

**January 26, 2010**

Chairman Hall: Good Morning.

Good Morning.

I Would Like To Welcome You All To Board Of County Commissioners Meeting.

Today Is Tuesday, January 26th.

As Always, We Like To Begin Our Meeting With An Invocation, That Will Be Given By Pastor Beckie Robbins, Followed By The Pledge Of Allegiance.

Good Morning.

Let Us Pray.

Loving Lord, The Decorations Are Down, The Holiday's A Hazy Memory, And Most Of Our Resolutions Already Broken.

And Yet Today We Renew Our Prayers For Peace.

Not A Peace That Only When All Around Us Is Calm, But A Peace Of The Heart That's Calm In The Midst Of Noise And Hard Work.

We Renew Our Prayers For Hope, Not The Hope Of A Wish For The Future, But A Hope That Comes From Trusting You, So That Without Fear, Right Now, We Choose To Live Fully And Well, Hope Of The Kind Lived By John Casani.

We Renew Our Prayers For Love, Not Affection, But The Intention To Do What Is Best For The Other, Even If It Costs Us Dearly.

Love Of The Kind.

Creating God We Ask Your Blessing On Our Commissioners And All Employees Of County Government, Especially Those Being Recognized Today For Long And A Faithful Service To The Public.

We Ask That They May Know And Live All Year Long, Peace Hope And Love That Come As Gifts From Your Loving Heart, To All Willing To Receive Them, 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.

Chairman Hall: We Have Quite A Busy Morning, And We Will Start Off With Some Ceremonial Presentations.

And The First One Is Recognizing James LAVOR For Heroic Service, James, How Are You? And John Ingle Hart, Are You Here? Will You Come Forward.

It's Not Often We Get To Have D.E.P. Stands Before Us And Recognize The Outstanding Work You Do.

You Are Our Partners In Protecting Lee County's Environment.

So Certainly My Privilege On Behalf Of The Board To Read This Resolution To You.

It Reads, Whereas On December 9th, 2009, James Was Heading Home From His Position As A D.E.P. Employee And Driving Southbound On The Mcgregor Boulevard Hen He Observed A Woman Lying In The Street And Where He Stopped His Car To Assist The Accident Victim And Blocking Oncoming Traffic From Hitting Her.

Assessed The Victim's Vital Signs And Determined The Woman Was Severely Injured And Whereas James Located Information For The Woman, And Stabilized And Assisted The Woman Until Emergency Personnel Arrived.

Whereas James Spoke To The Woman's Husband By Cell Phone And Informed Him Of His Wife's Accident And Condition.

The Woman's Husband Was Unable To Meet The Wife At The Hospital, James Voluntarily Picked Up The Husband And Transported 4 Him To The Hospital.

Whereas The Woman Suffered Severe Trauma Injury, Including A Broken Neck, Broken Jay, Broken Vertebrae, Broken Arm, Broke Leg And Punctured Lung.

Whereas James Was Instrumental In Supporting An Aiding The Accident Victim By Providing First Contact, Stabilization And Comfort And Providing Traffic Abatement By Assisting And Communicating With Emergency Personnel Regarding The Condition Of The Patient.

By Locating And Informing The Husband As To His Wife's Status And By Driving To The Home And Picking Up The Husband To Transport Him To The Hospital To Be With His Severely Injured Wife.

Now Therefore It Be Read By The Board Of County Commissioners That We Do Here Recognize And Praise James LAVOR For His Historic Service To A Citizen In Need Of Immediate Emergency Assistance In Lee County, And We Urge All Citizens To Recognize This Individual For The Outstanding Commitment To One Of Their Fellow Citizens.

Duly Executed This 26th Day Of January And Signed By Myself Tammy Hall.

[Applause] Thank You So Much.

We're Going To Take A Picture Of You Up Here.

We're Going To Have A Photograph With James.

One, Two, Three.

Thank You, James If You Would Like To Say A Few Words And Maybe John? First I Would Like To Thank Everybody For Recognizing Me For This, I Would Like To Believe That Anybody In A Tile Of Need Would Help Somebody When They See An Incident.

If Anybody Sees Anything Or You Know Whether It's An Accident Or Just Helping Out A Neighbor That Might Need Some Help Getting Somewhere, I Would Like To Encourage Everybody To Try And Do That When You Can.

Thank You.

Chairman Hall: Thank You.

[Applause] We're Honored To Have James Working With Us, As We All Will Be Honoring You Folks Here In Lee County.

It Really Does Mean A Lot To Receive Recognition From Those Of You All That Devote Your Lives To Public Service.

Thank You.

Chairman Hall: Thank You Very Much.

[Applause] Chairman Hall: Now, I'm So Honored To Have The Privilege To Recognize Again, Just An Outstanding Individual And That's John Casani.

John Was, Where Are You, John? There He Is.

Ok.

You Know, John Is Sort Of A Quiet Soldier.

He Works Very Quietly, But Loudly.

And John It Was Certainly Commissioner Judah And My Pleasure To Be Present When You Were Award The 2010 Caliber Award At The Annual Conference Of The Everglade Coalition.

On Behalf Of The Board The Resolution Reads, Whereas On January 9th, 2010, Lee County Citizen John Casani Was Recognized At The 25th Annual Everglades Conference.

Where As The Award Is Bestowed Upon Someone Who Has Worked To Organize An Generate Grassroots Support.

And Whereas The Ward Recognized John's Efforts Including The Creation And Development Of The Southwest Florida Council For The Protection And Management Of Land And Water In The Big Cypress Water.

And Whereas John's Leadership, The Council Was Formed To Share Information Regarding Water Shed Management Issues In The Caloosahatchee Among The Key Stakeholders.

He Personally Recruited Stake Holders From Interest Groups And Brought Them To The Table Creating New Opportunities For The Exchange Of Information And Ideas, And The Establishment Of Partnership And Community Building.

And Whereas John's Conservations Efforts Also Include Serving With The Lee County Conservation, Land Decision Committee, Organizing The Conservation 20/20 Legacy Program, Founding Both The Watch And Program And Serving A Numerous Environmental Technical Advisory Committees.

Now There Are It Be It Resolved That The Board Of County Commissioners Does Here Extend Our Appreciation To Protect Conserve, Educate, Motivate And Engage A Broad Cross Section Of What Those Communities Plays In The Overall Restoration Efforts, Of The Greater Everglade.

Duly Ex-Kited This 26th Day, Signed By Myself Tammy Hall.

John We're Very Proud Of You, Thank You.

We're Going To Take A Picture.

You Have To Get Your Picture Also.

Comm. Janes: John Before You Leave, I Know Marianne Is Here And Has Something To Do With The Award.

And John, It Would Be Nice To Stay Here.

One More Picture.

If We Could Have John's Collaborators Come Forward Also For A Photograph, There She Is.

Come On, Pete.

Comm. Janes: You Bet.

Chairman Hall: It's A Team Effort.

Comm. Judah: Thank You, Madam Chair.

Comm. Janes: Kind Of Scared Me Coming Up.

That Wasn't Fair.

Chairman Hall: Ok.

One, Two, Three.

Comm. Judah: Thank You.

Chairman Hall: We Would Love To Hear From You.

First All Please Accept My Sincerest Kind Of.

I Want To Publicly Thank The Folks For Allowing Me To Work With Them Through The Years.

It's Been An Honor, And I Will Like I Need To Say That It's Been One Of My Greatest Pleasures Working With Grassroots Organizations In Lee County.

The Conservation 20/20 Assistance Committee Many Of You Remember What We Were Up To Back Then.

To Make A Long Story Short, We Convinced The Vote Errs That Land Decision And Preservation Was A Good Idea And On That Historic Day In November, 1996 They Agreed At Least 53% Of Them Agreed.

So Jump 14 Years And More Than 20,000 Acres Now In Preservation.

What A Wonderful Legacy Of The People Of Lee County.

And The Water Shed Council, The Citizens Association, It's Been My Greatest Honor Working With These Groups.

They're Important For Resource Conservation.

And In My Opinion They Represent Democracy.

Thank You Very Much.

[Applause] Chairman Hall: Next, Do You Want To Do The Film Before We Do The Service.

Yes.

Chairman Hall: Next We'll Have A Very Brief Ceremony Presentation Of A Video With Peggy Fleming To Highlight The Art Of The Olympians On Friday.

Kathy And Lynn, Thank You Very Much For Being Here And Sharing This With Us.

Madam Chairman, Members Of The Commission, Public, It's A Privilege To Be With You And Give You A Short Brief Update Of Where Our Olympic Project Is.

We're Founded With A Desire Of Creating A Greater Awareness Of What These Values Are, To Enhance The Quality Of Life In This Community And Also Bring Others To Our Area To Enjoy The Qualities That We Do Share.

With That, Kathy? And I Have The Great Pleasure Of Working With Peggy Fleming And I Don't Know If You Saw Her Sunday Night, She Got The Largest Standing Ovation Of All Of These Skaters That They Were Giving Tributes To.

So We Are Very Fortunate To Have Her On Our Team.

And With The Opening This Friday, If You Can Come, Bob Will Be Here Talking Along With Cameron Miler.

And She Going To Be Trying To Set A Guinness World Record For The Longest Snowball Throw.

He's Our Javelin Thrower And He's Driving The Snowballs Down From Atlanta When They Had All That Snow.

Pretty Eccentric.

But Here Is Peggy Fleming Addressing Us.

Hi, I'm Peggy Fleming, An Olympian Artist And I Will Be Hosting A One-Hour Documentary.

You May Remember Seeing Me As I Skated My Way To The Gold In France In 1968.

Today I'm Not Only An Olympian But An Artist With Art Of The Olympians In Fort Meyers, Florida.

From Athlete East Coasts To The Creative Aesthetic Of Life, I Have Always Worked Towards Excellence.

While Training For The Olympic Game, I Used To Draw My Routines On Paper In Order To Visualize Them Before Going On The Ice.

I Wanted Every Aspect Of My Performance From The Music, Costumes, Choreography And Technical Movements To Bring Out The Best Of My Talents.

We Are Never Too Young Or Too Old To Explore Our Creative Side.

As Part Of The Art Of The Olympians Artistic Movement, I Believe Striving To Do One's Best, Whether It's In The Art, Sport Or Any Aspect Of Life Is A Lesson Worth Pursuing.

I Want To Congratulate, The City Of Fort Myers The Lee County Tourist Development Council, Along With All The Adviser And Supporters Of Art Of The Olympian Foundation For

Making What Began As A Dream, A Four-Time Olympic Gold Medalist A Reality To Be Shared With The Global Community.

Chairman Hall: Fantastic.

[Applause] Thank You Very Much.

This Weekend We'll Have Delegates From Eight Kris.

Olympians From Eight Countries Coming In For Their First Visit Here.

We're Off And Running For Two Week.

We'll Light The Torch In Vancouver And We'll All Have A Good Time Watching It On Tv.

Thank You, Kathy, Thank You.

Next, Let's Get On To The Highlight Of Our Meeting Which Is To Recognize Our Employees Service To This Community.

Chris? Good Morning.

Good Morning, Christine Brady From Human Resource.

I'm Accompanied This Morning With Elaine Schultzing We're Here This Morning To Present The Length Of Service Awards To All Eligible Employees For The Fourth Quarter, 2009.

Represent 995 Year Of Service To Lee County Government.

For Those Present, Please Greet The Commissioner And County Administration And Please Remain Off To The Side In Order To Take A Group Photo At The End Of The Presentation.

I Ask That We Congregate, If I Can Ask The Five-Year Recipients, We'll Get This Started.

We Have A Full House Today.

Starting With Five Years Of Service, Cheryl Abbott, Library.

[Applause] Kathleen Avisis, Operations.

[Applause] John Beck, Transit.

[Applause] Dan Belisle, B.C.D. Development Services.

[Applause] Melissa Bibeau, Utilities.

[Applause] Harry Campbell, D.O.T. Traffic.

[Applause] Jennifer Cavanaugh, D.C.D. Development Services.

[Applause] Nora Donato-Hitchcock, Human Services.

[Applause] Carl Duncan, Transit.

[Applause] Tammara Hall, County Commissioners.

[Applause] Lisa Hines, D.C.D. Zoning Division.

[Applause] Chuck Jakacki, D.C.D. Zoning Division.

[Applause] Dennis Kilyk, D.O.T. Operations.

[Applause] Timothy La Montagne, Solid Waste.

[Applause] Jesse Lavender, Parks And Recreation.

[Applause] John Margiotta, Transit.

[Applause] Michael Reinek, Utilities.

[Applause] Robert Repenning, Parks And Recreation.

[Applause] Michelle Rios, Utilities.

[Applause] Raphael Rivera, Animal Services.

[Applause] Abigail Rodriguez, Animal Services.

[Applause] Joanne Rodriguez, Human Services.

Carmen Salome, County Commissioners.

[Applause] Carlos Silva, Transit.

[Applause] Jodi Specht, Animal Services.

[Applause] Bruce Thornton, D.C.D.

Development Services.

[Applause] Edwin Tubens, Transit.

[Applause] Tracy Turner, Animal Services.

[Applause] Phillip Webber, Transit.

[Applause] Now If I Can Ask All The 10-Year Service To Gather In The Back, Please.

David Wagley, Library Services.

[Applause] With 10 Years Of Service, Diane Childers, Human Services.

[Applause] Gene Hector, Lee Ran The.

[Applause] Awe Dra Ennis, D.C.D. Development Services.

[Applause] Robert Konior, D.C.D. Development Services.

[Applause] Debra Mackay, T.O.T. Tolls.

[Applause] Diedra Mcqueeney, Utilities.

[Applause] Ann Merricks, Internal Services.

[Applause] Dan Notte, D.C.D. Development Services.

[Applause] Michael Rosario, Facilities Management.

[Applause] Veta Waldrop, Library.

[Applause] Now If I Can Ask The 15-Year Service Employees, William Volia, Construction And Design.

[Applause] Amy Briggs, Natural Resources.

[Applause] Laurel Chick, County Manager.

[Applause] Frank Cretella, Transit.

[Applause] Gary Mckart, Facilities Management.

Now If I Can Ask The 20-Year Service Employees To Gather? With 20 Years Of Service, Ann Arnall, Human Services.

Richard Burris, D.C.D. Planning.

[Applause] Robert Clemens, County Lands.

[Applause] Donna Marie Collins, County Attorney.

[Applause] David Crabtree, D.C.D. Development Services.

Jayne Elwell, Facilities Management.

Susan Hopwood, D.O.T. Tolls.

Flora Kayatta, D.O.T. Tolls.

Jose Rivera, D.O.T. Traffic.

[Applause] Susan Tamutis, D.O.T. Traffic.

[Applause] Now If I Can Ask The 25-Year Service Employees And The 30.

With 25 Year Of Service, Roger Clark, Parks And Recreation.

[Applause] Thom Filbert, D.O.T. Operations.

[Applause] David Morris, D.C.D. Development Services.

[Applause] Roger Raczka, Library.

[Applause] Mike Say, D.O.T. Traffic.

[Applause] Nancy Skabar, Library.

With 30 Years Of Service, Tony Pelicer, Natural Resources.

[Applause] And David Wheaton, Public Safety.

[Applause] Congratulations To All The Employees And Thank You For Your Services.

[Applause] If We Can Have Everybody Move Forward So We Could Get A Group Peculiar.

Hey Jesse, We Need More To The Left, Bring Them In.

Short Ones In The Front.

Come On Into The Front, Guys.

Chairman Hall: Thank You.

Keep Up The Good Work.

Ok.

Karen, Chris, Thank You Very Much.

It's Important To Recognize The Team That Makes Us Look Good, And So We Real Appreciate Everybody's Hard Work And Taking The Time To Recognize All Of Our Team Member And Their Service.

As Our Chambers Are Emptying, I Will Go On To The Recap.

And On The Recap We Have One Walk-On Item, Which Is A State Revolving Fund Which Will Take Up At The End Of The Agenda.

Next Public Comment.

We Could Get The Doors Closed.

First Person On Public Comment Is Richard Cringeal.

Richard? Who Will Be Followed By Pete Klausses.

Good Morning For The Record, I'm Attorney Richard Pringle.

Fort Myers, Florida.

I'm Killing Time To Give Everybody A Chance To Get Out.

I Would Say As An Attorney In Glade County, I Don't Think We Have Any County Employees As What You Recognized Today.

[Laughter] Are They Gone Yet? Almost.

I Can Get Started.

Nice To See You Today.

I Am Here Today Regarding Consent Agenda Item 14-A.

I Represent Abrams Properties Inc.

Agenda Item 14-A Is A Resolution To Amend The Develop Order To Extend It For An Additional Two-Year Term.

It's Consistent With Bill 360 And Also A Resolution That You Adopted Last Year.

That Is Consistent With Bill 360 And I Would Ask You To Approve That, If You Have Any Questions I Would Be Glad To Answer Them.

Chairman Hall: Thank You, Richard.

Next Pete Klausses.

Do You Have Two Items, Pete.

Yes.

I'm Proud To Stand Up Here And Recognize The Long Service Of Our Many Employees But Particularly I Want To Recognize Casani.

As Would Be His Pattern, He's Already Gone Back To Work.

He's Not Sticking Around For Any Accolades, But If You Scratch Anything That's Wet And Green In Lee Coin, You Will Find John Casani Underneath There Somewhere.

We Served Together On Many Boards Over The Years On The Foundation Of River Watch.

He's A Past President Of Not Only The Local Audubon Chapter, But The State Board.

He's Truly A Public Servant.

And Any Recognition He Receive, Even Though He Accepts It Begrudgingly, It's Well Deserved.

If You Want I'll Continue On.

Next Item I Would Like To Recognize The Fact That This Board Has Stood Firm In Its Commitment To Make Beach-Free Nourishment, This Is Never An Easy Issue To Deal With.

There Is No Question When We Try To Provide Sand To Provide A Place For The People To Go To The Beach, We Disrupt Our Natural Communities.

So This Is Always A Balancing Act.

And Having Lived On The Beach With A Do You Know In Front Of Me And One Of My Earlier Incarnations, I Recognized That These Are Balances That Need To Be Made For Our Eco System And I Appreciate The Board's Willingness To Stand Firm, And Provide A Balance When We Approach, How We Make This Place A Tourist Friendly Place.

Thank You Very Much.

Chairman Hall: Thank You, Pete.

Next Is Jack Mieker.

Good Morning, Jack.

Good Morning, Ma Dam Chairman And Commissioners.

Nice To Sit Through The Proceeds When You Honor The Employees.

I Commend You For That.

The Reason I'm Here Is Administrative Item 14-A Which Is A Settlement Agreement.

I Don't Understand It, I Went Through 23 Days Of Hearings This Morning.

And I Just Wondered If This Had Any Impact On That On Those Hearings, And Any Decisions That Are Going To Be Made Down The Road.

I Know The Administrative Law Judge, Has Not Rendered His Decision Yet, So I Was Just

Curious About What The Settlement Was About.

And I Would Like To Hear An Explanation, Thank You.

Chairman Hall: Anyone Else That Would Like To Address The Board On Anything That's On The Consent Or Administrative Agenda.

Seeing No One, I Will Close Public Comment And Go Back To The Board For Items To Be Pulled From The Consent Agenda.

Comm. Mann: I Have None.

Comm. Janes: None.

Comm. Judah: None.

Comm. Bigelow: No.

Chairman Hall: And I Have None, Do I Have A Motion.

A Motion By Commissioner Janes.

A Second By Commissioner Judah.

All Those In Favor? Opposed? The Motion Carries.

Next We'll Go On To The Consent Agenda.

And That Would Be Item 8-A.

Comm. Judah: Move The Item.

Chairman Hall: A Motion By Commissioner Judah.

I'll Second It For Discuss.

Comm. Judah: If I Could, Steve Was Heading Up.

I Want To Thank Steve Personally.

It's Been A Long Process, And Kate Who Has Been Instrumental In Helping To Move This Project Forward, Albeit A Smaller Version Than What Was Originally Slated.

But From The Standpoint -- Thank You.

This Will Allow Us To Continue Our Partnership With The Town Of Fort Meyers Beach And Preserve Important Members For The Public At Large.

The Lynn Park And The Fishing Pier.

Sometimes Misinterpretation Of The What The Intended Purpose Is On Certain Matters, And In This Particular Case, Evidently This Is A Draft That This Board Is Hopefully Going To Approve Today That Will Then Go To The Town Of Fort Meyers Beach, To The Interlocal Agreement And Then Hopefully Will Be Some Discussion About The Fact That Since There's No Cost Sharing, Go To The Formula That Had Been Established From Other Projects Where The County Has Been Involved, That Will Be Discussed With The Town Of Fort Meyers Beach.

Steve Buttel, Natural Resources.

Speaking To The Piece Of The Item That Relates To The Interlocal Agreement With Fort Meyers Beach, Yes, We Thought It Was Important To Amend That So That The Scope Was Clarified.

But We're Being Consistent In That We Have A Formula, That Determines On A Percentage Basis, Who Will Pay, How Much, This Interlocal Also Has As You Will Recall A Cap.

It Had Previously Been One Million Dollars.

We Adjusted That Down To A \$350,000 Cap Just To Reflect Our Understanding, But They Will Still Pay On A Percentage Basis Which Is Calculated With Every Other Project That We've Done And Will Clarify That For Them As They Consider This Proposed Amendment.

I Didn't Want To Misunderstood Because Previously The Job Was To Be A \$10.5 Million Project, And The Town Was Requested To Share Up To A Million, And Not To Exceed That Amount.

That's About A Little Over 10%.

A Little Under 10%, Actually.

But In This Case, We're Talking About Cost Share Without The Federal Government Participation.

So That's Why That's A Variation In The Formula? Correct, And It's Not Really A Variation, Because We Have Constantly Said All The Funding From Federal Or Other Grant Sources Coming Off The Top And We Share What's Left As The Local Share.

And, When You Look At The Bottom Line Number, They Would Not Have Ever Been Expected To Pay That Full Million.

That Was Strictly A Cap.

If You Look At The Percentages, Then They're Still In A Better Position Now Than They Were Under The Old Terms They Came Out At 25% Of The Local Share, That Is After All Those Other Outside Sources Come Off The Top.

Under This Scenario Now They're Down At 12% Of That Local Share.

So It's Better For Them.

We'll Help Them Go Through All The Scenarios To Understand The Math On It.

Comm. Judah: That's Critical.

And Timeline Wise, When Do You Expect To Bring It Back Before The Council? Well, That Will Depend On Their Scheduling.

They Wanted As I Understand They Want To See Before They React And Respond.

I Think This Clearly Defines The Modified Scope With The One Mile Of Construction.

Terms That We Think Are Equitable, So We'll Send That To Them Now For Their Consideration And If They Want To Do Anything Other Than What We've Drafted Up, Obviously It Will Have To Come Back To You, But I Don't Know What Their Schedule Is.

Comm. Judah: The Dates We're Looking For To Make Sure That We Can Still Capture The \$2 Million From The State.

We Need To Be Under Construction This Calendar Year.

Comm. Judah: But As Far As The Reaffirmation From The County Council, With The Development.

We Can Ask Them For A Date Certain If You Would Like Us To Do That.

Comm. Judah: We Have A Legislation Right Around The Corner.

The \$2 Million State Grant Is A Stand-Alone Item, And That Will Lock That Down For Us.

So, The Response From The Town Does Not Jeopardize That Action.

Comm. Judah: Thank You, Madam Chair.

Chairman Hall: Other Gorse Steve? Seeing None, All Those In Favor, Opposed? We're On The Administrative Agenda, And We'll Go To Administrative Item Number 14-A.

If You Could Address Mr. Mieker's Question, Also.

Thank You.

Good Morning, Members Of The Chair, David Owen, County Attorney.

Let Me Start With Mr. Mieker's Comment, Deals With Whether Or Not The Settlement Agreement Has Any Direct Impact On The Zoning Case That Was Just Completed About A Month Ago And The Answer To That Is No, And I Will Get Into Detail With You With That If We Go Through The Details In The Settlement Agreement.

The Issue That's Before You This Morning Deals With A Water Use Permit That Was Requested By R.C.H.

R.C.H. Involved In This And It Is For Their Corkscrew Excavation Project.

This Is Their Proposed Mine.

The Water Use Permit Though, All The Other Permits That They're Seek Region Going To Be Contingent Upon Any Final Decisions That Are Made By The Board, With Respect To The Land Use Entitlements.

Those Have Not Been Ruled Upon Yet, You Have Not Seen Them Yet.

So It's An If Then, It Is Not Unusual For Developers, Minors Or Anybody Who Puts Property On The Ground Or In The Ground In Lee County To Get A Series Of Permits, And Not Do Them Consecutively.

Typically People Seek Permits In Tandem, Or Along With One Another.

In This Particular Case, Permits Were Issued, Prior To The Land Use Hearing, And This Was One Of Them.

It's The Water Use Permit.

The Water Use Permit Is Also One That Is Subject To An Environmental Resource Permit That They Sought Earlier In 2008 With Respect To The Project And That Was Issued By The Department Of Environmental Protection.

The Water Use Permit Is A Subset Of That, And Was Sought, And I'm Going Through Not Only My Notes, Was Sought On May 30th Of 2008.

The Objective Of The Water Use Permit Was To Balance Water Flow For The Mining Project.

If You Need 20 Get Into The Detail Of That Part Of It, I Will Have Mr. Miur Go Up An Walk You Through The Technical Aspect.

We Did Challenge The Permit.

We Had Concerns That The Water Flow, If A Water Barrier, A Curtain Is Used By The Mining Company, By R.C.H. Might Have An Adverse Impact On A Corkscrew Well Field.

Those Things Over Time Were Worked On Between The Parties.

And We Had Not Only Had The Settlement Agreement But Attached To That, We Also Have A Document That Went Through The Process In Zoning, But Again Separate And Apart From That, And That Is A Lee County Adaptive Management Plan For The Corkscrew Excavation.

I'll Get Into The Details Of That A Little Bit Later Have Mr. Miur Go Through With You Some Of Those Detail.

I Will Like To Disclose At This Point In Time, That John Also Had A Great Deal Of Input With Respect To The Negotiations, And The Development Of The Final Agreement That You Have Before You.

He Came Off The Project When He Left The Lewis Law Firm.

I Stepped In And Picked It Up From There And Have Brought It To You Here This Morning.

Now Based On How The Commission Would Like To Proceed, I Can Walk You Through The Blue Sheet, On The Blue Sheet I Have Given You What I Think Are The Points Of The Agreement With Respect To The County, And To R.C.H.

I'll Go Through Them, And In This Particular Case, The County Will Petition With Prejudice, If In Fact The Board Approves That This Morning, We Won't Challenge The R.C.H.

D.E.P. Permit, We Will Pay All Our Own Fees And Costs, And The Settlement Particularly Does Not Constitute Any Form Of A Zoning Or Land Use Entitle.

The Settlement Is Drawn Very Narrowly.

There's Additional Language In There That Relates To This With Respect To Whether This Can Be Used In Any Further Proceedings By The Board Or By The R.C.H.

Folk.

On The Other Hand R.C.H. On The Second Page Of The Blue Sheet, Agrees To Adapt To Abide By The Lee Adaptive Management Plan, Which Is For Monitoring Water Levels.

We're Given The Right By R.C.H.

To Go On To Their Property, Put Whatever Devices We Think Are Necessary To Make Any Determinations To Find Out Whether Or Not There Is An Adverse Impact To The Ground Water, Result Of The Mining, If It Is Approved By The Board.

R.C.H. Agrees To Correct Or Remedy Any Identified Adverse Impacts To The Water Supply Leaves If They So Identified By Us.

I Think That's Very Important.

It's Not Only An Identifying Think But A Corrective Thing For R.C.H. To Do.

They're Obligated And Agreed To Restore The Ground Water Supply To Its Normally Attainable Levels, If They're Adversely Impact, Which Is Another Level Of Protection That The County Has.

County Reserves Its Rights To Evaluate Any Technologies That Are Those Identified In The

Agreement.

Other Than What We Have Evaluated The Proposed To Be Used By R.C.H.

We Have A Right To.

In An Challenge And Contest That.

The County Hasn't Waved Any Of Its Rights With Respect To Its Own Permitted Water Use.

The County Not Waved Any Of Its Interests And Rights Or County Wetlands Or That's May Be Impacted By The Mine.

And That The Settlement Does Not Constitute A Land Use Of Any Form Or Nature.

That's The Summation, If You Would Like To Get Into Additional Detail, I Can Read From The Agreement Itself With Respect To The Particular Provisions But I've List And The Blue Sheet, If You Want To Get Into Technical Details With Respect To How The Management Plan Works, Then I'll Bring Mr. Miur Up.

Chairman Hall: Questions For David.

Comm. Judah: Madam Chair, I'll Move The Settlement Agreement.

We Have No Other Choice At This Time, But I Would Like To Move It For Purposes Of Discussion.

Chairman Hall: Ok.

I'll Second It For Purposes Of Discussion.

A Motion By Commissioner Judah, Second By Myself, Commissioner Judah.

Comm. Judah: The Concern I Have Here Is Not Just This Project, But In The Future Other Project Of This Potential Magnitude.

I Mean, The Work That Was Done With The Drgr, They Clearly Demonstrate This Mining Activity Will Indeed Have An Adverse Impact On Our Critical Water Supplies.

There's All Sorts Of Clauses There, And Caveats That Water Resources Will Have To Be, That Are Potentially Impacted, Will Have To Be Corrected, Mitigated, And I Never Wand Us To Get Into The Situation To Begin With, And Quite Frankly What Concerns Me The Most, Was At The Time That The Applicant Was Able To Receive Its Environmental Resource Permit, We Did Not Challenge That Process.

Somehow, The County Failed.

Miserably, With Letting Us Fall Through The Cracks.

I'm Not Going To Point In I Fingers.

I Think We're All Involved In This Together, That Was The Time We Should Have Challenged This Applicant With The Environmental Resource Permit.

I Understand We Still Have To Go Through Zoning, But It Concerns Me To The Point That Where It This Settlement Agreement Notice, Somehow We're Going To Find A Way In The Future That This Does Not Happen Again.

And I'm Asking Administration To Please Get Together With The Respective Departments, Attorney's Office.

There Would Be Future Applicants, That Would Be Pursuing D.R.P.S And We Need To Make Sure That That's The Point At Which Are Our Concerns And Objections, If We Have Any, But At This Point In Time I Think We're Doing The Best We Can Under The Situation, And Still A Long Ways To Go And Where The Applicant Can Proceed With Their Plan.

Madam Chair, I Make A Few Comments On That, And Respond To Commissioner Judah.

Chairman Hall: Certainly.

We've Done A Little Research On This Last Night.

And We Found There's Two Things That Have Taken Place Here With Respect To The D.R.P., Issued By The D.E.P. Who Issue For Mines, And It's Kind Of An Unusual Circumstance Because For The Most Part We Seek And Look For D.R.P.S Coping From The Water Management District Because They Issue The Greatest Volume And Amount Of Them.

As A Result Of Looking Into This Matter Through The Office Of Mr. Miur's Office And His Folks, We Found Ha 2 D.E.P.

When They Issued The Notice Of Intent, Should The Notice Of Intent In The Local Newspaper, Which Are Required To Do By Rule.

But Apparently At Least We Cannot Find, Did Not Provide Actually Notice Toed A Joining And Abutting Land Owners Which They're Required To Do By Law.

So For The County To Be Looking For The Receipt, And I Get Them.

Mr. Miur Gets Them, Other Folks In The County Get Them.

We Get A Mailing That Says Here's The Notice Of Intent.

The Actually Notice We Actually Receive That, But In Addition To That There's Also A Notice Put In The Newspaper.

And In This Particular Case, It Was Just The First Initiated Investigation That We Can Do Appears The D.E.P. Did Not Provide Us With The Actually Notice, That Is The Mailing.

Where Somebody In The County Would Receive It, So, We Did Not See That.

As A Result Of Not Seeing That, Or Receiving That, Obviously And The Part That We Did Miss, Is We Did Not See The Advertising In The Newspaper.

Comm. Judah: From The Latest Standpoint, Was D.E.P.

Covered And Not Giving Us Legal Notice? To The Best Of My Knowledge, One Is The Alternative Of The Others, And If They Have Placed The General Advertising, Then From A Substantive Standpoint, They're Going To Be Covered As A Result Of That.

Actually Notice Is Part Of Their Riles, But Here Again, I Would Find That It Would Be Highly Unlikely That An Administrative Law Judge Would Open Up Or Turn Over Or Otherwise Get Into The Issues Of That E.R.P. As A Result Of Just The Lack Of Notification For The Actually Notice.

Comm. Janes: I Suggest We Send A Strongly Worded Letter To Our Good Friend Mike, That In The Future, As A Courtesy And Respect To In This Cased A Joining Property Owner.

Certainly The Governmental Agency Involved, And Making His Request For The Mining Activity.

Chairman Hall: Certainly.

And We Join You In That Commissioner, That That's Going To Be One Of The First Things To Do To Ensure That The D.E.P.

With Respect To Any Of These Mining Permits, Ensures That At Least Three Or Four People In The County Are Going To Be Notified When They Send Out The Notice Of Intent On Any Future E.R.P. For Any Mine.

That's The Best Correction That I Think We Can Make At This Point In Time From A Legal Perspective.

Comm. Janes: Thank You Madam Chair.

And One Of The Issues That's Been Issued For Close To A Year Now, Is That You Need Substantial And Substantive Facts And Evidence To Bring Forward In Order To Open That Back Up Again.

That's A Difficult Thing To Do.

I Don't Think We Have Anything At This Point In Time With Respect To This Particular Issue To Be Able To Do That.

I'm Just Giving You That As My Opinion.

I Don't Feel That We Have Any Opportunity To Do It Other Than Notify The D.E.P. And

Make Sure That Doesn't Happen Again.

The Other Piece Of This, That I Would Like To Put On The Record Is That The Settlement Agreement That You Have In Front Of You Today, Really Reflects Far More Than The County Could Ever Possibly Receive If You Had Continued To Proceed With The Particular Petition That We Have In This Water Use Permit That's In Front Of The Water Management District.

The Unfortunate Part Of The Whole Thing And I Agree With You Commissioner, Is That Probably The More Appropriate Point To Have Had Different Substantive Input Would Have Been In The Comment Period For The E.R.P., And That Is Gone Commissioners.

On Behalf Of The County's Part, I Would Apologize To The Board With Respect To That, But There's Another Party That's Involved In This As Well, And That's The E.E.P., And All I Can Do Is Tell You, And I'm Sure I Speak For Administration On The Same Side That Won't Happen Again.

Comm. Judah: Thank You, David.

Chairman Hall: Mr. Bigelow, Do You Have A Question.

Comm. Bigelow: I Was Going To Underscore What Commissioner Judah Is Concerned About Here.

How We Weren't Noticed As An Adjacent Property Owner, Because It's Our Well, And Which Own The Land, Right? Yes.

Comm. Bigelow: Is There Any Case Law That Determines That Notice To Adjacent Property Owners Is Not A Basis For Challenging The E.R.P. And.

Most Of It Would Be Based In Administrative Law Proceedings, And I Have Not Looked Into That.

I'm Only Giving You My Opinion From Past Experience Of These Type Of Things And It's A Difference Between A Procedural Error And A Substantive Error.

Sometimes Procedural Errors Have The Effect Of Reopening Or Going Back Into Things, Or Overturn Things In Some Instances.

Typically That's State Law.

These Are Procedural Rules Of The D.E.P.

And Whether Or Not That Rises To The Legal Effect Of Overturning The Issues Of That Permit, I Don't Think It's There.

But Again To The Board, I'm Just Giving You My Past Experience With That.

I Would Have To Get Back Into The Administrative Record Hearings To Find In Fact If That Hats Been Changed.

Over Time.

Comm. Bigelow: The Consequences Of This Are Potentially Quite Drastic.

It's Our Drinking Water We're Talking About From These Wells, So Maybe A Little Bit Of Research Into The Matter.

Because Just Seem Like We May Be Rolling Dice Here With The Safety Of Our Public's Potable Water System.

This Is Where, I'll Shift A Little Bit An This Is Where The Technical Aspects Of What We're Doing In The Settlement Agreement Are Designed To Do And Protect.

And Again If You Were To Proceed.

Comm. Bigelow: We Won't Know If It's A Band-Aid Or A Fix For Some Time.

I Guess It Would Depend On The Magnitude Of The Adverse Impact And Some Instance A Band-Aid Is Sufficient Or The Time You Need A Full Gauze, And Tape In Order To Protect It.

Comm. Bigelow: I Feel Like I'm Being Asked To Agree On A Settlement, Which May Or May Not Compromise Our Public's Potable Water System.

I Don't Know How To Get Right With My Discomfort Right Now.

Again This Is A Matter.

Comm. Bigelow: Because Of What The Commission Is Bringing Forward Here.

I Had No Clue.

Interesting.

I Just.

Chairman Hall: Why Don't We Have A Comment Possibly From Doug, Because Obviously Doug Handles Utilities, And He Participated In Structuring The Settlements Of Those Issues Could Be Addressed And I Certainly Don't Want The Public Hearing That We're Not Addressing Those Issues, Doug, If You Could Give Us Something.

Before He Begins,.

Chairman Hall: Yes, Commissioner Mann.

Comm. Mann: I Want To Phrase The Question, And There Is Some Collective Nervousness Up Here That's Fairly Obvious About The Direction We're Heading In Adopting This Settlement Agreement, Because Of The Proximity Of The Mining Operation To Our Own Wells That Are Going To Provide Drinking Water To The County.

This Is No Small Issue We're Dealing With Her Today.

So For Our Comfort And For The Public That May Be Watching It, From The People He Represents In Southern Part Of The County, What I Need To Know, If You Can Simplify This, Is About Sent This Settlement Agreement, What Would The Mining Company Be Able To Do And Now What Are They Going To Be Required To Do Because Of This.

That Will Make Us Feel Better And Any Threat To Our Drinking Water Supply? Ok.

Good Morning, Commissioners, Doug Miur.

Lee County Utilities.

Let Me Answer The One Question About The Concern Over Compromising The Public Water Source.

Agreement Does Not, We Do Not Give Up Any Of Our Permitted Legal Use Rights.

We Are Still Protected Under The Southern Water District Rules For B Of A Use.

If Any Part Of Our Use Is Impaired.

We Are Protected Under That Portion Where We Can Rectify Any Issues To Our Existing Permit And Through Their Conduct Under Their Permit.

The Mitigation Program Or The Adaptive Management Program Is Assembled In Way That It's An Incremental Implementation, And It's A Wide Ranging Monitoring Everyday.

So That If There Are Any Problems At All, That Are Found With Regard To The Operations Of Corkscrew Well Field, They Should Be Caught Under This Adaptive Plan Quickly And Incrementally So We Don't See The Full Force Of The Implementation Of The Mining Operation Just Create All Of A Sudden Like A Switch Goes Off, A Problem In The Well Field.

We Should Be Able To Pick Up Any Issues Early On So There Can Be Corrections To Those Issues Quickly.

Absolutely, We Have Proceeded In This Challenge To The Water Use Permit, Because Of Our Obviously Our Obligation And Our Commitment To Protect Our Public Water Supply.

If We Had Not Made This Challenge, Then We Would Have Just Been Rolling The Dice, And Accepting The Fact That There Were Two Areas Of Concern That We Had.

Number One, Is As Part Of The Mining Operation For The Water Use, They Were Going To Be Pumping Some Water From The Lower Hawthorne, Which Is A Water Source.

We Were Concerned About What's The Possibility Of That Water Source Being Brought To The Surface, And Does It Have The Opportunity To Mix With Any Surface Water And Therefore Raise The Fresh Water Ground Water Sources.

That Is One Issue.

The Other Issue Was The Installation Of A Grout Curtain At The Mining Lake Was Put There For The Purpose Of Protecting Wetlands And Hold A Water Level In That Area.

Comm. Mann: Can You Describe That For Me, The Curtain.

I'll Do It In Simple Terms Because That's The Way I Understand It.

It's Truly A Grouted Dam Under The Surface.

So, It Restricts The Travel Of Water Flow In Order That The Water Once The Lake Is Constructed That The Water Doesn't Flow Out Too Quickly Because Of The Some Of Changes In Hydraulic And Doesn't Impact.

Doesn't Drain The Wetlands Nor Does It Increase The Water Flow To Some Of The Areas Down Stream.

So The Intended Purpose Of That Is Basically To Regulate The Ground Water Hydraulics In Order To Balance The System, Upstream And Downstream.

Our Concern Was That Particular Subsurface Dam Hadn't Really Been Modeled Appropriately, And We Were Worried If It Was Out Of Balance One Way Or The Other.

If It Held Water Upstream Too Well, That Would Disrupt The Flow Of The Natural Flow Of Ground Water Downstream Which Is Where Our Well Field Is, So We Were Concerned, Is It Going To Impact The Aquifer Levels Downstream And Continue To Pump Our Well Field At The Current Levels.

And That Is The Area In The Adaptive Management Plan That Was Addressed Is, How Does This Grout Curtain Get Built, And, How Do You Determine If You're Starting To See A Disruption In Downstream Water Flow And If So, How Do You Immediately Take Sketches To Limit That Disruption Of The Natural Flow Ground Water Flow To The Corkscrew Well Field.

Without This Agreement, They Would Have Just Bit Built Whatever The Grout Curtain Was That Was Planned, And We Would Have Had To Have Obviously Determined In Its Worst Case, What A Potential Problem Might Be.

And People That Not Saying, There May Be Would Have Been No Problem, But Had There Been A Problem, We Would Have Seen A Problem In Its Worse Case And Would Have Had To Go Out And Undue A Problem That Had Been Fully Constructed.

Under These Circumstances, There Has Now Been Modeling Done, There Has Been Redesign, Some Look At The Grout Curtain In Order To Try To Address Both The Upstream And The Downstream Concern, And Also An Implementation Phase That Allows For Closer Monitoring And More Immediate Response To Any Type Of Flow Disruption On Either Side Of That Grout Curtain.

In Order To Protect The Well Field.

Chairman Hall: What's The Closest Existing Mine That We Have To The Well Field Right Now? You Know I'm Not Sure What The Name Of It Is.

It Would Be Just To The West Of The Corkscrew Well Field, And I Don't -- Is It Closer Than This One Would Be? It's Probably About The Same.

This New One.

Chairman Hall: And How Are We Doing On That Monitoring? Are You Guys Comfortable With What's Occurring There? Yes.

Chairman Hall: I Don't Want People To Think There Is No Other Mining Going Around.

We're Trying To Build Upon Our Past Experience To Make Sure That As We Go Future, We're Doing Better In The Future To Protect Us.

Obviously.

Other Questions For Doug B Yes.

Chairman Hall: Commissioner Bigelow.

Comm. Bigelow: Yes, If Frank Is Done.

Are You Done.

Comm. Mann: Yes, Thank You.

Comm. Bigelow: The Management Plan To Be Developed? I Believe That Was Developed In Response.

Certainly The Portion Of It Is In Response To Lee County Utilities Discussions With The R.C.H. Representatives.

I Also Believe That Natural Resources Had Input Into The Adaptive Management Plan, And Beyond That I Don't Know.

Comm. Bigelow: Mr. Mismar Is A Professional Geologist That Signed It, Then He's Slouching For It, But You're Saying It's A Collaborative Effort Between Your Department Of Natural Resources.

On Behalf Of Lee County Utilities For Sure We And Natural Resources Had Input Into The Concerns And Then It Was The Consultant For R.C.H.

Were The Ones That Actually Developed The Plan And Finalized It.

So Not One Sided.

It's Not The.

No, Sir.

Comm. Bigelow: We're The Plaintiff, Right? That's What It Would Be.

It's Not Just The Defendant's Work, It's Collaborative.

Chairman Hall: Commissioner Judah.

Comm. Judah: Should There Be Impact To Ground Water Supplies, And The Grout Curtain, Or Other Such Miles An Hours To Take Place.

Is The Applicant Required To Post A Performance Bond? No.

That Is Not Required.

Their Obligation Is To Perform The Cure.

Comm. Bigelow: Their Obligation.

I'm Sorry.

Comm. Judah: No.

Chairman Hall: Ok.

Comm. Bigelow: On That Point.

Their Obligation Is To Fix It.

But Do We Have A Hook? I Mean, Is There.

Chairman Hall: Well They Stopped Mining.

They Have To Cease, Which Is A Very Expensive.

Comm. Bigelow: That's Part Of The Agreement.

Chairman Hall: They Wouldn't Be Able To Continue Until They Correct It, Is That Correct, David? Or Did I Not Read That Correctly? Comm. Bigelow: Probably The \$60,000 Question.

If There's A Problem.

That's A Good Point Though.

I Don't Know If You Have To Cease An Assist Or Not.

Nine, If The Subsurface Water Supply To The County Corkscrew Well Is Decreased Any Quantifiable Degree Due To Excavation Or Any Facilities Associated With The Mining Project On The Property, Then R.C.H. Will Immediately Begin A Program Of Reducing The Extent Or Coverage Of Its Barrier Or Take Any Other Necessary Corrective Actions.

Said Program Of Hydraulic Barrier Reduction Shall Be Important To Restore The Ground Water Supply, To The Level Normally Attainable For R.C.H. On-Item Activities.

Just An Absolutely Performance Requirement.

Comm. Judah: You Hear Any Cease And Assist In The Mean Time.

Restoration Is Being Done To Correct Any Adverse Impacts To Ground Water Supplies.

Well, It's Really The Result Of This Grout Curtain, The Hydraulic Barrier That Would Be Causing The Problem.

And That May Or May Not Have Any Resulting Impact From The Mining Operations.

What's Require Here Is The Hydraulic Barrier, If The Grout Curtain Has An Adverse Impact, Then They If I Can It, Stop It, Either Adjust The Curtain, Whatever It Takes.

Chairman Hall: David, If What Happens And I Think This Is A Hypothetical And This Is Where Our Concern Comes In Because Of Our Limited Staff, Put Them On Notice, We See A Breach Or A Malfunction, At What Point In The How Long Do We Allow That To Occur Before Something Steps In? What's Our Next Corrective Action If Repair Or Adjustment Is Not Occurring, An We're Still Seeing That Breach Occur.

What Happens If It's Not Corrected? In A Timely Manner Or If It Can't Be Corrected? Nowhere, And I Guess, To Make An Assumption But That's Not Written Down Here So Basically, You Must Correct It.

If You Don't Correct It.

Breach Of The Agreement.

Chairman Hall: We Sue Them.

Yes, Ma'am.

Chairman Hall: We're Becoming Pros.

I Mean We Are Just Spending A Lot Of Taxpayer Dollars To Stay In Court, But Again, In Good Faith, Knowing That We Have Mines Operating Mines Existing Mines And I Think Our Staff Is Sensitive To Going Forward, What We Don't Want To Repeat, I Don't Think We're Going To Hold Up In Court On This One Either.

This Settlement I Have The Agree With Commissioner Judah.

But Other Questions, Other Comments? All Those In Favor? Opposed? The Motion Carries, Five To One.

Next We'll Go On -- I'm Sorry, Five To Zero.

Next We're Going To Public Hearings.

9:30 Public Hearings.

Thank You Richard.

I Thought Richard Was Voting There.

Good Morning Michael Jacob, Assistant Michael Attorney.

I Have Your 9:30 Public Hearing Items.

They Are Legally Sufficient.

I Will Enter Those Into The Record Now.

These Are Two Requests For Vacation.

First Is Located At Block 26, Unit 4, Lehigh Acres To Allow A Construction Of A Pool.

Comm. Mann: I Have A Motion By Commissioner Mann.

A Second By Commissioner Judah.

Anyone From The Public Who Would Like To Be Heard? Seeing No One, I Will Close Public Comment.

Go Back To The Board For The Discussion.

Comm. Bigelow: Just A Question.

The Pool Is Not Constructed, Right? This Is To Construct.

Correct.

Comm. Bigelow: Thank You.

Chairman Hall: Further Discussion? All Those In Favor.

Opposed? The Motion Carries.

Public Hearing Number Two.

Again To Vacate Jose Gaspar Drive, Boca Grand.

Is There Anyone From The Public Who Would Like To Be Heard? Seeing No One, We'll Close Public Hearing.

Come Back To The Board.

Can I Have A Motion.

Comm. Judah: Hope The Neighbor Stay Friends.

Move The Item.

Chairman Hall: A Motion By Commissioner Judah, A Second By Commissioner Bigelow.

All Those In Favor, Opposed? The Motion Carries.

Next To Our Walk-On Item.

The State Revolving Fund.

Comm. Judah: Move The Item.

Comm. Mann: A Motion By Commissioner Judah, A Second By Commissioner Janes.

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

Next We Go On To Commissioner Items.

Commissioner Mann.

Comm. Mann: Yes, The Subject Is The Oak Tree Out Front Here That's Been The Subject Of No Small Amount Of News Media Coverage And We've Been On It And Dollars In The Past, And No Matter What We Do It's Going To Require Some Dollars In The Future.

Let Me Say First Of How Appreciative I Am Of My Colleagues Here For Allowing Me To Take A Little Time And Look Personally Into This And Grab Some Other Experts For The So-Called Second Opinions, We've Got A Tree Here By Some Professional Guesses As Well As 200 Years Old.

It Was 100 Years Old When Lee County Became A County.

It Was There When Your Great, Great Grandfather Bull Dosed The Old County Courthouse B.C.

We Didn't Bulldoze.

Comm. Mann: Fell Apart One Night.

I Won Get Into That.

But There Was A Lot Of History There An A Lot Of History Buffs That Thought It Was Important When We Take That Tree, And Bulldoze It Without Being Absolutely Certain We Had To.

There's The Natural Beauty Of It, That Enhances The Courthouse.

So, Very Greatly.

That We Didn't Want To Ignore.

And Just The Size And The General Character Of That, One Of Our Experts, That If You Were To If You Had To Buy Such An Oak Tree And Put It There, Or That You Would Have To Come Up With \$100,000 To Get That Kind Of A Tree, Or At Least It Enhances By Being There The Value Of Any Plot By Clearly \$100,000 Because Of Its Great Size And Character.

So, There Was A Lot At Stake Here.

And I Was Very Reluctant To Based On Just The Preliminary Suggestions We Had, Just Accept That Without Looking Further Into It In My Heart Was Not In Letting That Go Without Not A Fight, But At Least To Be Absolutely Certain Where We Were.

So, Again Thank You Very Much For That Time.

It's Been On The News And I Had A Little Article In The Paper This Morning Saying My Conclusion Is That The Earlier Instincts Were Correct, That It Doesn't Make Sense To Try To Save The Tree.

Let Me Point Out Some Of The Main Things That We Found, Particularly Last Friday When We The Holidays Slowed Us Down To Getting This Back To You More Quickly.

But Last Friday, I Spent Three Hours Out There With Two Out Of Town Experts, One Of Them Mr. Hoit From Fort Lauderdale.

They've Got Credentials This Long.

The Other A Tammy Kovar, Also With Credentials.

To Write Home About.

Tammy Donated Her Time Incidentally Made Two Separate Trips Down Here And Spent Hour On The Phone Getting Other People To Pitch In And Took This To Their National Convention Of Arborists Here In Early December And Got Everybody Talks About It, Because There Was A Lot Of Interest In Saving The Tree That's 26 Feet Around At Its Base.

But Here's What They Found.

They Did Some Additional Resistograph Readings And Found Weak Spots On The Main Trunk, But The Conclusion Was That The Main Trunk Itself Was Actually Strong Enough To

Withstand Whatever Pressure And Weight That It Was Toting.

As You Got Higher In The Tree, The Midwest Serious Problems Were One Limb, A Huge Limb, Easily This Size.

Where There Were Eight Separate Bolts Put In It Where It Was About To Split, And This Was Like Putting Nuts And Bolts On Them, And Trying To Keep It From Further Split.

What You Do When You Put Eight Bolts In A Row.

Try To Split It This Way When You Were Trying To Protect It That Way.

And Our Expert Mr. Hoit Said That Limb Actually Needs To Come Down Right Away.

If You Have Any Ideas About Keeping It, Take That One Down.

And Then He Pointed To The One, And This Was The Point I Made Before, The Limb That Broke Last October, Broke Right Where One Of The Steel Pins Went Through It.

And He Said, The Other Two Limbs, Large Limbs Similar To That Who Have Identical Bolts, He Said You Can Expect Them To Break At The Same Place, The Other Ones Did Where Those Bolt Goes Through.

And Ironically And Tragically, Those Are The Bolts That We Put In There Some Time Back To Troy To Save It.

But He Says Actually Weakened It Because Of The Weight That Come Down Where That Hole Was Drilled, That's Where It Will Break.

He Says, Five Months From Now, Five Years From Now, But It Will Break And It Will Break At That Point.

If We Trim Those Two Back And The Large One That Split.

We Have About 35% Of A Tree Left.

And We Lost The Canopy And We Still Have A Weakened Tree Where Other Bolts Are There, And The Decay Is Evident.

So, My Conclusion Sad Conclusion Is, That It Just Doesn't Make Sense To Attempt To Keep It Alive.

And It Would Be Very Expensive To Put Little Cradles For The Few Large Limbs That Are Left And You're Still Dealing With A Terribly Scarred And Disfigured Tree That Has Virtually None Of The Character Left That We Love And Appreciate Out There.

So, My Suggestion Madam Chairman And Colleagues Is It Would Go Back To The Discussion We Had A Couple Of Months Ago About What Can We Do To Save Parts Of That Tree, What Can We Do To Replace It, And I Hope We Can Think About Not Just A Little Twig, But

Maybe A Tree Of Some Character On That Corner Of Main And Broadway.

But, To Put This Back In The Hands Of Staff, For Them To Explore This With Community Leaders, And Support Groups, That Would Have Some Thoughts About This.

We Have A Campus Plan That We're Already Working On.

That Could Be Adjusted To Deal With The Replacement.

I Can Tell You That I Have Talked With Some Of The People Like Mrs. Hendry.

Burn Davis.

Sam Galaway.

Who Took A Strong Interest In This And Didn't Want To See This Cut Down.

And I've Spoken Personally To They Had People And They Insurance, They're Not Happy But They Understand Where We're Headed.

So, I Hope We Can Just Pick Up Where We Were A Couple Month Ago Because We Had Good Thoughts, As To How We Could Deal With This Tragedy, And Try To Make Some Lemonade Out Of Out Of Our Lemon.

Thank You For The Time That You All Gave Me To Pursue This.

Comm. Judah: Not To Belabor It Any Longer, But It's Ironic When The Board Made A Commitment To Try To Save That Tree Months Ago, We Hired Ann Arborist, An Expert Out Of Clear Water And Using The Same Technology In Other Areas Of The State, That Cable System Actually Has Worked To Save Other Champion Trees.

It's Unfortunate That It Didn't Work.

Why This System Didn't Work With Our Tree, It's Speculated That Because Of The Condition An The Health Of The Tree To Begin With.

But It's Interesting To Hear From Experts That That's What Led To The Demise Of The Tree, But I Agree With Commissioner Mann, This Is To Time We Can Hopefully Move Forward, The Input Of The Community And Really Make Us Plowed With This Suitable Alternative That We Need 20 Pursue.

Chairman Hall: Karen.

Are You Going To Bring Back To The Board Then The Plan And I Know There's, We Look Like A Construction Zone For Quite A While.

And What Is The Process Now That The Staff Is Going To Go Through And What Do You Need From Us? Or Holly? We've Gone Through The Process Of Bidding Out The Tree Removal, So We Can Do That At The Will Of The Board.

We're Ready To Go There.

But, We Have Pretty Good Mechanism In Place With The Landscape Advisory Committee, We Might Invite The Public To Attend One Of Those Meetings And Discuss The Future In Conjunction With The Plan That We've Already Got In Place And We Have An In-House Architect, Parks And Rec And He Was Willing To Help Us, So We Can Represent The Board With A Plan Once The Tree.

I Think I Understand What You Want To Do Up There.

The Board Approved Making This A Show Piece And How Native Vegetation, I'm More Concerned When We Talked Last, Taking The Tree Down, And Then We Put Some Time Aside To Have Commissioner Mann Again Investigate Just To Make Sure, We Had Talked About We're Taking It Down To Be Able To Distribute It, For A Table.

So I Guess I'm More Interested In That.

So That The Board Can Actually See What We're Doing, And The Board Did Ask That Those Plans Out Front Come Back Either At M.M.P. So We Can Discuss Them.

We Don't Want To Wake Up In The Morning And See A Plan There.

I Understand That Part Of It, But As Far As Taking Down The Tree With The Time Frame, And How Are You Going To Be Giving It Up, For The Library Do You Want.

But Beyond That, Have You Got That Plan.

Would You Like Us To Bring That Back To February M.M.P.? We Did Put A Lot Of The Components To Choose A Bid.

Chairman Hall: I Don't Think That We Need To See That Again.

We Just Want To Be Assured That The Parts Of The Tree Are Being Broken Up For Artists And That The Table That Was Going To Be Done For The Library Is Still In The Plan Because We're Going To Dedicate A Portion Of That For A Conference Table There, So We Can Hold It In Memory, If You Will In The Downtown Area, So We Want To Be Sure That That's What's Happening And What Is The Time Frame Then For The Tree To Come Down.

Commissioners We Will Expedite This Because I Think I Haven't Received A Call From The City, And I Know The Children's Parade Comes Along That Route.

So I Would Imagine That That's Going To Happen Shortly.

We'll Expedite.

Holly Had Already Been In Contact With The Woodworkers.

And Have Them Come And Look At That Tree, Because We Don't Want Someone To Come

In An Whack It Down.

They Need To Look At It So That There's Certain Pieces An Certain Size Of Pieces, And So They Will Have To Examine It And Identify That, In Which It's Going To Be The Good Wood For Them To Take And What Sizes Do They Want To Cut.

So, We'll Work With The Woodworkers.

To Get It, To Get Those Specifications From Them, And Then Move On With Getting The Tree Cut Down.

I Don't Know What The City's Time Frame And I Was Expecting A Call Shortly.

We Did Incorporate Into The Bid, Looking At Large Pees To Save And They Were Going To Save Disks That Would Help With Building A Table.

D.O.T., Joe Has Already Coordinated That When We Do Remove The Tree, We Will Be Able To Take Pieces Of The Wood To A D.O.T. Depot And Allow The Artists To Come To That Facility, Rather Than All Having To Come Downtown And Scatter It Around.

It Will Be A Little Bit More Organized.

Chairman Hall: Evening The Board Just Wants To Assure That We Break It Up And We Get A Piece Of It.

And We Will Be Able To Touch The Oak Tree.

Karen Suggest We Had Coordinate With The Arts Too.

Chairman Hall: So We're All On The Same Page.

Comm. Mann: One Last Thought.

I Don't Know Whether This Is Possible But I Hope You Would Explore It.

There Aren't Many 26-Foot Diameter Trees.

I Mean Circumference Trees.

If There Was Any Way To Have A Slice Preserved That Stood Up There.

We Make Sure You Get A Copy Of The Bid, Because We've Actually Put That In The Bid.

They're Going To Slice Several.

I Can See Pieces Of It To Make Little Tables But.

They're Going To Do The Whole Thing.

Comm. Mann: I'm Not Sure They Can Do It.

But That Would Be Magnificent, That Describes The History.

Chairman Hall: You See What Our Goal Is, We Would Like To Have Some Commemorative.

You're Giving Us Direction To Remove The Tree, Do As Much As We Can With The Woodworkers To Have Pieces Preserved With Tables Whatever Preserved From The Tree And We Can Move On.

Chairman Hall: Commissioner Bigelow.

Comm. Bigelow: I Think That's What You've Heard, At Least That's My Understanding, But I Would Like To Add A Couple Things Here.

I Would Support A Blue Ribbon Committee, To Include Public Comment Or Public Involvement, Not Just In How We Lay The Tree To Rest, But How We Reign A New Tree.

And As Well As The Relandscaping To Take Place On The City Block.

But It's Been County Management's Position That They Have Enough Experts Onboard.

I'm Not Going To Go True A Tug-Of-War On That, But It Is It Would Be My Preference That We Go With A Public Panel That Would Not Only Deal With The Tree, And Its Replacement, But The City Block Relandscape.

Having Said That, Can Anybody Tell Me If All The Acorns That Are Currently There Have Dropped Or Will Soon Drop, Because I Think We Would Like To Be Sure.

Madam Chairman, I Think I Can Answer That, I Have Myself Been Saving Them, And I'm Glad You Brought It Up Because I've Had Schoolteachers Ask Me About, And Perhaps For A Little Classroom Project, Can Our Kids Plant Those.

So We Can Start Making Children And Grand Babies? From That Tree.

And There Are Still Thousands Under There, But You Can't Get To, But I Cheated, And I Snuck In, But There's Still A Lot That Can Be Salvaged.

If We Can Get Our Staff To Rake Up A Big Bunch.

D.O.T. Has Already Started That Pros.

They Checked Hundreds Already And They're Trying To Get Seedlings Out Of Them So When We Do Something With The School Group, We Don't Just Hand Them A Bunch Of Acorns.

We Wanted To Be Able To Hand Them Starters So That It Would Be Easier For Them.

We've Started That Pros.

Comm. Bigelow: I Would Like Some, But My Point Is It Done Dropping Its Acorns.

Comm. Mann: Yes, For This Year.

Comm. Bigelow: Ok.

Comm. Judah: This Is A Good Discussion.

I Can Already Envision The Cross Section That Commissioner Mann Was Talking About Where You Can Match Up The Growth Rings With The Historic Events For Lee County.

It Would Be Phenomenal Especially In The New Library.

But Also, I Wanted To Make Sure, I Appreciate Commissioner Hall Clarifying.

You Will Have Other Art San And Woodworkers In Addition To Those That Will Be Involved In Perhaps Making Tables And Desk And Chairs From The Community That May Want A Piece Of The Tree For Their Own Particular Work Of Art.

Would Those People Also Go To This Depot If They Wanted To Select.

Chairman Hall: Like Car Remember Said, Our Outlet To Reach Out For, Just Like In My Of Course.

What Would Happen There's Only So Much Tree To Go Around, So I Think Working Through The Alliance And People Who Have An Interest, Because There's A Lot Of People That Just Want A Piece Of It An The Acorn Item Idea Is Phenomenal.

And, Yeah.

You Know, Commissioners, Let Us Check On Gathering As Many Acorns, But There Is A Liability Issue.

So I Really Don't Want To Have A Bunch Of School Children.

Comm. Mann: I Wasn't Suggesting That.

Chairman Hall: No, Not Suggesting That At All.

We Understand We Gathered Them And I Think Holly's Idea Is Great.

And Again We'll Look Forward To Seeing The Plan That You Have For The Front Now That We've Got This Our Next Step, If You Will.

All Right, Commissioner Mann, Anything Else.

Comm. Mann: Thank You Very Much.

Comm. Janes: No, Nothing.

Comm. Judah: I'm Good.

Comm. Bigelow: No.

Chairman Hall: I Want To Thank The Florida Association Of Counts, They Have Nominated Me To Represent The State Of Florida At The County Leadership Institute In Washington, D.C. And I Appreciate Having The Honor To Be In That Riding.

Comm. Judah: Congratulations.

Chairman Hall: Thank You.

[Applause] Secondly, I Sent You All A Draft Letter To Susan Gray At The South Florida Water Management District Regarding The Lake Okeechobee, I Want To Make Sure The Board Atlanta A Whole Is Up To Speed.

This Was Drafted By Our Staff And Consultant And I Just Want To Make Sure There Are No Other Changes Or Additions Or Deletions.

Comm. Judah: Move To Second The Letter Second By Commissioner Mann.

Committee Appointments? We'll Get It Done Today.

Commissioner Mann.

Comm. Mann: Jason Lemie To The Park And Rec, I'm Sorry To The Bicycle Pedestrian Bicycle Committee.

That's My Nomination.

Chairman Hall: Further Discussion? All Those In Favor? Opposed? Motion Carries.

Commissioner Janes.

Comm. Janes: None.

Comm. Judah: Councilman Joe List.

Chairman Hall: A Motion By Commissioner Judah, A Second By Commissioner Bigelow.

All Those In Favor? Opposed? The Motion Carries.

Commissioner Bigelow.

Comm. Bigelow: I Have None.

Chairman Hall: And I Have None.

County Manage Items.

Comm. Bigelow: Can I Just Say, I Would Like To Comment You And Human Resources For The Length Of Service Ceremony Today.

I Think It Ran More Quickly And Smoothly.

A Few Hitches, But I Liked How It's Changed.

Chairman Hall: County Attorney.

Ok, We're Going To Then Be Recessed Until 5:00 Public Hearing -- Oh And 1:00 We'll Come Back For A C.R.P. Status Workshop.

This Is A Workshop And Not A Public Hearing.

Thank You.

### **5:00 Public Hearing**

Comm. Hall: We're Going Reconvene As The Board Of County Commissioners.

Scott, If You Can Call It.

And Commissioner Janes Is With Us Via The Phone.

Good Evening, Madame Chairman, Members Of The Board.

Scott Cooper, Assistant County Attorney.

We Are Here For Agenda Item One To Consider An Amendment To The Lehigh Acres Street Lighting Ordinance.

I Have Examined The Notice Of Intent Published In The Fort Myers News Press On January 5 Of This Year, And Find It Legally Sufficient And Hereby Enter It Into The Record.

At This Point, Staff Will Follow Me And Put This Information Into The Record.

Comm. Hall: Great.

Thank You.

Good Evening.

Donna Dubarry, Coordinator.

I Would Like To Enter Six Letters And One Email In Opposition To Tonight's Proposed

Amendment.

Comm. Hall: Could I See Them?.

Yes.

Comm. Hall: Please.

We're Bringing This Back To You As Instructed At The December M.M.P. To Consider Amending Lehigh Ordinance Changing Their Boundary Description.

And I'm Available For Questioning.

Comm. Hall: Is There Any Questions Of Staff Before I Go To The Public?

Comm. Mann: Yes. You Said They Were All In Opposition?

In Opposition, Yes.

Comm. Mann: Were They Individual Single-Family Homeowners As Best You Could Tell?

Yes.

Comm. Mann: Ok.

Thank You.

Comm. Hall: And This Is Public Commentary.

I Have No Blue Cards.

Does Anyone Wish To Comment?.

If You Could Fill Out A Blue Card For Me, I Would Appreciate It, And State Your Name For The Record.

Thank You, Madame Chairman.

I Am Ed Weiner, Chairman Of The Economic Development Board And The President Of The Lehigh Acres Community Planning Corporation.

At Our Last Lighting Meeting, We Discussed This In Detail.

At The Last Lacpc Meeting, We Discussed This In Detail.

It Appears From Everything That I Have Gotten From People Who Represent The Community That This Is Obviously Something That Was Either Left Out A Long Time Ago Or For Whatever Reason Slipped Through The Cracks.

We Absolutely Need To Include All Of Lehigh In The Lighting District.

All Of Lehigh Is Receiving The Benefit Of The Lighting District.

And We Are Endeavoring To Make The Lighting District A Little Bit More Efficient And Provide Lighting At A Little Faster Speed With A Little Bit More Insight As To Where The Areas That Most Need It Are.

Right Now, We Take A Shotgun And We Shoot It At A Map, And That's How We Establish Lights.

And That's Going To Change Hopefully In The Next Couple Of Months, And We'll Come Back To You And Explain It To You.

But The Folks Who Probably Have Opposed This Probably Similar To The Editorial In This Morning's Paper, They Don't Use The Lights Or The Sidewalks, So Why Would They Need Lights And Sidewalks?

Which Is A Reasonably Intelligent Argument.

But Obviously, When You Drive On Any Road From Point A To Point B, Eventually You're Going To Come Underneath A Light, So You're Using The Light.

And Not To Be Off The Subject, But The Sidewalks, Obviously, We Have Managed To Kill A Couple Of Kids Because Of Lack Of Sidewalks.

So The Comment Is Totally From Left Field.

Now I Understand What Taxing Is All About.

I Understand That The People In Lehigh Are Impacted By Everything That You Could Possibly Expect In This Hard Time.

But We Are At 18 Cents Right Now.

And If The 8,000 People That Are Still Left Out Of That Doughnut Or That Hole That Are Not Being Taxed Have A Problem With That, There's Something More Serious Going On.

So We'd Like Your Concurrence With Approving This And Moving This Forward On The Agenda.

Thank You.

Comm. Hall: Thank You.

Would Anyone Else Like To Comment?

Seeing No Other Comment, I Will Come Back To The Board.

Comm. Mann: One Question Of Staff, If I Might.

Comm. Hall: Yes, Mr. Mann.

Comm. Mann: Can You Tell Us What The Typical Family Homeowner Of Lehigh Pays In This Tax Annually?

Currently The Single Family Home Would Be About \$3 A Year At The Current Rate Based On The Taxable Value.

Comm. Mann: Thank You Very Much.

I Will Move This Whenever It's Appropriate.

Chairman Judah: Second.

Comm. Hall: I Have A Motion By Commissioner Mann And A Second By Commissioner Judah.

All Those In Favour?

Opposed?

The Motion Carries Four, Which Is Unanimous.

Commissioner Bigelow Being Absent.

Any Further Items Then?

Oh, Yes.

We Have One More Thing.

Public Presentations Of Matters Of Concern By Citizens.

Is There Anyone Who Would Like To Have Three Minutes To Share A Concern That They May Have With The Board On Any Subject That They Choose To Discuss?.

Seeing No One, I Wish You All A Great Week, And We Are Adjourned.

Thank You.

Thank You, Commissioners.