

September 29, 2009

Chairman Judah: Good Morning.

We'll Go Ahead And Get Started With Our Meeting.

We'll Start By Rising And Hearing From Reverend Phil Schlaefer.

Thank You.

I'd Like To Thank The Board Of Commissioners For A Gracious Invocation.

I'm Happy To Be Here.

I'd Like To Invite You For A Moment Of Prayer.

Let Us Pray.

Jesus Told Us That The Kingdom Of God Is Within You.

The Kingdom Of God Is Within You Luke 17:21.

We Invite You All To Join Me In Affirming A Willingness To Connect With This Kingdom Of God.

Dear God, We Know That You Move In Mysterious Ways.

And We Know That You Move.

Not Always In A Way That Is Showy Or Spectacular Or Even Clear.

Sometimes You Move Quietly.

Your Inspiration Comes In Little Cat Feet.

And We Take This Moment Of Being Focused To Access That Guidance That You Spoke Of That Is Within Us, Grant Us The Willingness To Put Aside Our Personal Agendas And As Best As We Are Able To Know It To Be Open To The Agenda Of God For This Meeting.

And We Invite You Now To Joy Me In Just A Brief Moment Of Focused Silence Being Open And Receptive To That Kingdom Of God That Is Within Us.

Dear God, We Affirm Your Guidance As It Speaks Through Each One Of Us, Each One Who Speaks, Each One Who Is Here, And We Know That Under Your Guidance, All Is Well.

And So It Is.

Amen.

Chairman Judah: Thank You, Reverend.

Please Remain Standing.

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, Liberty And Justice For All.

Chairman Judah: Thank You, Reverend.

Okay.

We Have One Ceremonial Resolution And It's Recognizing Family History Month To Be Read By Commissioner Bigelow.

Comm. Bigelow: Thank You.

Good Morning, Mr. Chairman.

Good To Be Here.

Is Carol Brooksby Here? President Of The Geological Society.

I Was About To Ask You.

I Have Three Of My Board Members To Come Up With Me? Comm. Bigelow: Please.

The More The Merrier.

We Like To Recognize As Many As We Can For Their Efforts.

Now It's A Distinct Honor For Me To Be Able To Read This Resolution Recognizing Family History Month Because As Many May Know Or May Not Know, I Share A History Of Sorts With, A Checkered History Here In Lee County Since I Have A Relative, My Father Who Is A Former County Commissioner Serving In The Same Seat.

His Name Happens To Be On A Plaque Outside The Chamber Doors Here At The Chamber Of The Board When These Chambers, The Old Building, The Courthouse Was Restored.

Another Name Also On That Plaque As Chairman Back In The 1800 You, That Was William H.

He Went By The Name Of Wild Bill Or Fiery Bill.

Fiery Meaning Or Was A Reference To The Water He Drank, Maybe.

The Kind Of Water He Drank Back Then.

A Checkered Education Suggested Because He Wanted To Build A New Courthouse, But He Could Not Get The Votes On The Board To Do So.

So What He Did Was He -- Well, Many Of The County Commissioners He Served With Were Out Of Town.

He Decided To Take Matters Into His Own Hands And Dismantled The Old Courthouse And Forced The County Commission To Build The New Courthouse Which Is Now The Old Courthouse, The Building In Which We Stand Right Now.

And With The Wood From That First Courthouse And A \$500 Grant From The City Of Fort Myers, A Certain Council Member On The Board William Chester Bigelow Put Forward This Grant And With The \$500 Grant And The Wood From The First Courthouse They Built The First Lee Montreal Hospital -- Lee Memorial Hospital.

I've Yet To Acquire A Nickname As Fiery As Fiery Bill Or Wild Bill Or Chain Saw Charlie But Maybe One Day It Will Be.

I Appreciate For Reasons I Explain That I'm Honored To Read This Resolution Today.

Whereas October Is Nationally Recognized As Family History Month.

And Where A The Study Of Family History Is One Of The Most Popular Avocations For People Nationwide And In Lee County And The Fort Myers, Lee County Library Provide Access, Through Its Genealogical Collection, To Important Research Materials On Family History.

And Whereas The Board Of County Commissioners Has Demonstrated Its Support For The Collection And The Preservation Of Genealogical And Historical Materials And Resources In Lee County And Through Its Cooperation With The City Of Fort Myers In The Development Of A New Fort Myers Lee County Library.

And Whereas The Fort Myers Library Will Hold A Series Of Five Research Workshops On Family History Starting The Last Saturday In September And Continuing Every Saturday Through October With The Exception Of The 24th.

And Whereas The Lee County Genealogical Society Will Hold A Family History Research Seminar With Well Known Professional Genealogist Donna Moughty On Saturday October 24.

And Whereas The Lee County Genealogical Society Will Hold Its Annual Family History Essay Contest For Middle School Youth In October.

And Whereas The Interest In Our Personal Family History Transcends All Cultural And

Religious Affiliations And Gives Us A Sense Of Heritage And Responsibility In Carrying Out The Legacy Of Our Ancestors.

And Now Therefore Be It Resolved By The Board Of County Commissioners Of Lee County, Florida That We Do Hereby Proclaim The Month Of October 2009 As Family History Month In Lee County And Urge All Of Its Residents To Recognize The Importance By Celebrating Their Families' Heritage.

Duly Executed This 29th Day Of September 2009.

Signed By Ray Judah.

If You Would Please Come Forward.

Thank You Very Much.

We'd Like To Hear From You, Too, Carol.

Thank You For Being Here.

Always Nice To See You.

Thank You, Commissioner Bigelow.

Mr. Chair, Other Commissioners, I Want To Thank You.

And For The Record I Would Like To State I Am Carol Rooksby.

I Do Use In My Genealogical Research And President Of The Lee County Genealogical Society Which Has Been In Lee County For 34 Years.

And I'm Here Today On Behalf Of Our 267 Members To Express Our Appreciation For Your Continued Support Not Only Of Our Society But For Proclaiming October 2009 As Family History Month Here In Lee County Recognizing The Importance Of Celebrating Our Family's Heritage.

As You Heard In The Proclamation, The Lee County Society Is Planning Many Events For Family History.

During This Month We Include Research Workshops, Half Day Seminar And Second Family History Essay Contest For The Middle School Youth Of Lee County.

Some Of These Events Will Take Place At The Downtown Fort Myers Lee County Library, A Library Through Your Mutual Cooperation With The City Of Fort Myers Will Soon Have A New Home For Its Genealogical, Historical And Heritage Materials In Downtown Fort Myers.

A Library That Will Serve Not Only Family Researchers From All Over The World But For The Community For Which It Provides Needed Programs For All Ages.

During The Coming Months, I Encourage You To Celebrate Family History Month By Talking With Your Family Members.

Your Family Members May Find A Reference For You, Commissioner Bigelow.

Exchanging Memories And Stories As We Heard Today And Talk About Your Heritage, Your Ancestors And Preserve That For Your Future Generations.

Again, We Thank You Very Much.

[Applause] Chairman Judah: Thank You, Commissioner Bigelow.

We'll Now Move On To The Recap.

It Looks Like Administrative 1-A Was Approved Last Week So That Will Be Omitted From The Recap Agenda And Four Walk-On Items.

At This Time We'll Go To Public Comment On The Consent And Administrative Agenda.

We Have One Card And That's James Gillespie.

Good To See You, Sir.

Thank You, Commissioner.

James Gillespie Sun Coast Task Force.

I'm Here To Say Thank You For This Project To Come To Fruition.

For Sun Coat And Lee County We Provide Services For The Residents There Through The Access Program And The Foot Stamp Program.

We Are Staying On Top Of Things.

We Are Now The Number Four Largest In Lee County, The Largest In Fort Myers And Serving With The Good Lord's Help All That Has Come.

Our Needs Have Increased Double.

But Every Single Need Has Been Met.

As You Can See We Are Getting Ready For Christmas This Year So Looking Forward To A Very, Very Exciting Year 2010.

Thank You Very Much.

Chairman Judah: Thank You.

A Wonderful Ambassador For Our Community.

Thank You.

I Do Not Have Any Other Cards.

Anyone Else Wish To Speak On The Administrative Agenda? Seeing None, We Go Back To The Board.

Commissioner Mann? None.

Commissioner Hall? Commissioner Bigelow? Comm. Bigelow: I Have Three And Should Go Quickly.

9-B, 9-C, 13-F.

Chairman Judah: Okay.

Motion By Commissioner Hall And We Have A Second? Second By Commissioner Bigelow.

I Want To Make Sure, Commissioner Bigelow, 9-B And C And 13-F.

Any Further Discussion On The Balance Of Consent Agenda? Hearing No Objection.

Motion Passes.

We'll Move On To 9-B.

Comm. Bigelow: Thank You.

This Is A Request From County Management To Transfer Reserves In The Amount Of \$400,000 For 2020 Expenditures Previously Board-Approved And Not Funded Through Reserves But Through Operating Budget.

And Just To Be Clear, I Guess, It's To Hire Two New Parks And Recreation Specialists As Well As A Truck And \$412,000 To Continue Fencing And Fire Line Installation Projects On 2020 Preserves.

Barb, Can You Tell Me Why This Isn't Covered From The Set Aside Dollars That We Invest For Maintenance Funding Of Our 2020 Land? For The Record, Commissioner These Items Were Previously Approved By The Board.

We Attempted To Rehire The Staff, Bought The Truck And Attempted To Continue The Fire Lines And Fencing With The Operating Budget We Had On Hand.

It Was Agreed If That At The End Of The Year We Were Not Able To Do That We Would Then Go Back To The Reserves We Had From The Fund And Pull Them To Cover The Expenses And So Here We Are Now Back To Cover Those Already Expended Dollars.

Comm. Bigelow: Do You Know The Source Of The Reserve Funds? General Ad Valorem? The

Set Aside.

Comm. Bigelow: Set Aside 10, 20%? A Percentage Of The 20% That Goes Toward Operating Every Year.

We Supplement That If Necessary From That Fund.

Comm. Bigelow: Okay.

I Apologize For Pulling This.

This Is Standard Operating Procedure With Respect To 2020 Reserves.

That's Correct.

Comm. Bigelow: Move The Item.

Chairman Judah: Hearing No Objection.

Motion Passes.

9-C.

Comm. Bigelow: This Is Also, County Management Requesting A Contract For Removal Of Invasive Plants From Preserves And County-Owned Land.

If I Understand Correctly This Is A Gimme, Isn't It? They Will Be Removing Exotics And Using The Wood.

They'll Chip Up The Timber And Sell That.

This Begs The Question For Me, Are There Others Interested In Other Companies That Normally Would Be Very Busy Land Clearing For Commercial Residents That Might Be Available To Help Us With This? They Might Be, Commissioner, Yes.

This Is A Win-Win For Us.

We Get The Services Or Free And They Get The Lumber To Chip Up And Take Away.

Comm. Bigelow: This Is Awesome.

I Hope We Can Try To Solicit Others To Do The Same.

A Wonderful Opportunity.

People Are Still Mulching.

I Move The Item.

Chairman Judah: Motion By Commissioner Bigelow.

Seconded By Commissioner Mann.

Let Me Extend Appreciation With Land Management.

Doing A Great Job With 2020 Management Properties.

Hearing No Objection.

Motion Passes.

Commissioner Bigelow, 13-F.

Comm. Bigelow: Thank You, Mr.

Chairman.

This Is To Approve An Award For Computerized Management System Implementation Systems And Software For Lee County Utilities.

Not So Much I'm Going To Object To The Selection Committee Selections, But, Again The Selection Committee Makeup It Is Because We Have Supervisors Serving With Subordinates And I Believe Provides For Undo Influence.

Chairman Judah: A Second? Discussion, Objection.

Motion Passes.

Commissioner Bigelow Dissenting.

Commissioner Hall? Comm. Hall: Item 2-A Asking To Submit Amendments.

We Haven't Finished Those.

Asking Us Just To Do The Ones We Approved To Date? This Is The Amendment For Next Year We'll Start Working On.

The List That's Attached Is What The County Initiated Amendments.

I Need To Make A Couple Of Corrections.

These Won't Come Back To You For About A Year But I Need To Make A Couple Of Corrections On The List.

The First Thing We Have Is An Amendment Proposed By The Port Authority That Lists The Southwest Regional Airport.

We Need To Make A Couple Of Modifications To The Airport And The Southwest Airport.

I Want To Clarify That Language.

Chairman Judah: I'm On 2-A Administrative Agenda.

Comm. Hall: I Don't Have The List In My Book.

Oh, No List Attached.

Comm. Hall: I Appreciate You Telling Us.

I Thought It Was Attached.

It Was Attached To Mine.

There's Some Minor Changes We're Going To Make.

One Is The Land Use Category In The Pine Island Road Area Which Came Out.

A Little Bit Of Cleanup In The Annexation You've Looked At.

We Have To Make A Small Change To The Water Dependent Overlay.

We Have A Change On The Level Of Service In Six Mile Cyprus Parkway Because Of Money We Received From The State.

We Have To Make A Couple Of Changes.

Those Are All Minor.

The Big Thing We Have Is The Two Changes We've Devote To Make Quite A Few Changes Because Of Senate Bill 360 And House Bill 697 And That's Going To Be A Very Large Part Of Our Work Program For Next Year We'll Talk To You More About When We Do Our Core Level Of Services Discussion And Also Monday When We Do Discussion Community Plans.

But That's A Very Huge Item.

If We Can't Finish It Up, We'll Fold It Into The E.I.R. Process We've Got To Start.

A Small Amendment To The C.I.P.

For The Cleanup On The School District C.I.P.

Amendments Proposed For Paige Field And Southwest Airport.

Conservation Land Item That We Have To Make Some Properties That Already Are Purchased By The County.

We Have To Redesignate Them Conservation.

Then We Have Sewer Service On Pine Island That Came Out Of That Amendment That You All Just Looked At.

We Said We'll Wait And Have A Couple Of Workshops On Pine Island Before We Look At The Sewer Issue.

You Told Us Hold Off On That And Come Back Next Year.

And The Density Item From Last Week We'll Put In The Last Round Of Amendments.

This Will Put It Into The Next Round Of Amendments.

Yesterday Suggested Adding Four Amendments Which I Have That List If I Want To See It Or I Can Read It To You.

They Ask For Four Amendments But We Feel They Don't Need A Comp Plan, We Should Look At Them When We Do The E.I.R.

The First Is Road Concurrency To Encourage Infill And Discourage Sprawl.

And Also Want You To Initiate An Amendment For Possible Transportation Concurrency Exception Areas On State Road 82 And Want To City Methodology To Encourage Infill And They Also Want An Amendment To Proactively Evaluate The Impacts Of Babcock On Lee County.

The First Three, These Are Nice Things To Look At And Look At Them In Conjunction With The E.I.R. But Doesn't Need Its Own Amendments.

Babcock You Sent Back To Revisit That So I Don't Think There's Any Need To Initiate Any Of These L.P.A. Amendments.

We Can Look At Them While We're Doing The E.I.R.

Sorry To Make That Confusing Because I Thought You Had The List.

Which Isn't Even Finished.

You're Going To Be Hearing That Again On October 28.

Comm. Hall: Move The Items Listed As Listed.

Chairman Judah: Okay.

A Read In The Record.

Motion By Commissioner Hall.

A Second? Seconded By Commissioner Janes.

Commissioner Mann? Comm. Mann: I Was Going To Add To The Record That List Is On-Line.

It May Not Have Gotten Into Your Hard Copy Package.

I Read The Book, Not The On-Line Version.

Chairman Judah: Hearing No Objection Motion Passes.

Thank You, Mary.

Item 12-A? Comm. Hall: 5-A.

Chairman Judah: Motion By Commissioner Hall To Move On To 5-A.

A Second? Seconded By Commissioner Janes.

Further Discussion? Objection? Motion Passes.

12-A.

Comm. Hall: I Guess, Don, Do You Need To Give Us A Presentation? I'm Comfortable.

I'm Going To Move 12-A Which Is The Adoption Of The Connector Road.

Chairman Judah: A Second? Seconded By Commissioner Janes.

We Got Things Worked Out With Florida Rock With The Alignment? That's All Settled.

Just Want To Give Us A Yay On That One? Not About To Give Us A Yay? Okay, Done.

If They Sell That's Where The Alignment Is Going.

Comm. Bigelow: Looks Like The Appropriate Place.

Good Morning.

D.O.T.

The County Attorney's Office Can Tell You The Settlement But In Alignment Perspective We're In Agreement.

Comm. Hall: Great.

Chairman Judah: Commissioner Mann, Back To The Attorney's Office For A Second.

Comm. Mann: Just So I Understand.

This Will Be Part Of The Comp Plan Amendment We Are Taking Up? Comm. Hall: No, A Different Item.

Comm. Mann: Later On.

The Whole Mining Issue.

Chairman Judah: Within The Digr? Comm. Mann: Yeah.

This Item Is Just For The Word Alignment But Working With Florida Rock On A Proposed Settlement Of The Zoning Issues And The Comp Plan That Will Come To You Separately From Actually Setting The Alignment.

So The Issues Are Still Being Worked Out On All The Other Issues But This Is Just The Alignment.

Comm. Mann: So The Alignment Is A Done Deal And No Thread Still Dangling To Deal With In The Comp Plan Amendment.

A Lot Of Threads Dangling But Not The Alignment Itself.

Chairman Judah: This Is Going To Be Dedicated? No Impact Fee Credits? The Proposal And Settlement At This Time Is For The Credits For The Value Of The Land In Its Natural State.

Chairman Judah: Okay.

Great.

Go To The Attorney's Office For A Second.

You Want To Chime In At This Time? Comm. Bigelow: On What? What's The Question?

Chairman Judah: A Settlement Agreement.

We're Okay.

Chairman Judah: Okay.

Any Further Discussion? Any Objection? Commissioner Bigelow.

Comm. Bigelow: Thank You.

Don And Mary, I'm Going To Ask You Some Questions As Well.

Can You Give Me 25 Words Or Less Explanation As To Why This Isn't Following Alone Green Meadows Road? Why It Turns West At 82 Away From Green Meadows Road? Yes, Sir, Commissioner.

The Alignment Would Cause The Condemnation Of A Number Of Single Family Residential Property Numbers And Interview With Property For Jamison Farms.

Comm. Bigelow: West Of Green Meadows.

Right.

They Have The Rights To Use That Road For Their Farming Operations And A Roadway Alignment Would Impact Their Commercial Operations And A Dozen Of More Single Family Residences So It Was More Prudent And Actually More Environmental Prudent, We Hit Less Wetland Impacts Going Down The Jamison Property And A Willing Seller In The Jamison Property For That Alignment Which Should Avoid Condemnation Action And That Sale Will Be On Board Agenda Next Week.

Comm. Bigelow: Mary, Could I Ask You Some Questions? I Have The Same Problem I Had With The Extension Alignment.

Those Reviewing This By County Management Included Mr. Gillbertson, Transportation Director, Budget Analyst Don Lewis, Budget Services, Council Attorney, Public Works Director But I Don't See Our Community Development Department Which Includes Planning Has Reviewed This.

And How Then -- Actually We Were Involved.

I Didn't See The Item.

I Don't Know Why Don Forgot To List This.

Don Set Out Several Meetings, Met For Probably A Year And A Half Or More.

Matt Noble Was Involved.

He Worked With Don And Looking At The Wetlands And Some Of The Issues And What Made Sense For An Alignment Involved A Bit As Well Becky From Our Environmental Staff So We Have Been Involved In That Alignment.

Comm. Bigelow: Okay.

And Has It Been Included In Part Of The Drgr Comprehensive Planning Efforts And Has The Ad Hoc Committee Had The Opportunity To Consider The Alignment And The Impact That Future Growth Is Spurred By This? In The Drgr Committee Meetings, The Alignment Was Discussed In General Terms Brought Up In Several Meetings.

It Does Bring Up A Policy Issue When We Come Later That You Have It Decide On The Policy Issue Of Florida Rock Is Going To Ask You Where They Want The Mining To Be Shown On The Map.

You Will Have To Decide That Policy Issue.

Setting The Alignment Today Doesn't Preclude You From Deciding That Issue Later An Issue How Far East That Extends And Come Back Later This Month, That May Come Up Should

Florida Rock Mine Number Two.

The City Does Not Recommend Including All Of That Property, Just Part Of It.

That's The Policy Commission For You All, That's Probably The Biggest Issue.

But, You Know, Setting The Alignment Today Doesn't Preclude You Making A Decision On That.

Good.

So I'm More Comfortable That Sounds Like You've Been Engaged And Involved In The Drgr Planning Efforts.

When We Looking At The Plan Last Week, It Did Not Have A Show Extension Alignment That Would Go Through Lehigh.

Will This Alignment Be Overlaid On All Maps We Transmit? This Alignment In General Will Work That Into Some Of Their Proposal, A Mixed Use Where The Alignment Would Come Out.

And Jamison Farms People Have Been Attending All The Committee Meetings And Coordination On That.

Much More Comfortable This Has Been Factored Into Our Long Range Planning Efforts.

I'd Just Like To Suggest On Big Issues Like This Where We Build Future Roads, Get Mary, Get Her To Sign In Blood A Well.

All The Others Here, It Would Make Sense We Engage Our Community Planning Development Especially Our Planning Division.

That's A Suggestion.

I'm Good To Go.

Thank You.

Chairman Judah: You Made A Second, Did You Not? Obviously With Commissioner Mann Having To Leave, Just The Four Of Us.

Any Further Discussion.

Objection? Motion Passes.

Thank You, Mary.

Commissioner Mann.

Comm. Hall: Move 14-A.

Chairman Judah: All Right.

Motion By Commissioner Hall To Move 14-A.

Seconded By Commissioner Janes.

Objection? Discussion? Motion Passes.

14-B? Comm. Hall: Adopt To Amend.

Chairman Judah: Motion By Commissioner Hall? Do We Have A Second? A Second? Comm. Janes: I'll Second.

Chairman Judah: Discussion? Objection? Hearing No Objection, Motion Passes.

We'll Go On To Appeals Agenda At This Time.

You Going To Handle This? Good Morning.

Good Morning, Chairman, Members Of The Board.

Today Appeals Item Is The County Wide Surface Improvements Contract 23.

I've Outlined The Procedures And The Issue In My 9/23/09 Memo To The Board.

Soul Issue Today On This Protest Is Whether Or Not! I.P. Review Of A Process Meets The Requirements In The Bid Documents.

We Will Hear First From The Protestor Ajax Paving.

The Relation Time Allotments Are 10 Minutes For The Initial Presentation And Five Minutes For Any Rebuttal.

We Will Hear Second From The Recommended Awardee Hot And Place Paving.

And The Rebuttal.

And Finally If You Have Questions Of Me Or Staff You Can Ask Them After The Presentation And Rebuttal Have Been Presented.

At The Conclusion Of The Proceedings, The Board Will Have The Gem Options To, Number One, Uphold The Recommendation Of The Bid Dispute Committee, Deny The Protest And Award The Contract To H.I.P.

Two, Overturn The Recommendation Of The Committee, Accept The Protest And Award The Contract To Ajax Paving.

Three, Reject All Bids And Conduct Another Request For Bids.

With That, I Will Turn It Back To The Chair To Begin Presentations.

I'm Available For Questions At Any Point.

Chairman Judah: I Should Have Been Clear If Members Wanted To Comment It Should Have Been Done.

Right Now It's Just The Protestor.

Chairman Judah: Let Me Make It Clear, Though, If Anyone From The Public Wishes To Comment, They Are Welcome To Speak.

Seeing None, We'll Hear From The Representative Ajax.

Good Morning, Sir.

Good Morning.

Thank You, Commissioners.

My Name Is Mark Minnick Vice President Of Ajax Paving.

We've Been Doing Business Here In Lee County For 25 Years.

I'm Here Today With A Simple Protest.

We Are Protesting The Staff's Recommendation To Award This Project Based That We Feel That Low Bidder Is Unresponsive To The Bid Requirements And Clearly Unresponsive And Ask You To Overturn The Award Or Recommendation Of Award.

The Project Manual For This Job Clearly State The Bids Must Be Responsive To The Request For Bids And Legal Notice As Advertised Is County Wide Resurface Improvements.

And Legal Notice Also Says The Scope Of Work Is Road Resurfacing And Rebuilding Of Various Streets.

The Contract Clearly Calls For The Major Item Work To Be The Delivery Of 13,712-Tons Of S3 Asphalt.

It's Bid On A Unit Price Basis.

The Unresponsive Bidder Intends They Do Not Intend To Meet That Requirement.

They Are Not Going To Deliver 712-Tons To The County.

The County Staff Clearly Understands They Will Not Deliver 13,712-Tons Of Asphalt But Will Rejuvenate The Existing Roadway.

This Bid Clearly Represents A Change In The Words And Expressly Inhibited By Condition 12-1 Of Specifications.

We Are Here Talking About The Integrity Of The Bid Process.

We Intend To Be Doing Business 25 Years Here In Lee County And Why We Are Here To Talk About The Integrity Of The Bid Process And With That, That's All We Have To Say And Why We're Here.

Chairman Judah: Thank You.

We'll Hear From! I.P. Representatives? Good Morning.

Good Morning.

I'm In The Going To Do The Powerpoint.

I'm Frank, President Of H.I.P.

Paving.

We Are A Florida Corporation As Well.

We're Going To Hand Out Three Cover Pages From Three Existing Contracts And I'd Like To Point Out All Of Them Are County Wide Resurfacing Contracts.

The First One On The Top Page Is Dated December 11.

If You Read In The Bottom Left Corner It's Highlighted.

Item 3.

It Specifies An S-3 Plant Mix.

Page Two, February 26, Again Specifies An S-3 Plant Mix And The Funnel Page Which Is The Contract In Question Does Not Specify An S-3 Plant Mix Because It Was Intended To Allow Us To Bid This As An Alternative Bid With A Recycling Process.

There Are Many Items In The Contract Which Do Not Exist.

Section 320 And 321 Which Specify Conventional Equipment To Complete The Mix And Deletes The Issue Of Trucks Delivering Material Because That's In Section 320.

We Are A Responsive Bidder.

We Did Complete The Road On Pine Island In 2003 And It Is Still There Today, Which Is The Reason Why The County Has Proceeded With This Green, Totally Green Acceptable Process Saving The County Money.

I Granted You Today In Today's Economic Environment Things Are Tough.

Getting Work Is Not Easy, Prices Are Low.

I'm Pretty Sure You Would Find If You Go Back To 2004, Prices Today Are Comparable To 2004 Prices Even Though The Price Of Oil Is Up Significantly From Then.

Labor, Equipment Purchases, Overheads Are All Up.

I Understand The Attempt To Overturn The Contract And The Recommended Award.

However, It's Not Often That You Get A Totally Green Process That Saves Money.

This Is An Exception To That Rule.

It Is The Low Bids.

If You Look At The Bid, It's Approximately \$1.3 Million Is What The Budget Was, Came In At Under \$900,000.

That's A Significant Savings.

That's Competition.

That's Competitive Bidding.

The Fact That The 13,700-Tons Referred To Earlier Is Already On The Roads And Delivered To You Once Already And Recycled 100% To Make A Florida D.O.T. Specs-3 Mix Isn't Really An Issue.

If You Would Prefer To See All The Trucks Running Back And Forth As Opposed To Doing It Onsite And Being Proactive In The Environmental Arena, Then The Method We Are Proposing Would Be The Preferred Method.

We Were Not Allowed To Bid The Other Two Contracts And It Was Made Clear To Us By Your Transportation Department, That's Why The Items Are In The Bottom Corners.

This Contract, On The Other Hand Was Made Very Clear To Us We Are Allowed To Bid It.

I'd Like To Point Out That In Three Previous Bids To This One, We Were Not Low Bidder.

And At No Time Did Any Of The Other Contractors Make Mention To Anybody Why Is This Being Allowed To Bid Competitively With Us.

But The Minute We Are Low Bid, It's An Issue.

I Would Think If They Had A Problem With It, It Should Have Been Brought Up Three Years Ago, Not Today Before You.

I Have Spent A Lot Of Time In Florida Here.

We Are From Central Florida.

We Build And Sell This Equipment.

We Designed This Particular Operation.

We Have Proven It In This County And With The State Of Florida.

The Issue Of Whether Or Not We Are Competent Contractor, It's A Bonded Job So We Are Providing A Bond.

We Have Completed Work Here In The County Before.

We Work For Many Other Cities, And I Would Just Appreciate Your Voting In Favor Of This.

Thank You.

Chairman Judah: Thank You.

And A The Process Goes, We Offer Rebuttal For Each Of The Parties.

Comm. Bigelow: What Is That? Chairman Judah: Typically It Doesn't Make A Sound.

You Know What? We Better Get Somebody Here.

Comm. Bigelow: Anybody Have A Hammer? Chairman Judah: We'll Be Okay For Now.

You Have Five Minutes, Actually.

Good Morning, Mr. Commissioner And Mrs. Commissioners.

Nice To Meet You This Morning.

I'm An Attorney With The Law Firm Out Of Charlotte County General County For Ajax Paving.

The Reason I've Been Asked To Do The Rebuttal Is Because You Have A Memorandum With Your County Attorney Associated With The Law On The Matter.

The Issue Is Whether Or Not Should Is A Responsive Bid.

We Are Not Here Questioning Responsibility Or Qualifications, It's A Question Whether Or Not It's Responsive.

The Law On These Cases And You Have A Memorandum Says You Have Wide Discretion In Granting Any Type Of Contract.

However, It Says You Must Do So By A Clearly Defined Criteria.

Once You Have A Clearly Defined Criteria You've Precluded From Acting Arbitrarily For The Purposes Of Awarding A Bid.

What We Are Talking About In This Contract Is Clearly Defined Criteria.

He's Showing You Front Pages Saying We Don't Have To Bring The Asphalt.

I'd Like You To Look At The Bid Document Which Is Page D-2-B Of The Bid.

What It Says Specifically Is They Are Required To Provide You 13,712-Tons Of Asphalt Type S-3.

The Bid Package Includes 1991fdot Specs Which Do Not Allow For Rejuvenation Process.

Under 13.1 Requires, And I Quote, All New Material.

There Is Nothing With Regard To The Current Bid In Front Of You That Specifically Allows For The Rejuvenation Process.

It's Just The Opposite.

It Is Not Permitted.

A Requirement For All New Materials.

What I'd Like To Note To You Also Is Section 12.1 Of The Bid Document Specifically Says While You Have The Wide Discretion That Law Provides You, You Do Not Have It In Circumstances And Again, Under Your Own Documents, When It Comes To A Change In The Work.

Can Be Little Doubt This Particular Bid Process Requires 13,712-Tons Of Asphalt To Be Delivered And They Told You They Are Not Going To Deliver That To You.

A Totally Different Process Set Before You In This Bid Package.

One Thing Ajax Is Here Is For One Thing And One Thing Only And That's Maintaining The Integrity Of The Bid Process.

If You're Going To Have A Process And Say Which Items Are Allowed And Which Are Not.

By Going Forward With This Process You're Not Doing That.

You Are Saying We Did Not Say This Could Be Bid.

We Are Requiring Something Different But We'll Wave That Despite What Our Documents Have.

The Questions Here Are A Couple.

Number One.

Is The Rejuvenation Process Allowed? If The Answer To That Question Is, No, Section 12.1 Of The Bid Documents Say You Are Not Allowed To Change The Scope Of Work Or The Type Of Work.

Number Two And Going To Be Here To Back Up In Rebuttal, Ask One Question, Are You Going To Deliver The 13,712-Tons Of Asphalt We're Paying For.

If The Answer To That Question Is, No, Then Two Options.

Reject The Bid And Award To Ajax Or, Three, Reject All Bids Which Is Your Right And Allow Ajax To Rebid And Rebid This Process Openly And Preserve The Integrity Of The Bid Process.

Thank You For Your Courtesy.

Chairman Judah: Thank You, Sir.

We'll Go To H.I.P.

My Attorney Goes On Now.

First Of All They Are Allowed To Recycle 30% In The Mix From The Plant.

The Mere Fact That Conventional People Are Allowed To Recycle 30% And The Only Reason They Can't Recycle More Is They Can't Make A Quality Mix That Would Meet The Fdot Mix.

The Fact They Are Allowed To Recycle 30% Allows Them To Rejuvenate 30% So His Argument We Are Not Qualified Or Out Of Spec Is Nullified By The Fact They Are Allowed To Put 30% In And Bring It Back To Life.

We Are Capable Of Doing It 100%.

What's Wrong With That If It Can Meet Spec? Two, The 13,500-Tons He Is Eluding To Is A Theoretical Measurement Of Asphalt Required.

It Is Established By Predicting, Or Measuring Each Road And Predicting The Amount Needed.

Each Has A Quantity Of Asphalt.

It's Done By Theoretical Measurement.

Length Time Width Divided By 9 Square Yards.

150 Per Square Yard.

Ask Your Engineering Staff.

We Are Reversing That.

Getting Paid Length By Width Divided By 150-Pound Is A Ton.

That's It.

It's Very Simple.

It Already Has Been An Open Bid.

It's Been An Open Bid For Four Years And Now It's A Protest.

To Argue That It Should Go Back To Bid Again Is A Waste Of The County's Money And Time.

The Prices Probably Won't Get Any Better Or Maybe They Will Because They May Drop 25% Just To Keep Us Out To Your Benefit.

Wouldn't Be Fair Competition For Me, Of Course, But That's Your Privilege To Do That.

I Don't Believe That When We Come In And Do Our Recycling Method And The Fact That We Preserve All Your Existing Roads.

There Is No Traffic From Trucks And Public Convenience From Truck Traffic Cutting Cars Off And Road Closures Unnecessarily And Lineup Of Trucks For Two Miles, We Have A Small Operation That Moves Down The Road Very Efficiently.

So 13,500-Tons They Claim We're Not Delivering, Our Equipment Has An Accounting System.

If That's How You Want It? We'll Keep Track On The In.

It Was Agreed They Would Do It Theoretical Based On 150-Tons Based On 150 Making Sure There's An Inch And A Half There.

It's Common Practice With The D.O.T.

For Anyone To Argue That D.O.T., The 1991 Spec Which Is Outdated, I Grant You That, For Anyone To Argue We're Not Qualified, We Do Work For The Fdot.

We Have Two Contracts With The Fdot Right Now And More Coming.

Again Choice Is Yours.

Thank You.

Thank You, Sir.

If You Could Come Back Up.

Chairman Judah: Questions? Just.

The Documents What Was In It And What Was Not? What Was Required? To Complete Evaluate The Protest, We Have To Go Back A Couple Years To The Review Of The Rejuvenation Process And History And D.O.T. Folks Can Elaborate More On The Technical Side Of It.

But Essentially The County Bids Three Categories Of Repaving Contracts.

Number One Is The County Wide Locals.

Two Is County Wide Lehigh Acres Locals And Three Is The County Wide Collectors.

Back In 2008, You Sigh Two Protests Here.

The Rejuvenation Process And The Standard Process.

In 2008 Our Staff Attempted To Put Together A Big Contract In Order To Allow Both Of Those To Bid On The Contract.

In Their Attempt Initially Rejuvenation Processes Were Banned From Bidding On All Three Of These Contracts But An Adjustment To The Notes In The Plans In 2008 For The Intent To Allow Rejuvenation Guys To Come In And Bid On Our Contracts.

Is That The Notes On The Lower Left Hand Corner? That's Correct.

Yes, Sir.

B-09-39 County Wide Resurfacing In 2008, During That Prebid Meeting, Misintent Was Articulated They Were Going To Bid On The County Wide Project.

They Are Precluded From The Other Two Resurfacing Contracts.

That Process Went Ahead.

Neither Of These Parties Were Awarded That Contract.

No Bid Protest Was Filed.

A Year Later The Same Project Was Bid, Same Specifications And H.I.P. Was The Recommended Award Winner.

Same Intent, County Staff To Include The Rejuvenation Process.

There Is Acknowledgment By Staff We Could Have Articulated Our Intent Better, But The Intent Remains The Same To Allow Rejuvenation Process On This Particular Contract.

And There Is A Section In The S-Dot Specks And Everyone Is Citing 1991spec, Allowed To Be Included In Notes Within The Plans.

Chairman Judah: Commissioner Hall.

Comm. Hall: It's Always Great To Have Intentions And I Go Back To What I Right Down.

Obviously A Gray Area.

It's Very Ambiguous To Some Degree Because You're Not Consistent.

You're Making Notes Here And Other Notes Through The Document.

We Have To Clean That Up.

We Can't Have Page 1 Say This As You Go It Insinuate Something Else And Where The Frustrating Part Lies Is The Inconsistency On The Document As A Whole.

So That's Very Frustrating To Me.

No Question I Could Not Understand Why You Would Prohibit Rejuvenation With Resurfacing Projects Ever If They Meet Specifications.

That's Something We Should Have Been Doing Years Ago.

Now That It's Understood It's A Good Process To Pursue, The Question Here Was It Reasonably Understood By All Parties Bidding Rejuvenation Was Acceptable When We Are Told There's Wordage In The Document That's Not Allowed.

Good Morning, Randy With D.O.T.

The Reason We Precluded The Recycling Contract Is Their Machine Is 300' Long With Two Big Reheaters And The Recycling Part Would Not Negotiate In The Neighborhood Roads Which Are The Recycling Contracts.

Lehigh And County Wide.

We Opened It Up For Them To Bid On The Third Contract.

Chairman Judah: Go Ahead.

Go Ahead, And I'll Follow.

I'm Kind Of Stuck On Details Here.

Getting More And More As We Progress, So That's Good.

The Rejuvenation Process If I Understand Based On Everything I've Heard Is Basically A One, Two, Three Process.

Pick It Up, Rejuvenate Which Is To Make It New, And Then Apply.

It's About Four Tractor-Trailers In Length.

The First Two Just Heat Everything.

The Road Comes Up Into A Pile.

They Add New Oil To Rejuvenate It And The Last Component Is Standard Laydown Machine Which Makes A Standard Pass And Roll Behind It.

I Generally Got It Right.

The More Conventional Process Takes It Up, Removes It, Take It Away, Brings In Batch-Asphalt And Lays It Down.

Correct.

Comm. Bigelow: We Have To Decide Whether Or Not The Language Is Appropriate To Allow For This Rejuvenation Process.

Got Ya.

We Could Learn A Lesson, But We Could Benefit From Agreeing Technology.

Yeah.

That's The Dilemma Here.

Chairman Judah: If I Could, If The Bid Documents Say We Are Required To Provide All New Material And Does Not Allow Rejuvenation Process And That's What Ajax Is Contending.

I Didn't Think It Says It's Not Allowed Rejuvenation Process.

Our Intent, We Struggled In A Way To Make This Process Biddable, If You Will.

We Told Them Not To Bid On The First Two Contracts In The Neighborhoods Because The Machine Is Too Big And Opened It Up For The Collectors.

And The Best Way Was To Put It On The Cover Sheet On The Other Two Contracts, You Shall Supply Brand New S-3 Plant Mix.

We Left That Off On The Arterial And Collectors What Was Happening So Surely Our Intent.

We Should Have Done A Better Job And We Will In The Future To Make It On Every Intent.

That Was Our Intent And Wrote It On The Front Page.

Chairman Judah: Corroborate With What You're Saying And Has To Be Intent And H.I.P. Did Follow Contract.

Comm. Hall: Mr. Chairman.

You Have Documents That Are Not Articulating What You Want Done.

You're In Conflict With Your Own.

Documents Behind It, The 1991fdot Specs Had Materials, The Kind We Used.

Fdot Doesn't Do Local Roads.

I Don't Think It's Said We Could Use That Asphalt.

We Said You Didn't Have To Supply Brand New Plant Mix.

By Saying You Don't Have To Supply Plant Mix, We Thought The Spec Mix Didn't Matter At That Point In Time.

Comm. Hall: Got You.

I Wish I Had E.S.P. So I Could Understand What You Meant.

It's Frustrating To Be Here And Be In The Middle Of A Bid Protest When It's Easy To Document.

Not Just The Cover Sheet.

Swapping Out Cover Sheets And Not Looking Up The Documents Behind The Cover Sheet.

It Frustrated Me.

It's Like The Devil Is In The Detail And Comes Up Over And Over And I Don't Know What It Takes To Word Smith Our Documents Where We Do Millions And Billions Of Dollars Worth Of Work.

I Don't Know Unless It's In The Backup Here But To The Terms Of The Bid Documents Specifically Prohibit? Commissioner Judah Was Referring To Some Language.

No, There Is Nothing In The Bid Documents That Specifically States The Rejuvenation Process Is Prohibited.

It's Read Into What Is Allowed In The Fdot Specs And That's Plant Material.

Specifically Says Plant-Produced Material.

The F-Dot Book Describes How To Make Supplies And Ship Plant Material.

It Was Our Intent Not To Have That Spec Part Of It.

Why We Did Not Put That On The Cover Sheet.

You Wouldn't Have To Supply The Material.

I Agree With You.

I Like The Rejuvenation.

You Had No Issue.

The Issue Is A Document.

Cover Sheet That Says One Thing And The Documents If I Read Them.

I Can't Believe Someone Didn't Ask And Get Classification Specifically And I Appreciate You Saying It.

There Lies The Rub.

I Don't Know What You Want To Do.

I'm Aggravated.

Clearly After Discussion Today What You Are Referring To Is Going To Happen.

We'll Get Everything In Sync But Hearing From Council Legal Has Met The Bid Specifications And, Yes, I Fully Support Rejuvenation And Manage Our Resources.

Ajax Has Done Work For This Community And Suspect A Lot More Work That They'll Be Able To Do In The Future.

At This Point In Time I Don't Want To Encourage Or Invite Another Potential Challenge From H.I.P. By Reversing The Decision To Award The Contract By H.I.P.

Comm. Hall: I Have A Hard Time Rewarding Documents That Can't Be Written Right.

I'm Frustrated And Makes Me Uncomfortable For You To Say We're On Solid Legal Grounds.

It's Vague Enough To Be Legal.

That's What I'm Hearing From You.

It's Vague Enough To Be Legal Because There's A Cover Sheet That Had An Intent And The Rest Of The Documents Kind Of Gave That Intention.

Because They Specifically Didn't Say No, We Are Vaguely Legal.

Previous Projects In Prebid Meetings Where It Was Stated That H.I.P. Would Be Allowed To Bid With The Rejuvenation Process.

Comm. Bigelow: Can I Ask A Question? You Say Your Intent Is Clear On Special Notes? You're Saying That The Intention Was Clear In The Special Notes? Right? That's What You Said? In The Special Notes In Addition To The 2008 Prebid Meeting On The Previous Project.

Looking At The Notes, I'm Not Sure, I Don't See How That Intent Is Made Clear.

Shall Be Plant Mix.

We Removed That From The Arterial And Roadway Plan Sheet.

Comm. Bigelow: Seems Like If You Wanted To Be Clear About Your Intent You Would Have -- We Have Acknowledged It Could Have Been Better Stated.

Comm. Bigelow: Seems Rejecting And Conducting Another Request For Bids Is The Way To Go.

I'd Be Interested In Hearing From Commissioner Janes For Any Further Discussion.

I'm Fence-Sitting Here.

Chairman Judah: Sure.

Commissioner Janes? You Want To Weigh In? Comm. Janes: I'll Weigh In If I Feel The Need To Weigh In.

Chairman Judah: And I Appreciate Discussions Taking Place.

I'm Thankful That The Process Came Before The Board To Make Sure That In The Future We'll Have That Continuity Through The Bid Documents That We've Been Discussing.

It's Pretty Clear With The Cover Sheet Here That The Asphalt Mix Was Not Required.

I Would Suggest Go Out And Rebid, Commissioner Bigelow.

For The Sake Of The Cost Involved And We Have A Good Price On This Project That's Legally Substantiated By Council, I See No Reason To Overturn The Contract To Award The Contract To H.I.P.

They Both Have Valid Complaints And Suggesting Starting Anew To Recognize The Validity Of Both Complaints.

Chairman Judah: We'll Attend A Motion.

Comm. Bigelow: Do We Know When The Fifth Commissioner Will Be Back? Chairman Judah: He Will Not Be Back.

Comm. Bigelow: I Don't Know If A Motion Either Way.

Comm. Hall: Pass On The Gavel If You Want To Make A Motion.

Chairman Judah: Let Me Make The Motion To Reward The Contract To H.I.P.

Comm. Hall: I Have A Motion.

Do I Have A Second? A Second By Commissioner Janes.

Any More Discussion? All Those In Favor? Opposed? Chairman Judah: So 2-2 Deadlock?

Comm. Hall: 3-1, Commissioner Bigelow Intended.

Comm. Bigelow: I Thought You Asked Who Is In Favor.

Comm. Hall: And Then I Said Opposed.

3-2 Commissioner Bigelow Opposing.

I Pass The Gavel Back To The Chair.

Chairman Judah: By A 3-1 Vote We Are Upholding The Contract.

For Clarity.

Very Good.

Comm. Janes: I Just Want To Make One Comment And I Hope This Is A Lesson To The Staff Do Not Come Up To The Board Because That's What You're Going To Get Is Us Picking Through Grits And We Don't Have Enough Time To Do That.

We Need To Do A Better Job Getting This Stuff Before Us.

I Can Concur With Commissioner Hall.

We Need Clarification And A Better Way On This That's Understandable For Everybody.

Commissioner Bigelow? Can I Say Actually Very Good That It Turned Out Your Way In One Respect And That Is That This Is A New Process We Should Be Embracing More Whole Heartedly Clearly And Ajax We'll See The Same Services Being Offered By Your Company.

Chairman Judah: Walk On Item 1.

Comm. Hall: Move A Adopt A Resolution For Paper Ballots? Chairman Judah: Seconded By Commissioner Janes.

We'll Make Sure Because I Know They'll Going To Speak To The Deadline.

We'll Include This On Our List Of Priorities.

Any Further Discussion? Objection? Motion Passes.

Walk-On Two? A Motion By Commissioner Hall.

A Second By Commissioner Janes.

Do We Have An Amended Version? Did I See It At The Last Minute Or The Original Submittal To The Board? Comm. Hall: I Believe Holly Was Rewording It.

A Couple Words Missing.

Just An Update.

So You Added Verbiage Which Is The Final One.

You Added Verbiage Which Is The Final One Which I Believe Is In Front Of You.

Adopting The One Behind The Walk-On Backup.

Comm. Hall: Yes.

Chairman Judah: Yes.

Comm. Bigelow: No, No.

9/28, 2:30 P.M.

Chairman Judah: I Apologize.

Commissioner Bigelow, I Appreciate You Making Sure We Have Clarification On What We Are Adopting.

I Received A Last-Minute Document Here That Indicated There May Be Amendments To The Resolution And I Wanted To Make Sure And Here It Is.

The County Manager.

Comm. Hall: 9/28, 2:30 P.M.

Chairman Judah: Correct? Comm. Bigelow: A Second Whereas? Whereas Tax Revenues Generated 78 Million Direct Impact? Yes.

Chairman Judah: Okay.

Comm. Bigelow: We're Clear Once Again.

Chairman Judah: Any Further Discussion? Objection? Hearing No Objection, Motion Passes.

Walk-On Item 3? Comm. Hall: I Move The Item To Budget Amendment.

Chairman Judah: Do We Have A Second? Seconded By Commissioner Bigelow.

Hearing No Objection.

Motion Passes.

Walk-On Item 4.

Comm. Hall: I Move The Item.

Chairman Judah: Motion By Commissioner Hall.

Discussion? Commissioner Bigelow? Doug, If You Want To Step Forward.

Comm. Bigelow: This We Received At 8:30 This Morning.

The Ones We Throw On The Agenda The Morning Of.

Can You Tell Me This Is Again Another Selection Committee Where Public Works Director, Yourself, Utilities Director, Project Manager Under You All Served Together On The Committee? Comm. Hall: I'll Move The Item? Chairman Judah: Move By Commissioner Hall.

We Have Discussion.

Anything Else, Commissioner Bigelow? Discussion? Objection? Motion Passes 3-1, Commissioner Bigelow Dissenting.

Thank You, Doug.

There Are No Carry-On Items.

Commissioner Items? Commissioner Bigelow? Comm. Bigelow: I Don't Have Any.

Comm. Hall: None.

Chairman Judah: And I Have None.

Commissioner Janes? Comm. Janes: No.

Comm. Hall: I Have Two New Appointments To The Community Action Neighborhood District Of Pomona Park.

Chairman Judah: Seconded By Commissioner Bigelow.

No Objection.

Motion Passes.

Commissioner Janes? Comm. Janes: I Have Several, Mr. Chairman.

Two Reappointments By Commissioner Mann On Ammo To The Advisory Committee And The Advisory Committee.

I Have Jack Left To The Advisory Committee.

That's My Appointment.

And Also My Reappointment To The Advisory Committee And Walter Frugal To The Advisory Committee.

Comm. Hall: Second.

Chairman Judah: This Concludes Commissioner Mann's Appointments As Well As Commissioner Janes.

A Motion By Commissioner Janes.

Discussion, Objection, Motion Passes.

Take Up The Motion For Ricardo Vallaro.

Comm. Hall: So Moved.

Chairman Judah: We Have A Second? Seconded By Commissioner Bigelow.

Objection.

Discussion.

Motion Passes.

County Manager Items? County Attorney Items? Thank You Very Much.

We Are Recessed Until 5:05.