Could Use It To Upgrade The Fleet Department? If It Was That Discretionary, As It Seems To Be Put Forward Today That It Is, Why Weren't You Making The Argument Last Three Years That That Fund Was Building Up So We Could Fund The Department From It? We Have Been Monitor This Fund And Evaluating It.

Because We Are Down 400 Positions In The Last Year, We Have Been Cutting.

The Fleet Manager Well Recognized That We Had A \$22 Million Balance In That Fund That We -- That Was Not Realistic Based On Our Current Employment And Our Current Use Of Vehicles And Our Current Replacement Of Vehicles, So That \$22 Million We Would Not Build It Up To That Level Anyway, So What We're Looking -- So We Have Been Monitoring That, And We Have Been Discussing How -- What We Wanted To Do With That.

Or What We Want To Recommend To Do With That.

Comm. Bigelow: It Sound Like, Though, You're Saying The Research Was Built Up To Such An Inordinate Amount That We're Just Now Realizing It, And I Don't Understand That.

Chairwoman Hall: I Don't Believe That's What He Is Saying.

What He Is Saying When We Did The Budget Back Last Year, What We Have Done Between October 1st And To Date Has A Substantial Employment Has Left This County.

Therefore, Looking At All These Funds And Monitoring Them Every Single Month, This Reserve Can Be Coming Down.

We're Not In The Future Going To Have The Level Of Employees That We Had Two Years Ago.

Again, We Start Our Budget -- We're Starting Our Biological Process Right Now For Next Year, So We're Looking At That, And There Is Somewhat Of A Delay, And We're Constantly Moving And The Project Is A Forward Process Because It's Based On Projections Of Income And As Those Incomes Come In, And As Such, The Staff Has -- We've Laid Folks Off.

We've Eliminated Positions.

We've Vacated Positions.

We Don't Have The Same Number Of Positions.

As They Looked At This Fund, They Said This Is Not A Fund We Need To Keep At This Level Since We Won't Have The Same Number Of Vehicles Nor Will We Have The Same Level Of Use On The Existing Simply Because There Are Less People Using Them.

They Will Have A Longevity Going Beyond What It Has In The Past.

That Is Part Of The Analysis That's Occurred In Looking At This Fund And Saying How Far Down Could We Bring This Fund That Will Not Put Any Of The Maintenance Or Potential New Acquisitions In Jeopardy, And What The Fleet Is Saying To Administration, We Kneel We Can Live With A \$5 Million Balance.

With That, Is There Any More Further Discussion? All Those In Favor? Aye.

Chairwoman Hall: Opposed.

Aye.

The Motion Will Carry Then 3-2 With Commissioner Mann And Commissioner Bigelow Dissenting.

First Item System Approved Necessary To Provide One Parent Track Per Resolution For The Parcels Within The Project To Be Condemned.

I Have A Motion By Commissioner Judah, And I Have A Second By Commissioner Mann.

Is There Further Discussion? All Those In Favor.

Opposed? The Motion Carries Unanimously.

Second Item Approve The Resolution Of A Necessity To Condemn A Parcel 1003.

Item? Comm. Judah: Second.

Chairwoman Hall: We Have A Motion By Commissioner Bigelow And A Second By Commissioner Judah.

Further Discussion? All Those In Favor? Opposed? Motion Carries Unanimously.

It's Nice To See Us Fight For Those Motions.

Next We Have Consider Approval And Lee County Versus Babcock Holdings And South Florida Water Management District.

Comm. Judah: Madam Chair.

Chairwoman Hall: Yes.

Comm. Judah: We Got Initially A Brief Comments From Council Because They Have Worked Laboriously Along With Natural Resources To Bring This Potential Sediment To This Board, And One, I Want To Thank Them.

This Board Has Been Very Adamant About Making Sure To Hear The Major Issues Were Addressed And Satisfactory To This Community With Regards To Transportation And Water

Resources.

Transportation Has Been Set Aside To Address Water Resources Was Not.

We Were At Least Able To Get To This Point Where In Which, I Understand, Babcock Has Now Agreed That They Will, Based On The Filings Of Their Models Studies, Modify If Necessary The South Florida Water Management Department To Insure That Appropriate Storage, Run-Off, Potential Flooding Problems Would Be Satisfactorily Addressed, And I Just Think It's Important To Hear From Both David And Also Will Before We Support This Action This Morning.

Chairwoman Hall: Yes.

That's Fine, And As David And Will Are Coming Forward, I Do Want To Inform The Board That I Did Receive A Lot Of Calls Yesterday About Asking For A Delay In This Action, And I Did Take The Opportunity To Contact Babcock's Counsel And Ask If They Would Indulge Us With That Opportunity, And They Say They Lee That Decision To The Board.

I Did Want You To Know That I Am Asking To Ask This Board To Consider A Delay To March 1st So That The Public Does Have An Opportunity To Look At These Documents And I Have Contacted, As I Said, The Representative Of Babcock To Can If We Could Do That.

In The Fact That We're Here And We Do Want To Hear From David Because This Has Been A Very Adviser With Us And Very Expensive Pros We Want To Hear What Your Conclusions Are, David.

Good Morning.

Dade Owen, County Attorney.

Let Me Start With The Folks That Had Come In Before You Today, And I Have Spoken With Some Of Them, And My Apologies With Those That I Didn't Have The Opportunity To Call Back.

It's Been A Very Busy Few Days Since Friday.

The Objective Of The County And For Those In The Audience Who Were With Us When -- The Lawsuit That We Had With Charlotte County For Their Master Development Order Back Two Januarys Ago That We Settled And Had A Provision Put Into That Settlement That Babcock Agreed To Run Three New Additional Models For Surface Water Management.

The Standard Pre And Post, Which Are The Ones That The Water Management District Requires, But Then The More Important Of Those Two, Making The Three, The Natural Conditions Model, Which Is The Most Important One.

When We Start Getting Into Technical Aspects Of This, I'll Turn It Over To Roland, But For Now The Objective Was To Put The Third Party In Place With Respect To That Settlement, And The One That You -- We Had Discussed Ourselves And Babcock, But The Most Important And Critical Piece Of All Of This Is The South Florida Water Management District,

The District, Because They Are The Issuer Of The Permit.

At That Meeting I Respectfully Requested Of The District Executive Officer And The Members Of The Team That Were There Who Are Hearing From The Community That There Be A Provision Put Into The Permit That Would Allow For Or Transition That Settlement That We Had With That Verbiage Into The Permit.

The Objective Being That This Is The First Major Permit That Babcock Will Be Receiving.

It's The Most Important.

It's The Conceptual Erp.

That Is The Design For The Entire Structure Of Everything That's Going To Go In There Ultimately Or What's Proposed To Go In There Ultimately.

That Sets The Tone And The Pattern For All The Water Management That Will Come Out Of This In Subsequent Permits That Will Be Individualized.

Those Are Construction And Operation Permits.

Each One Would Be Subject To The Conceptual Permit.

It's Very, Very Important To Catch And Get That Verbiage Into The Conceptual Permit So Once Those Numbers Are Known, Then All Of The Construction And Operation Permits That Flow From That Will Have The Benefit Of That New Information That Will Be Generated By Those Particular Models.

There's Been The Issue With Respect, Well, We're Not Obligating Babcock To Make Changes Based On What Those New Models Say, And That's Not Entirely Accurate.

But It Is Phrased That It Will Take Into Account Two Things.

One Right Now We Don't Know What The Models Will Say, And, Two, The District Rules Have To Come Into Play With This.

Under The First One Until We Know And See What Those New Models Present By Way Of Additional New Best Available Information For Developing The Permit, We Can't Predict Whether One Thing Or Another Will Be Required To Be Done Or Made.

We Can't Adversely Impact Others, Babcock Can't Adversely Impact Others As A Result Of Changes That May Be Made Or That May Come From The New Information Particularly From The Natural Conditions Model.

As A Result Of All Of That, The Verbiage Is Structured, And It Has Been A Blend Of The District.

I Worked With District Counsel And Babcock Counsel, To Put Together The Information Into The Permit So That It Covers The Conceptual Permit And They Also Put In One Little Piece

Of Construction And Operation For The Utility Company At The Last Minute, But Even With That If The Permit Is Issued And If Babcock Intends To Go Forward To Make Changes, To Do Revisions, To Build Structures, That's Going To Be At Their Risk.

That Will Be At Their Risk Because When We Come In With The New Model, Reviews, Whether That's A Year From Now Or 18 Months From Now, When The Three Parties Sit Down, They Will Have The Opportunity To Review It, Consider What Those Models Say, And Then Make The Adjustments That Are Necessary To Comply With The Rules.

Now, A Little Bit Longwinded, But I Think That's What The Importance Of This Is In Front Of You Today.

Do We Cover Every Single Thing That We Pled In Our Complaint With This Particular Verbiage? The Answer Is Probably Not.

I Haven't Read The Complaint In A While, But It Covers Most Of It.

When You Plead Things, You Plead In The Alternative And Just About Every Possible Conceivable Complaint That You Can Have In Order To Get Everything On The Table And To Save Those Claims So That If You Have To Have Fall-Back Claims, They Can Be Called Up During The Course Of A Hearing.

Again, The Settlement That We Reached Is On -- Is In The Letter That Was Sent To Me Date Of February The 4th, And In That The General Counsel From The South Florida Water Management District Has Advised Us That If The Board Approves This, Then That Verbiage Will Be Placed Into The Permit, And That's What We Were Seeking.

That's Why This Is In Front Of You Today.

I'm Obligated When We Settle Lawsuits To Bring Them To You Expeditiously, And This Is Why It's In Front Of You Today.

As To Any Deferrals With Respect To Taking Final Action On It, I Will Leave That With The Board, But I Will Tell The Board And I Have Told Certain Of The Individuals I Have No Objection To That.

A Couple Of Weeks For Them To Review It Might Be Healthy For Everybody.

Give Them An Opportunity To Look At What We're Doing And How It's Working.

On The Other Hand, Beyond That, I Don't Think It Would Be Prudent For The Board To Go Much Beyond Two Weeks.

Madam Chair, That Would Take Us To March 2.

If You Would Like To Hear More With Regard To The Technical Aspects Of This, I Will Bring Him Up And Be Glad To Turn Him Loose.

If It's The Board's Will To Wait Until March 2, We Can Develop This A Little Bit More Fully

Then.

You Could Expand On What Was Just Mentioned.

With The Idea That We Can Incorporate The Findings Of The Modelling In The Permit To Address Strong Water Management Matters.

The Term That David Just Used Best Available Information That Would Come From The Modelling Work, I Think That's Where We Have The Leverage, As I Understand It, Where The District Will Have To Incorporate Those Findings.

Maybe You Can Just Qualify Or Elaborate On That Opportunity For This Community.

Sure.

Roland, Natural Research For The Record.

The Critical Element Was The Natural Conditions Model That We Have Been Able To Incorporate In Our Original Settlement Agreement And Now Incorporating It In The Water Management District Permit, And That's Going To Give Perspective Of The Historical Conditions Out There Prior To Agriculture And Other Activities Out There And How That May Have Impacted Current Situations Because You Heard A Lot From The People Out There Now.

They Feel That They're Suffering From Adverse Impact From Activities And The Water Shed.

This Will Shed Some Light On What Historically It Was And Using The Historic Land Uses Before The Ditching And Diking Has Occurred, What The Water -- The Natural Rate Of Flows Were Off The Property.

You Get The Water Right.

A Lot Of The Other Elements Will Follow.

The Wildlife, The Restoration, The Habitat That Will All Be Basically Dovetailed In There.

When This Model Is Done, It Will Provide At Least A Natural System That We Will Be Able To Evaluate That And Compare That To What The Current Existing Conditions Then Also What They're Proposing With The New Development, And That Some Sort Of A Basic Measuring Stick To See Where We Could Do Some Improvements.

Either Areas Are Over Drained And We May Be Able To Restore Wetlands Because Of The Historic Hydroperiod And Water Levels Are.

Also, It Will Give Us Information On Historic Volumes Of Flow Coming Off The Property.

When This Information Is Not Available Now.

The Water Management District Basically Has What They're Proposing Doing, What The Existing Conditions Are Out There Now.

This Will Provide Best Available Information.

It Will Give Them An Idea Of What It Was Historically, And Then, You Know, They're Obligated To Use The Best Available Information.

This Will Be Calibrated With Real Data On The Ground, You Know.

Field Controlled Information.

How Far Down The Road Could You Get With The Applicant Moving Dirt Before We Have The Models Coming In That Might Indicate That We Moved The Wrong Dirt? If The Applicant Elects To Go Forward With Moving Some Dirt Or Adjusting Thing Or Building Things, That's Going To Be At Their Risk.

They Can Do That.

Why This Paragraph Is So Important Is That When Those New Models Are Run And The Information Is Available To The District And It Lines Up With Their Rules, Then They May Have To Go Back And Change Things.

There's Also The Issue Of The Turning Dirt.

I'll Have Rolland Explain It. This Is Just To Start Working On Certain Aspects Of The Water Management System.

This Isn't To Build Structures Or Anything Like That.

Those Are Going To Be Your Actual Construction And Operation Permits.

They'll Probably Come Much Later.

That's Speculation On My Part.

Comm. Bigelow: Madam Chairman, I Want To Thank You For Suggesting To Delay This.

Even If It's Just For A Couple Of Weeks.

I Was Receiving Input On This As Late As 9:30 Last Night From Folks That Said, Gosh, In All Fairness, There Is Some Information That Really Needs To Be Explored A Little More.

Could You Please See About An Extension.

I Think Maybe We Can Make Good Use Of Their Time, And Build That Comfort Level We All Look For.

Take A Final Look.

Chairwoman Hall: I'll Defer This Item Until The March 2nd, 2010, Commission Meeting For Further Discussion.

All Those In Favor.

Opposed? Motion Carries Unanimously.

I Also Want To Share That Babcock Has Also Offered To Come Out And Go Over The Settlement In A Public Forum If The Base Would Like Them To And Certainly My Office Would Be Happy To Coordinate That If You Are Desirous Of Having A Meeting Between Now And March 2nd.

Let Me Know.

Thank You.

Comm. Bigelow: Could You Address The Concern That He Brought Up About The Request And Why It Is, As You Shared With Me Yesterday, You Probably Can't Fulfil Those At This Time.

>We're Going Through The Regular Process With That.

A Great Deal Of What They Will Be Seeking.

We Will Evaluate It, But A Great Deal Of What They're Seeing Is Probably Going To Be Attorney Work Product.

This Is Litigation, And Under Chapter 119 Where They Were Afforded Protection Until The Entire Case Is Solved With Respect To That, And That Includes Strategies And Litigation Which Includes Settlements.

Chairwoman Hall: Next We'll Move On To Walk-On Item Number 1, Which Is The Wci Homeowners Association Issue.

By Way Of Introduction, Do You Want To Start, And Then We'll Have Co-Counsel Come Forward.

Comm. Bigelow: Madam Chair, We Might Note The Time.

It's 11:50.

Chairwoman Hall: Yeah.

Comm. Bigelow: Do You Want To Move That Workshop Until After Lunch? Chairwoman Hall: This Is Probably Going To Take -- We Have Another Item After That.

We'll Probably Be Here Until 12:30, So What Is After Lunch? Comm. Bigelow: 1:30, 2:00.

We Have -- Chairwoman Hall: I Will Defer To My Colleagues.

We Have To Take About A 15-Minute Break To Change Over The Tape Anyways.

So Are You Saying That You Have An Appointment You Don't Want To Miss, Or Are You Saying -- Comm. Bigelow: I'm Suggesting We Push This After Lunch, The Tdr Issues Are Deep, And It's Going To Take -- I Mean, I Would Like To Have -- Chairwoman Hall: I Realize That.

Comm. Bigelow: I Would Like To Have Lunch So We're Not -- Chairwoman Hall: I Still Have An Agenda.

I Still Have Another Item, And Have I All The Other Things That Are On Our Agenda.

We Won't Be Finished Until 12:30.

The Tdr Workshop, Do You Want To Move It To 1:30? Take An Hour Break For Lunch Is What They Were Saying? Ok.

Fine.

It's Been One Of Those Mornings, Folks.

We're Going To -- We Will Break Whatever Time We're Done For An Hour For Lunch, Whatever Time That Is.

Let's Get This Agenda Finished, And Then We Will Break For An Hour At Whatever Time We Break.

We Get Done With Our Actual Agenda This Morning.

It's Not Now.

We're Going To Finish This Agenda First.

Comm. Bigelow: I Appreciate That.

Chairwoman Hall: We Next Have The Gulf Harbor Master Homeowners Association.

David, Come Forward, Please.

>Good Morning, Again.

David Owen, County Attorney.

Madam Chair, Just By The Briefest Of Introductions, I'm Giving You What I Thought Was A Pretty Good Background Summary On The Blue Sheet That Was Put In The System For You.

Because The Move On In This Particular Matter Is The Gulf Harbor Master Homeowners Association I'm Going To Have Mrs. Grady And Mr. Brady Come Up And Make Their Arguments To The Board, And Following That, I Will Go Ahead And Give You Our Approach On The Issue And Our Recommendation.

Chairwoman Hall: Good.

Which Has Been Throughout To Be Fair With The Gulf Harbor Folks Since December That Your Staff, My Staff, And Administrative Staff Are Not In Favor Of You Taking Any Action On This Matter This Morning.

Chairwoman Hall: Ok.

I'll Go Ahead And Call Mrs. Grady Then.

Good Morning, Madam Chair, Members Of The Commission.

For The Record My Name Is Beverly Grady With The Firm Representing The Gulf Hash O Master Association, And With Me Today Is Robert Brady, An Attorney From Delaware Who Practices In The Federal Bankruptcy Court.

Also, For Questions We Have Chaster Young, Of Hans Wilson, Will Stockman Who Studies And Represents Gulf Harbor And Litigation Of Wci.

Our Board Of Directors And Many Citizens Of Gulf Harbor.

If I Could Just Describe Just Very Briefly The Serious Problems That We Have At Gulf Harbor Regarding The Water Management System That Was Built By Wci And Operated By Wci, But Which Is Not In Compliance With Lee County Regulations.

There Are Serious Problems Such As Bulkhead.

There Is 1,100 Feet Of Bulkhead Seawall That Was Installed Along The Way Without A Lee County Development Order.

There's Lack Of Planning Because Of The Slope Problem.

Last Week A Landscaper Flipped Over On Those Slopes.

Wci Acquired This Partially Built Community In Substantially Changed The Surface Water Management System, Including The Size And Configuration Of The Lakes, And It's Those Permits And The Failure To Comply With Those Permits That Are At Issue.

Those Permits Were Obtained From December 1993 To Approximately 1999 And Construction Took Place During That Period And Thereafter.

At The Time Of Turnover Was In 2003 Gulf Hash O Master Association Did The Appropriate Thing And Has Ever Since.

They've Hired An Engineering Firm To Do A Due Diligence Report.

Did He They Defined The Major Problems.

After Two Years Of Negotiating With Wci, They Actually Filed Suit.

That Was In 2006.

Also, In 2006 Lee County Served Numerous Notices Of Violation On Wci For The Surface Water Management System.

If You Look At Your Records, Lee County Served Those Notices In February Of 2006.

They Repeated Them In May 2006.

They Repeated Them In July 2006, And They Filed In November 2006 Saying This Time We're Serious.

You're Going To The Hearing Examiner.

If You Don't Do Something.

Wci And January 2007 Filed Four Development Order Applications And Then A Zoning Amendment To Their Pud.

But From 2006 To Today's Date As We Stand Here, None Of The Four Code Violations Was Scheduled For Hearing Before The Hearing Examiner.

Your Special Magistrate.

That Is Contrary To The Memorandum In Your Packet Dated January 29th, 2010 That Says These Violations Have Already Been Prosecuted Through The Hearing Examiner's Office.

That Did Not Happen.

This Summer On June 11th The Board Wrote To The County Commission A Letter To Each One Of You Outlining They Would Have To Ask For The Same Information Over And Over Again.

Because There Was Zoning Amendment Pending, The Response Was That Your Concern Was No Discussions Could Take Place And It Might Involve Zone And We Know We Can't Do That, So No Meetings Were Held.

This Was Equally As First Rating Because We Were Being Informed By Our Bankruptcy Attorney That Government Enforcement Actions Are Not Precluded By Bankruptcy Proceedings.

Now, Gulf Harbor's Lawsuit Against Wci, That Was Stopped In Its Tracks.

Not Enforcement Proceedings.

But The County And Gulf Harbor Master Association Agree That Out There Today Are Numerous Violations And Those Violations Are In Existence In 2006 And Are In Existence Today.

They're An Ongoing Violation, And They'll Still Be In Violation Tomorrow.

It Gets Very Interesting In The History Of The Summer Because, First Wci Proposes A Bankruptcy Plan That Would Have Transferred The Gulf Harbor Lakes Into The New Wci, The One That Has Assets.

That Happened Or We Wouldn't Be Here Today.

At The Actual Bankruptcy Hearing In August Where The Plan Was Approved A Change Which Was Described As Nonmaterial And A Change Was Made So That The Assets Are Kept In The Old Wci, But Everything Good Is Transferred Out.

All The Money, All The Property, Anything That Has Value Is Going To The New Wci.

We Believe That's A Material Change.

Wci Still Meets With Your County Staff A Month Later And Proposes Viable Water Management Solutions.

Then Two Weeks After That In October Contacts The County And Tells Them, Oh, All Of The Staff Has Been Moved To The New Wci.

We No Longer Have Any Connection With The Old Wci.

We Have No Connection With Those Applications That We Filed Back Then In 2007.

Therefore, There's No One Left At The Wci To Deal With The Violations.

This Was Confirmed Through Pete Who Talked To The Attorney For Wci.

When We Found Out, We Immediately Contacted The County Attorney's Office And Requested A Meeting Which Is Held November 6th, And We Received An Initial Memorandum The End Of September And Then The Package Of Information Was Received Friday, February 5th, And We Have Our Bankruptcy Attorney Here Today To Address That.

We Thank You For The Opportunity To Appear In Response To The Information Ewe Been Provided.

There Are Two Things We Believe Lee County Can Ask For In This Bankruptcy Proceeding.

Wci Remains Responsible For Violations Of Codes, Which Codes Are Based Upon The Public Health, Safety, And Welfare As Provided In The Original Advertised Plan And Go To The Wci That Has Assets.

Secondly, Obtain A Confirmation From The Federal Bankruptcy Court That The Bankruptcy Order Was Never Intended To Preclude Or Pre-Empt Or Block Lee County From Pursuing Wci For Its Violations.

We Would Also Respectfully Split That This Method Of Avoiding Responsibility For Violations Will Lay Out A Precedent For Others To Follow In These Very Difficult Economic Times.

We Believe This County Has An Important Issue To Uphold And Not Enforce Its Laws.

Wci Will Take That Position If You Do Not Intervene In This Case To Ask For Reconsideration Of This Change Of The Transfer That Was Made At The Hearing Without Notice.

I Believe A Fund Members Of The Jury Question Has Been Raised By Your Staff From The Package Of Information That You Have Been Given.

Citing This Issue Was A Private Issue.

It Really Raises What Is Good Are Your Regulations? It's The Public Purpose When Awe Do Not Regulations And It's A Public Purpose When You Enforce Your Regulations.

Isn't That Why You're Here? You're Here To Protect Your Citizens, And The Residents Of Gulf Harbor Are Citizens.

We Are Merely Asking Thaw Protect Your Citizens Of Gulf Harbor By Having Available To You The Necessary Tools To Enforce Your Regulations.

A Bankruptcy Order Has Been Adopted, But The Wci Plans To Use To Preclude Or Pre-Empt You From Doing Your Job.

This Is Wrong.

We Want You To Do The Right Thing Today.

We Believe Actually That Gulf Harbor Master Association In Lee County Are On The Same Side.

We All Agree That There Are Violations, And We Agree That Wci Should Be Responsible For The Remedy.

We Do Want To Work With You.

We Have Offered Our Bankruptcy Attorney And To Shoulder The Costs, If You Would Like -- If You Would Want To Use Our Bankruptcy Attorney To Become Involved, And At This Time I Would Like To Introduce Robert Brady, Our Delaware Bankruptcy Attorney, To Explain Our Request And Why The Hurdles That Are There Can Be Overcome And We Believe That We Can Work With The County To Achieve A Public Purpose Solution.

Thank You.

Good Morning, Madam Chair, Members Of The Board.

My Name Is Bob Grady, And I Am Bankruptcy Counsel To The Gulf Harbor Master Association.

One Quick Comment Before I Begin.

I've Heard A Lot Of Complaints Since I Got Into Town Last Night About How Cold It Is Here.

Last Week Delaware Had Over 40 Inches Of Snow, So I Think It's Quite Lovely Here.

Comm. Bigelow: Snow? What's Snow? We Have Been Working, The Association, With Lee County And The South Florida Water Management District In An Effort To Obtain Relief From Wci's Confirmation Order.

I Think A Couple Issues Have Come Out That Causes The County Attorney Some Concern About Proceeding.

I Would Like To Address Those To The Board.

The First Question Is Does Lee County Have Standing To Go To Delaware And Seek Reconsideration Of The Bankruptcy Court's Confirmation Order? I Think It's Absolutely Clear That Lee County Does Have Standing.

They Are Clearly A Party In Interest In The Bankruptcy Case.

Wci Was Cited By The County For Violations.

Wci Conducted Business In This County.

They Paid Taxes.

Wci Negotiated With The County.

It Sought Variances And Held Other Negotiations To Try To Resolve Disputes And The Citations.

The Rules Require That For A Motion To Pass Notice Must Go To All Parties Who Were Affected By The Motion.

Here An Oral Motion At The Hearing With No Notice Was Made To Amend The Plan, The Representation Was Made To The Judge That These Were Nonmaterial Amendments That Did Not Impact Any Party, And The Result Is Quite The Opposite.

Wci Has Made It Clear They Intend To Use The Change That They Told The Bankruptcy Court Was Nonmaterial To Try To Circumvent State And County Law.

The Second Question Is What Would Be The Burden On The County To Get Reconsideration Of The Bankruptcy Court's Confirmation Order? The County Attorney Has Indicated He Believes That Under Case Law They Would Have To Show The Order Was Obtained By Fraud.

Actually, Another Mechanism Is Available To Seek Reconsideration Of The Confirmation Order.

The County Would Not Be Seeking To Revoke The Confirmation Order.

It Would Not Be Seeking To Unscramble The Egg Of The Bankruptcy, If You Will.

It Would Simply Be Seeking Reconsideration Of One Element Of The Confirmation Order That Was Added Again Without Notice At The Hearing That Impacted Lee County.

As A Result, Seeking Reconsideration There's A Mechanism Where The County Would Simply Have To Show Factors Such As Surprise And Certainly I Think The County Could Show That Since No Notice Was Provided To Any Party Of This Change.

Another Area For Reconsideration Is If The Court Finds There's Any Reason That Would Justify The Relief Requested.

Here, Again, A Change Made By A Hearing With No Notice To Any Party That Impacts Lee County's Ability To Enforce Its Regulations And Codes I Think Would Rise To That Level.

Again, Wci Has Made It Clear That They Intend To Use This Provision Added To The Court Order To Circumvent Lee County's Codes And Regulations.

In Effect, They Want To Take This Property, Keep It In An Asset Less Shell And Put Their Hands Up And Say It's No Longer Our Responsibility.

That Leaves The Problem To Lee County And To The South Florida Water Management District.

I Think It's Important For Lee County To Go To The Bankruptcy Court And Have The Court Make It Clear That The Federal Bankruptcy Judge Did Not Intend To Pre-empt State And Local Law.

There Was No Briefing On It.

It Was Made At The 11th Hour.

Time Is Running Out.

There Is A Hard Dead Lien To Seek Any Reconsideration Of A Bankruptcy Court Confirmation Order Of 180 Days.

That Period Runs Next Monday.

I Think Lee County Has Nothing To Lose By Attempting To Make It Clear From The Bankruptcy Judge That He Did Not Intend To Pre-Empt Lee County's Laws.

If The County Waits Past Next Monday, It Has Lost.

It Will Be -- It Will Not Be Able To Challenge The Confirmation Order, And Wci Has Already Made It Clear That They Intend To Use That To Hide Behind Their Responsibilities.

I Believe If The Board Has Any Questions.

Thank You.

Chairwoman Hall: David.

Got A Small Handout, Commissioner.

Chairwoman Hall: Ok.

David Owen, County Attorney.

There's Always Two Sides To An Item.

The Handout That I Gave You Just Has Two Documents In It.

Elk Shorted Notice, And He Is Not Here.

The First Tim In The Package Of These Two Documents Is A Memorandum Of Fact And Law From Mr. Swartzchild To Me That Kind Of Referred To As We Go Through Our Analysis Of This Morning.

The Second Document Is Some Documents From My Office Relative To The Prosecution Of The Code Violations Which Began In November Of Last Year And Were Taken To The Hearing Examiner On December The 14th Of Last Year Contrary To The Comments That Were Made By Ms. Grady.

They Have Gone To The Hearing Examiner.

The Cases Are Running For Abatement.

They're Due April The 14th, And If Not The Modifications Or -- This If They Are Done With Respect To The Lakes, Then The Fines Will Begin Running.

What's In Front Of You Today, Commissioners, Is An Issue Of Whose Fight Is This And What's The Probability Of Our Success If We Get Into The Fight? It's Interesting To Me That The Issue Coming To You Is More In The Form Of The Issues Involving The Gulf Harbor Lakes And Whether Or Not Their Issues Are Your Issues.

I Would Suggest To You That They Are Not.

The Issues That Have The Most Importance Here Today Obviously To The Gulf Harbor Folks Is The Issue Of Who Is Going To Correct The Lakes.

That's Only Part Of A Regulatory Scheme.

As Regulators, The County, That's Us And Pete And Others That Are Involved In Code Enforcement, Our Issue Is The What? What Is Going To Happen When You Have Code Violations? The Code Violations Need To Be Corrected.

That's The What Piece.

That's Our Only Part.

That's All We Care About Is That Their Code Violations Are Corrected By Some Means Or Manner.

Through Our Processes, The Second Part Of It With The Homeowners Association Is The Who Part.

Quite Candidly, As Your Lawyer, I Look At This From Probably A House Of Representatives Perspective From The Homeowner Association's View.

My Job Is To Protect And You This County And Its Coughers And What You Are Being Asked Here To Do Today Is To Step Into The Shoes Of The Master Homeowners Association And Carry Their Issues To The Bankruptcy Court In Delaware And Seek A Modification To A Confirmed Plan.

I'm Going To Suggest To You, Commissioners, And Get Right To The Heart Of This That You Cannot Do That.

You Cannot Do That From The Standpoint That There Is Not Only Rules In Bankruptcy That Are Contrary To That, But There Is Case Law That Backs It Up.

I Understand Fully That We're Not Dealing With The Situation Of Fraud.

What Has Been Requested, And It Has Been Laid Out For You Clearly By Ms. Grady Today, By Mr. Brady, And In Her Letter To You Of Last Week What The Master Homeowners Association Desires.

That Is For The County To Literally Step Into The Shoes Of The Master Homeowners Association And Carry Their Fight To The Bankruptcy Court.

I'm Very Uncomfortable With That, Commissioners.

I'm Uncomfortable That You Will Be Spending Public Tax Dollars In An Effort To Reach A Goal That The Homeowners Association Is Seeking That Is Not Our Goal.

This Is A Private Matter.

This Is Private Property.

This Is A Private Interaction Between A Developer And A Homeowner's Association On That Private Property.

The Developer And Homeowners Association That Has An Obligation To Maintain And Build All Those Properties That Maintain One The Gulf Harbor Community.

We Are Not In A Position From The Legal Standpoint From My Opinion To Go Forward With A Claim That Is Being Requested By The Homeowners Association.

The Rule That Comes In To Play Here Has Said Once A Plan Is Confirmed, Only The Proponent Of That Plan, That Is The Deter, Has The Opportunity To Come Back To The Bankruptcy Court And Request Modifications.

The Fact That The Homeowners Association Is Seeking A Change To That Plan, That Is, In Fact, A Modification.

There Is Bankruptcy Court Cases That Also Follow This Theory.

There's One That Is Particularly Important, And It Has Been Named In The Little Memorandum That I Gave You.

It Is One That Is In The District Court Of Delaware, And What The Court Found Was That Third Parties Or Any Parties Other Than The Deter Who Came Before The Court Seeking A Modification To A Plan Had No Standing.

And That That Modification Would Not Be Made.

I'm Putting This To You Very Simply At This Point In Time, But I Think The Point That I'm Trying To Make To You This Morning And I Am Urging You Respectfully And Strongly Not To Take Any Action On This Matter This Morning.

The Empty Chair That Is Not Here Today That Has Been Referred To, Wci, And, Obviously, They Would Take Steps That I Think Would Be Vigorous With Respect To Oppose Any Motion Or Certainly Any Motion To Amend Or Modify The Plan.

If You Choose To Go Forward With This, I Expect This Is Going To Be At Some Expense To The County.

Now, The Homeowners Association Has Graciously Offered Their Attorney.

Thank You Very Much.

We Have Our Own.

I Think It Only Advances The Transparency Here Today, And I Think It Has The Board Act Close To A Surrogate And Replacing The Homeowners Association With Respect To Their Claim Of Surprise With Respect To The Changes As It Was Confirmed The Homeowners

Association Has Been Represented By Multiple Competitive Experienced Council.

One Thing Of Note In All Of This, However, Is That Last Year When The Bankruptcy Began And Mr. Brady Was Engaged, There Was Some Motions Filed.

The Homeowners Association Filed Their Claim Which Is Based On The Lawsuit That They Began Some Years Here In Lee County.

There Were Many Motions Filed Through February Of That Year.

Of Note, However, Is That No One, No One From The Masters Homeowners Association Attended The Final Hearing.

Not Mrs. Brady.

Not Mr. Stockton Or Mr. Grady.

I'm Practiced Here, And I Know Enough That The Most Important Hearing That You Can Go To In All Of Bankruptcy Is That Final Hearing Confirming And Having That Confirming Order Done By The Judge.

This Is The Last Stop.

That's The Last Time When People Can Stand Up And Object.

This Case The Judge In That Case Entertained Not Only Representation In Person, But Also By Telephone.

The Surprise, Admittedly, Is To The Master Homeowners Association Because An Oral Adjustment To The Documents Were Made That Day.

However, We Have It Documented That Those Changes Were Provided To The Judge The Day Before On The 25th With Confirmation On The 26th.

Yet, No One From The Homeowners Association Attended That Hearing.

It's Interesting That They Didn't Know Anything About The Changes Until Late October After An August 26th Hearing.

My Point Here, Commissioners, Is That The Homeowners Association Has Counsel.

They Were Represented.

It Appears Certain Decisions Were Made With Respect To Their Participation In That Bankruptcy With Respect To The Unsecured Creditors Committees.

The Creditors Committees.

Interactions With The Debtors Committee, The Debtor's Counsel, And The Matter Got Past

Them.

Now, They're Here Before You Today To Ask The County To Take Up Their Cause.

This Is A Difficult Thing For You To Decide.

I Understand That.

I Appreciate It.

I Appreciate It Greatly.

I Understand That The Predicament That The Homeowners Association Is In, But That Is Not Of Our Causing.

That Is Not Of Our Doing.

And Your Action Today Should Be One Of No Action With Respect To Proceeding To The Bankruptcy Court.

And Discussions With Our Bankruptcy Council, If You Were To Proceed With That Today And Give Us The Order To Go Forward, We Probably Would Be Looking At Something In The Neighborhood Of \$25,000 To Mount That Campaign.

Would I Suggest To You That In My Legal Opinion It Would Not Be Successful.

It Would Not Challenged And We Would Lose.

I Cannot Stand Before You And Support Bringing The Case That Does Not Have Sufficient Facts And Law Behind It Where You Would At Least Have A Modicum Of Probability Of Success.

We All Have A Tremendous Amount Of Respect For You.

You Have Always Protected This Board And In This Community's Interest, And Quite Frankly, A Week Ago.

I Applaud You, Madam Chair, For Extend This A Week To Give Us An Opportunity, One, David To Avail Himself Along With Pete And Others To Meet With Gulf Harbor To Talk With Their Attorney To Talk About The Specifics On This Matter.

I Know You Recognize The Dilemma Gulf Harbor Is In.

You Are Just Providing Appropriate Counsel.

Coming Back To This Board, I Am Looking At When You Said What We're Interested In Is What Is Going To Happen.

We've Got A Code Violation That Needs To Be Corrected.

The Court Order Does Not Preclude Enforcement Action On The Part Of County To Abate The Violation.

The Dilemma And The Problem, Of Course, Is Who Is Going To Abate That Violation? Who Is Going To Bring Those Storm Water Management Systems Into Compliance With The Land Development Code.

Of Course, The Argument Has Been Made That, Well, With That Material Change, Quite Frankly, To The Plan, At The Bankruptcy Hearing -- Which Is Gulf Harbor's Argument.

I Would Say That It's Something That We Do Need To Be Cognizant Of From The Standpoint That When We Are Pushing To Have These Violations Abated Or Fine That Is Perhaps Would Ensnare, Who Ultimately Is Going To Correct The Reconfiguration, The Slope That Needs To Be Regraded, The Vegetation, Whatever It Takes, To Restore Those Storm Water Management Systems Into Compliance With The Renovations.

We Have A Situation Where Wci Did Make A Meaningful Alteration Or Change During The Plan During The Bankruptcy Hearings By Not Transferring The Storm Water Pond And To The Asset That Had Money To Be Able To Correct What We're Asking Of Wci Or The Entity To Restore.

So It Is Our Problem, Because We're Going To Be At A Dead End.

We Can, Again, Request That The Violation Be Abated Or Levy The Fines, But, Again, Where Is The Entity That Has The Assets To Respond? My Vantage Point Is It Is Our Problem Because There's No Other Way To Be Able To Address The Violence Says That Are Out There Today.

My Question Is What Does It Cost The County, Given Our Position And Our Status In This, To Proceed With A -- Not The Revocation Of The Court Order, But A Clarification It Was Not Meant To Preclude The Storm Water Management System From Being In An Asset Account Where The County Could Follow Through On Its Actions, And If, In Fact, Gulf Harbor Is Willing To Pay The Legal Cost, I Don't See A Down Side, And So I Guess I Need To Hear From You.

I'm Want Arguing With You.

I Got A Lot Of Respect For You.

You Are.

It's Ok.

Where Is The Down Side Because Ultimately We Want To Have Those Lake Violations Abated.

We Do.

That's What We Want.

We Want The What.

We Want Them Abated.

The Question Here Before You Is The Who Or The Whom, And To Answer Your Question As Best I Can, Ultimately The Responsibility Would Fall On To The Homeowners Association Under The Covenants.

I Mean, That's Just The Hard Fact.

The Issue About The Change In The Memorandum There Is A Part In There, And We've Reviewed This And Looked At It.

Quite Candidly, The Original -- The Original Plan Was Structured So It Looked.

I Can Read It.

That The Company, Wci, Was Avoiding Those Liabilities.

That's What You Do In Bankruptcy.

When A Company Goes Bankrupt, It's An Allocation Of Assets And Liabilities, And What Bankruptcy Does Is There Are Certain Liabilities That You Are Allowed Bring And Have Them Wiped Out, Taken Away.

That's What The Court Does.

To Insure The Viability Of A Corporation.

Whether It's A Corporation Or Individual.

Bankruptcy Typical -- Typically Takes Liabilities And Makes Them Go Away.

That's Not Unusual.

That's A Part Of What The Process Is.

Some People Get Hurt.

There Are People Getting Hurt All The Time.

It Is A Lot Of Process That's Allowed In This Country For A Deter To Go Into Bankruptcy Court, Have Debts Ab Solved And Then Go Forward As A New Person In Order To Become Solvent Or Remain Solvent.

Let Me Finish.

The Plan, The Original Plan If You Read It Closely, Was Structured Such That It Would Not Appear That They Were Going To Assume Any Of That Liability With Respect To The Gulf Harbor Lakes.

They Got Specific When They Made The Change, But The General Proposition Was They Were Not Going To Assume That Liability, And I Respectfully Disagree With Counsel Saying That They Were Fine And They Were Comfortable With It.

I Don't Think That The Reading Of That Original Plan Was Correct.

He Think What's More Disturbing, David, Is These Are Development Orders For Projects, And Water Management.

This Thing Has Been Going On Forever.

We Started A Violation In 2006.

The Homeowners Association Took Over, And Am I Incorrect In That? That There Was A Transfer In The Process Of Us Saying, Hey, Red Flag.

D.O. Not Complying.

That Was In 2003.

Ok.

While This Was Still Under The Developer's Control We Said, Hey, Guys, You're Not Complying With The D.O. To Begin With.

You're Not Complying With The Water Management Permit To Begin Where.

All Things Are Plugging Along, Things Are Getting Built And Done.

Percentage Of Ownership Takes Over.

Homeowners Association Is There.

We'll Still Saying, Hey, Guys, Not Done Yet.

Is That What's Been Happening? I'm Going To Just Share This With You Guys Because This Is What Scares Me A Little Bit.

I Could Name On One Hand Five Or Six Developments That Are Having These Challenges.

We Have To Sit Down And Look, And It's Taking An Inordinate Amount Of Time, And What's Happened Now Is With These New Developments, And To Give You A Perfect Example, Holly, Bless Your Heart, The Books Have Issues, And There's Just Several Throughout This County.

Where Do We Stop? Taking On The Liability Of The Fact That The Offer Is Now Gone.

The Homeowners Are There.

The Transfer Took Place.

There's Violations.

Do We Just Start Observing Those Costs? Do We Say, Ok, Fair Enough.

There's No One Left To Do It.

Don't Fix Them.

What Do With We Do? This Is Just The Beginning Of A Long List Of Folks Who Are Going To Be In Here Asking Us To Do The Exact Same Thing.

I Just Don't Know Where To Stop.

I Don't Know Where To Start And I Don't Know Where To Stop.

Comm. Bigelow: I'm Not Wading Into This Lightly, And I Would Submit That The Community Or The Taxpayers Are Not Going To End Up Bailing Out The Gulf Harbor.

Nor Would We Be Placed Ourselves In A Position For Other Corporations That Have Fabricated Their Responsibility To Address Compliance For Our Land Development Code Regulations, And I'm Not Implying That At All.

What I Am Suggesting Is That David, With The Court Order Clearly The Judge Was Not Precluding The Local Government From Enforcing It's Own Laws And Regulations.

But He Has Because Without An Asset To Address And Insure Compliance With Our Landowner Regulations, There Is No Ability To Enforce Our Land Development Code Regulations, And I Can't Believe A Why Would Have Accepted Legally -- Legally I Realize That The Company Had The Authority Or Legal Ability To Toss Out Liabilities And Retain Assets, But I Can't Believe The Judge -- And This Is, I Think, The Qualification That We Need To Hone In On -- Is That By Not Bringing The Stone Waller Service Management System Into An Account With Assets Where In Which The Violations Could Be Abated, There Is No Opportunity For Lee County To Enforce Its Regulation Las Vegas, And That's The Clarification We Need With The Judge.

The Clarification, Commissioner Could Be With The Homeowners Association Under Their Master Covenants And Through Our Hearing To Examine The Process.

I Can't Believe We Wouldn't Try To At Least Initially Get An Understanding Of That Order.

What's Being Asked Is A Modification Of The Order, And You Are Not In Eye Position To Successfully Have That Prosecute In Front Of The Court.

If The Board Were To Go Forward And Request Your Term Modification, Wint Place It On The Backs Of The Community Taxpayers.

It Would Be Paid For By Gulf Harbor.

I Think -- The Mere Fact That We're In A Position To Be Able To At Least Come Forward And Get A Clarification, And It's Incumbent On Us To Do So.

Would I Suggest That It Puts It More And More Into The Realm Of Private Interests Rather Than The Government's Interests By Having A Private Entity Fund The Petition.

If Approximate The Board Were To Go Forward, If You Were To Consider That, I Would Consider That You Not Accept Any Money From The Master Homeowners Association.

Comm. Bigelow: Can You Explain Why Not? Because, Commissioner, Would You Be Taking Up The Cause Of The Master Homeowners Association At Their Request Rather Than Our Own Issues Which Are Not The Same And Are Not Totally Aligned With Theirs.

That's What The Difference Is.

Comm. Bigelow: Can We Get -- If We Take Their Money? Is That What You're Saying? That Somehow The Private Pardon Of Public Pardon Are Linked And That's Going To Be -- I Think The Problem For Us -- Yes, Sir.

I Think It Would.

I Think It Would Increase The Probability You're Having Even Less Success By Doing That.

However, With This Board Is With Everything.

All I Do Is Counsel And Provide You With Advice, Give You My Thoughts, My Opinions On The Law.

You Are Free To Proceed As You Wish.

If You Want To Go Forward, If You Want To Have The Master Homeowners Association Pay For Our Proceedings, They Can Do That, But I Will Tell You Right Here On The Record Commissioners, Of You, That Any Success, Any Potential For Success, That You Might Have Had With This, Will Be Pretty Well Mitigated.

It Means You Won't Have Success.

Ok.

Chairwoman Hall: David, We Enter Into Arrangements With Developers And People All The Time For Different Issues.

We Challenge Permits.

We Take In Dollars From Other Nonprofits.

We Give Money To Other Nonprofits To Challenge And Litigate, Which I Don't Support.

We Do That Kind Of Stuff All The Time.

I Understand Where You Are Going With This, And My Concern Right Now Is I Actually Have Two Concerns.

Number One, Why This Dragged Out So Long.

Somehow The Homeowners Association Took Over, And This Issue Came With Them.

You're Right.

At The End Of The Day, This Is Going To Be The Homeowners Association's Responsibility, And Fines Are \$150 A Day.

It's Their Debt.

Not Wci's.

My Struggle With This Is It Should Have Been Resolved Years Ago.

How Does Something Drag Out Seven Years On A Violation That Has Dramatic Impact? How Do We Drag That Out? How Did It Not Get To A Settlement Of Timeliness To Get Done? That's My Bigger Concern I Have.

I Lean Right Now In The Fact That No One In This County Should Be Charged Or Take Responsibility For What's Going Forward.

I Kind Of Lean Towards Where Commissioner Judah Is Going With This In The Sense That We Move Forward On Our Own At Any Cost Get Reimbursed, Whatever They Are.

I Don't Know What They Are.

Someone Is Saying \$25,000.

I Don't Know What That Is.

If This Is A Request That Gulf Harbor Is Making, We Move Forward And Reimburse When It Comes Into Play When The County Tries And Ascertains The Violators Who We Cited Initially When Was Wci.

Not The Homeowners Association Because That's Where Our Case Was Lying.

If It Ends Up Being Whatever It Is, There's Got To Be Something In The Local Saying You Will Pay For The Expenses For Us To Pursue To A Certain Point.

I Don't Know -- I Guess My Struggle With This More Importantly Is If We Would Have Done This In A More Timely Fashion, We Wouldn't Be Here Today.

Wci Wouldn't Have Gone Out Of Business.

We Could Have Been Levying The Fines To Them And Had A Better Understand Standing At Bankruptcy Time For The County To Be Rated Or The Issue To Be Taken Care Of.

I Guess I Want To Have A Whole Other Meeting On How We're Dealing With This Inspections Of D.O. And Violations And How Much Time In Our Code And Our Policy Do We Give People Not To Correct Those Things.

That's Not For's Meeting, But That's A Bigger Concern That I Have Right Now.

Welcome To The Economy That We're In.

This Is Ongoing, Ongoing.

I Have More Concern About How We Deal With That.

Let Me Wade In.

The Matter Is As Confused As It Can Get.

Comm. Mann: Let Me See If I Understand The Big Picture Here.

I Should Try To Simplify This Thing.

There's A Bunch Of Unmet Requirements Of Our Rules That Took Place Over Some Period Of Time At The Gulf Harbor Development, And The Developer Did Not Fix Them In A Timely Manner Or Any Manner And They're Still Out There.

The Developer Is Belly Up, Chapter 11, And It Falls Now To The Homeowner's Association.

If Nothing Else Happens, To My Understanding, They Would Be Now The Ones Called Upon To Fix These Deficiencies.

Have I Got That Picture Right? Yes, Sir.

Comm. Mann: So There's Money At The Bottom Of This Thing.

I'm Not Going To Have To Pay Whatever It Is.

Just Curious Has Anybody Hard Every Hazarded A Guess? There's A Range Here.

Comm. Mann: \$10,000? \$400,000.

There's A Range Of Figures Out There, About The It's More In The Millions.

Comm. Mann: Millions.

That Helps Explain Why Wci Was Hesitant In Jumping On It.

And It Varies Based On The Amount Of Revisions That Are Made And How They're Made And That Type Of Thing.

But There's -- It's A Substantial Amount Of Money, Commissioner, And I'll Tell You That Candidly.

Comm. Mann: So They Would Like The Homeowners Would Like To Avoid That.

They Would Like To Ask The Bankruptcy Court One More Time With Our Assistance For Would You All Rethink This And Make Wci Take This Out Of The Remaining Assets That They Have And Then Pay For It? Is That What This Is All About? Yes, Sir.

It's -- Chairwoman Hall: Please Avoid Discussions Between -- Comm. Mann: That's The Least Confused I Have Been.

You Can Do That, But You Cannot -- It's The With Our Part That's Problematic.

That's What The Problem Is.

Comm. Mann: Here's My Question.

Here's My First Instinct Is There's A Lot Of Bankruptcies Going In Lee County.

These Are Civil Issues.

There's A Lot Of People Still, You Know, Being Hurt Because Certain Things Didn't Get Done, And They're Out To Lunch On This Thing.

I'm Worried About The Term Precedent That Was Used Earlier.

How Many More Times Are We Going To Find Ourselves Invited To Participate In Some Federal Bankruptcy Court Somewhere Over These Type Of Things So That Genuinely Concerns Me.

Now What Appears To Be A Delicate Matter From Your Per Picture If We Gist Got Tested On The Question Of -- What Is The Word For What Do We Have Relevance -- Standing.

Comm. Mann: Standing.

If The Association Paid For Us Just To Test That Issue -- I Mean, That Would Be The First One Tested.

If We Enter In Here.

They'll Be Trying To Throw Us Out On That Technicality.

They're Trying To Get This From Going Into Court, And We've Been Agreed Here On Behalf Of The Citizens And Taxpayers And They Would Like To Drag Us Along Too To Make Them Look A Little Tougher.

I Think I Understand That.

If They're To Spend Their Money To Invite Us Into The Process, I'm Bouncing Back And Fort Here.

I'm Not That Reluctant To Accept, And I Think Commissioner Hall Was Accurate In Pointing Out That There Are All Types Of Arrangements That We Have With Private Groups And Developers.

I Don't Feel Like I'm Doing Anything Out Of Order If We Would Accept That, And It's A Small Portion If We're Talking Millions Of Damages For Them To Pay To Help Us Drag The Gorilla In To A Federal Court In Delaware.

I'm Leaning Towards Helping Them, But I'm Trying To Say Be Careful.

I'm Not Going To Get Too Entangled In This.

At Some Point You May See Me Skipping Out.

I'm Willing To Let Them Test This If You Want To Spend Their Money To Test It.

Chairwoman Hall: Yes, Commissioner Janes.

Comm. Janes: My Colleague Over Here To My Left Has Been Raising This Issue.

I Think What He Is Asking For And Looking For -- Comm. Mann: Could You Pull Your Mike A Little Closer? I'm Having A Tough Time Hearing.

Comm. Janes: Thank You.

Thanks, Sorry.

If What Is He Looking For Is An Opportunity For Us To Participate, We Can Agree The Defendant -- I Don't Know What Else To Call Them -- That's Opening Up The Door For A Huge, Huge Set Of Repercussions That I Don't Think We Even Begin To Understand.

We Could Only Hope That The County -- Or That The Bankruptcy Judge Would Say Get Out Of Here.

You're Not Even Supposed To Be A Part Of This.

You Have No Standing.

What Are You Doing This For? I Think For Us To Even Stick Our Notices Into This Is

Absolutely A Serious, Serious Mistake.

I Think That This Is Clearly A Private Issue Between A Homeowners Association And A Developer And A Judge And A Court.

It Has Nothing To Do With The Government Of Lee County.

To Say That We May Hope Someday To Recover Some Money Is Just Not Realistic.

And Does It Help Bail Out Some Friends? I Suppose It Does, But Is It Worth It? In The Long Run, No Way.

I Have To Think That David Is Right In His Viewpoint On This Issue.

And That This Is Not Something We Want To Get Involved In.

It's A Clearly Private Matter, And We Should Avoid Getting Ourselves Involved In Things Like This.

I Think We Ought To Continue Doing Just That.

Right Now I'm -- Chairwoman Hall: Ok.

Commissioner Judah.

Comm. Judah: I Appreciate The Comments.

It's Sensitive And Difficult Issue.

Could I Ask That Ms. Grady Step Forward So We Know Precisely If This Is To Go Forward What We're Going To Be Requesting And With The Commitment On The Part Of Gulf Harbor If We Do Go Forward With The Legal Fees.

I Just Want To Clarify That The Association Does Not Have Ownership Of The Lakes.

Wci Is The Owner Of The Lake System.

There Seems To Be On Some Confusion On That.

We Have, As I Said, Offered To -- We've Offered Our Attorney, But I Have Just Spoken To Our Manager And So We Would Be Willing To Do As Another Situation That I'm Familiar With Pay Those Attorney's Fees For The County To Step In To Have The Motion For Reconsideration, Which Is One To Confirm With The Federal Court That It Did Not Intend To Preclude Or Pre-Empt Lee County From Enforcing Its Regulations And Secondly, We Would Request The Clarification To Have The Original Plan Approved If That's At All Possible.

It Would Be Those Two Clarifications That We -- Would Be Requested Which Would Be A Benefit To Lee County For Lee County To Pursue Its Violations, Which I'll Tell You, This Violation Is New To Us.

We Were Want Informed Of It.

It Has Master Association's Name At The Title, But We Received No Notice Of It.

Even As Closely As We've Attempted Towards The County We Were Not Advised Of The Hearing.

Now That You Have One, How Are You Going To Enforce It? Through This Clarification.

That's An Avenue For You To Have A Tool To Enforce Your Own Code Enforcement.

You Don't Move Forward.

Then You've Lost It Because Wci Is Going To Say You're Pre-Empted From Getting Any Moans That Relate To The Code Enforcement Order That We've Just Been Handed Today.

I Would Make The Motion That We Do, Indeed, Move Farther.

Chairwoman Hall: So Your Motion Says That -- Comm. Mann: To Do What? Chairwoman Hall: Just To Clarify That We Would Have Our Own Counsel With Reimbursement From Gulf Harbor Going Forward With Filing Clarification Requests.

Reconsideration Requests.

I Would Add To That, Commissioners, Gulf Harbor Indemnify This County As A Result Of Us Going Forward And Proceeding With Their Request.

Included In The Motion.

Thank You.

Chairwoman Hall: Do I Have A Second? Comm. Mann: Yes.

If I Can Understand What -- Chairwoman Hall: Motion By Commissioner Judah.

I Have A Second By Commissioner Mann.

Under Discussion? David, Why Don't You Clarify Then What That Motion Would Mean? Comm. Mann: With That P.S.

Why Don't You Clarify What The County Would Be Doing And With The Outcam Could Possibly Be.

What We're Asking For, Commissioner Mann, And Other Commissioners, Is That We Be Indemnified As A Result Of The Ak Going Forward Which Means We Would Be Indemnified From Other Parties That Might Be Involved.

We Would Be Indemnified From Any Sakes As A Result Of Taking This Action Today.

I Can't Imagine What Penalties We Would Be Getting For Filing A Motion.

In Addition To Just Filing A Motion, It's Filing A Motion To Pod Few A Confirmation And A Final Plan Of Reorganization For Corporation.

That's Being Ultimately Careful.

I Don't See Much Of A Risk.

Glad We Included It.

Chairwoman Hall: Commissioner Bigelow, Did You Have A Question? Comm. Bigelow: I Think Like All Of This Unfolds We Have Trepidation About This, And So I Want To Put That Out There That I Am Going Here, But Just With The Greatest Degree Of Hesitation Because I Think Commissioner Janes Eloquently Described.

I Guess I Want To Ask Two Questions For The County Attorney First.

Because You've Danced Around The Question.

You've Gone Around The Issue Of Standing, But Would You -- Could You Tell Me Whether Or Not Your Opinion Is That We Do Have Standing Or Not? Chairwoman Hall: We Don't.

Comm. Bigelow: I Don't Think He Ever Actually Said We Don't -- Chairwoman Hall: He Said We Don't.

The Other Lawyer Said We Do Not Have Standing.

Have You Read It All? Comm. Mann: The Last Page.

Chairwoman Hall: Let Me Briefly Run Through It.

The Conclusion.

Comm. Mann: I Love The Legal Language.

Comm. Bigelow: Oh, I See.

Conclusions.

In An Effort By Lee County To Revisit A Number Of Proceedings.

Comm. Mann: Procedural And Legal Infirmities.

Comm. Bigelow: That's Not A Conclusion That We Would Not Have Standing.

Chairwoman Hall: If You Could Just Answer That Simple Question, David.

We Don't.

I'll Tell You Why.

I'm Looking At The Case Of -- He Was A Debtor.

This Is A Case That Was Heard By The Bankruptcy Court From The District Of Delaware In 2002.

Chairwoman Hall: Is That On Page? It's In There Somewhere.

I'm Going Right To The Case.

I'm Going Read The Opinion Much The Court, And I Think It's Important To Hear This.

Comm. Bigelow: Wait A Minute.

Wait A Minute.

Maybe I Want To Withdraw My Question.

Ok.

Comm. Bigelow: I Think -- Comm. Bigelow: Let Me Withdraw My Question Because I'm Afraid -- I'm Afraid This Board Is Going To Be -- I Think This Board Is Going To Decide To Move Forward, And I Don't Want To Undermine Our Case, So Let's Just -- Let Me Skip That.

Let Me Use My Own Words.

We Had A Stake In This.

We Had A Dog In This Fight And We Weren't Notified.

Even When It Was Obvious.

Does That Hold Water? We Were Not Participating In This Process The Same Way As Others Were.

We Have, Like, Three Issues That Come Up.

That's Taxes Need To Be Paid To The County.

Sometimes Utility Fees And Sometimes Assessments.

That's Pretty Much The Range With What We Get Involved With.

Comm. Bigelow: It Sounds Like That's Enough To Justify Us Being Put Notice, And We Were Not, Right? We Were Not Noticed Because, As I Said, We Did Not Participate In This Particular Issue In The Bankruptcy Process As Gulf Harbor Did.

We Did Not File A Claim Funds, Money, Whatever In The Gulf Harbor Issue There Is No -- There Was No Need For The Bankruptcy Court Or The Clerks Or Anybody To Notice Us Because We Did Not Have An Interest In That.

Gulf Harbor Had An Interest Because They Filed A Claim Where -- Even Though We Are Regulating Authority.

You File Claims.

And We File Claims.

Across The Street Over Here, We Do It Routinely.

The Taxes, Assessments, And All Those Types Of Things.

Ok.

Ok.

Wow.

My Lunch Is Looking Like It's -- Chairwoman Hall: Commissioner Janes.

Comm. Janes: If This Decision Were To Pass Today, You Would Create An Outstanding Precedent That I Venture To Say That If You Were To Inquire About The Attitude And The Feeling And The Other County Attorneys In The State Of Florida, The Vast Overwhelming Majority Of Them Would Advise Not To Go This Route.

It's The Most Astounding Decision, And I Don't Think We've Even Fully Realized The Impact Of What This Decision Could Have.

It's Just Something That I Think We're Better Off Not Going Down This Route At This Time, And It's Just Not A Good Situation.

Chairwoman Hall: Thank You, Commissioner Janes.

David, Do You Have Something Else You Would Want To Add Before I Call For Questions? The Only Other Thing That Mr. Jacobs Gave Me Was He Did Receive Notice Of Confirmation Hearings, But We Did Not Have A Interest In It.

Yes.

As Did Counsel For I Also Believe This Was A Material Change At That Final 11th Hour To Use Mr. Brady's Words.

I Think I Ask For A Motion.

Chairwoman Hall: So We Have A Motion By Commissioner Judah.

A Second By Commissioner Mann.

Further Discussion? All Those In Favor? Opposed? Comm. Bigelow: Aye.

Chairwoman Hall: The Motion Will Pass With Commissioner Janes Dissenting.

Chairwoman Hall: Here's A Telephone Call.

We'll Put This In Process For The Hour.

Please Don't Clap Because We Have An Agenda Going Along Here.

We're Moving Right Along.

Next We Have Walk-On Item Number Two.

It Prize The -- Rather Than Removing It.

And Karen, Is This Your Item Or Holly's Item? Ok.

This Is Commissioner Mann.

Comm. Mann: We're On It Together, But This Last Possibility Came To Me When There Was A Lot Of Publicity About The Tree, And An Artist From Naples -- A 35 Foot Tall American Eagle.

The Symbol Of American Liberty.

There Won't Be Another Courthouse In America That Has This.

It's Just Something That We Would.

Chairwoman Hall: Not Yet.

We Could Start A Trend.

Comm. Mann: This Could Be A Very Happy Finish To Something That Started Out As Sad.

Comm. Judah: Kind Of Like A Totem Pole.

Comm. Mann: This Same Artist Has Done Many Of Those Things.

It's At No Cost To Us Or Minimal.

We Provide The Lift That He Works From And -- Chairwoman Hall: Yes, Commissioner -- Well, I Think He Was Ahead Of You.

Commissioner Mann, Your Heart Is In The Right Place, And I'm Absolutely With You On The

Idea Here.

I Support It 110%.

Now Here Comes My Head.

Watch Out, Right? This -- The One Thing We Have Here Proposes To Leave This In Place, And The Rot Of The Tree Has Been Determined To Be At The Base, So We Still Have This Public Safety Hazard.

Comm. Mann: No, No, No.

I Would Invite You To Read -- Did You All Get Attached The Letter From The Arbourist That Had Given Its Opinion That The Holes In It That Caused The Problem That He Speaks To The Health Of The Stump And The Rest Of It.

That's Where They Did That -- Comm. Mann: They -- The Damage And The Scary Parts Are All Above Where We're Talking About.

Chairwoman Hall: I Think We've Got Disagreement With That Arbourist.

Everybody Agrees If This Is A Solution, Great, But The One Thing We Don't Want Is For It To Fall Over On Somebody.

Holly, Do You Want A Comment? Commission, I Just Saw This As Of Yesterday, Too.

It Was The Report From The Arbourist, And He Does State In One Sentence That There Are At Least Three Columns Of Decay In The Lower Trunk Area.

He Says Although -- Then He Goes On To Say That Support An Issue To Support -- Or Is Not An Issue On The Larger Parts, But That One Sentence -- He Could Do The Carbing And Find Something Once He Gets There, But. Chairwoman Hall: I Think The Point Is If The Consensus Is To Have The Arbourist Participate Into How The Carving Is Done So If There Is Something There That's Not Sustainable Or Stable, Then We Would Go To Plan B, But It Still Doesn't Preclude Some Of The Other Wood Being Used In The Other -- I Think, Again, We're Looking For All Of These Wonderful Options And Here Is Another And I Don't Think There's Any Dissent From The Board That We Would Like You To Go Forward As Long As It's Not Impacting A Health Safety Issue.

Chairwoman Hall: I'm Sorry.

Go Ahead, Mr. Bigelow.

Comm. Bigelow: Remember When We First Brought -- When We First Had The Decision To Decide This.

I Suggested We Should Somehow Try To Tie This Into Our 125th Anniversary Perhaps If We Are August To Realize It's A Piece Of Public Art For The Tree That We Somehow Tie This Into Our 125th Anniversary, Something Maybe At The Base Of It That Would Reflect That

This Is In Honor Of That Occasion.

Secondly, I'll Be Done, I Would Like To Go More Quickly Immediately Tie A Yellow Ribbon Around That Old Oak Tree.

Chairwoman Hall: That's Not Your Question, Is It, Surely? Comm. Bigelow: It's Not A Question.

It's An Interest I Have As Veterans Liaison.

I Would Like To See Us Tie A Yellow Around That Old Oak Tree.

Chairwoman Hall: So The Sculpture, Whatever Is Finished, You Would Like To Have A Permanent Ribbon Surrounding It? Comm. Bigelow: No.

The Ribbon Won't Last Forever, But I Would Like To Do It Sooner Than Later.

If We Have To Take The Majority Of It Down, We Leave The Stump Before It's Carved.

I Think It Would Be Helpful.

Chairwoman Hall: A Symbol For A Week Or Two? How Long? That's A Serious Question.

If The Artist Can Incorporate A Yellow Ribbon Into His Art And That's Why I'm Asking You.

Just Asking While The Tree Is Undergoing Its Status As It Sits Now, You Want To Put A Big Yellow Ribbon Around It Before We Tear It Down.

Comm. Bigelow: For Those That Are Coming Home Alive And Not, I Think It Is Appropriate That We Would Tie A Yellow Ribbon Around The Old Oak Tree.

I'm Not -- I Am Sorry.

I Didn't Think Of All The Multitude Of Possibilities, Commissioner, But -- Chairwoman Hall: I Just Don't Want To Be Looked At Negatively When The Ribbon Comes Off The Tree And We Take It Down.

My Concern Is -- I Know Your Intent Is From Your Heart And In A Good Place, But I Just Don't Want To Put Something There And Say Ear Every Wee Going To Take This Ribbon Down Now Because We're Tearing Down The Tree.

Comm. Bigelow: There's Another Oak Tree We Could Put It Are Not In The Meantime Time.

Chairwoman Hall: Ok.

Let Me Go To Commissioner Judah, And Then I'll Come Back To You Because He Has Waited Patiently, And I Have Jumped And Interrupted Commissioner Bigelow.

Commissioner Judah.

Comm. Judah: I Think It's A Great Idea, I And Would Like To Pursue It.

Not -- This Is What People Get Upset, I Guess, With Government Bureaucracy, But I Don't Know If We Can Contract With This Specific Wooden Artist.

We May Have To Open It Up For Others That Want To Propose.

To Be Honest With You, I Know That We Have To Potentially Open It Up To Other Proposals.

Maybe Not.

If We Don't Have To, I Really Would Like To Giver Credit To This Man Who Came Up With The Idea.

Comm. Mann: We Wanted To -- Chairwoman Hall: It's Not Going To Cost Us Anything.

I Think We Can Do What We Want To Do, But If It Costs And Engages Dollars, Then We Need To Say Who Is Qualified And Whoever Wants To Volunteer And Qualify -- Comm. Bigelow: If We Don't Have To, Let's Go With The Gentleman.

Comm. Mann: We Have Some Of Dolphins And Other Things And The Work Is Incredibly Impress I.

This Is Mr. Michael -- Mash Mr. Michael Who Has Worked With The Sculptor And Out Of Naples.

He Was Here To Answer Any Question We Might Have.

Let Me Tell You One Other Thing.

I Spent The Three Hours Out With The Arbourist, And Where He Found The Areas Of Weakness, Were Where There Were The Bolt Holes, And It Was Directly Below That Where They Used The Resistagraph, And That's Where They Indicated The Weakness.

The Consensus We Like To See That Under Whatever Procedure Needs To Occur As We Till Go Forward With Having As Much Of That Wood Saved And Used For All The Things That We've Talked About.

Do You Need A Vote For That, Karen, Or Do You Want More Direction From Us? Do You Want A Ribbon At The Bottom Of This? Chairwoman Hall: I Think He Was Asking For A Ribbon Currently Right Now.

Comm. Bigelow: I'm Throwing Out The Idea.

Comm. Mann: It's Scheduled To Be Chopped.

Comm. Bigelow: Wonderful Perform R Whether It's Soon.

Chairwoman Hall: When We Scheduled To Start Cutting On The Tree? Comm. Mann: March 6th.

Chairwoman Hall: There's Not A Lot Unless You Want To Run Out There And Throw A Ribbon.

We Have Two Weeks.

We Have About Two Weeks.

Comm. Mann: Excuse Me.

Comm. Bigelow: I'm Sorry.

Chairwoman Hall: We Only Have Two And A Half Weeks.

Is There Another Oak Tree? Comm. Bigelow: What About The One By The Monument With All The Veterans Names On It? Can We Just, Let Veterans Services Know It's An Opportunity To Pay Homage To Our Veterans? Chairwoman Hall: Just For Direction, I Thought We Were Going To Pursue The Idea Of Putting It On The Other Oak That Overhangs Main And Monroe? Comm. Bigelow: Great Compromise.

Chairwoman Hall: Thank You.

Can I. Comm. Bigelow: Can I, Again, Because There Is A Wonderful Heart-Felt Effort, I Want To Applaud You In Your Work.

It's Wonderful.

I Would Also Point Out That You Don't Have To Really Go Very Far To See How An Oak Tree Was Memorialized On Punta Gorda On U.S. 41 Right There When You Cross The East River Bridge.

Do You Know What I'm Talking About? That's Something -- It Looks Great.

I Think This Is A Great Idea.

Chairwoman Hall: You Let Us Know Then What Procedures We Need To Go And Try To Use The Existing Stump To -- With Everything There Is Going To Be A Cost If You Rent A Bucket Truck For Someone To Do This.

Comm. Bigelow: One Last Thought.

Comm. Mann: An Arborist From It D.O.T. Suggested That We Could Continue Thinking About A Replacement Oak, But Put It On The Broadway Corner That Would Balance The Banyan Ultimately, But In Between The Two Would Be This Magnificent Sculpture.

This Would Be A Courthouse To Brag About.

Chairwoman Hall: I'm Hoping With The Direction The Board Gave Over A Year Ago That The Landscape Plan Will Include All Of That So We See The Entire -- We Want To Gut All Of That.

Of Course, We Take The Tree Out And Put That Native Vegetation In There, So Where The Right Trees Go Where, So I Think, Yeah, I Think That Suggestion Is Great On How We Balance Now What's Left And Then With The Other Shrubs So That Master Plan Is Supposed To Come Back Actually To This Board With The Plan.

Chairwoman Hall: Well, That's All I Have On Walk-Ones.

Let's Go To Commissioner Items.

Commissioner Bigelow? Had. Comm. Bigelow: I Don't -- Comm. Judah: Madam Chair, I Do Need -- Chairwoman Hall: We Knew You Would.

Comm. Judah: Staff Has Put Together A Position Paper, And I Don't Embrace It.

From The Standpoint That It Was A Federal Court Order That Requires The E.P.A. To In Turn Hold The State Of Florida And The Intonation, Quite Frankly, In Compliance With The Kuhn Water Act And That Involves The Establishment Of Numeric And I'm Going To Be There.

I Was Hoping To Be There Represent This Board To Say E.P.A., You Need To Do What You Need To Do.

I Know The State Wants To Work With These Numeric -- I'm Not Going To Be Advocating That We Need To Delay It, But It's Too Stringent, That It's Too Costly.

Quite Frankly, We're At The Water Bodies That We Have Here Throughout The State Of Florida, It's Essential.

It's Important.

It's Already A Court Decree.

Chairwoman Hall: Well, We -- Do You Want To -- We've Got To Get On The Record.

Comm. Judah: You Don't Agree With The Position? Comm. Bigelow: There Are Aspects You Don't.

Chairwoman Hall: We'll Address Those.

You Don't Like The Idea That They're Recommending The Delay? Comm. Bigelow: I Don't Support The Delay.

That's 35 Years Since The Clean Water Act, And The State Has Dragged Its Feet Far Too Long.

Chairwoman Hall: Why Don't We Let Them Address That First.

He Is Recommending That Aspect Of Our Comments.

This Is A Collective Opinion Of -- I Put Our Quarter Quality Experts And Reviewed The 200 Pages Of Rule Make And The Thousands Of Pages Of Back-Up.

It's Complex.

Wear Supporting Numeric Criteria.

I Think It's A Matter Of The Devil Is In The Details To Make Sure It's Technically Correct And Using Local Information.

We Found A Lot Of Concerns About What's Being Proposed.

Again, We Support Nature And Criteria.

I Think You Go There, And Could You Say That We Support Nature And Criteria.

The Florida Delegation Congressional Delegation Is Also Requested The E.P.A. To Extend That Deadline And Also Hooking Up For More Public Hearings Including Senators Nelson And Lemeuaix And 18 House Representatives.

I Think D.E.P. Has Just Sent Out Their Comments Yesterday, And That's Available.

It's A Two-Pager Quick And Dirty Review Sheet, So, Again, I -- We're Trying To Dig Through It, And We Do Have -- If It Doesn't Get Delayed, We're Still -- Staff Still Intends On Providing At Least To You. Chairwoman Hall: I Am Overwhelmed Doing This And Has That.

I'm Even Confused About Some Of It.

Roland, A Delay In -- Does That Give Us More Time To Lock Them Down To Specifics Some Is That Why You're Asking Pour Them To Delay The Deadline? I Think We Need To Assess What The Potential Economic Impact Is To Us.

Most Of Those Are Achievable.

For Instance, The D.E.P., 80% -- The Pristine Water Bodies Referenced Sites In The State Of Florida.

80% Won't Even Meet The Numeric Criteria, And That's Considered -- Those Are Water Sheds With Conservation And A Large Amount Of Conservation Lands.

We Want To Make Sure That, You Know, It Applies To Our Specific Water Bodies And To Make Sure That We're Forwarding Protection, But They're Achievable And They're Consistent With What We Have Here In South Florida.

Chairwoman Hall: Ok.

Yeah.

Comm. Bigelow: I Know That With Regard To Specifics, I Know That's Why The Charlotte Harbor Program Is Already Taking On Putting Together The Necessary Fact Finding And Data Collection For A Specific Criteria For The Estuaries.

That's Going On.

We Can No Longer Place The Burden On The Backs Of Taxpayers To Have To Clean Up Our Waterways That Have Been And Should Have Been Properly Regulated And Protected For Decades.

They Were Not.

That's Why I'm -- Maybe What I Need To Do Is Just Go As Just One Member Of The Board Of County Commissioners And Not Representing The Board, And I'm Fine With That.

I Don't Want To Create Any Animosity Or Problems.

Lois: This County Needs To Speak, And I Don't Want, You Know -- We As Individuals All Have Our Advocacy On These Issues, But I Do Believe This Board On Behalf Of Our Staff And The Hundreds Of Thousands Of Dollars We Invest In Our Consultants And The Efforts That We're Doing, I Do Believe This Board Has To Take A Position.

If We Can't Come To Some Conclusion Or Some Consensus, Then I'm Going To Ask For To Rearrange My Schedule Or I'll Ask Another Commissioner To Go In And Speak And Put Into The Record.

Now, The Problem Is That They've Cut Off Speakers, So Right Now Commissioner Judah Is The Only One On Schedule To Speak Because There Was Such An Overwhelming Amount Of Speakers That We Could Get Our Position In Place.

Maybe We Can Get To A Point Where He You Could Read For The Record What This Board's Position Is.

I'm Not Sure Whether We Can Allow For Other Delays.

We're Already Under Federal Court Decree To Have To Have These Criteria In Place By October Of This Year.

It They're Holding Three Public Workshops.

All The Better.

It's Gotten To Crunch Time, And Quite Frankly, As You Look Throughout The State Of Florida And See All The Impaired Water Bodies, Our Own Specific Problems In Our Area

With Over Waterways And The Impact It Has Throughout The State, It's Time To Rectify This Situation.

Chairwoman Hall: There May Somebody Splitting On This Issue That Are Coming Forward With This Board.

When The Board Came To The Board And We Talked About Who Is On The Schedule, Who Is Not, It's Important That This -- That We Speak As To What Our Position Is, Whether It's A Unanimous Decision Or It's A 3-2 Position Or 4-1 Position.

I Want To Ask That Lee County Hold Their Spot And Then We Try To Get Your Position There Because We Held That Spot.

We Are Set For That Spot Under The Understanding This Would Be A Position For Lee County.

This Is A Very Complicated Issue.

While I Don't Disagree With What You Are Saying, I Also Am Not Offended Or So -- I Guess I Don't Have The Same Hesitation Reading What We Have In This Record In This Time Simply Because This Is Going To Be An Ongoing Moving Target And It's Huge.

It Just Has A Lot Of Implications.

We're One Of Several Hundred Speakers, And I Guess I Like To Or Staff Who Is Going To -- It's Holding The Responsibility To Budget, To Manage, And To Implement Whatever Ruling Is Coming Out On Behalf Of Our Citizens On Behalf Of The Betterment Of Our Environment, Our Utilities, And All These Things.

I Guess I Would Eye Love To Be Able To Find A Way To Clean Up The Weather In Which All Of Us Can Feel Comfortable With It So That It Can Be Somewhat Of A Unanimous Position.

There's Been Nothing But A Large Effort Of Muddying The Waters And Watering Down The Edix, And I Think That Is Commissioner Judah Said, It's Only To Then Put The Burden Of Clean Up The Water On Our Taxpayers, And I Think That's Inappropriate.

Zoom Can You Speak To The Storm Water System And It's My Understanding That There's Enough Latitude That We Can Certainly Continue To Utilize Say, For Instance, 10 Mile Canal From Filtering Runoffs Before It Gets Into Estero Bay.

There's Enough Latitude In The Numeric Nutrient Criteria Ruling As Far As Epa's Oversight.

Chairwoman Hall: We're Sensitive That Is Not A Protester Even Water Body So That The Pristine Water Body That Exits Into It Is Giving It Water That Is Cleaner.

Would I Argue That Point -- Chairwoman Hall: We Cannot Make That Canal A Pristine Water Body Because Of What Goes Into It.

I Have Stas Going Out Five Miles Before It Gets To There, And Have All That Money In

That? Asking For An Extension Of Time Or Not, I Mean, That's Just A Comment Period.

They Still Have -- They Are Going To Hopefully Collect What They Get At These Hearings, These Public Workshops And Either Change Them Or Modify Them Or Consider Additional Information.

I Have No Objection Of Going And Saying We All Want A Timely Resolution To This.

We Want Do Put Them In Good Shape.

If You Could Tailor It That -- Chairwoman Hall: Ok.

I Have No Problem.

They Have Latitude.

Hopefully They're Getting Comments From People There That Are Absorbing Those Ideas And Comments That Will Make The Right Changes.

What Else Do You Have? The Conditions, These Are Going To Be Addressed.

As I Said -- We Want To Do That As Well.

Chairwoman Hall: If Can You Modify We'll Go To The Record And Every Board Member Will Have A Copy.

That Will Be Great.

Commissioner Judah, Go Up There And Give Them Hell.

Comm. Judah: Well, Thank You.

Chairwoman Hall: I Didn't Know -- I Didn't Really Want To Schedule It One More Time.

Clayton: Thanks For Understanding.

Chairwoman Hall: I Do.

I Want To Be Sensitive.

This Is One Of The Few Times We Truly Have Multiple Interests That We Wear All Of These Hats.

We Need To Be Sensitive To That.

It Has A Domino Effect, And I See Doug Sitting Over There And Saying Please Remember Me.

We Do, Doug.

We Do.

Comm. Judah: I'll Make Sure I Confer With Roland And Doug.

Chairwoman Hall: Just E-Mail A Copy To All Of Us And The Final Draft.

Comm. Judah: Thank Goodness For Bobby Stewart.

He Is Here On The Pine Ridge Palm Code Enforcement Issues.

They Are Already In Contact.

They Were Here Last Tuesday.

He Is Addressing That Matter.

Rather Than A Local Agreement Amendment, They've Decided Send Ace List Of More Concerns And Questions.

Chairwoman Hall: We'll Deal With It.

I Was Just Wondering Whether The Letter Has Been Sent, But I Guess It Hasn't.

Chairwoman Hall: I'll Contact The Mayor.

I Mean, And See What We Can Find Out.

Comm. Judah: Very Good.

Thanks, Madam Chair.

Chairwoman Hall: And, You Know, Before I Go To Commissioner Janes, Bobby Stewart's Father Passed Away.

Comm. Judah: Oh.

Chairwoman Hall: Yesterday.

And With All Of What Was Going On Here, I Wanted To Send Our Condolences To The Stewart Family.

I Know Commissioner Mann Is A Personal Friend And Myself And Many Board Members Here Grew Up With The Boys And Daughter And Knew Mr. Stewart Very, Very Well Personally, And If I Could Just Ask For Just A Moment Of Silence And Our Condolences To Bobby And His Family.

Thank You.

And, Again, It's Been A Very Tough Year Already With Our Family, Our Employed Family And The Things That Each Of You Are Dealing With Individually.

Thank You So Much.

Commissioner Janes.

Commissioner Mann.

And I Am Going To Have Nothing.

Chairwoman Hall: County Manager Items.

County Attorney Items.

Boy, That 10:00 A.M. Workshop To Discuss Tdrs -- Oh, Community Appointments.

Commissioner? Anyone? None.

Ok.

We Are Going To Adjourn Until 2:30.

Right? Is It 1:30 Now? Until 2:30.

Then We Will -- I'm Sorry.

We Are Adjourned.

We Are Going To Reconvene In A Workshop To Hear Tds Are At 2:30.

Thank You.