

October 22, 2002

TRANSCRIPT OF THE MEETING OF THE
BOARD OF COUNTY COMMISSIONERS
Naples, Florida, October 22, 2002

LET IT BE REMEMBERED, that the Board of Commissioners,
in and for the County of Collier, and also acting as the Board of
Zoning Appeals and as the governing board(s) of such special district
as has been created according to law and having conducted business
herein, met on this date at 9:00 a.m., in REGULAR SESSION in
Building "F" of the Government Complex, East Naples, Florida, with
the following members present:

CHAIRMAN: Jim Coletta
James D. Carter, Ph.D.
Donna Fiala
Fred W. Coyle
Tom Henning

ALSO PRESENT: Jim Mudd, County Manager
Leo Ochs, Assistant County Manager
David Weigel, County Attorney

Item #2A –#2i

REGULAR, CONSENT, AND SUMMARY AGENDAS –
APPROVED AND/OR ADOPTED WITH CHANGES; MINUTES
OF SEPTEMBER 18, 2002 BUDGET HEARING, SEPTEMBER 24,
2002 REGULAR MEETING, SEPTEMBER 27, 2002
CONCURRENCY AND LDC WORKSHOP; SEPTEMBER 27,
2002 EMERGENCY MOSQUITO CONTROL MEETING,
SEPTEMBER 30, 2002 CRA MEETING, OCTOBER 2 AND 3,
2002 VALUE ADJUST BOARD MEETINGS, AND OCTOBER 4,
2002 LDC WORKSHOP – APPROVED AS PRESENTED

CHAIRMAN COLETTA: Why don't you make us live and we'll begin.

Would you all stand, please. The invocation today will be given by Father Andrew Malarz.

Sir, would you come up to the podium, please.

FATHER MALARZ: Sure. In the name of the Father, the Son, the Holy Spirit, amen.

We stand before you, Holy Spirit. Come to us, remain with us and enlighten our hearts. Give us light and strength to know your will, to make -- to make it our own, and to live it in our lives.

Guide us by your wisdom, support us by your power, for you are God, share in the glory of the Father and the Son.

You desire justice for all, enable us to uphold the rights of others. Do not allow us to be misled by ignorance or corrupted by fear or favor. Unite us to yourself in the bond of love and keep us faithful to all that is true.

As we gather in your name, may we temper justice with love so that all our decisions may be pleasing to you and earned (sic) every word, promise to good and faithful servants.

CHAIRMAN COLETTA: Thank you.

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(The Pledge of Allegiance was recited in unison.)

CHAIRMAN COLETTA: Well, good morning, fellow Commissioners.

COMMISSIONER CARTER: Good morning, Mr. Chairman.

COMMISSIONER FIALA: Good morning.

CHAIRMAN COLETTA: And here we are again. What we're going to do first is go to Mr. Mudd. And before we go to the rest of the commission to hear about possible changes to the coming agenda, we have a -- at least one public speaker.

MS. FILSON: Yes, sir.

CHAIRMAN COLETTA: One public speaker, and then we'll go down the line here for the consent agenda.

But first you, Mr. Mudd.

MR. MUDD: Good morning, Mr. Chairman. We have a couple of changes today. The first is to add item 5(A). The tax collector told me he had a check for us, and it was in such an amount that I figured he could break into the agenda at no problem whatsoever, so -- and I wanted him -- to get him up front so he wouldn't change his mind. So that's item 5(A), a presentation by the tax collector.

We have a request from the petitioner to continue item 7(B) to November 19th, 2002, to the Board of County Commission meeting, and that's the variance request for the Manatee Resort Condominium Association.

COMMISSIONER FIALA: My goodness.

MR. MUDD: Commissioner, I'm going to need a vote for that continuance. This has been continued a number of times now from the springtime. And what I would also ask you to do is -- they need to either -- and I think Commissioner Carter knows this better than not. They need to -- they need to do this right or forget about it, because continuing it and continuing it and continuing it, it's got to stop. And I haven't seen a whole lot of movement. I don't think he has either, but he's been promised some things, so -- there's a request

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by the petitioner to continue, and I need a vote from the board in order to do that, because this has -- this has happened several times.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: What took place in a meeting yesterday afternoon brought some new information to the table, some new ideas, and I think legal counsel probably can best address the board on that.

And it was my feeling that what they needed to do is have it right before they brought it to the Board of County Commissioners, that we did not want to be in a position where they were thinking something and where they did not have the approvals of staff or our legal counsel to bring it to us and not continue to muddy the waters that are already stirred up enough.

So on that basis, I -- as I left that meeting, I said, perhaps they should ask for a continuance to the next meeting in order to resolve this.

But Counselor, you may have additional information you want to give to the board before they make that decision this morning.

MR. WEIGEL: Thank you, Commissioner Carter. And I note that counsel for the petitioner is here today, Mr. Austin White, who may have a few remarks also.

In our discussions yesterday, internally as well as with representatives for the petitioner and residents of -- owners of the Manatee, the discussion that we had was that, in fact, they were working with the residents in the area there, and they know as well as we, the legal staff know, that the petition before this board today is not the, quote, ultimate fix to the issue and problems that they have.

It has to do with the variance concerning the, quote, hotel operation, closed quote, of the premises. And there is the potential for, if not the perfect fix -- there probably is no perfect fix here -- but there is the potential to approach a kind of fix which recognizes the residential aspects of the operations of this facility, yet still an issue

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concerning absolute density and the ability for the 19 units to exist there as they -- as they presently do.

From that standpoint, I think there's utility in granting a few more weeks as a potential site development plan revision comes forward.

To the extent that there are residents in the area that -- who have been concerned with the issues there, I think Mr. White can comment to you factually and provide you also his opinion as to how things are working in the community there. We're attempting to be solution-oriented. County attorney office, too, is unhappy with the length of time it's taken for us to get here.

And as assistant county attorney Jennifer Belpedio has told the Code Enforcement Board previously and will tell the Code Enforcement Board again on Thursday, two days from now, the county attorney office is prepared to prosecute the case before the Code Enforcement Board.

But if we're looking for a solution, it's more than mere enforcement of the kind that the Code Enforcement Board can provide at this moment. At the same time, I'd invite Mr. White to come up and address you, too.

MR. MUDD: Commissioners, while Mr. White comes forward, the one thing I will address as far as the staff's participation in this particular Manatee development, we have turned over our investigation plus the appeal that I was the appellant for for one of our employees that we let go because of this particular item. We've turned over that entire file to the State Attorney's Office for further investigation.

AUSTIN WHITE: Good morning, Mr. Chairman, members of the commission. My name is Austin White. I'm an attorney. I represent the Manatee Resort Condominium Association.

And just to follow up on what Mr. Weigel said, we have been working with staff and with the neighborhood associations to try to

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resolve an acceptable solution to this matter.

At our hearing before the planning commission on the variance, it became clear to us that nobody wanted to support hotel use there. The neighbors did not want hotel use, the unit owners did not want hotel use, nor did the surrounding residents want hotel use. Everybody wanted to see residential use there.

So since that time we've gone back. We are working on an amendment to the site development plan, hopefully which will allow for residential use. We are continuing to meet with the neighbors. The neighboring associations had requested that we ask for a continuance of this matter today so that we can continue to meet.

In fact, we have a meeting set tentatively with members of the county staff and the neighborhood associations and the unit owners for next week, next Monday. We set that last night. After meeting with Commissioner Carter, we had another meeting with the neighbors, and that's what they wanted to do.

I advised them that we had submitted a motion for continuance. I don't believe any of them are here today because I -- I didn't think it would be heard. So if they're not here, that's because of me telling them there would be a continuance.

We would ask your indulgence to let us work for another two weeks, or four weeks, I guess, to continue to try to arrive at a solution that's acceptable to the county, to our unit owners, and to the neighborhood associations. For that reason, we respectfully request you grant this continuance.

CHAIRMAN COLETTA: Commissioner Carter, would you like to make that motion?

COMMISSIONER CARTER: I would move for a continuance of item 8 --

COMMISSIONER HENNING: Second.

COMMISSIONER CARTER: -- B.

COMMISSIONER FIALA: 7(B).

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COMMISSIONER CARTER: 7(B). I'm sorry, item 7(B), to a future date where this issue can be resolved and presented to the Board of County Commissioners.

COMMISSIONER FIALA: Second.

CHAIRMAN COLETTA: It's -- well, I think we have a motion -- do we have a second from Commissioner --

COMMISSIONER HENNING: Second.

CHAIRMAN COLETTA: -- Henning.

COMMISSIONER HENNING: Can we clarify November 19th this would be heard? That's -- Commissioner Carter?

COMMISSIONER CARTER: That's fine. I'll include in the motion to be heard on November 19th.

COMMISSIONER HENNING: And included in the second.

CHAIRMAN COLETTA: Okay. So we have a motion from Commissioner Carter, a second from Commissioner Henning. Is there any discussion or questions?

Hearing none, all those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

AUSTIN WHITE: Thank you.

CHAIRMAN COLETTA: Thank you very much, Mr. White. I'll come back to you.

MR. MUDD: To continue, Mr. Chairman, we need to add item 13(A) to the packet. There are some precinct lines and correction mapping errors that need to take place before the election, and the supervisor of elections will be here in order to present that particular document. It is in your packet. It's -- again, we're going to add item 13(A).

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Next item is, we're going to move 16(B)(1) to 10(G), and that's at the request of Commissioner Coyle, and that's the agreement for the Florida Department of Transportation to receive \$7.45 million in the Transportation Outreach Program.

The next item is to move 16(E)(3) to 10(H), and that's to approve the first amendment to a lease agreement with Arnold Properties for one additional year's use by the sheriff's office, and that's at the request of Commissioner Fiala.

And that's all the changes I have, Commissioner Coletta.

CHAIRMAN COLETTA: Thank you very much, Mr. Mudd.

What we're going to do now before we go down the line here with the commission -- and sorry, I didn't mean to miss you, Mr. Weigel. Go ahead.

MR. WEIGEL: Thank you. I'd like to note for the board and for the record that item 16(B)(8), which is on the consent agenda, in the published packet does not have a copy of all the exhibits, so I'd like for the board to recognize -- and you've had distributed to you, a document with all of the exhibits and that they be accepted into the record for 16(B)(8), and we'll provide that to the clerk assistant here.

CHAIRMAN COLETTA: Thank you, Mr. Weigel.

And we have one speaker; is that correct, Mrs. Filson?

MS. FILSON: Yes, sir. You have one speaker, Mr. Nelson Warner.

MR. WARNER: Good morning, Mr. Chairman, lady and gentlemen.

I have a --

CHAIRMAN COLETTA: For the record, sir? I'm sorry. That's -- right up here. For the record, your name, Mr. Warner?

MR. WARNER: Nelson Warner.

CHAIRMAN COLETTA: Thank you.

MR. WARNER: I am a private citizen. I have a permanent throat condition that may affect my voice. And if I'm having trouble,

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I'll ask Mr. Ochs to read my statement.

Yesterday noon, as I only had deputy county (sic) Manalich's Email address, I sent him a draft copy of this presentation. I did not receive a reply.

I suggest that the performance evaluation of County Attorney Weigel be tabled until a new board can schedule a workshop to determine his fitness to serve.

Last January and February I wrote to most of you and met personally with some of you about Weigel. I had no success.

One of you was not interested and used the putdown phrase, we must move on. Another commissioner told me that he recognized that I wanted him to take positive leadership in dealing with Weigel, but then he went on to tell me that as long as Weigel gave him what he wanted, he wasn't going to do anything being Weigel.

It was a personally worrisome day for another commissioner who took no notes, and the subject was buried.

This board later moved to increase Weigel's salary outrageously to be more than five thousand (sic) dollars a year, and that paid the assistant to the president of the United States and chief White House counsel, Mr. Alberto Gonzalez.

I am convinced that Weigel works only for himself and will do whatever it takes to keep his job. Thus I have nicknamed him the enabler.

On January 16th, 1998, I met with Weigel to discuss ethics. On my list of prepared questions, I asked about the \$1,500 golf tournament tickets. Quote -- what I read to him, you are quoted in the Naples Daily News that it was all right for the commissioners to accept golf tickets, for they were not purchased for the specific benefit of the commissioners, unquote.

My contemporaneous note in ink states, quote, the county attorney called and cleared this with the commission of ethics. Of is correct -- incorrect. It should be on. That's what I wrote -- unquote.

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However, six months later when Weigel had to put his opinion in writing for Norris to defend the ethics complaint before the commission on ethics, Weigel wrote an entirely different answer from the ethics attorney.

Quote, he did not expressly approve the commissioners playing a round of golf in an open spot of a foursome, but he also did not state that such was obviously prohibited, unquote. That was just an example of Weigel attempting to get a simple decision from another attorney.

Isn't it amazing how, under pressure, some of the truth surfaces?

Weigel was personally responsible for approving improper gifts to then Commissioners Norris, Hancock and Constantine. Special prosecutor Von Zamft took active interest in the golf tournament tickets that Weigel approved.

I have a worse example. Norris asked for approval to make a junket to Cleveland. Weigel failed professionally to direct researching of the commission agenda for the prior 12 months for any entries, there were two, for the Cleveland Clinic and to check with the zoning and permit processing division. Instead, in an amateur fashion, Weigel asked a known clinic lobbyist, Mr. Conrecode, whether it had appeared before the board of commissioners.

Conrecode answered correctly as it pertained to his ultimate employer, the Cleveland Clinic in Florida, to the wrong question and replied, no, it had not appeared before the board. Had Conrecode been asked the correct question, had Cleveland Clinic lobbied the board of commissioners or the county agency, you would have gotten the correct answer, yes.

The confusion rested with the Cleveland Clinic foundation in Ohio --

CHAIRMAN COLETTA: Go ahead and wrap it up, sir, in the next sentence or two. I'd appreciate it.

MR. WARNER: Just this much more (indicating).

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CHAIRMAN COLETTA: If you could summarize it up, I would very much appreciate it.

MR. WARNER: There were two different organizations, the Cleveland Clinic Foundation, the Cleveland Clinic of Florida. They efficiently co-mingled their expenses and farther got to prove to the commission on ethics -- which I believe was wrong -- that they were separate.

The bad legal advice was compiled because I allege that there was a cover-up when a memo had to be written to defend the ethics complaint against Norris.

The research background cited some specific words to include a misspelled word, decision-making, from the ethics statute, but left out the important second criteria, or his or her agency for lobbying. Thus the memo discussed only one of two possible criteria for an improper gift, which I believe to be a cover-up of incompetence.

Mr. Chairman, these are just samples of the work product of Weigel, thus my recommendation to table his review.

Over the years in all of my dealings with equal or subordinate county officials, I have yet to hear a favorable comment on Weigel.

Are there any questions?

CHAIRMAN COLETTA: No questions, I don't believe.

But Commissioner Coyle?

COMMISSIONER COYLE: I was going to address 16(B)(8).

CHAIRMAN COLETTA: Oh, I'm sorry. Forgive me a little bit.

Thank you very much, Mr. Warner.

Okay. Let's go down the line here with the commissioners and see if there's any other changes to the agenda.

COMMISSIONER CARTER: I have no changes, Commissioner.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Well, on the one that I pulled, can I just now -- what I'd like to do is continue that. I believe -- I would

like to direct Jim Mudd to direct staff to maybe select a more suitable site for this particular project. And so in doing, then we don't even have to discuss it.

MR. MUDD: Mr. Chairman, in concertation with the sheriff's office and staff, we have talked about the issue, and we're talking about item 16(E)(3), and that has to do with the Naples Town Center lease that the sheriff would like to have. We can go out there and take a look at some more alternatives and come back to the board and give them a list of alternative locations or appropriate sites instead of just having this one.

The staff would like to have a couple more weeks in order to work on that in order to flush out all the different alternatives so that we can come back with a better recommendation.

CHAIRMAN COLETTA: Okay. I'll make a motion -- I'll second Commissioner Fiala's motion for continuance.

Any discussion?

All those in favor, indicate by staying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Anything else, Commissioner Fiala?

COMMISSIONER FIALA: Nope, that's it. Thank you.

CHAIRMAN COLETTA: Oh, by the way, before I go too far, is there anything on this summary agenda that either one of you need to declare?

COMMISSIONER CARTER: No, sir. I have nothing to declare.

CHAIRMAN COLETTA: And you?

COMMISSIONER FIALA: Nothing to declare.

CHAIRMAN COLETTA: All right. And I have nothing to

declare on the summary agenda, and I have no other changes to the regular agenda.

Commissioner Coyle?

COMMISSIONER COYLE: I would like to address 16(B)(8). I had originally thought about pulling that but then thought we could deal with it in a different way because the staff really did something very good, and I think that that should be recognized.

CHAIRMAN COLETTA: Okay.

COMMISSIONER COYLE: But we've just been handed a big packet of additional information which we can't possibly review, and so I'm going to be -- I'm going to ask that that either be pulled and placed on the regular agenda or continued. But there's no way we can review this information that's been given to us at the last minute and permit this to stay under the consent agenda.

CHAIRMAN COLETTA: Wherever your comfort level is, pulled or continued.

COMMISSIONER COYLE: We can -- we can pull it, but I think it would be appropriate that staff give us a brief summary of the provisions of this information that's just been given to us.

CHAIRMAN COLETTA: Okay.

COMMISSIONER COYLE: Because there's no way we can read through all the details.

COMMISSIONER CARTER: I think you have a legal counsel, Commissioner Coyle, who wants to make a comment.

MS. ASHTON: Commissioner Coletta and Commissioners, for the record, Heidi Ashton appearing as an assistant county attorney.

The exhibits were submitted for your agenda package, however, they did not -- were not included in the package. The exhibits are just the legal descriptions as to the real estate conveyances, and there's also a storm water easement agreement which addresses the conveyance and is our standard real property form document that we use.

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COMMISSIONER COYLE: The problem I have with it is that it also describes a lot of responsibilities for the developer as well as for the county.

MS. ASHTON: The -- I'm sorry. The agreement is in your agenda package. It's just your exhibits, but I included the agreement so that when you referred to it or when somebody referred to it, they would know what the exhibits went to, but the agreement is in the agenda package as pages 1 through 8. It's --

COMMISSIONER COYLE: So what did we just get that's new?

MS. ASHTON: You got the agreement, but you got the legal descriptions that identify the storm water easements.

COMMISSIONER COYLE: My request still stands. I do not believe that we should even be considering information that's given to us at this late date, quite frankly, and I think I'm being generous by asking that it be moved to the regular agenda.

CHAIRMAN COLETTA: I don't think we need anymore discussion on it. Let's move it to the regular agenda and continue.

MR. MUDD: It will be item 10(I).

CHAIRMAN COLETTA: 10(I). And what was the numbers on it --

MR. MUDD: 10(I) would be 16(B).

COMMISSIONER CARTER: Am I to understand, Commissioner Coyle, that you want to continue it?

CHAIRMAN COLETTA: No, he wanted it pulled.

COMMISSIONER COYLE: No. I'll be happy to have it moved to the regular agenda.

COMMISSIONER CARTER: Thank you, sir. Thank you for the clarification.

COMMISSIONER FIALA: What was that number again, 16(B)(8)?

COMMISSIONER COYLE: 16(B)(8).

CHAIRMAN COLETTA: It's now 10(I).

And do you have anything else, Commissioner Coyle?

COMMISSIONER COYLE: No, that's all I have.

CHAIRMAN COLETTA: Commissioner Henning?

COMMISSIONER HENNING: Yeah. I would like to continue item 10(B) until the modeling of the intersections are completed for the presentation to the BCC.

I have no disclosures on the summary agenda.

CHAIRMAN COLETTA: To continue will take a motion; is that what you're doing, Commissioner Henning?

COMMISSIONER HENNING: Yeah, I'm asking for a continuance, Commissioner Coletta.

CHAIRMAN COLETTA: Okay. So I have a motion by Commissioner Henning for a continuance. Do I hear a second?

COMMISSIONER COYLE: I'll second.

CHAIRMAN COLETTA: So we have a motion by Commissioner Henning for a continuance, a second by Commissioner Coyle. Discussion?

Commissioner Coyle, go ahead.

COMMISSIONER COYLE: I would like to ask a question about the significance of the continuance. To what extent does it impair our ability to move forward and deal with the right-of-way issue?

MR. MUDD: Commissioner, first of all, the -- no, stand there, Norm. You're doing fine.

COMMISSIONER COYLE: Just stand there.

MR. MUDD: The first thing is, Norman is prepared to talk about the intersection modeling at this meeting. The second issue is, we have postponed this item several times now through the summer and through the fall and now we have it on the agenda to make sure that we did our fair share and got to the public with the design to make sure that everybody knew about the project and the design.

As we went through that, we had several town meetings. The -- by continuing it, we've lost several months. In my conversations with Norm this morning, it might be to the point now we're moving it out of physical years from 2004 to 2005 on the five-year plan. So that's where we sit as far as movement of the project, and the lack of getting the real estate in that process.

Norm, do you have anything else to add?

MR. FEDER: For the record, Norman Feder, transportation administrator. I think Jim has covered it fairly well. The only thing I'll add to that is that in the different meetings we've made alterations to the plan as we continued forward. There's a request for us to come to the MPO meeting, and there's a long presentation to you.

At that time we had the information on the impacts of simulation -- it's been referred to as modeling -- but simulation of the operations of intersections and what they could do to delay the requirement for six lanes. And at that time we were able to tell everybody that that would essentially, if you did the full intersection improvements, delay the need, at least on midwalk (sic) of the six-lane for about four or five years out, to about 2011.

So we had the data, the information then. We were requested through the MPO meeting to come back to this board to present that in a little more detail, which we're prepared to do today.

Based on that presentation and your thoughts on that, we will be asking you to move forward with the right-of-way. We're also going to try and go through an issue or discussion with you on possible whole takes, where that becomes a negotiated advantage to all parties.

So again, I think we need to move forward on this. I'm not sure I see the value in delay or the inference to that. I also would say that hopefully as we present today, if you find that we have covered the bases and the issues, you allow us to go forward with the request to start the negotiating for the -- negotiations for the right-of-way.

CHAIRMAN COLETTA: I, for one, would like to have us go forward, and then if for some reason it seems like we've got an incomplete package, then we ask for a continuance at that point in time. But I'm ready to hear what we have myself. That's my own opinion.

Commissioner Henning?

COMMISSIONER HENNING: I appreciate the -- we're going to have an opportunity to look at the modeling of the intersection improvements today, correct?

MR. FEDER: Correct.

COMMISSIONER HENNING: It just appears on the agenda that we're making a decision without a modeling done first.

MR. FEDER: No, the modeling has already been done. It was done before the MPO meeting, was presented some there, will be presented in more detail today. The actuality, as was mentioned by Jim, we were ready back in June to come forward with the right-of-way after completion of 60 percent.

At that time, meeting with the community on a prior meeting, knowing that we had some issues still to address, we pulled back ourselves on that. Once we came further with some of the discussion, addressed some of the issues on noise and on access points, we were ready to come forward.

But at the second meeting out at the civic center, we were asked to come to the MPO board and to delay what was already planned to be on the agenda item, which we told folks then, the right-of-way.

We did delay that. We did the analysis, further analysis, and a lot of other things we've done in the interim, brought it to the MPO board and answered the question of how long it could accommodate, and we're ready today. If you have questions on that, provide you more details.

So I would say that we have, throughout the process, responded to the analysis requested, and now we're in the process of having to

present to you today further information on that analysis that was done, and then based on that, would ask your agreement to go forward with the right-of-way acquisition.

COMMISSIONER HENNING: To get to the agenda items, I'm going to just say, I'm glad that we're going to hear the modeling today. I think that's very important, so my -- I'm going to remove my request.

MR. FEDER: Thank you.

CHAIRMAN COLETTA: For now? You may bring it back up?

COMMISSIONER HENNING: If we vote on this agenda, Commissioner, it will be today, we'll hear it.

CHAIRMAN COLETTA: Okay, great.

Anything else, Commissioner Henning?

COMMISSIONER HENNING: That's it.

CHAIRMAN COLETTA: Do I hear a motion to approve the --

COMMISSIONER CARTER: I move for the approval of the agenda and minutes for today's meeting, for September 18th budget hearing, September 24 regular meeting, September 27 concurrency and LDC workshop, September 27 emergency mosquito control meeting, September 30 CRA meeting, October 2nd value adjustment board, October 3rd value adjustment board, and October 4 LDC workshop.

COMMISSIONER HENNING: Second.

CHAIRMAN COLETTA: Commissioner Carter, would you repeat that, please.

We have a motion by Commissioner Carter, a second by Commissioner Henning. Any comments?

All those in favor, indicate -- I'm sorry, Commissioner Coyle, did you have a comment?

COMMISSIONER COYLE: No, that was before --

CHAIRMAN COLETTA: Oh, that was before.

COMMISSIONER COYLE: -- on the prior question.

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CHAIRMAN COLETTA: These lights don't go off by themselves, do they?

COMMISSIONER COYLE: No.

CHAIRMAN COLETTA: Okay. All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0. Thank you very much.

Item #3

EMPLOYEE SERVICE AWARDS – PRESENTED

Now comes a very special time. It's called the service award time. I'm going to ask you-all to join me up front here while we present two awards.

MR. MUDD: Commissioner, we have -- we have one awardee today. The second couldn't be here today. The awardee is a 25-year award for Bonnie Fauls from the University Extension Services.

(Applause.)

COMMISSIONER FIALA: You did good work, Bonnie. We all know you do good work.

MS. FAULS: Thank you.

CHAIRMAN COLETTA: Thank you very much, and we're looking forward to the next 25.

MS. FAULS: Oh, I don't know.

Item #5A

PRESENTATION BY GUY CARLTON, TAX COLLECTOR –
CHECK IN THE AMOUNT OF \$1,258,866.50 PRESENTED

MR. MUDD: Commissioner, if I could make a request. Could we move 5(A) up? I think --

CHAIRMAN COLETTA: Mr. Carlton, yes.

MR. MUDD: I think Mr. Carlton is nibbling on this check.

COMMISSIONER FIALA: We'll take that man's money.

CHAIRMAN COLETTA: Yeah.

COMMISSIONER COYLE: Only if he gives more money.

MR. CARLTON: As the bearer of good news, I'm your friendly tax collector, Guy Carlton. And while this amount is less than last

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year, we've had a very productive year. We purchased and built a driver's license building, which is extremely effective. I want to compliment your county manager for giving me those moments of comfort when I had to deal with your permitting process. He's an outstanding county manager, because I was a basket case at times.

Total turnback. Now, we had figured on 800,000 would be the turnback this year. Total turnback this year is \$1,399,771.73. The board's portion is \$1,258,866.50. And it's with great pride representing the staff our office that helped do all this, we're happy to return the money to you-all.

(Applause.)

MR. MITCHELL: I'm going to give it to the signor. Dwight Brock said not to trust you guys.

COMMISSIONER FIALA: He's waiting there to collect.

CHAIRMAN COLETTA: Oh, man. I'll tell you.

Let's hear it for a million dollars plus.

MR. MITCHELL: Well, I didn't want you guys to see that big check.

CHAIRMAN HENNING: Jim Mitchell, we want to hide that from the board of commissioners.

CHAIRMAN COLETTA: Go ahead, Commissioner Coyle.

COMMISSIONER COYLE: Guy? Guy, before you leave, I'm not sure the public really understands the term turnback. I think it would be appropriate if we just tell them what that really means.

MR. CARLTON: Okay. In Collier County, I'm a fee officer. Not every tax collector is a fee officer. But in Collier County I'm a fee officer and we charge a fee for everything we do. Those fees are designed to run the office of the tax collector. Should there be money left over, then we're to give it back to the appropriate taxing authorities, which the board gets about 95 percent. And we're happy to help in any way we can. And the really great news, my hurricanes are six and O.

COMMISSIONER COYLE: Essentially that means that was just money that he didn't need and he didn't spend, so he's running the department very efficiently, and so we got money back as a result of it. So Guy Carlton is -- should be recognized for that.

CHAIRMAN COLETTA: Anytime anyone gives you over a million dollars back, I think they should be recognized.

Item #4A

PROCLAMATION DESIGNATING NOVEMBER AS NATIONAL EPILEPSY AWARENESS MONTH – ADOPTED

Moving right on. Commissioner Carter, you have a proclamation.

COMMISSIONER CARTER: Yes, I do. It's for National Epilepsy Awareness Month. Is it my understanding there is not a representative here this morning; is that correct? Or if there is someone here, would you step forward.

COMMISSIONER HENNING: Could we just make a motion to approve the proclamation?

CHAIRMAN COLETTA: Well, you really should read it.

COMMISSIONER CARTER: Okay. Here we go.

Proclamation for National Epilepsy Awareness Month.

Whereas, epilepsy, also known as seizure disorder, has affected mankind since the dawn of our species and has been recognized since the earliest medical writing; and

Whereas, as long as 400 BC Hippocrates, the Father of Medicine, repudiated ancient beliefs that epilepsy was a visitation from the gods and sacred or that it was a curse from the gods the people afflicted with this disorder held prophetic powers. I think we should have just moved for approval. Hippocrates believed that epilepsy was a brain disorder; and

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Whereas, a seizure, a sudden brief attack and (sic) altered consciousness, motor activity or sensory phenomena, it is a sign that certain brain cells, neurons, are discharging an excess amount of electrical impulses; and

Whereas, epilepsy can be caused by injury in the brain, lack of oxygen at birth, brain tumor, infection and brain hemorrhage. In 60 percent of these cases the cause is unknown; and

Whereas, epilepsy can affect anyone at any age at any time; and

Whereas, more than two million Americans are afflicted with some kind of epilepsy. Of this number, 150,000 are Florida residents; and

Whereas, with the administration of anticonvulsant drugs, two-thirds or 66 percent of those afflicted with epilepsy are drug-controlled; and

Whereas, a lack of education about the disorder has contributed to the age-old myths, superstition and prejudices; and

Whereas, the stigma associated with this disorder is sometimes worse than the disorder itself; and

Whereas, people who have epilepsy make reliable and conscientious workers in job performance, productivity, safety, cooperation and attendance; and

Whereas, studies carried out in the United States over the past 30 years have indicated that all -- that of all disabilities, epilepsy poses the greatest barrier to employment with unemployment rates estimated to fall between 20 and 25 percent; and

Whereas, epilepsy should not be a barrier to success. In addition to the normal requirements for success, a person who has epilepsy needs a supportive environment and employers who are willing to give them an opportunity to become productive citizens.

Now, therefore, be it proclaimed before the Board of County Commissioners, County of -- Collier County, Florida, that the month of November be designated as National Epilepsy Awareness Month.

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Done and ordered this 22nd day of October, 2002, Board of County Commissioners, Collier County, Florida, James N. Coletta, Chairman.

Mr. Chairman, I'll move for approval.

COMMISSIONER COYLE: Second.

COMMISSIONER FIALA: Second.

CHAIRMAN COLETTA: We have a motion by Commissioner Carter, a second by Commissioner Coyle.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

Thank you, Commissioner Carter.

Item #4C

**PROCLAMATION DESIGNATING THE MONTH OF
NOVEMBER AS COLLIER COUNTY ADOPTION MONTH –
ADOPTED**

Now we're at Commissioner Fiala.

COMMISSIONER FIALA: Ah, yes. Thank you very much. This is -- let me see. We have Debbie Allen and Terry Iamurri. Are they here today?

I didn't even see you out there, Terry. Thank you for coming in. Hi, Dustin. How are you? Welcome to our meeting.

DUSTIN: Hi.

CHAIRMAN COLETTA: Hi.

COMMISSIONER FIALA: Hi.

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Whereas, every child has the right to grow in a secure, loving family and adoption is a positive way to build a family; and

Whereas, the Adoption Task Force of Southwest Florida, Incorporated, is a collaborative effort of community agencies and individuals to create an increased awareness of adoption; and

Whereas, the Adoption Task Force of Southwest Florida, Incorporated's purpose is to provide resources and education on the various aspects of adoption and to promote positive attitudes towards adoption; and

Whereas, adoption brings untold benefits to Collier County residents that are affected by the adoption process. This includes benefits to birth parents, adoptive parents, and the children placed in adoptive homes, as well as their extended families; and

Whereas, crisis pregnancy is a problem in Collier County and adoption is a positive option that is not always considered due to a lack of awareness and education.

Now, therefore, be it proclaimed by the Board of County Commissioners of Collier County, Florida, that the month of November, 2002, be designated as Collier County Adoption Month.

And in honor of this event, we encourage citizens, community agencies, religious organizations, businesses and others to celebrate adoption and honor the families that grow through adoption.

Done and ordered this 22nd day of October, 2002.

Thank you very much. Move to approve.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: There's a motion by Commissioner Fiala, second by Commissioner Carter.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

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COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

COMMISSIONER FIALA: What a wonderful thing.

CHAIRMAN COLETTA: I used to be very active in the adoption work force. Any time you need any help --

COMMISSIONER FIALA: You are so good looking, you know that?

CHAIRMAN COLETTA: You sure are. Give me five. There you go.

Were you ever that cute as a child?

COMMISSIONER COYLE: No.

CHAIRMAN COLETTA: I didn't think so.

MS. IAMURRI: I would like to address the commission. Thank you for bringing awareness to adoption as an important factor to make families.

I, as an adoptive parent, again, are -- it would be the only way that may I -- I might have been a parent, due to adoption, and want people to realize how important it is that people have the opportunity on both sides and how much it means to me and I think so many others, that without adoption -- it has made a better world for all of us. Thank you.

CHAIRMAN COLETTA: Thank you, so much.

Commissioner Coyle?

Item #4B

**PROCLAMATION DESIGNATING OCTOBER 19-27, 2002, AS
RED RIBBON WEEK – ADOPTED**

COMMISSIONER COYLE: The next proclamation is to designate October 19th through the 27th as Red Ribbon Week, and it will be accepted by Paula Arrubla, Bill (sic) Hignite and Betty

Whitmore. Would you please come forward, please. I guess Bill isn't here, right?

UNIDENTIFIED SPEAKER: Bob.

COMMISSIONER COYLE: Bob, I'm sorry, yes.

CHAIRMAN COLETTA: Come right up.

COMMISSIONER COYLE: Yes. Come right up here while we read this. And then afterward we'll give you a chance to say a few words.

COMMISSIONER CARTER: Stand right over here and face the cameras. Thank you.

COMMISSIONER COYLE: Whereas, prevention resources have been dramatically cut, programs and community-based efforts are asked to do more with less and community services compete for initial limited support; and

Whereas, substance abuse is the most common risk factor impacting our behavioral health, particularly for our young people, furthering delinquency, teen pregnancy, HIV/AIDS, child abuse and violence and so forth; and

Whereas, families face unprecedented pressures and stress imposed upon them by the overwhelming nature of today's society; and

Whereas, prevention and intervention efforts continue to influence non-use of alcohol, tobacco and other drug abuse, it still remains prevalent in every Florida community; and

Whereas, Floridians must commit to strengthening families, neighborhoods and communities, and educating our citizens about prevention in every Florida community; and

Whereas, research and data reflect unquestionably that prevention works and that our commitment to education, prevention and positive lifestyles is imperative; and

Whereas, the red ribbon represents the Nation's united effort to support prevention and build healthy and safe communities and to

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remember the brutal murder of Federal Agent Enrique Camarena; and

Whereas, the 2002 Florida red ribbon celebration focuses on the importance of supporting our young people and creating an environment in which our youth may flourish; and

Whereas, the Florida Prevention Association, Incorporated, coordinates year-round prevention programs throughout the state; and

Whereas, the 2002 Florida red ribbon celebration asks that the citizens of Florida become motivated and involved in alcohol and other drug abuse prevention.

Now, therefore, be it proclaimed by the Board of County Commissioners of Collier County, Florida, that the week of October 19th through the 27th, 2002, be designated as Red Ribbon Week and encourage all Collier County citizens to wear a red ribbon to symbolize our commitment to healthy and safe environments for each citizen and to participate in events throughout the week and throughout the year that support positive lifestyles.

Done and ordered this 22nd day of October, 2002, Board of County Commissioners, Jim Coletta, Chairman.

COMMISSIONER HENNING: Motion to approve.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: Motion for approval by Commissioner Henning, a second by Commissioner Carter.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

(Applause.)

CHAIRMAN COLETTA: Would you like to say a couple

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words?

MS. WHITMORE: Yeah, that'd be great.

CHAIRMAN COLETTA: Thank you very much.

COMMISSIONER FIALA: Maybe you could put them out on the table over here, if you'd like.

MS. WHITMORE: We'd love to.

COMMISSIONER COYLE: Outside -- just outside the door.

COMMISSIONER FIALA: Here they are. They can put some

--

CHAIRMAN COLETTA: We've got one right here.

COMMISSIONER COYLE: Yeah.

COMMISSIONER FIALA: Yeah. Right over on the table. I think we all have it.

CHAIRMAN COLETTA: Oh, before you go, we need you to stand right here for a photo opportunity.

MS. WHITMORE: Thank you.

CHAIRMAN COLETTA: Thank you.

MS. WHITMORE: My name is Betty Whitmore. I'm the chair of the Red Ribbon Committee this year and the vice chair of the Substance Abuse Coalition of Collier County.

First of all, I'd like to thank all the commissioners for donning their red ribbons, which we would encourage all of the community to do this week. It is a very understated and underestimated cause.

We're only about two years old, and we're hoping to make a big splash with this organization in the future. Via something we're doing this week, which will happen on Thursday -- which we'll invite you to come and take a look at if you'd like, at the Unity Church of Naples -- we're going to hold an event where middle-schoolers will be bused in to see what we have deemed Reality Journey 2002.

This will be a very hard, cold look at a reenactment of what happens when you make poor choices concerning substances.

If anyone is able to make it between 10:00 and 11:30, we'd be

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happy to put you in as part of the tour, because it's going to be a real interesting look. And we've had everybody from the Collier County Sheriff's Department, the Naples police force, Marco Island Police Department, East Naples Fire and Rescue. I mean, all of the service personnel came out in force. We have many volunteers.

Red Ribbon Campaign, for those of you who are not aware of it, is -- was started because Enrique Camarena was part of a drug bust. He was a DEA officer, and he was shot to death.

As a stand, even though it seems very far away from us, in California, all of the people, all of the service personnel, the governments out there, stood up and donned their red -- they made red ribbons, they tied them to trees, they did everything that they could to show support for a senseless crime.

We would ask the county in the future to recognize us again, as you do every year, and we appreciate that, and for the community to come forth and sponsor us. We work on an extremely limited budget, and it is something that we need to help this community become drug free.

So with your unified partnership in prevention as part of your community, you can help Collier County become a drug-free community -- a drug-free community. So, please, celebrate Red Ribbon Week. Thank you very much.

CHAIRMAN COLETTA: Thank you.
Commissioner Henning.

Item #4D

**PROCLAMATION RECOGNIZING ALL THE INDIVIDUALS
AND AGENCIES THAT PARTICIPATED WITH THE
ALLIGATOR ALLEY INCIDENT ON SEPTEMBER 13, 2002 –
ADOPTED**

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COMMISSIONER HENNING: Okay. I would like to call up representatives from the sheriff's department, EMS, fire and rescue, and the Red Cross.

Right up front here. Okay. I'm going to go ahead and read this while you're coming up.

Whereas, the terrorist attack on the United States on September 11th, 2001, 2002 -- or 2001 was (sic) significantly heightened domestic security; and

Whereas, the incident of potential terrorism that occurred on Alligator Alley for more than 17 hours on Friday, September 13, 2002, required local, state and federal law enforcement agencies to take extraordinary measures to mitigate the potential threat; and

Whereas, the sheriff's department -- sheriff's office of Collier County initiated the managed -- and -- the scene and -- of the traffic stops on September 13th, 2002; and

Whereas, local fire department, emergency medical services providers were on the scene to provide assistance through the entire event; and

Whereas, the local community service organizations were on the scene throughout the event to provide substance to more than 200 first responders and media personnel; and

Whereas, several local commercial enterprises provided assistance to the incident commander at no charge; and

Whereas, the board of commissioners wish to express its gratitude and appreciation to all who answered the call and throughout the successful collaboration of -- managed to bring the potential threat to a satisfactory conclusion.

Now, therefore, be it proclaimed by the Board of Commissioners of Collier County, Florida, hereby recognize these dedicated individuals and agencies for their professional and self-sacrificing efforts on behalf of the citizens of Collier County.

Done in this order -- day, October -- I'm sorry. Let me start

over.

Done on this order, this 22nd day of October, 2002,
Mr. Chairman, I make a motion to approve.

COMMISSIONER COYLE: Second.

CHAIRMAN COLETTA: A motion by Commissioner
Henning, a second by Commissioner Coyle.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

(Applause.)

COMMISSIONER COYLE: Mr. Chairman, could we ask these
gentlemen to stay through the discussion of the Golden Gate street
widening project?

CHAIRMAN COLETTA: We could certainly try. But let's have
everybody up a little closer here for a photo opportunity and -- just
follow the directions. Come on, Guys. Get with the program. Face
right and march.

Do you have a spokesperson who would like to say a couple
words?

MR. STIESS: I can, if you'd like.

CHAIRMAN COLETTA: Sure thing. I'd like to tell you, you
did a wonderful job out there. I was out there for about two and a
half hours with Ken Pineau.

COMMISSIONER FIALA: Were you really?

CHAIRMAN COLETTA: And it was the most amazing thing
you ever wanted to see. All these people working together, brought
together out of -- from all throughout the community. They left their
jobs, they left work -- their works. A lot of them were volunteers.

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They were all there in force to make it happen, and they did a tremendous job.

I was very much taken in with what I saw, and I hope to God we never have another emergency that requires such a turnout, but we're ready. We really are.

Now I just took your speech away. Do you have anything left to say?

MR. STIESS: Thank you, Commissioner.

Bill Stuess, chief of operations with the sheriff's office. I'd just like to thank the commission for recognizing all those involved, and you certainly put it very well, a tremendous effort.

Sheriff Hunter and the domestic security task force from region six performed very well, I think all the agencies involved. It shows no matter how large or small a part you play in one of these operations, everyone is very part -- you know, very important, very integral to it.

And I think we showed that day that we were a fine example, not only for the state, but for the country, and we did get international acclaim on that, and it's just a fine effort to show that we are prepared and that should give the citizens a level of comfort to know that we are in that state of readiness. Thank you.

CHAIRMAN COLETTA: Thank you. And I might also add that in the audience we have a person that's been very instrumental working with Commissioner Henning on putting together a domestic security force, that's Ray Cadwallader, and we thank you very much, and we thank you, Commissioner Henning, for all you've been doing to pull this effort together locally.

COMMISSIONER HENNING: Hopefully we'll see that shortly.

Item #6A

PUBLIC PETITION REQUEST BY JIM KRAMER TO DISCUSS

ITEMS OUTLINED IN HIS FAX REQUEST

CHAIRMAN COLETTA: Okay. Moving right on, public petitions. And Jim Kramer will be the first one.

MR. KRAMER: Sue, are there any speakers?

MS. FILSON: No.

MR. KRAMER: Good morning. For the record, my name is Jim Kramer, Mr. Chairman.

This was published in the agenda package as a fax request. What the public doesn't know is there's actually four petitions that I am prepared to speak about today.

Normally we get 10 minutes each. Does that mean I have 40 minutes?

COMMISSIONER CARTER: I would think not.

MR. KRAMER: Well, that's probably a good idea, because I don't think I could speak on these for 40 minutes. But I just wanted to make that point, that there are four petitions down here.

The first one has to do with the consolidation of the independent fire districts into a unified county-wide department.

It's my recommendation that the board take up this issue. Out in the community, as I have been lately, enough is enough.

Up at the North Naples Fire Department, we have had a problem that keeps appearing in the newspaper. I wear the uniform of the airport authority. In my opinion, James Tobin has disgraced that uniform, and it's time to realize that this is not a sleepy little fishing village anymore.

In 10 years we're going to have half a million people here, and it's time for us to consider the consolidation of the independent fire districts into a unified county-wide department. I think this will give us better service, I think this will save the county money, and I would ask for you to consider that today.

Do you want to speak on these each individually or --

COMMISSIONER HENNING: Commissioner Coletta?

CHAIRMAN COLETTA: Go ahead, Commissioner Henning.

COMMISSIONER HENNING: The board of commissioners, like you have stated, we have independent fire districts.

MR. KRAMER: Yes.

COMMISSIONER HENNING: It's really none of the business of the Collier County commissioners to interfere with the different government agencies, that you do have elected officials.

My advice to you, sir, as an airport authority member, I think you did state, to go to the independent fire districts. They have regular meetings. They're posted on the meeting times, and ask them for that request -- of your request, I should say.

MR. KRAMER: I understand what you're saying, Commissioner Henning. I have been to those independent fire district meetings. I believe that at other times the county has undertaken studies to consider consolidation of the fire districts, and I've brought that before you today.

The second one today is --

CHAIRMAN COLETTA: Excuse me, sir.

Commissioner Carter, did you have some comments?

COMMISSIONER CARTER: I believe, my conversations with our county administrator, that the fire chiefs are already looking into that possibility, Mr. Kramer, and they have that under consideration, and I believe that's exactly where it belongs.

We've always taken a position that if they want a unified, one district for all of Collier County, it's up to the independent districts to make that decision, work together to accomplish that goal. And if that's their desire and direction, I think that's what's -- as I understand, is on the table now for their discussion.

CHAIRMAN COLETTA: Commission Fiala?

COMMISSIONER FIALA: Well, he said it eloquently. I couldn't add more. That's exactly what I was going to say. Thank

you.

CHAIRMAN COLETTA: Please continue, Mr. Kramer.

MR. KRAMER: Okay. Number two has to do with our cable TV, channel 11 and 16. What I have requested is that the cable TV station produce or sponsor debates between commission candidates.

For instance, in District 2, I would like to have the incumbent, Dr. Carter, as the moderator. And just to quote from your board resolution of October 8th, as a va -- quote, as a valid public purpose and in the public interest for the citizens of Collier County. I believe that the facilities of the cable TV channel could be used for that purpose.

CHAIRMAN COLETTA: What about the League of Women Voters who put on an excellent presentation, separate from Collier County government? But we do run over the government channels on a continuous basis. Why won't that suffice?

MR. KRAMER: Well, it isn't that it wouldn't suffice, but I think the county has gone on record of providing a valid public purpose and in the public interest, and I think this would be a continuous use of the county cable TV channel for something that has to do with the commiss -- the running of the commission.

CHAIRMAN COLETTA: We do appreciate these ideas.

Commissioner Carter would like to make some comments.

COMMISSIONER CARTER: Mr. Kramer, I believe that the League of Women Voters is serving that purpose. They're an independent organization. They sponsor the debates. It's carried over channel 11. Anyone that desires to see that debate will have the opportunity to do it; therefore, I think we ought to stay with our existing policy, and that accomplishes a goal.

MR. KRAMER: All right, sir.

Number three, I am bringing back to you a -- a request having to do with the towing overcharge dating back to the commission meeting of February 12th. This has to do with ordinance 99-38. And

you may or may not know that, although this started in -- on January 8th, it has now been nine months since there has been no action taken on ordinance 99-38.

And I believe that the county attorney has been working on this, but I have heard nothing regarding this particular issue, even though when I checked with the sheriff's department yesterday, there has been 11 drafts gone through on this particular ordinance.

COMMISSIONER HENNING: Sir, I would recommend you pay your bill and move on.

MR. KRAMER: I have paid the bill.

COMMISSIONER HENNING: Okay. What's your last item?

MR. KRAMER: Kramer.

COMMISSIONER HENNING: No. What's your last item?

MR. KRAMER: Oh, I'm sorry.

The last item has to do with the chaos in Copeland dating back to the commission meeting of September 10th. This has to do with the hoax perpetrated by a gentleman named James Hammond, and this is something that is now six weeks old. I'd like to know where that particular issue stands.

CHAIRMAN COLETTA: That's with the sheriff's department. I haven't gotten back a report, but I'm glad you brought it up. I'm sure that one will be forthcoming from the sheriff's department very soon. And since you were the person that originally brought it up, we'll make sure that you get a copy of whatever report we receive.

MR. KRAMER: Thank you.

CHAIRMAN COLETTA: Thank you.

MR. MUDD: The second thing, Mr. Chairman, is, we sent the bill to Mr. Hammond for the charges for pollution control to the tune of about \$258.

CHAIRMAN COLETTA: Do you know if that's been paid yet?

MR. MUDD: I'll get with Mr. DeLony, and I'll get back with you during communication on that, but I don't think so yet, sir.

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CHAIRMAN COLETTA: And if you could share that with Mr. Kramer, that would --

MR. MUDD: Yes, sir.

CHAIRMAN COLETTA: -- be appreciated.

MR. KRAMER: Thank you.

CHAIRMAN COLETTA: Mr. Kramer, thank you very much.

Item #6B

**PUBLIC PETITION REQUEST BY MS. RUBY HAMPTON TO
DISCUSS AUTO CLAIM/DAMAGE TO VEHICLE AS A RESULT
OF A LARGE POTHOLE**

The next public petition is by Ruby Hampton.

Ms. Hampton, are you here?

MS. HAMPTON: Yes. I've never done this before so --

CHAIRMAN COLETTA: Oh, you're doing just fine.

MS. HAMPTON: I'm just here -- I had some damage to my automobile due to a huge pothole in the Collier County roads, and I was just trying to get some help to get that paid.

CHAIRMAN COLETTA: Well -- no, thank you very much. Could you -- you want to do a little bit of detail to that? I'm sure that everybody would like to know exactly what the problem was and where you've been with it.

MS. HAMPTON: I've written several letters to the county risk management and was denied the claim. I incurred \$350 damage to my car, which set me back a little bit financially.

The pothole -- this happened in August, and I checked -- I kept checking and calling and trying to get help through various organizations and people. And the pothole wasn't repaired in September and not in -- first of October, and then I drove by last night, and it was repaired finally. It took a couple, three months.

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COMMISSIONER FIALA: Where was the pothole?

CHAIRMAN COLETTA: And where was the location?

MS. HAMPTON: The location is off -- on the North Trail off of 41, the first road behind the Site's gas station.

CHAIRMAN COLETTA: Let's hear from staff, then we'll come back and --

MS. HAMPTON: Okay.

CHAIRMAN COLETTA: -- hear the rest of your presentation.

MR. WALKER: Good morning, commissioners. Jeff Walker, risk management director, for the record.

We received the claim from Ms. Hampton on this particular incident. And just so that you understand as a matter of policy, we have potholes that occur within the county from time to time. Actually a pothole can occur overnight if we have a heavy rainstorm.

So as a policy level decision, we've made the decision that if we did not have notice of the condition in question, we deny the claim. Essentially, that is simply a matter of law. If we have notice and we fail to respond and then there's damage, there's a legal issue. But we didn't know about the condition. When we did learn about the condition, transportation department was notified and they did fix the condition.

The other issue that's in question here is that the roadway in question is an alleyway. It's actually a very narrow alleyway. I walked, have walked --

MS. HAMPTON: Excuse me, sir. It's a two-lane, and it does have a stop sign, so it's a Collier County road.

MR. WALKER: I'm not saying it's not a Collier County --

CHAIRMAN COLETTA: I'm going to ask you to hold off. We will give you a chance to finish your presentation.

MS. HAMPTON: Okay.

MR. WALKER: I've walked that particular area two times totally. I was -- actually I was out there yesterday. The road in

question, although it does have some indentations in it, does not have potholes in it. It is -- it is actually smooth. The only area that I could find, what appeared to be a pothole or what remained of a pothole was at a stop sign area at the entryway into that alley. That alley is actually very narrow.

To drive through there -- if one were to speed through there, it's actually very frightening, because there's parking that comes up right next to it.

I drove through there myself. I couldn't go more than about 10 miles an hour through that area. So in order to cause damage of this type, one would have to be driving at a fairly high rate of speed to do that.

But the real issue here is that we did not have notice of the condition, and that is a precedent to liability. And frankly, we have to take a position like that to protect the overall interest of taxpayers, otherwise, we would be picking up cut tires and damaged rims from things that we have no control over.

And finally, the other issue is, there's no other witnesses to this incident. No one else saw it happen. While I don't doubt Ms. Hampton had damage to her vehicle, we could not substantiate anyone else who saw it happen.

So we look at these facts when we make these decisions, and we made a decision to deny the claim.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Let me just find out if I understand what you just said.

MR. WALKER: Okay.

COMMISSIONER FIALA: Did you just say that unless you have notice that there's a pothole, you don't pay? In other words, even if you have -- if you don't have notice that a sidewalk has a -- has a lip and somebody trips -- I mean, if you had notice, naturally it would be fixed.

MR. WALKER: Absolutely.

COMMISSIONER FIALA: So the accident occurs once you find out. Sometimes to people's detriment. So in other words, you don't pay unless you're warned in advance that it's there? That doesn't make any sense.

MR. WALKER: Well, no. There's really two issues. One is notice, did you know about it? The other issue is, should you have known about it? And that --

COMMISSIONER FIALA: Did she know about it or did we know about the pothole?

MR. WALKER: She knew about it, I suppose, when she hit it. We did not know about it.

COMMISSIONER FIALA: Right. That's an awful way to find out, right, yeah.

MR. WALKER: I agree. But you have to understand that we can have potholes appear overnight, literally. And for us to know about it, in many cases, is simply impossible.

COMMISSIONER FIALA: Right. So how could -- how could you not pay a claim if you didn't know about it when it appeared overnight?

MR. WALKER: Because we didn't know about it and didn't have the opportunity to repair it. That's my point. If we know about it and we fail to repair it, that's liability, but that's not what occurred in this case. We didn't know about it. Once we knew about it, we repaired it.

COMMISSIONER FIALA: How long did it take you to repair it?

MR. WALKER: I don't have an exact date. We were trying to get the ticket from transportation on that. I have heard a couple of --

COMMISSIONER FIALA: Months?

MS. HAMPTON: It was over two months after I reported it.

MR. WALKER: We were told a couple of different things, but

it was repaired. And we had no other incidents related to it reported to us.

CHAIRMAN COLETTA: This is about the six or seventh one I've heard in two years, and they all bear about the same type of consistency. In some cases the damage seems to be quite excessive for the -- to the cars compared to what was on the road, some cases they were right off the end of the edge of the road there where people must have pulled off by accident or lost control. I'm not too sure which. It's been an ongoing problem.

Tell me this, if they're not happy with what your department, risk management, comes up with, can they go through to the court system as far as small claims court?

MR. WALKER: Oh, absolutely.

CHAIRMAN COLETTA: And small claims court costs \$25.

MR. WALKER: Twenty-five or fifty dollars.

CHAIRMAN COLETTA: I don't think it's 50. I hope it is not 50.

MR. WALKER: I don't recall.

CHAIRMAN COLETTA: I tried several times to see if I could help to resolve some of the people that called up with similar claims, and I wasn't successful at any point in time, and I was at a point where I wasn't too sure what I was dealing with, so what I did is I turned them over to Dwight Brock, the clerk of courts, to file there. I've never had anyone come back and tell me about their success or failure.

Do you know about -- have you had some cases that have gone to small claims court in the last couple of years?

MR. WALKER: We've had none that have gone to small claims court on these types of cases.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yeah. Just one other thing. Mrs. Hampton or Ms. Hampton?

MS. HAMPTON: Ms., yeah.

COMMISSIONER FIALA: Has -- you know, she's never been before us, and I just feel that if she has a hardship with \$350, to then go to court and fight that out is another hardship placed on her. Obviously we didn't make the pothole, we didn't know about it, but I would like to see us work with her and at least help her to adjust some of these funds so that she isn't hit quite so hard for something that wasn't her fault.

CHAIRMAN COLETTA: You bring up a very interesting point, Commissioner Fiala, and it's been coming up a number of times, similar circumstances. Possibly we could address this, have the total background on this and all the options that are available to us, brought back at a future meeting, if we wanted to so direct staff, so we get a better feel for it. I'd hate to make a decision right here and now to come up with a cash reward because of the circumstances with that.

COMMISSIONER FIALA: I agree.

CHAIRMAN COLETTA: But I wish we had a better policy than we do have.

COMMISSIONER FIALA: I do -- that's why I say, I think they should work with her a little bit and see what they can do, you know, to adjust it, but -- and I don't even know that it needs to come before us again. I think that there could be some kind of an agreement arranged.

CHAIRMAN COLETTA: It's a policy type of decision, you know, and I don't want to deal with this just by itself. I want to come up with something that's going to give us a comfort level in the future. Would you like to see it brought back for consideration?

Not nec -- well, this one case, but I mean with the fact that we're going to want to deal with this situation as an ongoing type of situation and how it should be best handled.

COMMISSIONER FIALA: I guess --

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MR. WALKER: I might -- excuse me -- I might suggest that we might try to work on a policy internally with staff and get back with Ms. Hampton on her situation.

I would caution the board that we do need to be very careful that we don't open the door here on everybody who -- and this is no reflection on Ms. Hampton. She's a nice lady -- but anyone who claims that something happens now has an opportunity to file a claim against the county to get whatever they want paid for. That's just a real concern that we have. But we will work with Mrs. Hampton to see what we can do and work on a policy issue too.

CHAIRMAN COLETTA: Okay. Commissioner Henning, then Commissioner Coyle.

COMMISSIONER HENNING: Ms. Hampton --

MS. HAMPTON: Can I say something. Go ahead.

COMMISSIONER HENNING: Have you had the repairs done?

MS. HAMPTON: Yes. They had to be done that evening.

COMMISSIONER HENNING: Okay.

MS. HAMPTON: Yeah. And I'm -- just for the record, I was not speeding. I had my sister with me. We were shopping, and it was pouring down rain. The pothole was full of water. I didn't even see the pothole, and I was going maybe 15 or 20 miles an hour.

CHAIRMAN COLETTA: So you do have a witness?

MS. HAMPTON: Yes, and I have pictures, and I measured the pothole. It was seven and three-quarters inches deep. For a small car of my nature, it did a lot of damage.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: I think we have to be very careful about how we proceed with these things because we might set a precedent that opens us up to lots of liability. So I would suggest that the staff come back to us with the recommendation concerning how we might handle this particular case.

There -- it's simply proper procedure to require some

presentation of fact about the county's obligation. And your observation is absolutely correct, we cannot just adopt a policy that says anybody who incurs damage on county property can, in fact, get reimbursed. So we have to be very careful that we have a sound basis for the development of a new policy which might deal with this issue.

The other issue is the one of retroactivity. If you develop a new policy now, is it going to help this lady? I don't know. And I think that's the problem we have to deal with right now.

So I would suggest we ask the staff to propose some kind of potential policy adjustment or resolution.

CHAIRMAN COLETTA: I might suggest, too, in that policy resolution, you can tell them that the next step that they could go, if they have a protest to the lack of payment, would be the clerk of court for small claims -- for the small claim filings. It's not that difficult.

In fact, possibly you might even have the basic forms they need, to give it to them, so that they can fill them out and take them over there and start the whole process, so that there is one more oversight that they can be looking forward to.

I'm a little disappointed that the three or four people I've talked to and made this suggestion to, no one's ever followed through. You've never had a --

MR. WALKER: We have not.

CHAIRMAN COLETTA: That is disappointing, because that would be a perfect avenue for something like this.

MR. WALKER: Absolutely. In fact, it's the appropriate avenue.

CHAIRMAN COLETTA: Would you keep me apprised of your situation as this starts to go forward?

MS. HAMPTON: Thank you, Chairman.

CHAIRMAN COLETTA: Thank you.

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MS. HAMPTON: Thank you very much for hearing me.

CHAIRMAN COLETTA: We appreciate you coming out. You did an excellent job of presenting your case.

Item #7A

PETITION ADA-2002-AR-3030, RICHARD D. YOVANOVICH OF GOODLETTE, COLEMAN AND JOHNSON, REPRESENTING WILLIAM T. HIGGS, REQUESTING AN ADMINISTRATIVE APPEAL TO OFFICIAL INTERPRETATION INTP-2002-AR-2421, CONCERNING LANDSCAPE BUFFER REQUIREMENTS FOR THE WHITE LAKE PUD PER LAND DEVELOPMENT CODE DIVISION 1.6 – STAFF'S INTERPRETATION UPHELD

Now we're going to move on to the board of zoning appeals, and the first one is 7(A), Mr. Yovanovich.

MS. MURRAY: Good morning. For the record, I'm Susan Murray, current planning manager, and I need to make a few opening statements, and then Mr. Yovanovich will present his information, and then I would like the opportunity to respond to that, and I'm sure Mr. Yovanovich will probably want the opportunity to respond to me.

Just for clarification purposes, this -- I am the current planning manager. At the time this was submitted, this request for formal interpretation was submitted, I was the interim director of the planning services department, and I am here with the authorization of the current planning services director, Margaret Wuerstle, so I'll be representing her and myself as the interim director at the time this was submitted.

This is an appeal to a request for a formal interpretation, and division 1.6 of the land development code allows an individual to

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write to the planning services director to request a formal interpretation. In turn, that formal interpretation is rendered in writing and it is appealable by certain effective parties, so that's where we are in the process. The question was asked and it was appealed, and we're here today to hear that appeal.

The objective, obviously, is to seek the reversal of the interpretation issued by the planning services director. And the question asked by the applicant was whether or not the landscape buffer with requirements of Activity Center #9 applied to the portion of the PUD that has been subdivided and platted as White Lake phase three. And on your visualizer -- or on your screen, I have the White Lake PUD outlined in black, and then you'll see in the blue area, this is phase three. So we're talking about that section of the White Lake PUD.

And if I could orient you also with some dates. The White Lake PUD originally was rezoned January 5th, 1993. It was amended October 23rd, 2001, and the phase three plat was approved March 28th of 2000.

Activity Center #9 master plan was adopted by the board on February 13th of 2001, and January 9th of 2002 the implementing land code regulations were adopted.

I point that out because it's important to know that during the time that the PUD was going through the amendment process, the LDC amendments were being crafted, and the applicant was fully aware of what the LDC amendments entailed, including the landscape buffering requirements. So I'll leave that and get back to that later.

With that, I guess I'll go ahead and turn it over to Rich, and then I'd like the opportunity to speak again. Thank you.

CHAIRMAN COLETTA: Good morning, Mr. Yovanovich.

MR. YOVANOVICH: For the record, Rich Yovanovich with the law firm of Goodlette, Coleman and Johnson representing the

petitioner in this matter.

As Susan indicated, this is an appeal of an interpretation as to whether or not the PUD landscaping provisions apply or whether or not the after-adopted overlay landscape provisions apply.

It's not there anymore, but the outline of events, as Susan set them forth, is correct. It's important to know from a timeline perspective that there was an original PUD adopted in 1993. That original PUD provided that the external buffers shall comply with the general LDC provisions regarding buffering. Okay. So originally there was a tie to the land development code as far as buffering goes.

There was then an amendment to the PUD document, and that amendment occurred in October of 2001. And one of the important factors or important changes in that PUD amendment was specific provisions dealing with the landscape buffering for this particular project. And I've highlighted for the commission -- and this is in your agenda material says on page 37 -- the actual landscaping requirements for this property and project.

And they are a "Type D" buffer, which is a 20-foot wide buffer, and it includes a wall. It's important to note that the "Type D" buffer in the LDC does not require a wall. So this was a modification to the general LDC provisions regarding what buffers will be required on the property that basically fronts the roadway between I-75 and the project.

So the LDC -- I'm sorry, the PUD which was adopted by the Board of County Commissioners on that date specifically addressed the landscape buffer requirements. And everybody who is sitting up there except for Commissioner Coyle was present at that PUD hearing.

And the width of the buffer as well as the wall requirements was debated and was moved and was approved by the Board of County Commissioners with the "Type D" buffer. The PUD master plan depicted the 20-foot wide landscape buffer requirement that this PUD

required. So that sp -- that was specifically addressed in the PUD ordinance.

And remember, a PUD is different than your standard zoning districts like a C-4. A PUD is adopted by ordinance. It is negotiated, if you will, between the property owner and the county with the purposes of coming up with innovative, mixed-use projects. So a PUD is different than an underlying zoning district. And I think that's important in analyzing the factual situation we have before you today.

The PUD document also provides that unless modified, waived or accepted by this PUD, the provisions of the LDC shall remain in full force and effect. As I have pointed out, the landscape buffering requirements in the PUD are different than the landscape buffering requirements in the LDC, so the LDC was specifically modified by this PUD document.

And as I've pointed out, it's in two locations. It's in the text where we address the "Type D" buffer and also in the master plan that's attached to the PUD. And your land development code addresses, what is the effect of the adoption of a PUD.

And I'll read the underlining, because it's difficult to see. It says, thenceforth, the development in the area delineated as the PUD district on the official zoning atlas shall proceed only in accordance with the adopted development regulations and the PUD master plan for said PUD district. That is what we're asking for. We want to development in accordance with the master plan for our PUD zoning district.

There are a couple of other important points that I want to point out. In the PUD itself, there were requirements that we -- the property owner do some certain things. For instance, there was a requirement that the property owner pay the sum of \$118,500 related to site-related improvements to the transportation network. Our client paid that sum in reliance upon the terms and conditions set

forth in the PUD document. So he relied upon the PUD document in making those payments.

The county essentially has unilaterally changed the PUD document by adopting an overlay. It's clear, the case law is clear, it's Porpoise Point case, and Margie's in the audience, and so is Patrick, and they will tell you that the government doesn't have a right to impose a PUD on a property owner's property against that property owner's will.

You can impose a straight zoning district, but you can't impose a PUD, because of the very nature. It's a give and take, it's a negotiation process. If you can't -- if you can't unilaterally impose a PUD on my client's property, you can't amend that PUD through some other mechanism, and that's essentially what's happening. By adopting the overlay, you are amending the text of that PUD document against my client's will.

And I'll give you an example that I think is an absurd example, but if you apply the logic, it's the same logic being applied by the county staff at that point.

If my client had come through to rezone the property, which he did, to a commercial and industrial PUD, and that was approved by ordinance by the Board of County Commissioners, and then all of a sudden the board adopts -- and we give all the development exactions that we're required to do, then the board decides to adopt an overlay to eliminate the very commercial and industrial uses we got approved in the PUD, you will have essentially used the overlay process to amend the PUD and take away the uses we've been permitted. That is no different when you're changing a development standard established in the PUD.

As you saw from the outline as -- that Susan put up on -- the timeline that Susan put up on the visualizer, the PUD amendment and the proposed LDC amendments were tracking pretty closely.

What I find interesting is that your staff, when we went through

the PUD amendment process, recommended approval of a 20-foot landscape buffer requirement with the wall, which was recommended and approved by your staff to you-all, which you voted and approved on, at the very same time they're proposing a 25-foot landscape buffer requirement. Or maybe they weren't proposing a 25-foot landscape buffer requirement. Maybe it was a different standard.

I find it hard to believe your staff would recommend to you-all, approve a 20-foot landscape buffer requirement when they know that they're really recommending in an overlay the 25-foot landscape buffer requirement.

I think we have to ask the question, why did a PUD get approved with a 20-foot landscape buffer requirement when your staff was really recommending 25 feet?

I submit to you, we were never told that it was a 25-foot landscape buffer requirement of the overlay. I think there was discussions that things were going to happen in the overlay. Nobody knew for sure what was going to happen. The important thing is, when the PUD went through the process, our client agreed to the 20-foot landscape buffer requirement that you-all voted on and approved, and now there's a unilateral change.

This specific factual situation also changes by the mere fact that we have an approved plat that was approved. The subdivision improvements were constructed and installed and then preliminarily accepted by the Board of County Commissioners prior to the adoption of the LDC overlay amendments.

Your code in section 1.5.2.2 specifically says, the provision of this code shall not affect the types, densities and intensities of land uses or the yard -- or landscape buffer with requirements of any final subdivision plat and final improvement plan. Your code specifically addresses this situation.

I believe staff is taking the interpretation that that really means the official adoption of the original LDC back in 1991. I submit to

you, that means the applicable development regulation when it's adopted, because your code moves. You change it as it goes along. And the question is, do you apply it retroactively. And I believe you've determined that, no, you do not want to have retroactive application of code provisions to approved final subdivision plats. So I think that's the proper interpretation of section 1.5.2.2.

So I think the land development code specifically exempts phase three of White Lakes from the overlay requirements.

If I may, Commissioners, I will read to you what the Florida Supreme Court says about PUDs and what they are. This is the St. John's County case where, as I was referring, the county tried to impose a PUD. They called it something different. They called it a planned special development, which is a smaller scale PUD in St. John's County.

The county unilaterally imposed the PUD on the property owner, and the court basically said, this type of development requires cooperation between the property owners and the zoning authority in creating an overall plan.

That's what our PUD did. We cooperated, we worked together. We came up with the development standards for PUD, and those development standards were a 20-foot wide buffer with a wall.

And it -- the court also went on to say that the purpose of the planned special development is to provide development flexibility that cannot be obtained under traditional zoning. You can't have mixed-use developments in Collier County under traditional zoning. You go through the PUD process to work out the plan of development. And that plan of development is set forth in the PUD text as well as the PUD master plan.

The commission could not impose the 25-foot landscape buffering requirement through the PUD process unless my client agreed to it. The commission can't find another way to do that by adopting an overlay district and applying retroactively to our client.

What we are requesting is that the commission honor the PUD document as written, the PUD master plan as approved with the 20-foot landscape buffer requirement with the wall requirement -- with the wall requirement within that 20-foot buffer and not agree with county staff on their interpretation that the overlay prevails over the PUD text.

I'm prepared to answer any questions you may have. And as Susan said, I'd like to follow up on --

CHAIRMAN COLETTA: We'll definitely have questions for you, sir.

I'm going to ask the county attorney to respond first to the fact that, was this overlay illegal?

MR. YOVANOVICH: I didn't say it was illegal. I said it doesn't apply retroactively to our particular project.

CHAIRMAN COLETTA: Okay. Then I'll phrase the question that way. Who cares to respond from the county attorney's office on that?

MR. WEIGEL: Mr. White will respond initially.

MR. WHITE: Assistant county attorney, Patrick White. Good morning, commissioners.

In reviewing this particular administrative appeal, we did find it -- that the interpretation that was rendered by your staff was appropriate with respect to form and sufficiency. I want to put that in the record as a procedural matter.

But more importantly, I think that we're almost talking apples and oranges here in the sense that Mr. Yovanovich is talking about a PUD and the subsequent effect of an overlay district with respect to the PUD, and what I believe the staff is looking at is the distinction between subsequent requests for development approvals.

As Mr. Yovanovich has indicated to you, there was a plat for one of the phases that went through with a 20-foot buffer requirement. Just this morning, as part of your summary agenda --

excuse me -- consent agenda, we approved a plat that has a 25-foot landscape buffer width.

The notion here is that we're not talking about at the level of the PUD alone. We're talking about the subsequent phases, if you will, that are coming in for other forms of development approval.

And what your staff has done, to the best of my understanding, is apply that 25-foot to a request that took place after the Activity Center #9 regulations went into effect. And their interpretation is that that should be applied because it's later in time and does not conflict with any specific requirement set forth in the PUD. I think that's the difference of opinion, if you will, between your staff's analysis and interpretation and the gist of Mr. Yovanovich's appeal. So it's to that extent, I think, we're talking apples and oranges.

I can tell you that with respect to PUDs, the principle that Mr. Yovanovich is advising you of is true, but that doesn't truly focus on, I think, what the staff's perspective is, which is that we're not really doing that. We're only applying this to a subsequent development approval that initiated itself after the regulation change and the regulation isn't something that was so specific in the PUD that it controls because it was in place first.

I know that's a lot to grasp, but I hope that what I've shared with you so far brings it into focus a little clearer.

If there's any questions, I think I can try and address them.

CHAIRMAN COLETTA: There very possibly may be.

Commissioner Henning first, then Commissioner Coyle.

COMMISSIONER HENNING: I have a question for Mr. White and Mr. Yovanovich.

Activity Center #9, is that document reflected in the land development code?

MR. WHITE: Yes.

COMMISSIONER HENNING: Is that correct, Mr. Yovanovich?

MR. WHITE: It's an adopted regulation.

MR. YOVANOVICH: Yes. It was a regulation adopted subsequent to the PUD.

COMMISSIONER HENNING: Correct. So what you're saying is, anything adopted after the plat in the land development code, that you don't have to abide by?

MR. YOVANOVICH: What I'm saying is, when you look at what development regulations apply to the property when considering a plat or a site development plan, you look to the PUD document when the PUD document specifically addresses that situation.

I disagree with Mr. White. I showed you the specific landscaping provisions in the PUD document. What I'm saying to you is, when you look at a site plan, you compare it to the PUD document when applying the landscaping regulations. You don't apply an after-adopted overlay to a PUD when the PUD has the regulations.

So what I'm saying to you, the answer is, no, the overlay does not apply to my client's property because it was adopted after and my PUD specifically addressed that situation.

COMMISSIONER HENNING: Or anything after it was platted, nothing -- the old land development code applies to it at the time of the platting?

MR. YOVANOVICH: No. What I'm saying is what the PUD does, the PUD -- the reason you do a PUD is because you can't live with the development standards in the straight zoning districts. You come forward and you say, I want to do a residential and commercial project together. Well, you don't have a zoning district that tells you how to develop. So you come to the Board of County Commissioners and you say, this is the project I want to do. Here are my proposed setback requirements, here are my proposed maximum height requirements, here are my proposed landscaping requirements.

If all those things are found in the PUD document, you go to the PUD document and it governs the development of the property.

If, for instance, you leave out the buffering, which the original PUD did, it said, we will be governed by the landscaping requirements found in the land development code, so you go to the PUD document. It says for landscape buffering, see land development code. So you go to the land development code and you find out what the land development regulations are.

In this particular case, the PUD was amended, and it tells you what the landscaping buffering requirements are, and that's where you end. You stop at the PUD.

COMMISSIONER HENNING: I'm reading on page -- or 5.13. It's calling for some landscaping, and it's referring to Activity Center #9 and division 2.4 of the land development code.

MR. YOVANOVICH: I agree, and that's a perfect example. For off-street parking, we agreed to be bound by section 2.4, but for buffering and landscaping on the roadways, we did not agree to be bound by that provision. We agreed to be bound by 5.12B. So that makes my point. There are certain places where we've agree that the LDC will prevail and in other places we've said, this is what will prevail.

COMMISSIONER HENNING: And the fencing that -- okay. Thank you.

MR. YOVANOVICH: And if you-all will remember, there was the debate -- never a debate over the width. There was a debate over, was it a wooden fence or was it a concrete fence. And because of the -- you know, the gateway, the concern was, we need to have a wooden fence and we want to have the landscaping planted on the outside of the fence, not on the interior of the fence so the community would enjoy the benefit of the landscaping and not the property owner on whose property the landscape buffer was imposed.

MR. MUDD: But -- Commissioner, Jim Mudd for the record.

If I remember the outcome of that particular presentation for the fence, it was determined that it was going to be a concrete poured fence instead of the wooden one, so -- just to make sure, because he said wood.

MR. YOVANOVICH: Right, right, and that's reflected --

COMMISSIONER HENNING: It does say it here.

MR. YOVANOVICH: Right.

COMMISSIONER HENNING: In 5.112.

MR. YOVANOVICH: Correct.

COMMISSIONER HENNING: Or 5.12.

MR. YOVANOVICH: Any other questions of me, Commissioners?

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: Well, I have a question, but I think it's one that is directed at the staff and the petitioner.

Here's my problem. The staff in the executive summary on page two in the middle of the page says that the language set forth in the White Lake Corporate Park PUD specifically provides that unless modified, waived or accepted by this PUD, not by the LDC, but by this PUD. Now is that what your -- the staff's position is, that this can be modified, waived or accepted only by changes in the PUD, or are you saying that it can be changed -- the PUD can be changed by modifications of the land development code?

Because the subsequent paragraph states that if there is a conflict between provisions of the land development code, certainly the most stringent standards apply. But this is not a conflict between the land -- provisions of the land development code. It's a conflict between an approved PUD and a subsequent land development code change.

MR. WHITE: Commissioner, I understand it's understood that all of your PUDs are, in essence, an amendment, a supplement, if you will, to the land development code. They are adopted at the reference

and included as one of the appendices.

COMMISSIONER COYLE: But there's a difference.

MR. WHITE: Certainly.

COMMISSIONER COYLE: A PUD is a negotiated arrangement where you reach agreements with the developer. You give some things and you take some things away.

Now, having gone through a contract discussion, essentially -- and I'm not inferring it to be contract zoning, but that's essentially what it is. You've reached agreement on what we want to see and what the developer wants to see, and as a result, we take things away and we give things.

Now, after having gone through that discussion and reaching an agreement, if we then modify that document through a change in the land development code and that then applies to the LDC, then essentially we open up every -- every PUD that we have previously negotiated.

MR. WHITE: That's only true factually where you have a circumstance that both of the regulations specifically apply to the same issues.

COMMISSIONER COYLE: Okay. Then I think that's what we're talking about. We're talking about a landscape issue. And in this --

MR. WHITE: Well --

COMMISSIONER COYLE: -- case, the --

MR. WHITE: -- I don't want to --

COMMISSIONER COYLE: -- the PUD -- the PUD specifically states what the landscape requirements are going to be, and we agreed to that. Now we develop an overlay and we say, whoops, what we agreed to doesn't really make any difference anymore. We're going to change it.

MS. MURRAY: Excuse me.

COMMISSIONER COYLE: Now, after you've already laid out

the properties and you've sold some of them, what is the justification for doing that?

MR. WHITE: I think that staff is going to articulate what the difference is, and it's as I've alluded to, that it's a question of specificity, and I'll let Susan --

MS. MURRAY: Susan Murray, for the record.

If you use that argument, Commissioner, then every individual with a commercial PUD could walk in here and say the commercial -- the architectural provisions of your Land Development Code do not apply to me, because after my PUD was adopted and then you subsequently adopted architectural regulations for development of my PUD, I'm sorry, I had a PUD in place, and no matter what you do to affect the Land Development Code, I do not have to abide by it. And that's not the case.

When we -- and the architectural standards function exactly as this overlay district does. They are overlays to commercial zoning districts within PUDs and outside of PUDs. They are overlays to commercial components of PUDs.

It's the same logic that you apply here. This is an overlay to the underlying regulation. The underlying regulation was in place, and you overlaid an additional set of regulations on top of it. It's the same logic that applies for the commercial architectural standards.

And I would point out also that if you go to all the sections of the White Lake PUD, they reference specifically, development of the White Lake Corporate Park PUD shall be consistent with the Activity Center #9 interchange master plan. That's on page 18.

Go to page 21 of your agenda. Regulations for development of the White Lake Corporate Park shall be in accordance with the contents of this document, PUD development district and other applicable sections and parts of the Collier County Land Development Code and growth management plan in effect at the time of building permit application. Not at the time of plat, not at the time

of SDP, but at the time of building permit application.

Page 25. Thenceforth, development in the area delineated as the White Lake Corporate Park PUD district on the official zoning map will be governed by the adopted development regulations, PUD master plan, and all applicable provisions of the Collier County Land Development Code.

The paragraph under that, at the bottom, at such time as Collier County adopts design standards for the Activity Center #9 interchange master plan, those standards shall apply to this PUD.

The only difference in this PUD from the previous PUD was the addition of the wall. The landscape "Type D" buffer requirements always applied. Whether they reiterated them in here or not, they always applied. There was no modification to that through this PUD.

They simply stated that they are going to have the landscape "Type D" buffer, which is okay. We already know that because that's what you're required to do. The only modification from the overlay district was to increase the buffer with requirement to 25 feet.

Recognizing that this PUD was getting ready to be adopted and we were still in the middle of ado -- creating these standards, we asked that the applicant put that language in the PUD to ensure that when the PUD was ready to develop, that it would apply -- the standards would apply.

And I caution you because this -- your decision will also set a precedent to the project across the street, which is already platted as well. And that's the Tollgate Commercial Center. And I don't want to talk about that now, but I just want to point that out, that -- that this is the gateway to Naples. And, in effect, if those provisions don't apply anymore, we've negated the whole purpose and intent of adopting these overlay district standards, in my opinion.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yes. I have to agree wholeheartedly with everything you've said, and that's what we've

been trying to do. We, as a commission, in the last two years, is trying to -- trying to improve -- let me say, correct some of the past errors on our Land Development Code. That's why we're working so hard to do it. I believe that what you've done is say, we are setting these standards and we need to abide by them. And I wholeheartedly agree, and I'd like to make a motion to stand with staff on this proposal.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: We have a motion by Commissioner Fiala, a second by Commissioner Carter. Is there any other questions?

MR. YOVANOVICH: Hang on a second. I think I'm entitled to respond to Commissioner Coyle's question. It was a question to staff and also to the petitioner, and the petitioner didn't get a chance to respond, and I would appreciate the opportunity to do that.

CHAIRMAN COLETTA: Okay. I'll allow you up to five minutes. Can you do that in five minutes, Mr. Yovanovich?

MR. YOVANOVICH: I believe I can.

CHAIRMAN COLETTA: Thank you, sir.

MR. YOVANOVICH: Commissioners, again, I want to focus exactly on what Commissioner Coyle's point was. This is a PUD. It's a give and take, and Ms. Murray just made the point. "Type D" buffer did not require the wall. We agreed to include the wall. We specifically addressed the landscape buffer requirements in the PUD.

There's a provision in the PUD under project development requirements, and I'll read it to you, 2.2C, found on page 21, which was not read to you.

All conditions imposed and all graphic material presented depicting restrictions for the development of the White Lake Corporate Park PUD shall become part of the regulations that govern the manner in which the PUD site may be developed. The master plan says a 20-foot buffer requirement.

When someone submits a plat or a site development plan, the first thing staff does is they compare those submittals to the regulations in the PUD document. And if it's consistent with the regulations in the PUD document, it gets approved.

Now, I appreciate -- I don't know what the Tollgate commercial PUD says. I don't know if it addresses landscape buffer or not. If it's silent on landscape buffers, then your overlay prevails. If it specifically addressed landscape buffers, I submit to you that their PUD prevails. It is a case-by-case situation that you analyze.

If staff was going to recommend a 25-foot buffer for landscaping, why was that not recommended when we were going through the PUD process that was tracking the proposed LDC amendments to implement the master plan?

It's a question that my client deserves to know. He was never asked, can you live with a 25-foot buffer requirement, 25-foot, when he agreed to do the wall. He wasn't asked that question. Instead, unilaterally, without any -- in order to change an amend -- a PUD ordinance, you've got to amend it. That requires a public hearing process where you debate it and you analyze it. It was unilaterally changed.

The commission said, we wanted to make a change. We want 25 feet, and we're going to impose it upon you in your PUD document and we're not going to ask you whether you like it or not. We're going to amend the contract. We're going to do it unilaterally. And I submit to you, you can't unilaterally amend a contract, and PUDs are similar to contracts. They're negotiated. You live with the deal.

You made a deal. The deal was a 20-foot landscape buffer requirement. You have to honor that commitment. You can't amend a PUD and impose it by adopting an overlay district, essentially -- and I'm going to use the phrase behind my client's back, but I don't mean that. I mean, it's been public. But you can't unilaterally say,

you know what, we didn't like the deal. We're going to change it.

And I think you need to -- and I think that your attorney's office hasn't given you the -- it gives you an apples to oranges analysis. It's not apples to oranges. We're saying you apply the Land Development Code regulations to our property unless our PUD specifically addresses them differently, and it does. The landscape buffer requirements are different than the LDC, and it's in black and white. I showed it to you. And I submit to you that you have to follow the PUD requirements.

CHAIRMAN COLETTA: Thank you, sir.

Commissioner Coyle?

COMMISSIONER COYLE: Another question. If we had a PUD that was approved based upon RSF-4 zoning and they -- it was approved at a density of four units per acre and we decide later on that it should be RSF-2, do we go back and change the LD -- change the PUD?

MR. YOVANOVICH: If I can go first this time so I make sure I get a chance.

Essentially, you can do that. You can adopt an overlay and say, you know what, in this area we don't like four units an acre anymore, even though you've got a PUD, we want two units an acre. And you know what, that's after the fact. Forget the fact that the PUD says four, we want two, and that's no different than what's happening with the landscaping buffer requirements, in my opinion.

COMMISSIONER COYLE: Well, my question though is, have we done that and would we do it, can we do it?

MS. MURRAY: What -- your question was, again? I'm sorry, sir.

COMMISSIONER COYLE: If you approve a PUD at a certain density, after it has been approved for that density and SDP has been submitted and approved, can you -- can we then go back in and arbitrarily change the density downward?

MS. MURRAY: The opportunity to do that would come about through the PUD sunseting process, and at that time you're looking at consistency with the growth management plan and Land Development Code in effect at the time.

I'd also like to point out, while I have the opportunity, is the PUD here did not specifically address the landscape buffer width requirement. It said a "Type D" buffer, and that's it. "Type D" buffer is whatever the code says at the time a "Type D" buffer is. And I just wanted to point that out.

The issue with the wall was -- had to deal with the fact that the amended PUD significantly increased the intensity of the PUD, and we knew we were coming forward with the Activity Center #9 provisions, and specific language was referenced in the PUD to address those when they were -- when they were adopted later that year.

The other thing I wanted to point out is, just this -- as Patrick White pointed out, just this morning a plat was adopted with the 25-foot wide landscape buffer in place on the plat. And I just think that's important to note, that that is being recognized.

COMMISSIONER COYLE: There seems to be some -- I'm sorry. I'm really continuing with my --

CHAIRMAN COLETTA: Oh, that's fine. Commissioner Henning just came online while you were off, but if you want to continue, go ahead.

COMMISSIONER COYLE: There seems to be some disagreement as to whether or not that -- it was specified. The reading of the contract indicates that Susan is absolutely right, there's no indication of width of the --

MR. YOVANOVICH: You have to go look at the PUD master plan. I recognize you can't read that, but what I've highlighted, it says 20 feet.

COMMISSIONER COYLE: Okay.

MR. YOVANOVICH: Okay. So the exhibit of that PUD master plan is part of the contract.

COMMISSIONER COYLE: Okay.

MR. YOVANOVICH: So it's "Type D" at 20 feet.

COMMISSIONER COYLE: Okay. Just one final comment, then I'll leave this issue.

I believe that the sunset provisions that we have implemented address issues such as this. That's why we implemented the sunset provisions is to make sure that old PUDs didn't linger out there and not conform with our current visions of growth and/or zoning.

And it was not, I don't think, ever our intent that having approved a PUD, that we go back and nibble at it every year or every few months as we change a Land Development Code.

My personal feeling is that when I negotiate a contract with somebody and I give my word and I say that's what I'm going to approve, that's what I'm going to stand by, even if it hurts me, and I'm not going to be put into a position -- and although I wasn't involved in this one, but the principle is exactly the same.

If I make an agreement with somebody and they agree to the terms of -- the terms that I request and I give my word that, yes, you can do this, I'm not going to go back around and try to change the terms of that agreement. It is unfair, and government should be consistent and fair in anything we do.

There is a way to resolve the issue through the sunset provisions if these things really are so far out-of-date. But, nevertheless, I can see how it creates some difficulties, but I think we should keep our word. And I don't see this landscape buffer issue as being a tragic circumstance that's going to destroy the appearance of anything that is happening out there.

CHAIRMAN COLETTA: Commission Henning?

COMMISSIONER HENNING: Yeah. I think it's more of an interpretation issue, not a -- how it's going to degradate the area if

we're talking about five feet.

I guess what I have a problem with is, the language in the PUD is conflicting. It's saying that it must abide by the Activity Center #9, except for, there is one language that Mr. Yovanovich pointed out, in the landscaping provision in the PUD, it does not reflect Activity Center #9.

For me to make a decision on this, I would like to read the minutes of when the BCC approved this PUD and find out if there was any information in there so that I can make a logical decision.

And I know, Commissioner Coletta, there is a motion and a second on the floor. My position is -- today is to continue it so we can reflect back on the minutes.

CHAIRMAN COLETTA: Okay. I have concerns over the -- where we're going with this in the whole overlay program that the county has being in jeopardy by our decision here today. I don't think continuing it is going to really solve the problem. I believe the information we got in our packet is total, complete, that we should be able to make a logical decision.

With that, is there -- Commissioner Carter?

COMMISSIONER CARTER: I'd like to hear from Counselor White.

MR. WHITE: I respectfully agree with the principle that Commissioner Coyle has set forth but have to disagree with respect to the specificity that's in the PUD document in terms of the contract.

I know that Mr. Yovanovich has advised you that it's depicted on the master concept plan, but I think the notion is that that is a conceptual approval. And what I think your staff will tell you is that in instances such as this, they look for those kinds of specificity to be set forth in the text of the document. The notion being that if it's that important and you're negotiating it, that you specify it.

And that's why I said, I believe, that there's a discussion that's apples and oranges, to some extent. And that's because on the one

hand your staff is saying, we don't see an overlap, and Mr. Yovanovich is saying there is one and that you should interpret it in a way that's consistent with what he believes his client negotiated.

So I hope that helps. But again, this -- the standard, if you'd like to know, is, if you're going to overturn, you have to find that your staff's interpretation is contrary to the Land Development Code or somehow inconsistent with the growth management plan.

CHAIRMAN COLETTA: Commission Fiala?

COMMISSIONER FIALA: Yes, my motion stands. I believe staff has been consistent with the land development code. The reason the sunseting provisions are there are to update previous PUDs that are flawed and outdated, so my motion stands.

CHAIRMAN COLETTA: Okay. And with that, is there any other comments?

Hearing none, I'll call for the motion.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

Opposed?

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The motions passes 3-2.

MR. YOVANOVICH: May I ask a point of clarification, since I didn't get to chance to respond, to Mr. White?

Is it my understanding that it's now the Board of County Commissioners' petition -- position that the master plan that's submitted and attached to and part of the PUD document really doesn't mean anything? So if my client had put a 50-foot landscape buffer requirement on that -- on that PUD, I could have skinned it back up to 25 feet under this overlay? Is that the analysis?

CHAIRMAN COLETTA: I need you to take that up with Mr.

White. We've already made a decision on this.

MR. YOVANOVICH: Okay.

CHAIRMAN COLETTA: Thank you.

What we're going to take is a 10-minute break. And I apologize for running over. We told you it would be an hour and a half between the breaks. In this case here, we're a half an hour past. Ten minutes.

(Recess was taken.)

Item #7B – Continued to November 19, 2002

Item #7C

**RESOLUTION 2002-437, RE PETITION VA-2002-AR-2392,
GERALD A. MC HALE, JR., TRUSTEE, NAPLES GATEWAY
LAND TRUST, REQUESTING A VARIANCE FROM PUD
ORDINANCE 2000-14, SECTION IV., 4.13, LANDSCAPING AND
BUFFERING, FOR THE RAGGAE PUD – ADOPTED SUBJECT
TO STAFF RECOMMENDATIONS**

CHAIRMAN COLETTA: Please take your seats.

Okay. The next item is 7(C), and this is going to require everyone that wishes to participate to stand at this time to be sworn in.

MR. MUDD: Sir, 7(C) is a variance by Mr. McHale, a trustee of the Naples Gateway Land Trust, requesting a variance of the PUD ordinance 2000-14. It's a landscape and buffering item, number 2. He's requesting a variance from the 10-foot wide A buffer.

CHAIRMAN COLETTA: I -- fine. Would you please swear in the people standing.

(The witnesses were sworn.)

CHAIRMAN COLETTA: I'm going to ask the commissioners if

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they have any disclosures, starting with Commissioner Henning.

COMMISSIONER HENNING: Yes. I talked to one of the residents in Livingston Woods. I also talked to the person -- one of the owners of Harley Davidson on this item.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: I don't recall talking with anyone about this.

CHAIRMAN COLETTA: And at this point in time I've talked to no one concerning this item.

Commissioner Fiala, do you have any disclosures on item 7(C)?

COMMISSIONER FIALA: Is that -- is that the Shane McIntosh thing?

COMMISSIONER COYLE: No.

CHAIRMAN COLETTA: This is the one there with the Harley Davidson and the --

COMMISSIONER FIALA: Oh, no disclosures.

CHAIRMAN COLETTA: No disclosures?

Okay. With that, we'll go ahead. When Commissioner Carter comes back, we'll ask him for any disclosures he may have at that time.

MS. DESELEM: Good morning, for the record, my name is Kay Deselem. I'm a principal planner with current planning, and I'm here to present this petition to you.

And I have put on the overhead projector visualizer a map that shows the general area. You can see Livingston Road, Pine Ridge Road. Those are the two main roads.

To show you the exact site of --

CHAIRMAN COLETTA: I'm sorry.

COMMISSIONER FIALA: I'm sorry. May I interrupt you just

--

MS. DESELEM: Certainly.

COMMISSIONER FIALA: I received some mail on that.

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CHAIRMAN COLETTA: Okay. You can make that disclosure now. It's still not too late.

COMMISSIONER FIALA: Okay. Thank you. I'm so sorry. Thank you.

CHAIRMAN COLETTA: And while we have you interrupted for the moment -- Commissioner Carter, do you have any disclosures on 7(C)? If you don't have it in front of you, here it is.

COMMISSIONER FIALA: Harley Davidson.

COMMISSIONER CARTER: I've only met with staff on this. Thank you. That's the one between Hooters and the Harleys, right?

CHAIRMAN COLETTA: I got -- your earmarks are -- will work just fine for us.

COMMISSIONER COYLE: You seem to be very familiar with that area.

COMMISSIONER FIALA: Notice which he put first. They weren't in alphabetical order.

CHAIRMAN COLETTA: You know, I never figured Commissioner Carter to be a Harley person, but who knows. Go ahead.

COMMISSIONER CARTER: It depends on what motivates you, sir. Depends on what's next door.

Very good, Sue. You got that. You're good.

CHAIRMAN COLETTA: This is a hard act to follow, isn't it?

MS. DESELEM: As I said, you can see on the visualizer that we do have a map that shows the site. This is the actual Harley Davidson site. The area where the sidewalk is going to be effective is on this little road, strip road right through here. And you can see that it will eventually interconnect across over to Whippoorwill Extension.

And what they're asking for is a variance to put in a sidewalk. They will be reducing the amount of the buffer to allow for the inclusion of a sidewalk.

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The planning commission had recommended approval. Staff is recommending approval. We have provided conditions to you for your consideration, and the executive summary is part of the record.

If you have any questions, I'd be happy to answer them.

CHAIRMAN COLETTA: Commissioner Henning, then Commissioner Fiala.

COMMISSIONER HENNING: Do we have any public speakers on this item?

MS. FILSON: No, sir.

COMMISSIONER HENNING: Commissioner Coletta, if you would close the public hearing I'm ready to make a motion.

CHAIRMAN COLETTA: Okay. I'll close the public hearing at this time.

COMMISSIONER HENNING: I make a motion that we approve this item 7(C).

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: We have a motion by Commissioner Henning, a second by Commissioner Carter.

Commissioner Fiala?

COMMISSIONER FIALA: Yes. I just wanted to note that in the body of our summary agenda, it had stated that four letters were submitted prior to the CCPC in objection to the request, yet later on down in the body of -- it was on page 11 for public input, it said, as of this date, staff report was prepared, no letters either in support of or in opposition to.

So I did send for those letters, but apparently none of the people here have followed up and -- with us since then. I just sent for the letters because I wanted to know what they were. One says that none --

CHAIRMAN COLETTA: Very good.

COMMISSIONER FIALA: -- one says there were some, and none of the people here -- are here today to object against it, but I

wanted that to be part of the record. Thank you.

MS. DESELEM: If you'd like, I can explain the two things that you're seeing. One -- on the one page you referenced where there were no letters, that's the staff report that went to the planning commission, and at that time there were none.

If you go to the portion of the executive summary that mentions the letters, that recognizes the fact that there were letters received from the time that staff report for the planning commission was prepared and the time that it was actually heard by the planning commission. And those letters were faxed to your office. I do have copies for anyone else that wants to see them.

They basically were concerned, or what was voiced was a concern that the buffering requirements were going to be changed in the area of the site plan from here up to Livingston Road. Once it was explained to everyone that that's not subject to this variance petition, it was determined that the issues were not relevant.

CHAIRMAN COLETTA: Okay. Commissioner Henning, would you also include in your motion the staff conditions that are listed on page three of our summary agenda here?

COMMISSIONER HENNING: Yeah, I'd like to include staff's recommendations on this item.

And also, Commissioners, I drove by. On the back side of this PUD is supposed to be a wall and landscaping on the resident side, and I found it to be acceptable of what the residents required on that back street. So I think they're doing a great job of maintaining their commitments to the residents.

CHAIRMAN COLETTA: Commissioner Carter, will you also

--

COMMISSIONER CARTER: Yeah, I include --

CHAIRMAN COLETTA: -- include that?

COMMISSIONER CARTER: -- in the second.

CHAIRMAN COLETTA: Thank you very much. Any other

discussion?

COMMISSIONER CARTER: I am speaking to the fence. Go ahead, go ahead.

CHAIRMAN COLETTA: Okay. We can stay here all day. I'm not in a hurry.

COMMISSIONER CARTER: Well, I am.

COMMISSIONER FIALA: He's speaking of Hooters.

CHAIRMAN COLETTA: All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Opposed?

(No response.)

CHAIRMAN COLETTA: And the ayes have it, 5-0.

Item #7D – Continued Indefinitely

Item #8A – Continued from September 10, 2002 and Further Continued Indefinitely

Item #8B – Continued from September 10, 2002 and Further Continued Indefinitely

Item #8C

ORDINANCE 2002-53, PETITION RZ-01-AR-1204, VINCENT A. CAUTERO OF COASTAL ENGINEERING CONSULTANTS, INC., REPRESENTING SHANE ALAN MC INTOSH, REQUESTING A REZONE FROM C-1 AND RSF-4,

RESIDENTIAL SINGLE FAMILY ZONING DISTRICT TO THE
C-2 COMMERCIAL CONVENIENCE ZONING DISTRICT FOR
PROPERTY LOCATED AT THE NORTHEAST CORNER OF
GOODLETTE-FRANK ROAD (CR-851) AND 13TH AVENUE
NORTH, CONSISTING OF 1.15 ACRES MORE OR LESS –
ADOPTED WITH CONDITIONS AS OUTLINED BY STAFF AND
WITH COMPANION ITEM #7D BEING REMOVED FROM THE
AGENDA

Okay. The next one will also require -- this is 8(C) we're going to, and this is petition RZ-01-AR-1204, Vincent Cautero of Coastal Engineering consultant representing Shane Alan McIntosh requesting a rezone from C-1 to RSF-4.

Would you stand at this time and be sworn in.

(The witnesses were sworn.)

CHAIRMAN COLETTA: Okay. Now, for disclosures on the part of the commissioners. Commissioner Carter?

COMMISSIONER CARTER: Yes. I met with the petitioner.

CHAIRMAN COLETTA: And Commissioner Fiala?

COMMISSIONER FIALA: Yes. I've met with the petitioner.

CHAIRMAN COLETTA: And I have also.

Commissioner Car -- excuse me -- Coyle.

COMMISSIONER COYLE: I have met with the petitioner, and I have several letters from residents.

CHAIRMAN COLETTA: Commissioner Henning?

COMMISSIONER HENNING: None.

CHAIRMAN COLETTA: Okay. Please proceed.

MR. BELLOWS: Good morning, commissioners. For the record, Ray Bellows with current planning staff.

Petitioner's requesting a rezone of the 1.15-acre site from C-1 and RSF-4 to the C-2 commercial convenience zoning district.

As you can see on the visualizer, it's located on the east side of

Goodlette-Frank Road and on the north side of 13th Street North.

The petitioner received a zoning approval in 1998 to rezone a portion of the site to C-1 zoning, indicated on this zoning map. The C-1 portion has frontage along Goodlette-Frank Road; however, it was determined that based on the applicant's needs, that they needed the additional lots to build an office building as is being proposed today, so they require the back two lots.

The subject site is also within the corridor management overlay, zoning overlay, that runs along Goodlette-Frank Road. That provides additional setback requirements. One of the setback requirements is that the front yard setback from Goodlette-Frank Road is 50 feet plus 25 feet for each additional story.

The petitioner originally requested a three-story building, which would have required a hundred-foot setback from Goodlette-Frank Road, and that was part of a variance application that's been continued from the -- and not requested with this rezoning action today.

The other restrictions included additional landscaping as part of this corridor management overlay.

The aerial photo for the site shows the surrounding uses. To the south is the post office, the United States Post Office. It's roughly twice as deep as the proposed subject lot. To the north is within the City of Naples, and it's a commercial chiropractor office.

In order for this project to be rezoned, it had to be consistent with the growth management plan. And the growth management plan criteria for this area shows that it's not within an activity center. So in order to gain commercial zoning just south of the activity center of Golden Gate Parkway and Goodlette-Frank Road -- since it's outside of the activity center, it must be consistent with the current office and infill commercial criteria as contained in the growth management plan.

The staff report outlines the criteria that is -- this petition is

consistent with; however, to be consistent, there's some interpretations that have to be made, and those are listed in your executive summary.

One is the subject site exceeds the depth of the commercial zoning district to the north by 140 feet, and it does not exceed the depth of the commercial property to the south, which is roughly double this.

So staff, in making a determination -- and the board has previously made this determination on other similar projects such as the Veteran's Park Commons PUD that's off Immokalee Road. If you take the average depth of the sites -- as you can see, we don't exceed the depth of the proposed lot, so, therefore, under past interpretations, this would be found consistent with that criteria.

The other deals with the uses. Our growth management plan staff has determined that this project would be consistent with the C-1 office uses. The petitioner's also proposing banking institutions that are found in the C-2, and that's the reason they're requesting the rezone to C-2.

So staff would find this consistent if we just limited the C-2 use to banking and financial institutions.

And staff has received numerous letters from residents within the area with concerns about the original proposal for a three-story building and the other variances which would make it seem to appear to the residents that this would have been an over utilization of that site.

During the planning commission, the rezone request petition V-01-AR-1205 was denied unanimously by the planning commission, or recommended for denial. Based on the fact that it felt it was an over utilization of the site, they needed a front yard setback variance, a height variance, a parking variance, and a landscape variance.

The petitioner has withdrawn that application of consideration

today, or continued it from consideration today, and they are proposing a two-story building, so, therefore, the front yard setback would be 50 feet, plus 25 feet, so they have a 75-foot front yard setback.

The C-2 district requires a 50-foot rear yard setback. So it's staff's opinion that the proposed petition now, as presented, would not impact the residential dwelling units in back because they have the 50-foot rear setback.

So the planning commission did not have a chance to rule on this revised petition. The petitioner has seen the results of the planning commission, has modified their plans accordingly.

Staff has recommended approval subject to the conditions in the executive summary. One is dealing with the sidewalk. And here's the revised site plan that was distributed to you.

The sidewalk is located on -- along 14th Avenue North. Staff would like to see that constructed for its entire length. The other is the final ingress/egress points shall be reviewed and approved by the transportation services department at the time of site development plan review.

These access points would line up with the post office to the south and would provide access to 14th, improving traffic circulation in the area.

The subject site abuts commercial zoning on two sides, so we would recommend that the C-2 zoning be limited to depository institutions and banking. And then at the end we'd require a six-foot wall within the rear landscape buffer to provide additional buffering with the residents to the east.

And I'll be happy to answer any questions that you have.

CHAIRMAN COLETTA: Not so much a question, just that -- I understand now that the variances have been removed, that staff has little or no objections to it as long as the other conditions are met.

Planning commission, of course, was looking at it with the

variances in place, which gave them considerable concern -- that is if we do approve this today, I want it understood that if they do file for a variance sometime in the future, my memory isn't that short. I'll remember.

MR. BELLOWS: Staff would also point that out, if they did come back, we would --

MR. MUDD: Commissioner, depending on your vote today at 8(C), I would ask that Mr. Cautero, who represents the petitioner, that he withdraw 7D as a condition based on that -- based on the vote, once that's done, that it's not be -- it's not continued, that it's withdrawn.

CHAIRMAN COLETTA: Did you want to make a comment on that now, then we'll go to your presentation shortly.

MR. CAUTERO: I'll be brief in my presentation, and then I would like to make a comment about that regarding one issue in the community character plan.

CHAIRMAN COLETTA: Well, we do have some questions here before we go to that. I was just looking for --

MR. CAUTERO: Certainly.

CHAIRMAN COLETTA: -- the comment about the companion bill, but if you don't want to go to that now, we'll give you that option to wait.

Commissioner Fiala, then Commissioner Carter.

COMMISSIONER FIALA: Well, I was just going to say that I would look more favorably if we were going to withdraw that companion bill, but then, we've already said that. Thank you.

MR. CAUTERO: I can give you your answer now.

CHAIRMAN COLETTA: Well, Commissioner Carter?

COMMISSIONER CARTER: I was going to move for approval with the conditions as outlined by staff.

CHAIRMAN COLETTA: But what about the companion bill?

COMMISSIONER CARTER: And the companion bill be

removed from the agenda.

MR. CAUTERO: Vince Cautero for the record. My client has no intention of applying or continuing the variances indefinitely and is willing to withdraw them, obviously if the zone change is approved.

There is just one issue though that he asked me to discuss with you.

CHAIRMAN COLETTA: Before you go any farther, we have a motion on the floor. I'd like to second that.

COMMISSIONER FIALA: Second.

CHAIRMAN COLETTA: Go ahead. Please continue.

MR. CAUTERO: Thank you, sir.

One of the variances was for a setback to the Goodlette overlay zone, the corridor management overlay that Mr. Bellows talked about. The reason that the client applied for that was to promote and implement a provision of the community character plan, which calls for buildings to be closer.

His intent was to talk to the residents, if the zoning is approved, if they would want this commercial building further away from their property and closer to the road, which would then leave one variance on the table, however, if the residents were not supportive of that, he would withdraw it.

So the answer to your question is yes, but there's one caveat. And if you have any other further questions of Mr. McIntosh, he's here today, my client. He would be happy to answer it.

But he has no intention of moving forward with the variances. It was only to implement a provision of the community character plan to move the building closer to the road and buffer impacts to the surrounding residents even further.

CHAIRMAN COLETTA: Any other comments from this board?

How about public speakers? How many?

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MS. FILSON: Yes, sir, we have one. Mr. William Erving -- Ervin.

MR. CAUTERO: Mr. Chairman, I'd like to just reserve the opportunity to comment --

CHAIRMAN COLETTA: Of course. We --

MR. CAUTERO: -- since I didn't have to go through my presentation. Thank you.

CHAIRMAN COLETTA: Thank you.

MR. ERVIN: Good morning. My name is William Ervin. It's still morning.

It seems like -- I'm not sure what I have to say has anything to do here. It seems like your minds might be made up already.

I live on 14th Avenue North with my wife and two daughters. I'm two lots down on the other side of the street from the proposed property requesting the rezone.

As far as I know, I, along with every other property owner that is in this area, is against this being rezoned to commercial property.

Mr. McIntosh has approached numerous ones (sic) of us in attempts to buy our property if we ever have a desire to sell. I'm pretty much -- I enjoy the residence. It is a residential neighborhood. It's on two dead-end streets. We do have the post office right next to us. If you have ever -- trying to leave the post office, I'm sure you realize that traffic gets quite congested there.

This right here isn't -- where your entrance from the post office -- or the exit from the post office there would not abut that property the way it is right now. That entrance is actually one lot down farther.

You know, we live in -- it's a nice residential neighborhood. You know, what this county needs are nice residential neighborhoods. I mean, I don't think we really need another bank.

The last time I was here at the planning meeting, the zoning was denied also, or recommended for denial. If it was rezoned to any

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commercial, I think C-1 would be appropriate, not a bank, not a -- five businesses into one building. That adds quite a bit more traffic to an area.

It's right -- there's going to be an egress on 14th Avenue, 13th Avenue, nothing on Goodlette Road. So all traffic's going to be coming in and out of those two streets. We can all agree that 13th Avenue's already more congested than it needs to be.

The chiropractor's office next door in the city is an actual house. That was re-renovated and made into a little office building. Currently there are three businesses in there. They don't have adequate parking. They park along the street.

You know, the lack of neighbors present here right now -- you know, after the planning meeting and -- you know, where they recommended the denial on this, I think most of them figured that that would probably be that. I know one lady's out of town that lives right next to this property.

You know, Mr. McIntosh was given a C-1 zoning on the two pieces of property he had. He's adding to it with more residential lots. He would like to continue to add to it with more residential lots, as far as I understand. And, you know, the only person that this is going to benefit is going to be him. The people whose property are going to be right next to this -- you know, there's not going to be any commercial value to their property. They're going to be right next to a commercial piece of property.

The only commercial value, you know, would be through Mr. McIntosh, not through anyone else, because he has the frontage on Goodlette Road, which is what I'm sure he needs to be able to keep stepping back.

Most everyone in the neighborhood likes the neighborhood and would like for it to stay a neighborhood. I understand, you know, it's Goodlette Road. It should have a business probably on the front side of it.

When you -- without having a building or without having something that has to go back through the planning board also and then be rezoned after that, I don't really think it's -- you know, I think there's almost a need for another public hearing request for that rather than changing -- you know, we're going to drop the variances, we're only going to put up this building now. Well, the people hadn't had a chance to hear that. The only one who did is me sitting here right now.

I don't know if you have any questions or --

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yes. I listened to everything you said. I went over and took a look at the property. I agree with you. Facing Goodlette Road really wouldn't be a residential unit or two.

MR. ERVIN: No, it wouldn't.

COMMISSIONER FIALA: It would have to be a business.

MR. ERVIN: Right.

COMMISSIONER FIALA: And that's, of course, what he's proposing to do. I think he, along with the planning commission, worked -- worked this thing through considerably when it was supposed to be, from what I've read -- and I tried to do all of my reading and background research -- and it was going to be a three-story building with a lot more --

MR. ERVIN: The planning commission --

COMMISSIONER FIALA: -- expance to it. And what they did was, they listened to the neighbors, such as you, and they pulled that building down to two stories, tucked it in a little bit more, gave it more buffer, gave it a wall to protect the neighborhood because, as you say yourself, you know, it wouldn't be suitable for residential. It would be suitable for a business.

And so, it seems to me that the petitioner has done everything he could to work with the neighbors. And as you state yourself, it really wouldn't be suitable for residential, so I --

MR. ERVIN: The back two lots still would be suitable for residential. The --

COMMISSIONER FIALA: Well --

MR. ERVIN: Where you're going to be adding on to a parcel that's already zoned, and now you're adding on to that parcel by, you know --

COMMISSIONER FIALA: Well, I don't think we can argue that point. He owns the back two lots, and he's not going to build houses on it.

MR. ERVIN: Sure.

COMMISSIONER FIALA: And so, at least a parking lot is better than, you know, a lot of big trucks moving in and out, you know.

So anyway, my second stands.

CHAIRMAN COLETTA: We thank you very much for coming today.

MR. ERVIN: Thank you.

CHAIRMAN COLETTA: Is there any other -- Commissioner Coyle?

COMMISSIONER COYLE: Yeah, I have a couple of questions, clarifications.

With respect to the height of the building, how does the actual height of the building compare with the permitted height of residences in the area?

MR. BELLOWS: The C-2 zoning district has a maximum height of 35 feet. That is similar to the RSF-4 district. I believe it's also 35 feet.

COMMISSIONER COYLE: Okay. So it's the same height as the residential --

MR. BELLOWS: That's correct.

COMMISSIONER COYLE: -- allowance?
Is there a different height for C-1 zoning?

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MR. BELLOWS: No, it's also 35 feet.

COMMISSIONER COYLE: Okay. I'm also concerned about the fact that major changes have been made since this went to the CCCP (sic), but I think I understand also that most of the real issues have been resolved or taken off the table.

COMMISSIONER FIALA: Yeah.

COMMISSIONER COYLE: But what I would like to suggest -- the situation, as I understand it, is that we have two C-1 lots and two residential lots, and they're asking for rezoning of all four of those lots to C-2.

What I would propose we consider is not rezoning them to C-2 but rezone them to C-1 with the depository institution as a permitted use. The C-2 provides for more intense use, which might be more objectionable to the neighbors.

And as I understand it, Mr. McIntosh doesn't intend to have any of those C-2 uses other than just a depository institution, if that is correct. Could you confirm or deny?

MR. CAUTERO: Vince Cautero, for the record. I could confirm that, Commissioner. What you said is correct, that would be the desired effect that Mr. McIntosh would have. If your legal staff tells you that you can get there, it would be the same as the C-2 with the condition that Mr. Bellows has recommended.

COMMISSIONER COYLE: Okay. That's -- I would like at least for the commission to consider that, because it essentially means we don't rezone two lots at all, but we rezone the residential lots to C-1. And I would hope, it's my belief at least, that the C-1 use is more narrow than the C-2 use, and that would work to the benefit of the residents.

MR. BELLOWS: Staff had discussed this in the past with the applicant and the attorney's office, and it was my understanding that we couldn't add a use to a straight zoning district that was not a permitted use, but we could restrict the uses permitted in, say, the

C-2 to all but the one use that was permitted. That was the only reason that we brought the petition forward this way is because it was a legal issue, could you add a use that wasn't already listed to a standard zoning district listed in the land develop code versus restricting all uses in the zoning district to one.

COMMISSIONER COYLE: Other than just to that one?

MR. BELLOWS: Yeah.

COMMISSIONER COYLE: I'd like to hear that interpretation.

MS. STUDENT: For the record, Marjorie Student, assistant county attorney.

We do feel that there's an issue and a problem with adding a more intense use to a lesser intense zoning district and not the -- of use that's permitted in the C-1 district.

COMMISSIONER COYLE: You --

MS. STUDENT: This is not -- it would be helpful if this were a PUD because then we'd have more latitude to handle some of these issues.

COMMISSIONER COYLE: PUDs don't mean anything either.

We can change them every time we want to, but -- okay.

Is this an opinion, or do you have pretty solid legal evidence that we cannot add a permitted use?

MS. STUDENT: This is an opinion, but my concern is the fact that when you rezone to the C-1 district, the Land Development Code lists uses that are permitted in the district. And so to go above and have a more intense use, that's the concern. If we were eliminating some things to a lesser intensity, that would not be of a concern.

Another concern that we also have is -- well, it was advertised for C-2. But normally if we were going to do a rezone to the C-1, the public would be put on notice of the C-1, they would look in the land code, if they had an interest and see what the uses were, and that more intense use would not be included, so that's our concern.

COMMISSIONER COYLE: What is the practical effect of that

concern? Suppose you did it? What's likely to happen if someone disagrees with it?

MS. STUDENT: Well, if there were a challenge -- and it's always difficult to predict what a court may do, but the court may look at land code and say the rezone was to C-1 and these are the uses that are permitted in C-1 and you've amended your land code, generally amended it in a fashion by virtue of this rezone to include a C-2 use, and you may have exceeded your authority. That's possibly the outside.

COMMISSIONER COYLE: Okay. I think I've got it. It's not really the way I'd like to go, but --

MS. STUDENT: Understood.

COMMISSIONER COYLE: But if we can be certain that we're excluding uses under C-2 except for the depository institution and that is very clear, then I can proceed with that.

MS. STUDENT: And as long as the petitioner agrees to that, I feel very comfortable with that.

CHAIRMAN COLETTA: I see him nodding his head.

MR. BELLOWS: And if I may, Commissioner Coyle, the county has a process when -- if this is approved with that condition, the zoning maps -- official zoning atlas is marked with a special note to refer to the ordinance that shows the specific limitation on uses, so that's an assurance to anyone checking the zoning, they see C-2, but they see the asterisk referring to this ordinance, that they go to that list for the specific uses.

COMMISSIONER COYLE: So certainly one of the concerns of the neighbors has to be, is this creeping industrialization here?

MR. BELLOWS: Yes. And then there's another factor. The one gentleman thought that there could be additional encroachments eastward.

The policy that I referenced in the executive summary about the depth of the adjacent parcels, if we look at the averaging, to be

consistent with the board's previous determination, we go from this corner to that corner, that would prohibit cutting into the adjacent lot, and we would not recommend any further eastwardly movement of the commercial zoning.

COMMISSIONER COYLE: Okay. So we have a policy that essentially governs that and --

MR. BELLOWS: That's correct

COMMISSIONER COYLE: -- discourages any further eastward creep?

MR. BELLOWS: That's correct.

COMMISSIONER COYLE: Okay. Thank you.

CHAIRMAN COLETTA: Commissioner Henning, then Commissioner Carter.

COMMISSIONER HENNING: I would hope that we can amend that for the uses in the C-2 and predominantly have the C-1 uses in this request for rezone.

CHAIRMAN COLETTA: Okay. Commissioner Carter?

COMMISSIONER CARTER: By doing this, you're consistent with policy where you have reduced the use in a particular zoning, which you did at Pine Ridge and Airport not too long -- or no, Golden Gate -- not Golden Gate -- Goodlette not too long ago where you restricted the uses in that particular zoning area.

I think it's much more feasible to continue that policy to say, yes, we'll do C-2, but you can only do one thing in it, rather than expanding an existing category, which I think is more of a tendency to open Pandora's box in the future.

CHAIRMAN COLETTA: Did you have any parting comments?

MR. CAUTERO: Yes, sir, thank you.

Mr. McIntosh intends to withdraw all the variance requests.

CHAIRMAN COLETTA: Okay. That's well understood.

COMMISSIONER CARTER: That's included in my motion.

CHAIRMAN COLETTA: That's correct, and in my second.

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We have a motion, we have a second. Any other discussion?
Hearing none, all those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Opposed?

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: And we have one opposed vote, and that's Commissioner Henning.

COMMISSIONER HENNING: Could I have a clarification on the motion? Did we just rezone it with C-2 with all the intended uses?

COMMISSIONER FIALA: No.

COMMISSIONER CARTER: No. All other intended uses are not permitted. Only one.

SOMMISSIONER FIALA: Right.

COMMISSIONER HENNING: I didn't hear an amendment to the motion, that's why I --

COMMISSIONER CARTER: Well, that was the intent of the original motion, that you could only have one use in C-2.

MR. BELLOWS: And subject to all the staff stipulations?

COMMISSIONER CARTER: Yes.

CHAIRMAN COLETTA: Thank you very much.

COMMISSIONER HENNING: Okay.

CHAIRMAN COLETTA: Okay. We have --

MR. MUDD: Do you want to call that -- do you want to call that vote again, because there was some confusion with the motion?

David, help me here, if I'm --

CHAIRMAN COLETTA: Well, we'd have to rescind it and then come back at it again.

MR. WEIGEL: You would. If Mr. Henning wishes to indicate

on the record that although his vote was in the opposition, that with understanding -- he can create the record indicating that he actually agrees with the vote that was taken rather than get back into reconsideration, if you'd like to.

COMMISSIONER HENNING: Correct.

MR. WEIGEL: Or we can go the hard way.

COMMISSIONER HENNING: Since the clarification was stated on the record, then I'm in agreement with the motion.

CHAIRMAN COLETTA: Okay. Then we'll -- is there any other business on that? Thank you.

UNIDENTIFIED SPEAKER: (Inaudible.)

CHAIRMAN COLETTA: No, I'm sorry, sir. Thank you.

What we're going to do -- we've got a 12 o'clock certain. We've got just a few minutes. I think we can go through about three items here, then we'll have to leave.

David, you're going to have to read something into the record before we go on our 12 o'clock certain; is that correct?

MR. WEIGEL: I will very briefly as we adjourn from here to go to the other conference room.

CHAIRMAN COLETTA: Okay. We're just going to take a couple of items fairly quick.

Item #9A

**RESOLUTION 2002-438, APPOINTING COMMISSIONER
HENNING TO THE SOUTHWEST FLORIDA REGIONAL
PLANNING COUNCIL – ADOPTED**

9(A), appointment of a commissioner to the Southwest Florida Regional Planning Council.

Commissioner Carter, I'd like you to tell them a little bit about what it is.

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COMMISSIONER COYLE: And I'd like to make a nomination whenever you're ready.

COMMISSIONER CARTER: Well, I think it's pretty explicit in the backup data of the responsibility. When you serve on a regional planning council, you are now part of a six-county area that is dealing with all land use considerations like DRIs, which have major impact throughout the region.

You also deal with traffic issues, you deal with environmental issues. It is -- just take what you do as a commissioner, think about it in a more global perspective of working with six counties, and you have that opportunity there to make an input and also have a more global impact in terms of what you do in legislative issues.

CHAIRMAN COLETTA: And I might also add to that that you have the resources of the Southwest Regional Planning Council staff, which consists of 16 members, I believe, at your disposal that can assist you in all sorts of different items that come up before the county.

With that, we'll go to Commissioner Coyle.

COMMISSIONER COYLE: I would like to nominate Commissioner Henning.

COMMISSIONER FIALA: I'll second that.

CHAIRMAN COLETTA: We have a motion from Commissioner Coyle, a second from Commissioner Fiala.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Opposed?

(No response.)

CHAIRMAN COLETTA: And the ayes have it, 5-0.

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Congratulations, Commissioner Henning.
COMMISSIONER HENNING: Thank you.

Item #9B

RESOLUTION 2002-439, APPOINTING ANN OLESKY TO THE
IMMOKALEE ENTERPRISE ZONE DEVELOPMENT AGENCY
– ADOPTED

CHAIRMAN COLETTA: Okay. 9(B), appointment of a
member to the Immokalee Enterprise Zone.

COMMISSIONER COYLE: I recommend Ann Olesky.

CHAIRMAN COLETTA: And I'll second that.

COMMISSIONER FIALA: Second. Oh, okay.

CHAIRMAN COLETTA: A motion by Commissioner Coyle, a
second by myself, Commissioner Coletta.

Any discussion?

Hearing none, all those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

Item #9C

RESOLUTION 2002-440 APPOINTING ED CARLSON TO THE
GOLDEN GATE ESTATES MASTER PLAN AD HOC
ADVISORY COMMITTEE – ADOPTED

CHAIRMAN COLETTA: And appointment of a member to the
Golden Gate Master Plan --

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COMMISSIONER HENNING: Motion to approve.

CHAIRMAN COLETTA: For --

MS. FILSON: Mr. Chairman --

COMMISSIONER COYLE: Mr. White (sic), section 5.

MS. FILSON: -- on this one, you'll need to waive section 5D of ordinance 2001-55. He currently serves on two boards.

CHAIRMAN COLETTA: Okay. And did you make a motion, Commissioner Henning?

COMMISSIONER HENNING: Yeah. Motion to approve. Can we make that amendment in the same motion? I just want to amend it to include that.

CHAIRMAN COLETTA: Okay, sir. And I'll second that. And we have a motion by Commissioner Henning, a second by myself, Commissioner Coletta.

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

Item #9F

RESOLUTION 002-441, APPOINTING JOHN MACDOUGALL
AND READVERTISING FOR THE SECOND MEMBER –
ADOPTED

CHAIRMAN COLETTA: And Commissioner Coyle, I'll leave this up to you. We have about three, four minutes. Is this an item you're going to refer to staff or would you like a little more time for discussion?

COMMISSIONER COYLE: Yeah, I'd prefer a little bit more

time. It shouldn't take more than 10 or 15 minutes. We'll defer to later today.

CHAIRMAN COLETTA: We'll do that, and --

MR. MUDD: Commissioner, we could move to F, if you'd like.

It seems like a pretty quick one, 9(F).

CHAIRMAN COLETTA: 9(F)?

COMMISSIONER FIALA: Yes.

CHAIRMAN COLETTA: Go ahead, Commissioner --

COMMISSIONER FIALA: Fiala.

CHAIRMAN COLETTA: -- Fiala. Sorry. I was trying to get to the page too so that I would be there as soon as you were.

COMMISSIONER FIALA: I knew the name. Yeah, good old what's her name.

On this particular one, as I was reading through I noticed that the parks and rec board just nominated one person -- motioned for one person, and I can see why the other two they felt maybe should be set aside. Although they need two people, I suggest we just take the one person that they nominated and that we advertise again for another person to fill that board.

The one person from District 1 who I was so much in favor of, yet his meeting is exactly the same time, he wouldn't be able to attend anyway. And the other person apparently didn't show up for any of their meetings, so -- our interview meetings, so I motion to just accept the one that the parks and rec board recommended.

COMMISSIONER HENNING: Second.

COMMISSIONER COYLE: That's John MacDougall, right?

COMMISSIONER FIALA: Yes, it is.

COMMISSIONER COYLE: Okay.

CHAIRMAN COLETTA: Okay. But does that still leave the Immokalee one for reconsideration later?

COMMISSIONER COYLE: Yes.

MS. FILSON: We're going to readvertise that one.

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COMMISSIONER FIALA: Yeah. We'll leave that position open.

CHAIRMAN COLETTA: Okay.

COMMISSIONER FIALA: And I'll tell you, I will say right now, I am really encouraging East Naples people to apply, because we haven't had a District 1 person on that board in years, not even one. So I'm truly encouraging people to apply for that.

CHAIRMAN COLETTA: That would be for the other position, not the Immokalee one?

COMMISSIONER FIALA: I'm talking about parks and rec board.

CHAIRMAN COLETTA: Right, but there's one -- one of those positions is an Immokalee area position, from what I understood. I'd like to have one person from District 5 on there, if I could. Especially somebody from Immokalee, being 22,000 some people. And Askey (phonetic), I know, is very reluctant to leave, but he had to because he was running for the fire commission.

MS. FILSON: And he has resubmitted, and the vacancy today is for one member representing --

CHAIRMAN COLETTA: That's correct.

MS. FILSON: -- anyone (sic) from Immokalee.

CHAIRMAN COLETTA: That's correct. So we don't have to belabor this now, Commissioner Fiala.

COMMISSIONER FIALA: Okay, okay.

CHAIRMAN COLETTA: So we have a motion by Commissioner Fiala. A second by -- who made the second?

COMMISSIONER HENNING: I did.

CHAIRMAN COLETTA: Commissioner Henning. Any other discussion?

COMMISSIONER FIALA: For Mr. MacDougall.

CHAIRMAN COLETTA: Mr. MacDougall.

Hearing none, all those in favor, indicate by saying aye.

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COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

Item #12A

CLOSED ATTORNEY- CLIENT SESSION PURSUANT TO SECTION 286.011 (8), F.S. TO DISCUSS SETTLEMENT PROPOSAL/LITIGATION EXPENSES ISSUES IN AQUAPORT V. COLLIER COUNTY, CASE NO. 2:01-CV-341-FTM-29-DNF

And with that, Mr. Weigel, would you go ahead and read your preamble to our meeting that's going to take place in secret.

MR. WEIGEL: Yes, thank you --

COMMISSIONER CARTER: In the shade.

MR. WEIGEL: -- Mr. Chairman.

CHAIRMAN COLETTA: I know that's not the correct word, but --

MR. WEIGEL: This is item 12(A) to be followed by item 12(B). And for 12(A) I'll just notice -- indicate that we have notice given that pursuant to 286.011, subsection 8 of the Florida statutes, which is the government in the sunshine law, the Board of County Commissioners will be meeting in executive or closed session with the attorneys today at noon in the commission conference room in this building.

The board in executive session will discuss settlement proposal or litigation expense issues pertaining to the pending litigation case known as Aquaport versus Collier County, which is now pending in the United States District Court for the Middle District of Florida.

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And subsequent to this closed session meeting, the board will reconvene, time permitting, immediately thereafter in this room for item 12(B) for any direction or action in the sunshine concerning the same subject matter.

If, in fact, the executive session should, per chance, go long enough that it's inopportune for the board to meet immediately on 12(B), obviously that can come up later on in the day. We do have our outside counsel here, and it would certainly behoove us if we could utilize him particularly more quickly rather than have him wait for later on.

So with that, we could move quickly and get set up.

CHAIRMAN COLETTA: Okay. And a little bit of guidance here, if you would, please. Our next time certain after this will be 1:30.

MR. WEIGEL: Yes.

CHAIRMAN COLETTA: This may take about a half an hour and leave an hour for lunch.

MR. MUDD: Commissioner, if could make a recommendation. We go into special session and get this resolved and reconvene at 1:30, at which time we go right to 12(B), then we'll go to Mr. Nance's tree issues, and then we'll go right to the rural land.

CHAIRMAN COLETTA: And I think you just said exactly what I said, and that's just fine.

Okay. We'll do that, then we'll reconvene at 1:30.

MR. WEIGEL: Thank you.

(At this point a closed attorney/client session was conducted, after which a luncheon recess was taken.)

Item #12B

**DIRECTION TO OUTSIDE COUNSEL, TED TRIPP, ESQUIRE
AND THE OFFICE OF THE COUNTY ATTORNEY AS TO ANY**

**SETTLEMENT PROPOSAL/LITIGATION EXPENSE ISSUES IN
AQUAPORT V. COLLIER COUNTY, CASE NO. 2:01-CV-341-
FTM-29DNF – STAFF TO CONTINUED TO NEGOTIATE TO
RESOLVE BOTH LAWSUITS**

CHAIRMAN COLETTA: Welcome back. We've got a 1:30 certain that we're going to go to next, which is item 9(E), regarding Tim Nance, 100,000 -- 100,000; didn't mean to scare you, Tim -- trees to be donated for Golden Gate Boulevard.

Mr. Kant, can we get you up here? And where's Mr. Nance? Tim, could you come up over here to the other podium, please.

MR. MUDD: Commissioner, while we're doing this, before we broke for our session that was closed, we talked about -- and Tim, I'm going to ask you if you could just give me a second here. The -- we talked about getting the direction to our attorney on item 12(B) as a result of the closed sessioning, and do that rather quickly, and then get right to Mr. Nance and then to the rural lands.

CHAIRMAN COLETTA: Tim, could I ask you to bear with us, considering what we pay attorneys today by the hour? It might behoove us to get him up here so we can move on. Let's go to 12(B).

MR. WEIGEL: Okay, thank you.

CHAIRMAN COLETTA: We'll deal with that.

MR. WEIGEL: Mr. Chairman, Commissioners, County Attorney, in regard to item 12(B), this is a follow-up item from 12(A), which was the closed executive session just had with the Board of County Commissioners pursuant to the Sunshine Law.

So at this point we're back before you, following the closed session with the board, to come before the board, looking for direction from the board concerning the Aquaport versus Collier County case, which is currently in the United States District Court for the Middle District of Florida.

And before you at the podium is Mr. Ted Tripp, outside counsel on behalf of the county.

MR. TRIPP: Commissioners, my name is Ted Tripp, which I'm supposed to spell for the court reporter. It's T-R-I-P-P. We are representing Collier County in the litigations brought against it by Aquaport LLC, Conotel, LLC, Norman Burke and James Allen in the United States District Court for the Middle District of Florida.

We had originally come before you, anticipating that we would have a proposal as a result of the mediation, which occurred on October the 19th. Unfortunately, that mediation ended in an impasse, and we are advised that counsel for the insurance company, Northland, is not available to recommence that mediation for a period of at least four months. So it does not appear that any formal action on a mediated settlement agreement is appropriate.

We have, however, been advised by counsel for the plaintiff that they are interested in continuing a dialogue to try and resolve the matter. We believe that it would be in the county commission's best interest to resolve the matter, if it could, although we also believe strongly that the county commission has very little exposure on the merits of this case since it acted, in our view, properly and within the powers afforded to it in the Collier County code.

Notwithstanding that, however, it would be in the interest of staff time and in the interest of getting on with business of government if we could resolve this issue, especially in light of the fact that we have substantial insurance coverage available to the county commission.

So all we're asking for at this point is direction from the county commission to continue to negotiate with the plaintiff's counsel to resolve this matter, if it can be resolved, within the context of existing coverage.

The one new item that we brought to you today is the potential claim under the Burt Harris Act, and I would ask that you also

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authorize our office to act with the office of the county attorney to try and resolve that issue, as well as part of a global settlement, again working within the confines of the available resources, including the existing policy limits from Northland. The matter -- to resolve not only the federal court litigation but also the Burt Harris Act claim.

We are asking for a motion to give us that direction and to proceed with settlement negotiations, if in our view those negotiations can occur in a way that's consistent with the best interest of the taxpayers and the citizens of Collier County.

CHAIRMAN COLETTA: Well put.

Commissioner Coyle?

COMMISSIONER COYLE: Mr. Chairman, I'd like to make a motion that we provide guidance to our legal representatives to proceed with efforts to resolve both lawsuits in a manner which is consistent with current policy limits.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: Okay, we have a motion by Commissioner Coyle, a second by Commissioner Carter. Any discussion or questions?

Hearing none, all those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

Any opposed?

(No response.)

CHAIRMAN COLETTA: And the ayes have it, 4-0, with Commissioner Fiala absent.

No, we have a time certain. We'll come right back to it, though.

Item #9E

DISCUSSION REGARDING TIM NANCE'S 1,000 TREE
DONATION OFFER FOR THE GOLDEN GATE BOULEVARD
MEDIAN – DONATION ACCEPTED; TIM NANCE TO WORK
WITH STAFF AND COME BACK WITH PROPOSAL FOR
UPKEEP CHARGES

MR. MUDD: Commissioner, that brings us to 9(E) with Mr. Nance.

CHAIRMAN COLETTA: Yes, if you'd take the position up there at the podium, Mr. Nance, we would appreciate it very much.

Mr. Kant, would you give us an overview of where we are with this donation at this time to beautify Golden Gate Boulevard?

MR. KANT: Good afternoon, Commissioners. Edward Kant, for the record, transportation operations director.

Mr. Nance is at the other podium, president of Trans Gro, has made a generous offer to the county for the donation of approximately 1,000 sapling trees of several different varieties in three-gallon certified Live Oaks, some native Slash pines and pond cypress, and some one-gallon native Slash pine.

We had written -- and I gave a copy of this package to all of you. It's a duplication of a memo you received, I believe, earlier this week or early last week.

There are three basic issues. I think Mr. Nance's offer is quite generous, but in deliberating your decision to accept or not to accept this offer, at least depending on what other conditions he may impose on it, there are three issues that I'd like to bring to your attention: One obviously is a funding issue. It will take some funds to assure that the planting is done properly. Although the proposal, as I understand it, is to use volunteer labor, there is still a number of other costs which I detailed in the memo that I gave to you.

Another issue, of course, is ongoing maintenance, which is also a funding issue, once the materials are in place.

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And thirdly, but certainly no less important, is during the installation, because of the request that we use volunteer labor, we have to consider public safety issues, we have to make sure that we have adequate maintenance of traffic, and that nobody's exposed or unnecessarily put in harm's way.

Having said that, I would defer to Mr. Nance, perhaps to allow him to present his proposal in person to you. And then if there's any questions or comments, I'd be glad to address -- to try to address those.

CHAIRMAN COLETTA: Mr. Nance?

MR. NANCE: Yes, Mr. Chairman, members of the commission, I originally started initiated discussions on the possibility to replant some native plant material in the medians, once the Golden Gate Boulevard expansion to four lanes was completed. And basically the talks have been very general in nature. And I have spoken only to Ms. Pam Lulich, who's a landscape architect for the county, is my understanding. And I recently received a letter from Mr. Kant, outlining some of the concerns and issues that I had during my initial discussions with them.

I also have before me I guess a memorandum that you have in front of you that outlines what some of the costs Mr. Kant envisions as being necessary for the planting of the trees.

When I spoke to Ms. Lulich, I let her know that there were absolutely no qualifications whatsoever in my donations of the trees to the county. The county can use the trees on this project, the county can take trees to their nursery to use for other projects. What my -- my hope and what I envisioned was, to see more native plantings done in the rural and semi-rural areas of the county that could be accomplished without the tremendous landscape cost that normally associate median plantings. And that would include areas such as Golden Gate Boulevard, County Road 951, the medians there that have gone many, many years in the area of the estates without

having anything planted in them, as well as medians along the eastern extremities of Pine Ridge Road.

I can see by the cost summary that was prepared by Mr. Kant, if I was a member of the Board of County Commissions I wouldn't approve this project either. This is -- not to criticize Mr. Kant, but this is not what I had envisioned as being done. And what I would ask the commission to do is let me work with members of your landscape working group, such as Ms. Lulich and Mr. Bob Peterson, to come back with a proposal that has specific costs attached.

I can see right here, just on line items, it includes \$81,000 worth of mulch for installation, and an additional \$20,000 worth of mulch for maintenance. Well, that looks to me like 100 bags of mulch per tree. Well, the cost of \$4.00 installed by volunteers, that's \$400 worth of mulch for the \$10 tree that I'm trying to give to the county. I think that's pretty ridiculous.

So I believe that something can be done that's a little more cost effective. And that was my intent. My intent was not to incur costs for the county, my intent was to try to demonstrate to the county and to the citizens of the county that we can do landscaping using xeriscape techniques and good horticultural management without spending a fortune over an extended period of time.

CHAIRMAN COLETTA: And when we originally met to discuss the possibilities of this many, many, many months ago --

MR. NANCE: Yes.

CHAIRMAN COLETTA: -- we never envisioned anything like this as far as cost.

MR. NANCE: No, I understand where this is coming from, and I respect this, because probably this is the similar sorts of costs you have on existing landscaping of the medians, which I think can be avoided. Not to be critical of anybody's efforts, the medians are beautiful, but they are very costly. And I don't know that the citizenry will support continued expansion of medians in that way. I

think there are alternatives. We can put our brains together. We have 55 inches of rain that naturally falls in Collier County annually. I think with a little bit of fertilizer and a little bit of mulch and native plants, we can establish plants that are going to do well basically by themselves. They do well in most of Golden Gate Estates without anybody fertilizing them, pruning them or mulching them.

Now, I realize that these plants are going in a median, which is a more stressful situation. The soils are probably bad because garbage was thrown in the median and so on and so forth. But if we choose things, I think we can do things that are acceptable and also very, very -- at a very, very reduced cost.

CHAIRMAN COLETTA: So what you're willing to do is we could accept the plants to use as we so desire sometime in the future. If we --

MR. NANCE: Absolutely.

CHAIRMAN COLETTA: -- decide not to use them in this particular case, we can accept your gift.

But meanwhile, you're going to go back and work with staff?

MR. NANCE: I propose -- and in light of this, I don't expect anybody to approve of this. I wouldn't approve it.

CHAIRMAN COLETTA: And I agree with you.

MR. NANCE: I would like to go back and come back with a proposal that encompasses all of these proposed costs and try to get something that's a little more reasonable, if that's acceptable to the commission.

CHAIRMAN COLETTA: I commend you for your civic activism.

Commissioner Coyle first.

COMMISSIONER COYLE: Mr. Nance, I'd like to commend you for your willingness to give these plants to us. And even more than that, I would like to commend you for your sensitivity to the cost to taxpayers.

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If you get tired of the business of growing plants, I'd like to see you here as a budget analyst, because that is exactly the kind of assessment we need here.

MR. NANCE: I would hope that the commission would hold me in a little higher regard than sentencing me to that sort of penance.

COMMISSIONER COYLE: It wasn't intended as an insult.

But I would very much support your efforts to go back and develop a plan that would avoid all of these costs.

MR. NANCE: Well, I believe that I can demonstrate, together with county staff, that this can be done, it's my hope that it will be done and, you know, it can be done, there's no doubt about it.

CHAIRMAN COLETTA: In the meantime, I would like to make a motion that we accept your gift of the trees to be taken possession of at some future time, so that we might be able to make sure that they're in the county system so that if this particular venture will not work, for one reason or another, then we can use these trees to --

MR. NANCE: That's perfectly acceptable.

CHAIRMAN COLETTA: -- our desire to hold the cost down to taxpayers.

MR. NANCE: I so indicated to Mrs. Lulich that I have abso -- you know, if you need 2,000 trees, that's fine. If the first ones have 25 percent mortality, we need to replace them, we'll replace them. It's going to be -- it's not that hard to get this done, believe me.

COMMISSIONER FIALA: I second that motion.

MR. NANCE: It may seem like a daunting project, but it's really not.

CHAIRMAN COLETTA: I have a motion on the floor for the acceptance of the gift --

COMMISSIONER FIALA: He's a nice guy.

CHAIRMAN COLETTA: -- with no strings attached. He's a

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wonderful person. In fact, he doesn't know it, but some day we're going to have him as the president of the Golden Gate Estates Civic down the line. We've got him on the line right now.

COMMISSIONER FIALA: Don't say it too loud.

CHAIRMAN COLETTA: And we have a second from Commissioner Fiala.

Commissioner Henning?

COMMISSIONER HENNING: Do we have means of storing and taking care of these plants if we take possession of them?

MR. KANT: My understanding is that Mr. Nance has offered the facilities of Trans Gro, which is just off the boulevard.

MR. NANCE: Yes, sir, you don't have to do anything with the plants. I have them in the nursery now. They're sitting there on a daily basis, being taken care of. There's no immediate time line or necessity to do anything at this moment.

MR. KANT: The answer -- the short answer to your question is no, sir, we do not have a plant -- like a tree farm or anything like that, at least not that I'm aware of. Frankly, it's possible that Parks and Rec does, but I just haven't had an opportunity to check with them.

COMMISSIONER HENNING: Thank you.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: I would just like to follow up on that.

The motion was that we accept the gift. And I think the implication in the motion was that you retain the trees until we develop a plan and you can come back to us and make a presentation and we agree on a plan to accept them.

MR. NANCE: Yes, sir.

COMMISSIONER COYLE: I think that was implied in the motion.

MR. NANCE: Yes, sir.

CHAIRMAN COLETTA: Thank you. Any other discussion?

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COMMISSIONER CARTER: Well, sir, I think it's a wonderful gift, and after the 18th of November, at midnight, I know a yard where you can put some.

CHAIRMAN COLETTA: And then afterwards, I'll buy you breakfast.

And with that, I'll call the motion. All those in favor, indicate by saying aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: Aye.

Opposed?

(No response.)

CHAIRMAN COLETTA: The ayes have it, 5-0.

Thank you very much, Tim.

MR. KANT: Thank you, Commissioners.

CHAIRMAN COLETTA: Thank you, Mr. Kant.

The next time certain –

Item #8D

**ORDINANCE 2002-54, COLLIER COUNTY GROWTH
MANAGEMENT PLAN (GMP) AMENDMENTS AS A RESULT
OF THE RURAL AND AGRICULTURAL ASSESSMENT FOR
THE EASTERN (RURAL) LANDS PORTION OF THE
ASSESSMENT AREA, INCLUDING SOME AMENDMENTS
APPLICABLE TO THE ENTIRE UNINCORPORATED AREA OF
COLLIER COUNTY – ADOPTED**

MR. MUDD: Commissioners, that brings us to 8(D), which is time certain, which is the Collier County Growth Management Plan

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amendments as a result of the rural and agricultural assessment for the eastern lands portion of the assessment area.

MS. LINNAN: Good afternoon. I'm Nancy Linnan with Carlton-Fields. I'm the outside legal counsel for growth management, here today representing ESTAT.

I have with me Marty Tumbler, my partner. Also, the usual suspects, in case you have any questions about this. But I know you have a long day, and I promise to make it as short as I can.

We're here on the adoption of the comprehensive plan amendments covering the 195,000 acres, known to different people as the eastern or rural lands. It transmitted those in June after a data gathering. The committee worked for two and a half years. We anticipated at the time that though it was a very big project, the department would have some issues. It did raise those in an Objections, Recommendations and Comment report, which we received in September, and at that time we've been setting about responding through amendments to the language.

I'm pleased to announce that we have agreement of all the properties: County staff, the East Collier Property Owners Association, the Conservancy, the Florida Wildlife Federation and Collier Audubon on that language.

The environmental advisory committee raised some considerations and issues. We addressed those. And the planning commission endorsed the package you have in front of you unanimously.

Briefly, very, very briefly, let me talk about the kinds of changes, because some of the commission had asked that I do that. The department asked that we provide a little more substance to the form of development -- because we are not putting the usual spots on the map with these towns and villages and hamlets and compact rural developments are going to go -- tell us in writing what they're going to be like so we can have some requirements.

What we did was we turned guidance language, where appropriate, into requirement. We limited the hamlets and CRD's under 100 acres to a ratio of five per town and village. But we limited CRD's over 100 acres to five. Count them, five. That was a big issue with the department. And we have also provided a bonus credit system for some of that acreage.

We have also created a minimum mixed use requirement and a maximum floor area ratio, so the department, when they put those numbers on paper, and the county will know what these look like.

In terms of location of receiving areas, the stewardship receiving areas, we provided the department the piles of data, which you saw about a year ago. Apparently we had not transmitted that to the department in June, even though they have it. They just didn't take it out of one pile and put it into another. And we explained away their concerns in a couple other areas.

In terms of infrastructure, we provided them the data or are providing them the data they have asked for. And we've also put what I call stoppers in the language. When someone comes in front of you and petitions to create a stewardship receiving area where these towns and villages and hamlets and CRD's will be located, they're going to have to show you in a fiscally neutral impact way to the county that there is capacity available, or they will provide their own capacity. So the county will not be responsible for providing roads and sewer and those kinds of things, unless the county wants to.

In terms of incompatible uses within the habitat stewardship areas, those were the upland protection areas, what would ordinarily be a sending area in the fringe. No golf courses, mining, general condition uses, if the land has a value of over 1.2 on the index. And that was the level that we all agreed, including the state agencies, that was the cut-off between land that had no significant environmental value.

Even then, anything going on that property is going to have to be a conditional use. And on top of that, folks are going to have to present an environmental impact statement to document that they have no adverse impact on the aquifer, unlisted species or their habitat, and that the clearing is going to be minimized. On top of that, clearing even then is only limited to 15 percent of the native vegetation.

Any golf course design in these areas is going to have to -- the design and operation is going to have to meet Audubon gold standards, the highest there is. And we have limited to some extent essential public services in the language you have in front of you.

We provided also, and this was important to everyone, an extra bonus credit for landowners who were willing to give up development rights in those particular habitat stewardship areas at the front end for the first five years of the program. And they don't have to concurrently, with doing that, run out and create a town or anything, they can bank those.

What if you don't participate in the program? Very briefly, we raise the regulatory floor for those folks. Partisan incentive, to participate in the incentive program, but in part to protect the environment, should they choose not to participate. You're not going to be able to cluster out there if you don't participate in the program. You have the same restrictions in the flow way stewardship areas, and many of the same restrictions in the habitat stewardship areas. You're limited to 20 percent site clearing. Not just a fate of habitat, but site clearing. And you're going to be bound by essentially what are the fringe wetlands requirements. So very strict habitat and wetlands requirements.

On top of that, what we are asking you to do in your package is readopt the county-wide habitat and wetlands policies that you adopted with the fringe. Now, the fringe area is not going to be adopted as is, but it will cover urban areas, Golden Gate, things like

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that. And those policies are not currently in effect because the fringe amendments have been challenged. So this is another way to put the same language in the plan a lot quicker.

Now, this document will go to the Department of Community Affairs, after you take action on it for a compliance determination. We have been in daily contact, sometimes many times a day, with the department and feel pretty confident right now that it will be found in compliance.

And the package you have in front of you, let me make that clear, would be the green book that you received with the changes dated Friday that you received. Let me just for the record -- you were each faxed a two-page rap sheet last night.

I would point out that on policy 3.5 on the second line, we had residential. Actually, a non-lawyer noticed that that should be recreational. We have made that change.

Finally, there is one other piece of language that we have put in to satisfy the department: The third page of that is a demonstration of what a decentralized community wastewater facility is. The department had some questions about it. We talked to the Department of Environmental Protection, got their guidance and have put that language together in cooperation with the department. So that would be the package that would be in front of you today. Your packet, two-page errata sheet with a change from residential to recreational, and that language describing what the wastewater treatment system would be.

Finally, I would be remiss if I didn't take the time to thank the committee members who spent two and a half years working on this. And we had chairs Barbara Barry, Ron Hammill, who I was pleased to see is here today. You had a staff team led by Bill Lorenz, Bob Mulhere is your outside consultant; the legal team of David Weigel and Margie Student.

The citizens groups: The Florida Wildlife Federation, Collier

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Audubon, and Conservancy, all of which up until the last minute, even outside, have continued to nudge us, in some cases not so subtle a nudge, but to help us come up with a better project.

To Al Reynolds and the Wilson-Miller team. I mean, they were really a part of the team in putting this thing together.

And finally, and perhaps most importantly, the property owners. We forget sometimes it's their property throughout this. They maintained a pretty good collective sense of humor. And I hope that five years from now when the first assessment comes up, they will have done us all proud in banking some of these development rights.

I'd be happy to answer any questions.

CHAIRMAN COLETTA: Commissioner Coyle, then Commissioner Henning.

COMMISSIONER COYLE: Just a question concerning the application of some of the rural fringe policies to this particular study. Could you amplify on that, please, and give me a little more specifics about what that means?

MS. LINNAN: The rural fringe policies were the habitat protection policies, listed species and habitat protection policies and also very stringent wetlands policies. They will apply to what I call the baseline folks, people who do not participate in the incentive program. Because if you participate in the incentive program, those areas are protected anyway. So essentially you have the same protection that you have in the fringe, conservation and sending areas as you do for the baseline people out here when they're dealing with sensitive property.

COMMISSIONER COYLE: And this provides ample incentive, you believe, for people to participate in the overall program?

MS. LINNAN: Yes, we do.

CHAIRMAN COLETTA: Commissioner Henning?

COMMISSIONER HENNING: You made some reference to

the urban area amendments?

MS. LINNAN: Yes, sir.

COMMISSIONER HENNING: Can you explain that?

MS. LINNAN: Sure. When we adopted the fringe package, at the same time, in order to have that go into effect, we also had to adopt county-wide policies. Now, we took out this area of the county, we took out the eastern lands, because this we were in the process of still working on, but we came up with county-wide policies that would apply, because you really didn't have any in terms of habitat protection and wetlands protection.

Most of those policies, because it is -- most of the county that it covers is in an urban area, basically left a lot of that to the federal agencies, the state and federal agencies, to look at. Because we had determined through the data and analysis that most of the major flow ways were already protected or had already been developed at that point.

So all we are doing is adopting the exact same language, only this time we're -- instead of the eastern lands we're taking out of it, we are taking out eastern lands because it's got its own protection, and we're taking out the fringe because that isn't in effect yet. And there hasn't been any objection to that.

COMMISSIONER HENNING: If I remember right, that was -- coastal area flood zones was one of them, and now we're seeing wetlands within the urban area?

MS. LINNAN: Yes, yes.

COMMISSIONER HENNING: Okay, are we creating urban sprawl when we say that?

MS. LINNAN: No, because actually we had determined through the data and analysis that most of those areas had already been built on or were already protected as part of existing DRI's and things like that. It will probably have very little impact, but for those few areas that haven't been developed, we wanted to go ahead and do

this.

COMMISSIONER HENNING: What about existing platted land? Is that --

MS. LINNAN: If it is part of an existing DRI, if it's part of an existing PUD, apropos the discussion you had this morning, it would not apply.

If it is platted and they come in, they would have to be subject to whatever the county regulations are at that time.

But we have not heard any concern, nor did we during the fringe after we changed the policies that applied to the urban area from anybody out there who had platted property.

COMMISSIONER HENNING: Okay, I think Mr. Mulhere can answer the question that I'm interested in as far as the wetlands and habitat protection.

MR. MULHERE: Thank you. For the record, Bob Mulhere, with RWA.

The urban wetland standards, specifically for existing platted single-family lots such as Golden Gate Estates, the only requirement is that if they have to go and get a jurisdictional permit, well, they still have to do that. There's no county standard built into these. And I think that probably was the area that you were most concerned with, if I'm not mistaken.

COMMISSIONER HENNING: Correct.

MR. MULHERE: Yeah. There's no greater regulation or restriction in these standards; simply if they're required to go to the Water Management District or the Army Corps, they would still have to do that. We rely on those jurisdictional agencies and the platted Golden Gate Estates.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yes, thank you. Just a fast question.

Nancy, you were saying that the owners would have to -- and I

forget the words you used, but something about make sure that the aquifers were protected?

MS. LINNAN: Yes.

COMMISSIONER FIALA: And what guarantee would we have that those aquifers were protected, other than just filling out a form?

MS. LINNAN: Well, what will happen is you have to come up with your land development regulations to implement this, and that will be a very important part of this process. And they'll go through all the usual steps: The EAC, the planning commission and then to this board.

I'm assuming that as part of that, you could require what's known as reasonable assurances or ask that someone document the fact that it will have no impact. And then it would usually be reviewed by your staff and anyone else. And in that case, probably the Water Management District.

COMMISSIONER FIALA: And then they would test for it afterwards to guarantee that it isn't, right?

MS. LINNAN: That could be part of your process. That's up to this board.

CHAIRMAN COLETTA: I'd like to make a motion at this time that we adopt the GMP amendments and transmit them to the Florida Department of Community Affairs.

COMMISSIONER CARTER: Second.

COMMISSIONER FIALA: I'll second that.

CHAIRMAN COLETTA: We'll come to the speakers. I just wanted to get the motion on the floor. And I made the motion and the second was by Commissioner Fiala.

And what we're going to do now is we've got Commissioner Coyle and then Commissioner Carter.

MS. LINNAN: Could I clarify something? Mr. Mudd thought the word transmit was there. We're adopting, correct? I heard adopt, and then my mind probably --

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CHAIRMAN COLETTA: No, transmit, I said.

MS. LINNAN: This is for adoption. We have already transmitted.

CHAIRMAN COLETTA: Excuse me, for adoption.

MS. LINNAN: Good catch.

COMMISSIONER FIALA: My second will be for adoption as well. And so will Commissioner Carter's.

CHAIRMAN COLETTA: The second.

COMMISSIONER CARTER: It only takes one.

CHAIRMAN COLETTA: Okay. I'm sorry, Commissioner Carter is next -- Commissioner Coyle, I'm sorry.

COMMISSIONER COYLE: You didn't let me ask my questions.

CHAIRMAN COLETTA: I thought that was the shortest, briefest conversation you ever had.

COMMISSIONER COYLE: That's the second time today.

CHAIRMAN COLETTA: It hasn't worked yet, either.

COMMISSIONER COYLE: It hasn't worked yet.

Marty (sic), just a couple of questions. With respect to the development standards of the stewardship receiving area, item 4.7. The density standards were established at four units per acre, and I believe DCA was concerned that that might inhibit the development of affordable housing. How did we deal with that?

MS. LINNAN: We pointed out that that was four units per gross acre, which had not been made clear before. And that there was no restriction on either affordable housing or high-density housing, multi-family, whatever. And they felt comfortable with that explanation and the clarification in the language to include the term gross acre.

COMMISSIONER COYLE: They were also concerned about the fact that the SRA's permitted other than residential development, and there were no intensity standards established.

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MS. LINNAN: Those have been added.

COMMISSIONER COYLE: Okay. So now, rather than going through each of the DCA's objections and recommendations, could you just give us an overview, if there are any that we did not address to DCA's satisfaction, to your knowledge?

MS. LINNAN: No, sir, none. I believe they are satisfied with all of them. We've been taking their temperature, as I said, several times a day.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: The Board of County Commissioners has taken a lot of criticism in the past, particularly in the first two years while I was here. But let me tell you one of the right things that they did, at the request of the landowners, was to go into a long extensive process to do it right. And that's what we did. Board of County Commissioners did that by setting the parameters, the framework, to make this happen in conjunction with the stakeholders to get us there. Because this is an effort of the Collier County community, by the Collier County community, for the Collier County community. So no one never (sic) needs to forget that.

And in all the years I've been here, someone says I don't know what this commissioner means by process. Well, let me tell you, between these binders is what this process is all about. And when you do it like this, then you certainly diminish any problems now and in the future.

And this county needs to be commended for what we're doing here. It's a model for the State of Florida, and in my judgment it is a model for the United States. So we should stand tall and proud today as we move this forward to Tallahassee for the final seal of approval.

CHAIRMAN COLETTA: With that, let's go to the -- we have two registered speakers who are probably going to try to talk us out of it, so go ahead and call them up.

MS. FILSON: First one is Nancy Payton. She will be followed

by Brad Cornell.

MS. PAYTON: Good afternoon. Nancy Payton, representing the Florida Wildlife Federation.

Our major issues have been addressed as late as yesterday afternoon. That dealt with the central services, wildlife habitat, wildlife crossings. We're working with the transportation division to make sure that roads are properly classified so we're eligible for federal monies to establish wildlife crossings in appropriate areas that are identified by the Wildlife Commission.

The issue of communication towers, we're going to address the siting, construction and operation of these towers to avoid bird mortalities through the land development code. In fact, Florida Wildlife has offered to do the first draft, to expedite that, and staff has accepted that offer.

We appreciate the willingness and the responsiveness of county representatives and the eastern Collier property owners to address our concerns. The three-year rural planning effort has ended as a final order, directed as a collaborative community planning effort. It started out pretty bitter, but it sure has ended rather sweetly with all of us agreeing to the same plan. And I think this is in large part due to this commission and your encouragement that people communicate and they sit around the table. And I think that was a key factor in turning this process, and truly one that everybody had a seat at the table.

And I want to express again my appreciation personally and on behalf of my organization to each one of you. And I urge you to adopt this plan, move it on so we can get busy writing the land development code and implementing this landmark plan. Thank you.

CHAIRMAN COLETTA: Thank you, Mrs. Payton.

MS. FILSON: Your final speaker, Mr. Brad Cornell.

MR. CORNELL: Hi, Commissioners. Brad Cornell, representing Collier County Audubon Society. I'll be very brief.

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We are very supportive of the rural land stewardship area overlay amendments that you have before you. We are all going to have to watch how these new policies, which are very innovative and very creative, how they are implemented and how they actually work on the ground, not just in theory. But that's going to be hopefully a very productive process, and we look forward to that, the writing of the LDC amendments that go with this.

We've been surprised at the positive results of this kind of cooperative conservation and community planning, and we look forward to more of this. This is indeed, as Commissioner Carter pointed out, a model for how we would like to do things when we have big issues. You know, everybody has their say, everybody has their chips on the table, and we come to terms that are agreeable to everyone. No one wins everything they want, and unfortunately we have to recognize that. But we're very supportive of this, these results, and we recommend adoption. Thank you.

CHAIRMAN COLETTA: Quite a change from two or three years ago, correct?

MR. CORNELL: Night and day.

CHAIRMAN COLETTA: And the lions lay down with the lambs. Everybody's getting along, happy.

MR. CORNELL: I don't know if we're laying down. We're in the same room.

CHAIRMAN COLETTA: And we're so thankful for it. Once again, it's very remarkable how well so many people can work together. And I know it set the parameters for a whole number of things that are going to be coming up. One of them will be of course the green tax that's going to be on the agenda. And I think there's a perfect example how the community, we can make things work. I commend you all.

MS. FILSON: Mr. Chairman, I have one additional speaker.

CHAIRMAN COLETTA: Okay.

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MS. FILSON: Gary Davis.

MR. DAVIS: I can't let my colleagues be the only ones to support this.

CHAIRMAN COLETTA: We kind of figured this was going to happen. Go ahead.

MR. DAVIS: No, I'll be brief. Because I did meet with a couple of you last week and shared some concerns that we still had. And I wanted to make it clear that those concerns have been worked out, and we now feel that we can fully support the plan as it's come to you today.

It's a dramatic improvement from what we saw back at transmittal time, through the efforts of the DCA and through the efforts of the various parties who have been negotiating this over the last week. We did some hard work to get where we are today. And as Brad said, not everybody got what they wanted, but I think we're in good support of this plan as it's coming forward, and we urge you to adopt it today.

CHAIRMAN COLETTA: Before somebody changes their mind

--

COMMISSIONER FIALA: I'm so glad you made that statement on the record, because I know a few of us were quite concerned, but then we'd heard that your concerns were met and met with a positive response. So I'm just glad you said that on the record, thank you.

MR. DAVIS: Well, we appreciate you all for listening to our concerns, and we certainly support this type of process, as Commissioner Carter and others have noted today. And we look forward to participating on the land development code amendments that are yet to come. Thank you.

CHAIRMAN COLETTA: Thank you, sir.

With that, I'll call the question. All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

Thank you very much, Ladies and Gentlemen.

COMMISSIONER FIALA: We just made history.

CHAIRMAN COLETTA: Again.

MS. LINNAN: Mr. Chair, if I could just point out, because it's now a requirement of state law, that there is a sign-up form outside in the lobby for anyone who would like to receive a direct copy of the Department of Community Affairs' compliance determination.

CHAIRMAN COLETTA: So noted.

Item #9D

**DISCUSSION REGARDING ALTERNATIVES TO
CONDEMNATION TO LOWER RIGHT-OF-WAY COSTS –
STAFF DIRECTED TO CREATE A SUB-COMMITTEE WITH
COMMISSIONER COYLE AS CHAIR**

And with that, we're going to go back to our regular agenda with the item 9(D). Commissioner Coyle, you're on.

Would you like to take a second?

COMMISSIONER COYLE: No, thank you, Mr. Chairman, I think we're okay.

Contained in your agenda under 9(D) is a request that the Board of County Commissioners provide guidance to staff to develop a better means of acquiring right-of-way. Our right-of-way costs have skyrocketed. It's causing major increases in impact fees and, I believe, unnecessary waste of taxpayer dollars. Because we are not evaluating all the alternatives for acquiring right-of-way, short of

condemning it.

So what I would like to do -- and by the way, a gentleman in the audience today, Scott Cameron, is responsible for planting the seed of this concept. And I would like to see if the commission would be willing to consider either an ad hoc committee consisting of the necessary real estate and financial people and tax attorneys who could evaluate all sorts of ways that we could acquire right-of-way, short of condemning it. And -- or we could combine that with an existing -- combine that responsibility with an existing committee, if there is one you believe is appropriate.

These things can be -- can involve all sorts of things, from transfer of development rights to density credits, to just credits against impact fees, which of course is already being utilized.

But there are a number of other interesting ways and innovative ways where it is to the best interest and to the advantage of a property owner to donate property to the government and thereby get certain tax breaks which will make it less expensive for us to acquire right-of-way because of the -- through the cost of condemnation.

So I'd just like for you to consider that. And if you're so inclined, provide --

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: Commissioner Coyle, I read your memorandum with a great deal of interest, and I couldn't agree with you more, but I think the vehicle is being established to do that.

In a conversation with our County Administrator Jim Mudd, it was our judgment that you could fold this into the revenue commission. And as that comes forward at our next meeting, this could be an incorporation and a part of their challenge to come back to us with the recommendations to embrace this, along with the other -- the issues that are -- that exist for this county for infrastructure and all the other items that we've discussed.

So it would be my suggestion to the board is that take a look at

that vehicle, see if it accomplishes a goal. If it does, terrific. If you feel it needs expansion beyond that, that would be a time to do it.

COMMISSIONER COYLE: There are two issues here. One is the concept of evaluating innovative ways of acquiring right-of-way. The other of course is to identify the committee that is responsible for making those recommendations to us. And I understand and agree with your recommendation that we combine this with perhaps an existing revenue committee. But I would suggest to you that we need to do one thing today, and that is to provide guidance to staff that we want to evaluate these alternative methods of acquiring right-of-way. And secondly, that we want to identify and appoint people with the unique skills that are necessary to evaluate this.

These are -- the skills that are necessary for exploring these opportunities for acquisition of land are substantially different from the skills that are necessary for determining additional revenue sources. And if you would be willing to perhaps consider additional appointments to the revenue committee so that we have those kinds of skills represented, I would be very happy with that.

COMMISSIONER CARTER: You know, that certainly would work for me, Commissioner, and it could be an ad hoc committee to that. But keep it within one envelope for that to whatever mechanism works, additional people.

And I agree with you, you need a talent to come up with those specific identifiable items. And it seems to me that could be worked out with the county administration, to come back and say here's how you can put it all in the same envelope and here's how the pieces work.

And I would be very supportive of any action that we need to take at the next meeting.

CHAIRMAN COLETTA: Thank you. So it's not going to require a motion per se, just the direction of staff?

COMMISSIONER COYLE: How about getting three nods?

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COMMISSIONER FIALA: You've got a nod.

CHAIRMAN COLETTA: You've got a nod.

COMMISSIONER FIALA: I like that, save millions of dollars.
It sounded good to me.

MR. MUDD: But I also have --

COMMISSIONER COYLE: He doesn't want to save millions
of dollars.

MR. MUDD: For the record, Jim Mudd. What I also -- kind of
through the nods, what I also heard, and before the workshop, you
directed staff to establish the revenue commission and not receive the
white paper for Commissioner Carter as far as that organization is
concerned.

While we're addressing the commission and maybe an adjunct or
incorporating this other one in there is, is this kind of what the board
wanted us to do with the revenue commission? I want to make sure.
And I think all the commissioners received this. It had different
organizations and memberships from those organizations.

CHAIRMAN COLETTA: The only thing that was missing from
there, if I may interrupt, it's got Golden Gate Civic Association, it
does not have the Golden Gate Estates Civic Association, which
numbers 300 and some people. That's an addition I'd like to make
sure that is added to that.

COMMISSIONER HENNING: How many residents?

CHAIRMAN COLETTA: I'm sorry?

COMMISSIONER HENNING: Nothing.

CHAIRMAN COLETTA: Commissioner Coyle? I see your
finger up. I was looking -- your red light's on too, so go ahead and
speak.

COMMISSIONER COYLE: I don't have a problem with this
organization from the standpoint of investigating additional revenue
opportunities. But clearly this is not the set of people or backgrounds
or skills that is necessary to evaluate the tax implications of donating

land or operating land trusts.

So what I would suggest is that we create a sub-committee to the revenue committee that consists specifically of the skills necessary to deal with that particular issue. Otherwise, I think we're going to have an unwieldy committee that simply cannot reach a conclusion.

MR. MUDD: Yes, sir.

COMMISSIONER CARTER: I don't disagree with that, Commissioner. It takes special skills sets. Mine was broadbrushed. If there's -- and it was -- you know, we have to wait till we're out here. That's why it's no one to respond to that.

But you need the blanket. And my concern was we take a blanket of organizations, we let them appoint a representative. We the Board of County Commissioners set the framework. We say to these organizations, you give us the people and with this you're going to put some other qualifiers, which it's up to whoever those people are to identify the best and the brightest in those areas so that they can come back to the board with recommendations. We're not telling them what to do, we're telling them what we need to do. And that way I think we get the broad-based support from the community.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: I would really prefer if we could -- now we've got what, maybe 15, 20 representatives on this list, maybe more. If each of those tries to nominate somebody, we're going to have a really, really big sub-committee. I would --

COMMISSIONER CARTER: No, no, no.

COMMISSIONER COYLE: -- ask that the commissioners consider appointing this sub-committee ourselves. We know generally what kinds of skills sets we need to do this, and I would hope that we could identify certainly no more than six or seven people for a sub-committee. If we get a committee that puts it beyond that, I'm afraid we're going to spend a lot of time getting nowhere.

CHAIRMAN COLETTA: May I make a suggestion? I head up the health and human service committee, Commissioner Fiala heads up the affordable housing committee, Commissioner Henning is heading up the smart growth committee. Would you consider taking charge of this yourself?

COMMISSIONER COYLE: I'd be delighted to deal with the sub-committee for the evaluation of the right-of-way acquisition.

CHAIRMAN COLETTA: I hear you, but I got the feeling that you're not comfortable, and after your explanation about the makeup of this particular finance committees, I can see where it would follow in the parameters for what you wanted to do.

COMMISSIONER COYLE: Yeah, it --

CHAIRMAN COLETTA: You're looking for people with special skills.

COMMISSIONER COYLE: You bet.

CHAIRMAN COLETTA: I support you.

COMMISSIONER COYLE: And I don't know that a representative of a homeowners association is going to have the requisite skills --

COMMISSIONER CARTER: And I didn't mean that, sir. I said that you would need to identify specific people outside of that list to fold into one envelope. That was my only point. Whatever way you all are comfortable.

COMMISSIONER COYLE: And I'm suggesting that the commissioners identify those people, appoint them, and I'd be happy to chair that sub-committee.

CHAIRMAN COLETTA: Great.

So Commissioner Fiala?

COMMISSIONER CARTER: Legal counsel's going to have something.

COMMISSIONER FIALA: I'm just joining in at the very end, but what I wanted to say was it seems like it takes a special expertise

for what you're trying to accomplish, and I think they ought to be handpicked people for this purpose only. I don't think it should be convoluted.

COMMISSIONER COYLE: Suppose I do this, to make it a little easier. Suppose I prepare some recommendations, not by name, but prepare some recommendations about the case, about the qualifications that I think would be appropriate for this particular committee. And then each of us could appoint one or more people, if you wish to do that. But at least that would give you some idea of the kinds of people we're looking for. And if that would be helpful in determining your appointments, I'll be happy to do that.

MR. MUDD: Commissioners, if we could get the county attorney to get some comments and some recommendations and advice here, please. David?

MR. WEIGEL: Thank you, Jim, Commissioners.

Just so you know, there is significant flexibility here in the sense that if you have a committee that you're going to put together for less than -- three years or less, it can be done by resolution. It doesn't require ordinance with advertisement. You can always go ordinance, if you want to, to establish a standing committee, even if it's Sunshined or went out of existence at a stated time or when its mission is completed. But you have the flexibility of county manager and our office putting together a package or a couple of packages for you to look at to see which one works best.

Typically by definition a sub-committee is a sub-unit of a committee. We may find that that doesn't work quite as well, because the original committee of a revenue committee would have the sub-committee coming up to it, bumping up against that.

But to the extent that Commissioner Coyle may be kind of a principal on top of the triangle element there, I look very forward to work with you so that when we come back in a couple of weeks, or however quickly you would like, that we can give you the best

possible choices so that you achieve efficiencies in selection in running the doggone things, too.

COMMISSIONER COYLE: If the commission would permit it, I would be happy to work with the county attorney to work out some alternatives about the organization and try to define some skills and then get back to the commission.

CHAIRMAN COLETTA: You've got four nods -- five nods.

COMMISSIONER HENNING: It's going to be one of the horizon committees?

CHAIRMAN COLETTA: I think it would be safe to call this a horizon committee, wouldn't it? You think this fits the def --

COMMISSIONER COYLE: Or a Sunset committee.

COMMISSIONER CARTER: Well, it's going to rise and set.

CHAIRMAN COLETTA: Yeah, that's true.

Okay, with that, I think we're finished that item. We gave sufficient direction to staff.

Item #9G

ANNUAL PERFORMANCE APPRAISAL FOR THE COUNTY ATTORNEY – TABLED; TO BE BROUGHT BACK LATER IN THE MEETING

Moving on now to 9(G), the annual performance appraisal for the county attorney.

And with that, for the listening public out there, the county commission has basically three employees, one of them being the county manager, the county attorney, and of course the airport authority.

COMMISSIONER FIALA: Manager.

CHAIRMAN COLETTA: The manager of the airport authority. Other than that, everyone else works through the county manager,

the county attorney, or the director of the airport authority.

We have to take personal responsibility to evaluate these people on a yearly basis, and that's what we're doing now with the county attorney.

Each one of us have had a survey given to us to rate the county attorney as to what we found him to be. And the way the rating went was is that the low standards it was three -- no, excuse me, two, one to two. Meets standards would be three. And four would be exceeding standards. And five would be far exceeding standards.

After everything was averaged, the overall average came out to be 3.58, which would fall right between the two categories of meets standards to exceeds standards. So somewhere between those two points we are with the evaluation.

From that evaluation, we're supposed to come up with what we need to do as far as a merit pay goes for our county attorney, based upon his performance for this past year, be awarded either one percent, two percent, 2.52 or up to 3.5 percent increment, based upon the plan in place for all Collier County employees.

That's where we are at this point in time. Being that we're coming above meets standards to exceeds standards, right in that middle range, I propose to you for discussion purposes that we consider an amount of 2.5 percent for merit pay. And that's for discussion.

COMMISSIONER FIALA: My question is would that -- would he then be earning more than the county manager?

CHAIRMAN COLETTA: I'm not too sure on that, but we'll certainly have the answer very soon.

Could somebody do the -- compute that out and let us know?

COMMISSIONER COYLE: What's the question again, please?

COMMISSIONER FIALA: Would he be earning more than the county manager with that type of an increase? I don't think that that's right.

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CHAIRMAN COLETTA: That's a concern?

COMMISSIONER FIALA: That's a concern with me. I feel the county manager is the head of the team and he should be making the most money.

CHAIRMAN COLETTA: Well, we'll get that number for you. Could somebody take a second to compute it out, please.

COMMISSIONER COYLE: Does anybody here have an idea of how much the county manager makes?

CHAIRMAN COLETTA: 150 or 160.

COMMISSIONER FIALA: We just voted on it.

COMMISSIONER COYLE: Just asking.

MR. MUDD: I make \$153,000.

CHAIRMAN COLETTA: And the county attorney makes?

MR. WEIGEL: Under contract, it's \$144,922.44.

COMMISSIONER COYLE: So it would be less than.

CHAIRMAN COLETTA: Then it would be less with the 2.5.

MR. WEIGEL: That's correct. To be perfectly clear, there's also a \$400 a month car and phone allowance, which is not part of the base salary. I don't recall if Jim has that separate and apart from the base salary that he mentioned to you or anything else.

CHAIRMAN COLETTA: Okay, Commissioner Henning, I didn't mean to ignore you. We had a little discussion going here.

COMMISSIONER HENNING: Mr. Weigel, can you shed some light on -- do you have any recommendations or requests from the board on this item that we're about to take action on?

MR. WEIGEL: Well, yes, I do have one, in fact. It's not so much a salary increase as the fact that it's a clarification that came up last year after last year's evaluation, which was rather favorable. And that was I spoke with Jim Mitchell, or I should say he mentioned to me after the meeting. He said David, you didn't clarify with the Board of County Commissioners in regard to senior management status. And I'm still a little unclear, when the contract was negotiated

back in 1998, it provided at the bottom of Page 4 in the contract that the county attorney should be -- I'll read it specifically here. Page 4.

Employee, which is me, shall be entitled to the same retirement benefit system contributions as are provided to the county administrator. That language was directly from the Palm Beach county attorney's contract, and was developed into my contract in 1998 when it was renegotiated with the board at that time.

And the question had come up following that time, that since it didn't specifically say senior management, although it was referring to the same funding, was that not what was meant. Well, in Palm Beach County, it meant senior management, it was paid in the senior management.

I heard, oh, a year ago, someone from Tom Olliff's office high up had mentioned to me, David, good news, you're included with the division administrators with the senior management retirement element. I still don't know for sure if that's occurred or not, but I don't think it's applied to the contract.

Quite frankly, yes, I think our office worked very hard this past year. Not just me, of course, but the office has worked very hard. And even a few minutes ago, listening to Brad Cornell talk about very innovative, very creative handling, which our office is a part of, a very significant growth management amendment effort. I think that we've been pro-active and not developer friendly.

But all that in context, really what I'm concerned about more is not so much a raise, it could be one percent, it could be nothing, if you wish to do so. But I would like the clarification of the senior management retirement issue, which I thought was square in the first place, but apparently still isn't.

COMMISSIONER HENNING: So let me get this straight: The only action that you're asking us to take today is to determine whether the county attorney, being you, is eligible for senior management retirement?

MR. WEIGEL: Yes. It may even be considered a concession on my part, based upon the evaluations, but I'm concerned about that. And cost of living is in there anyway, because I should be getting any wage adjustments that county employees get generally. And I think that that's the term of the contract that was negotiated, and would still be there.

COMMISSIONER HENNING: And the COLA is still there?

MR. WEIGEL: That's what I'm talking about.

COMMISSIONER HENNING: Okay.

CHAIRMAN COLETTA: What would be the difference between your retirement benefits as you presently have them and as you're talking about us looking into it?

MR. WEIGEL: Well, what it ultimately means is if I retire -- and with young children I'm going to have to work forever -- but if I retire, then --

COMMISSIONER HENNING: I know the feeling.

MR. WEIGEL: -- the retirement that I would receive at that point would be higher than what it is right now. And I think that really it's a clarification of a term that was negotiated over four years ago.

But ultimately I'm not here to try to talk and finagle big bucks. I think that this board has been very generous, albeit in a late sense. That is, prior boards were not. And I worked here for years very cheaply. But by virtue of the fact of an outside review that still didn't even take into account public sector attorneys, not private sector attorneys but merely public sector attorneys. And with other comparative data that I've provided you for what I consider to be dynamic counties, of which this is clearly one, that if you look at Hillsborough, Sarasota, even Lee, Pinellas, Orange County, the pay that comes to the county manager or the county attorney is not in fact inappropriate.

But once we established -- the board established phasing in over

an actually three-year period what they have, the pay is very commensurate with what the job and the marketplace are at this point. In the public sector, not the private sector. But that's where we are.

So ultimately again, Mr. Henning, if -- I noticed in your review you indicated cost of living, and I'll live with that. Obviously I'll live fine. But I would like the clarification for the senior management retirement aspect, which I thought was clear in the first place, but in my discussions with the clerk was not.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: But during the last four years, you've been operating under the basis that you were at the senior management as far as the retirement fund calculation? I mean, have you been operating on that basis? Are we contributing on that basis, or is this just saying that the payout at the end, if you're considered senior management, of course you're on a different percentage payout than if you weren't?

MR. WEIGEL: Good question. There is an incremental increase in pay-in toward that pay-out later on.

COMMISSIONER CARTER: My question is, has that been done in the past?

MR. WEIGEL: I don't know that it's been done every year. I know that in one year, in lieu of that I received a check to make up for it, because it hadn't been done. So it didn't go into retirement, it just went to me.

MR. MUDD: Commissioner, I'm checking right now with the clerk, and I've got my folks checking on that particular case, but I will tell you, in my contract it specifies that I'm senior management service. It wasn't in Mr. Olliff's, it was implied, but I put it specified and bottom lined at one of the end of the paragraphs.

COMMISSIONER CARTER: Well, I totally agree with that, and I would recommend to this board that he be considered and

classified in that position. After all, he's one of three people that report to the Board of County Commissioners. You don't get to be higher -- senior management doesn't get any higher than that. So that needs to be clarified. What you do on the others is a separate discussion.

CHAIRMAN COLETTA: I still would like to hold out for serious consideration for a merit pay. In fact, I'm going to make one motion, possibly of two -- we have still to deal with the retirement -- that we give Mr. Weigel a 2.5 percent merit raise. And that --

COMMISSIONER HENNING: Mr. Coletta?

CHAIRMAN COLETTA: I'm not through, Mr. Henning. When I'm through, I'll let you go ahead and address it, okay?

But I'd like to see us give serious consideration to that. I'll make a motion to that effect at this time. He has given us a year of service, he has handled many problems that have come down. He's got us counsel at times for different items that have left the county in jeopardy and handled it very professionally. I really think that he deserves that 2.5.

COMMISSIONER FIALA: That's on top of the COLA, right?

CHAIRMAN COLETTA: Well, the COLA is something we haven't agreed on the retirement.

COMMISSIONER CARTER: Don't confuse COLA with retirement.

CHAIRMAN COLETTA: No, this is -- the whole thing on this

--

COMMISSIONER FIALA: No, I'm not talking about --

CHAIRMAN COLETTA: The whole thing here --

COMMISSIONER FIALA: Cost of living is automatic, right?

CHAIRMAN COLETTA: Right.

COMMISSIONER FIALA: So the COLA is automatic. And we're talking about merit on top of the COLA.

CHAIRMAN COLETTA: Right.

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COMMISSIONER FIALA: So what is COLA? How much is COLA?

COMMISSIONER CARTER: Cost of living index by 1.9, I believe.

MR. MUDD: It's 2.1 percent for the --

COMMISSIONER FIALA: 2.1. So then this 2.5, that would be almost like a five percent increase, right?

COMMISSIONER CARTER: 5.6.

COMMISSIONER FIALA: 5.6?

MR. MUDD: No, it would be 4.6, ma'am.

COMMISSIONER FIALA: Okay. So then would that make him higher paid than you?

MR. MUDD: No, ma'am.

CHAIRMAN COLETTA: Okay -- I'm sorry, Commissioner Henning.

COMMISSIONER HENNING: Your motion --

COMMISSIONER CARTER: Do you have a second on the motion?

COMMISSIONER HENNING: -- failed.

CHAIRMAN COLETTA: Did I get a second? No, I didn't. Commissioner Henning was jumping the gun just a little bit. But the motion did fail.

And with that we'll go to Commissioner Henning. I'm going to ask you to speak one at a time and to please use your button.

COMMISSIONER HENNING: Again, your motion failed, so I'll make a motion that we give the county attorney the COLA and we're going to wait for an answer on this other one on the senior retirement --

MR. MUDD: Yes, sir.

COMMISSIONER HENNING: -- senior management retirement.

MR. MUDD: Can you give me about 30 minutes or so in order

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to get that? I'm trying to tackle somebody from the clerk's office --

COMMISSIONER HENNING: I'm going to remove my motion and hopefully that we can table this and move on to another item and come back to it.

COMMISSIONER COYLE: I'll second that motion.

CHAIRMAN COLETTA: Okay, we have a motion and a second. Motion by Commissioner Henning, second by Commissioner Coyle. Discussion?

Okay, hearing none, I'll call the question: All those in favor, indicate by saying aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: Opposed?

(No response.)

CHAIRMAN COLETTA: The ayes have it 5-0.

Now, what we're going to do is table this and then come back to it when we have an answer for the rest; is that correct?

MR. MUDD: Yes, sir, this afternoon.

Item #10A

AMENDED MEDIAN LANDSCAPING AGREEMENT BETWEEN COLLIER COUNTY AND THE VINEYARDS DEVELOPMENT CORPORATION IN THE AMOUNT OF \$80,000 – APPROVED

CHAIRMAN COLETTA: Okay. Let's move on now to item 10(B) --

MR. MUDD: (A). 10(A), Commissioners. It has to do with the Vineyards and landscaping.

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COMMISSIONER HENNING: Motion to approve.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: We have a motion to approve from Commissioner Henning, a second from Commissioner Carter.

It wouldn't hurt for the viewing public out there if we were a little polite, letting them know what we're voting on. Would you give us a brief summary of what the item is?

COMMISSIONER HENNING: I forgot to push my button.

MR. KANT: Edward Kant, transportation operations director. Thank you, Commissioner Coletta.

This is an item that was originally brought to the board at the last meeting, and was pulled because there was a question as to the amount of the payment -- the amount of the cost for Collier County's portion.

There is an existing landscape maintenance agreement with the Vineyards Development Corporation which has got about another two years or so to run on it. And because of some damage that was done during the six-laning of the Pine Ridge Road project, the Vineyards asked the county to replace the damaged irrigation.

At the time, there was a question -- the initial estimate we thought was fairly low. It was about 30 or \$35,000. As it turns out, the total project was going to be approximately 136,000, of which 56,000 was the Vineyards cost and 80,000 is the county's cost.

When we gave you the initial number, I unfortunately neglected to put all of the detailed costs in it. I subsequently followed up with a memorandum to you, detailing that cost for that 80,000. There was about 50,000 actual repairs.

And I might point out that based on the irrigation consultant's report, we may not have to spend that. But it's like anytime you do remodeling or repairs, until you open it up, you're really not sure what you're going to find.

In the best of all possible worlds, we'll find that the main was

not damaged and we'll have to spend very little of that 50,000. If on the other hand the main line was damaged, we'll have to spend some more on it.

Then I had also neglected originally to allow for the professional fees and a contingency.

So that's the background of it. It was just in our zeal to get a number in front of you, we just didn't do the proper research.

CHAIRMAN COLETTA: Thank you very much. I think it's important that we try to get a brief summary for our viewing public out there, to try to -- in some form of expediency, trying to skip over that is not doing the public justice.

MR. MUDD: Let me share one more thing. Jim Mudd, for the record.

And the landscaping workshop, you basically told the staff to honor past commitments, and this is one of those past commitment contracts that we have in place through 2004, so --

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: The short summary is that we damaged the irrigation, we're being asked to repair the damage we caused.

MR. KANT: That's correct, Commissioner.

COMMISSIONER COYLE: And the 80,000 is just an estimate, not likely to exceed that, it could very well be less than that.

MR. KANT: Yes, Commissioner.

COMMISSIONER COYLE: Okay, thank you.

CHAIRMAN COLETTA: With that, if there is no more discussions, I'll call the question. All those in favor, indicate by saying aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Aye.

Opposed?

(No response.)

CHAIRMAN COLETTA: And the ayes have it 4-0, with Commissioner Carter absent.

MR. KANT: Thank you, Commissioners.

CHAIRMAN COLETTA: Thank you.

Item #10B

RESOLUTION 2002-442, AUTHORIZING THE ACQUISITION BY GIFT OR PURCHASE OF RIGHT-OF-WAY AND STORMWATER RETENTION AND TREATMENT POND SITES AND PERPETUAL, NON-EXCLUSIVE ROAD RIGHT-OF-WAY, DRAINAGE AND/OR UTILITY EASEMENTS, AND TEMPORARY DRIVEWAY RESTORATION EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS, WHICH WILL BE REQUIRED FOR THE CONSTRUCTION OF ROADWAY, DRAINAGE, AND UTILITY IMPROVEMENTS FOR THE SANTA BARBARA/LOGAN BOULEVARD ROAD IMPROVEMENT PROJECT FROM DAVIS BOULEVARD TO NORTH OF PINE RIDGE ROAD, FISCAL IMPACT: \$11,914,000 – ADOPTED WITH CHANGES

Now we'll move on to 10(B). Mr. Feder?

MR. FEDER: Yes. For the record, Norman Feder, transportation administrator.

You have before you an item to look at the approval for acquisition of the right-of-way for Santa Barbara/Logan Boulevard. In this case you have a very difficult but a very important decision before you. I won't take much of your time other than to note that the issue is very difficult, not so much from an ability to show the need and the case for a six-laning and its planning in previous times, but

very difficult, because we are impacting a number of residents along this corridor.

And I want to point out to you, that's the type of project that we're going to be facing quite a bit in the future if we are to implement the plan to meet the needs of this community.

We're not talking about corridors as much in the future that are dealing with commercial stretches and major plan developments. As we go out to the growth that existed (sic) out in the estates with no real collector arterial system to substantially accommodate them, we're going to face this -- we're looking over at Vanderbilt Beach Road extension and anything that -- we look at east, west, south of there, future Wilson, Everglades and other areas that we'll be facing in the future.

But for right now the important part is the plan that we have, the need that we have out there to meet the issues today.

What we've been requested to do to bring before you, before we ask you to move on the right-of-way decision, is I'm going to ask Gregg Strakaluse to present to you some of where we are on this project, how we got to where we are, what issues we're addressing right now and where we see it going from here, and then ask Wayne Hartt with Wilson-Miller and Associates, who is the design consultant on this project, to review with you the issue morrowing (phonetic) or in this case the simulation operational analysis of intersections and how that could address some of the needs along this corridor and for what period of time.

With that, let me turn it over to Gregg Strakaluse.

MR. STRAKALUSE: Good afternoon, Gregg Strakaluse, director of engineering and construction management for the transportation division.

Item 10(B) is a gift and purchase resolution which would allow staff to proceed with the acquisition of right-of-way along the Santa Barbara/Logan corridor for a project.

Over the past few months, there has been some discussion and debate as to the type of project that's necessary out along that corridor. But I think I can say with a high level of certainty that there is full agreement that some level of project is necessary to increase safety and accommodate vehicle, bicycle and pedestrian traffic.

The planning strategy used by the MPO and county staff to build these types of major road improvements considers the entire transportation network growing out for a period of 25 years into the future. Important projects like this require a significant investment of time and money.

We're also very aware of the disruptions that are caused by construction like this: Noise, dust, heavy machinery, detours. So we have a motto in our department regarding construction of these types of projects: Get in, get out and stay out.

All the modeling and planning studies that have been done show the need for a six-lane road system within the 25-year planning period. Recently there has been some discussion regarding some lower level improvement to the road. Some residents indicated that traffic won't get any worse than it is now. This is as bad as it's going to get, so let's deal with the problem as that exists now.

At the October 11th MPO meeting, county staff and Wilson-Miller indicated that intersection improvements would indeed improve existing traffic conditions until the year 2011, at which time they would fail again due to the predicted growth.

The MPO board asked county staff to discuss the details of this analysis. And as I conclude with my presentation, I'll ask Wayne Hartt from Wilson-Miller to review the details of that specific analysis with your board.

At this time, I'd like to go over some of the efforts that county is -- that county staff has made regarding public meetings.

We've held a public meeting at the 60 percent phase of the design on June 26th. We had a follow-up to that meeting of

September 3rd because of the interest and the comments and questions we got.

On October 11th, there was an MPO meeting in which we again reviewed some of the efforts that we've made.

Some of the design improvements that we've made for this particular project include full cut-outs, some street lights to prevent glare, to address pedestrian safety. We've eliminated sidewalk on the north side between Davis and Radio, and created an eight-foot sidewalk on the south side, as a direct result of the public's comments.

In regards to right-of-way acquisition, we're considering alternative designs for storm water to reduce right-of-way takes along the corridor.

Access and mobility was a significant item that came up in the June 26th public meeting. Since that time, we've created additional directional median openings; about five directional median openings that would accommodate mobility issues and U-turn movements.

Noise abatement. We've done a noise impact study in regards to the project and there are locations where noise abatement is necessary along the corridor.

Aesthetics. We've included grass medians that will be prepared for irrigation for future landscaping, if that's what the community desires.

We're looking at accelerated construction methods. How can we get this project -- how can we get in, do the construction project, get out and stay out? Again, that's one of our goals with construction.

COMMISSIONER FIALA: Can you -- excuse me, before you leave that page, did you say you were going to have a sidewalk on the north side of the street?

MR. STRAKALUSE: No, we've eliminated sidewalk on the north side of the street between Davis Boulevard -- I'm sorry, it would be the west side of the street.

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COMMISSIONER FIALA: Thank you. I knew it was the north-south -- I was wondering where I was going. Thank you.

CHAIRMAN COLETTA: Good point.

MR. STRAKALUSE: Staff plans to have another public meeting at the 90 percent design level, of which we're approaching.

At the most recent MPO meeting a recommendation was made to explore opportunities to purchase entire lots with willing sellers. This gift and purchase resolution would allow county staff to do that, and then bring those recommendations back to your board for final approval.

To summarize, a wise man recently told me to stand at the curb and look past the obvious. Regardless of the level of project to be built 2004, additional right-of-way will be required for the project. That will make a difference in the future.

With that, I'd like to pass it on to Wayne Hartt for --

CHAIRMAN COLETTA: Before you go, Commissioner Henning has a question.

COMMISSIONER HENNING: Noise abatement improvements, can you give us an approximate location where that has been --

MR. STRAKALUSE: Absolutely. There's one location that we've identified some level of certainty where a noise barrier would be required because of the project. It is located in front of the Countryside community between Davis and Radio Road. There's also another area along that corridor in that section that we're taking a closer look at, because some of the results from the noise analysis came back a little questionable, so we're looking into those results in a little bit more detail.

With that, I'd like to turn it over to Wayne Hartt.

CHAIRMAN COLETTA: Thank you.

MR. HARTT: Good afternoon. My name is Wayne Hartt. I'm the engineer and responsible charge for the design of the project for

Wilson-Miller.

At the most recent MPO board meeting, we agreed to make a presentation regarding analyses that we had done where we looked at the level of service that would be provided in the event that we built out the intersections but had four through lanes. And I'm prepared to talk about the results of that analysis, talk about the methodology we used, and also talk about some geometric considerations which are also important to this discussion.

With regard to the results of our analyses, we modeled the intersections with the projected growth in traffic, and did the single timing and did the delay calculation. This is the results of our analysis.

Golden Gate Parkway, determined to be deficient in the year 2009 under this scenario -- again, with the built-out turn lanes and two through lanes in each direction, which would be commensurate with the four-lane roadway.

I want to point out that this 2009 year is a mere two years after opening -- after completion of construction.

Green Boulevard, we prepared a similar analysis. It is deficient in the year 2012. This is five years after opening to traffic, based on our current construction schedule.

Pine Ridge Road, as you can see, becomes deficient in 2011. That's four years after opening to traffic.

I want to qualify what I mean by deficient. Deficiency is quantified in terms of delay. There's generally accepted thresholds for that. It's supported in the Highway Capacity Manual, which is a federal highway document.

Generally 55 to 60 seconds of intersection delay is taken to be a deficient level of service.

Just to give you an idea of what that feels like, we also did an analysis of the existing conditions at Golden Gate Parkway and Pine Ridge Road. We determined that this same level of delay is

experienced today under current conditions during the peak hours. So if you're familiar with those two intersections, that's what we're talking about.

I want to also talk about the methodology that we used in our analysis. The methodology for our operational analysis included traffic forecasting, the operational analysis, and then a delay calculation.

With regard to the traffic forecasting, the methodology we used is fully documented in the traffic engineering report prepared by Wilson-Miller and submitted to the county. It considers other network improvements such as the Livingston Road link and also the I-75/Golden Gate Parkway interchange.

The annual growth rates that we used are reasonable. They're three percent, as compared to the six percent annual growth rate we experienced in the last five years.

In terms of the operational analysis itself, we do use computer modeling to come up with traffic signal timings. I want to just give you a brief overview of the operation of a traffic signal.

Major intersections consist of four major phases: The left turns and through movements for each major street. What the traffic simulation modeling does is it computes the amount of green time that's needed to clear all the vehicles through the intersection during the red and yellow time for that phase. When you add up all the phases, that's all the cycle length. Okay, now, there's a practical limit to the cycle length. That's about two and a half to three minutes. So that the through movements and turning movements are all competing for the same green time.

So when we went from three lanes to two through lanes, we have a decrease in efficiency of 33 percent; hence, the deficiency two to five years after opening to construction.

The last thing I want to talk about are some geometric considerations with respect to building out the intersections.

Here we have a graph where we have superimposed the proposed intersection lanage along the bottom with respect to the existing lanage at the current intersections.

Now, this is important because if we were to design built-out intersections that has been suggested, you can see how the southbound edge of pavement is offset 36 to 45 feet. This would require a geometric transition to get the travel lanes back into the four-lane right-of-way.

We looked at the length of those transitions, for example, between Green Boulevard and Pine Ridge Road. It's about 4,700 feet between those intersections. The geometric transition to go from the full blown-out intersection to the four-lane eats up over 4,000 of that 4,700 feet. Now, we're talking about major right-of-way acquisition, major construction costs, all in an effort to do what, transition to a four-lane roadway.

This analysis, along with our operational analysis, demonstrates that the only prudent expenditure of public funds is to move forward with the full six-lane highway.

With that, I'll turn it over, if you don't have questions --

CHAIRMAN COLETTA: Yes, there is. Commissioner Henning, please?

COMMISSIONER HENNING: Could you put the deficiency paper back up, please?

The intersection improvements that you're showing these numbers of being deficient at the years that are predicted, what turn lanes, what through lanes did that model result in?

MR. HARTT: Our initial design analysis looked at where the double -- and we have triple left turn lanes at many of these intersections. We have double right turn lanes. We use the same number of turn lanes that we did in our design to essentially built out the intersection to the maximum, again, to make most efficient use of the green time.

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So with this analysis, we simply took away one through lane in each direction to model the level of service and delay associated with that geometry.

COMMISSIONER HENNING: One through lane, where there is two through lanes today? Is that what you're saying?

MR. HARTT: We had three through lanes in our design, north and south. This analysis reflects two through lanes north and south.

COMMISSIONER HENNING: Okay. So you're saying by adding that extra lane just at the intersections, it's good for (sic) the year 2025?

MR. HARTT: Yes.

COMMISSIONER HENNING: Okay. I'm not a traffic engineer person, but just by logic it doesn't seem right. The modeling that was done for the six-lane improvements within the study, I think there was a projection that Golden Gate City, the four square miles, was -- for the year 2015 was 42,000?

MR. HARTT: Okay, I think that Jeff Perry with Wilson-Miller is more conversant with the planning growth study.

MR. PERRY: For the record, Jeff Perry with Wilson.

That's incorrect. The data that was used in the model was not the data that was presented at the hearing. There are some county-wide population and dwelling unit numbers that the county uses for a variety of different purposes. They divide them into planning communities. The planning community totals were -- a year ago had been erroneously extrapolated out to some numbers that obviously could not exist within the community of Golden Gate. They corrected those this year.

But that data is different from what we're using. We're not using that information. Our information was correct that we provided to the public and we presented it to -- at the MPO meeting.

We had used individual traffic zone data where we looked at the build-out potential for every single zone, like in Golden Gate there's

five zones, so we actually have the true counts for existing conditions and then grew that out to build out what would be on the ground by 2025.

COMMISSIONER HENNING: What is the build-out for Golden Gate City then?

MR. PERRY: I'd have to look it up. I can't tell you offhand by memory what it is. But I can certainly add up the numbers.

The population projection for the Golden Gate planning community is 42,191. That's what the county planning department says is the population --

COMMISSIONER FIALA: For the Golden Gate planning committee -- or planning area?

MR. PERRY: Golden Gate planning community.

COMMISSIONER FIALA: What is planning community? I mean, what are the parameters for planning community?

MR. PERRY: Unless I had a map, I couldn't show you. The county divides their urban area into a variety of planning communities. There's North Naples, East Naples, South Naples, Golden Gate is one, Urban Estates is another. But they're not necessarily just the -- what you might think of as North Naples. And there is a map.

They're used for a variety of planning purposes. It's not the data that the MPO uses. The totals are. The county-wide totals are the same totals that the MPO uses, but the MPO breaks them down into very small chunks for their computer models to use. It's not aggregated the same way as this information is. This is the information that was discussed at the MPO meeting by planning community, and that's just a large aggregation of data that the department uses for a variety of reasons.

COMMISSIONER HENNING: Okay, to answer the question, it's 42,000 at build-out-out?

MR. PERRY: At build-out. That's what the planning

department says the Golden Gate planning community is.

COMMISSIONER HENNING: I think the direction from the MPO was to take a look at the citizens' state-of-the-art intersection improvements to determine if that -- those improvements would take us out how many years, so on, so forth. So that really wasn't done then?

MR. HARTT: Yes, sir, it has. The original six-lane design had state-of-the-art intersections with the optimum lanage and signal timings and coordination between the signals. That's state of the art. The analysis was based on the most efficient signalization possible, in addition to the maximum build-out number of lanes. If there's anything else that can be added in here to make it more state-of-the-art, we're open to those suggestions.

COMMISSIONER HENNING: Okay, I'm going to hold my final questions to the end.

Does anybody else have any other questions?

Are we done with -- I'm sorry, go ahead.

COMMISSIONER COYLE: Yeah, I have a couple of questions.

It seems to me that if we're going to do a complete job of planning, there are a couple of other issues we need to consider, and one is the planning of this entire roadway. It isn't, in my mind, necessarily a good idea just to plan a segment of it and particularly try to acquire a right-of-way for just a segment of it without considering the entire roadway. And I would like to know where we are with that. But let me -- but before you answer, let me just go through a couple of other issues I had.

I'm not convinced that we have evaluated all of the alternatives necessary to address the concerns of the residents. Now, I understand that road designs are based upon a wealth of knowledge that has been collected and published in manuals and in models and things like that. But it seems to me that sometimes we have to get a

little creative, particularly when it comes to issues relating to safety in a residential neighborhood.

And I'm just wondering -- in fact, I'm going to ask that before we resolve this, that once again, the issue of right-of-way acquisition width be reconsidered and/or justified. And one thing I'd like to hear is the justification for putting in a bike lane on a six-lane highway. I know that there are people who are hard-core bicyclists, but I'll tell you, that's the dumbest thing I've ever seen in my life. And it takes a lot of money and it's taking people's right-of-way, taking their front yard just to do it. I believe there are other ways of doing it. And I would like to have the opportunity to have those evaluated from the standpoint of what can we do to address the concerns of the neighbors rather than what does the manual say. And I would ask for that sort of analysis.

But having said that, I understand the short-sightedness of refusing to consider right-of-way needs until we run right up against the wall and we need to do something. That is very, very expensive and very, very foolish.

But could you please address the other issues of the ultimate and final route of this road and why it's not included in the study so far? And can someone give me the absolute minimum right-of-way that would be required in this area?

MR. FEDER: For the record, Norman Feder, transportation administrator.

Let me start off on your questions, Commissioner, and maybe have some others collaborate.

First of all, please understand this corridor, as is the whole system, has been studied. As part of your long-range transportation plan, we've looked at different alignment options and alternatives, evaluated what the lane calls are along the different corridors, and when we go into design, we start looking at the most critical segments of those corridors and bringing them forward. That does

not mean that we haven't evaluated the other corridors and the other alternate alignments.

In the case here, basically your call is fairly easy with a rather coarse grid and very not refined collector road systems. Essentially what you've got is six north-south, besides the interstate. They basically call for six-laning predominantly.

Here in this corridor what we're looking at is basically in the 2025 needs plan, six-laning up to Vanderbilt Beach Road, although we've got some questions on that, then four-laning up to Immokalee and right now two-laning up to and into Lee County up to Bonita Beach Road.

We're evaluating right now of course the issue up to Pine Ridge and then down south. As far as south of there, you have right now as a board a position of alternate A plus C as an extension of Santa Barbara to the south, although we are still continuing to try to work through some issues that might look at Polly, Rattlesnake-Hammock and 951, and continuing to look at the issue of lane calls and demands in that area.

But essentially the model is calling for a need for a six-lane extension, at least to Rattlesnake and down to 41, ideally, for this corridor.

So we do have a feel for the overall corridor. We have some other studies on the southern end that's basically brought about some of the alignment options. That's where their analysis is being done now. And you have the long-range model in this book data.

So this is not taken out of context, or is only a portion of the corridor being evaluated. We are doing some analysis, consistent with your five-year work program, to look at the more detailed traffic analysis, which is the traffic report that's mentioned. You do go beyond just the modeling level analysis to look at it north of Pine Ridge to see if in fact that can be retained to four lanes rather than six, noting the issues on Logan.

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As far as the issue of innovation, looking at cross-sections, please be assured that your staff is not cookie-cutting anything out there. We were asked some time ago to give you an idea of our typical cross-section and why. We've done that. About 180 feet. The only thing I told you is I don't have a segment that exactly replicates that. We take that basic cross-section, try to fit it within the community, within the needs and within the issue.

In this case, I've got very, very wide intersections. I'm talking triple lefts, which is not a predominant feature, that I have to deal with in a lot of areas, as well as dual rights and the through lane. In the southern section, I have the right-of-way generally in hand.

The issue of major concern -- and well understood, and a lot of people are impacted by this, I don't want to minimize that -- but is this section of Logan. We've got a lot of folks that have driveways that access directly to an arterial today, a four-lane arterial. That is not ideal or desirable. But we do have that. And yet we look at what are our alternative alignments, what are the options? How do we service all of Golden Gate City and major portions of Golden Gate Estates and movement throughout the county in any other alignment?

New alignments, where we're looking at Vanderbilt Beach Road, are going to be extremely disruptive. That's why I raise that issue. We had many years that we didn't move on Livingston because we were backing up to some of the Estates' lots. We decided to take Golden Gate Boulevard, and in spite of the plans calling for six lanes, to reduce that down to four. And that is going to increase more demand on Vanderbilt Beach Road and maybe other alignments that both directly are going to impact residential areas and have a secondary impact as we go to bridge canals and others to try to link up that system.

Unfortunately we sold lots out there but didn't look at it in the sense of how we provide for the services and we're going to have to retrofit. And that's exactly the terminology I will use here, and

unfortunately am going to be using in many cases as we move further out into the Estates.

As far as a bike lane on the roadway, I share your concern, Commissioner. I personally will not use it. We do have sidewalks and we're accommodating. I will tell you that professional cyclists do utilize it. It does give you a little bit more room for movement and for separation in the area. We've looked at that and we've looked at what it will do to reduce takings that are in many places not significant.

However, what we've told the community and what we will tell this board is, while we're asking to go after this right-of-way, that's the widest envelope, we're continuing our design process, and in that design process, if there are some other issues, while we can't recommend to you not to move to six lanes, ultimately if not initially we could go initially with the intersections, make some modifications as presented to you before and then wait until that demand -- 2011 on the average, I believe it is, four years after we get the intersections done -- and then come back and six-lane. That creates more disruption and some additional costs, but it's not -- but the bottom line is we'll continue to look at some of the design features.

Most recently we've looked at some of the noise issues. We'll continue there. We will ask, as was pointed out to you, to remove the sidewalk -- the sidewalk, not the bike path -- basically on the west side, out between Radio and Davis, because there's only a golf course along that stretch; not a lot of demand for access to it. We've agreed there.

So we are not trying to limit that. We've opened up some of the median openings. We can't open them all. But we haven't closed off the issue to try and further be creative and to try to design --

COMMISSIONER COYLE: If I remember the traffic manual correctly, Ed, the existence of a bike path actually reduces through put. It has a lower factor, if I remember correctly, on the road. And if

you remove it, it seems to me that you'd have a -- you'd be able to move traffic more quickly.

MR. FEDER: If that is the board's direction, we will look for the design to remove that.

COMMISSIONER COYLE: Now, this -- I'm still not addressing the issue here today. Your issue is right-of-way. And I -- from a standpoint of long-range planning, it has been a great failure of county commissioners in the past not to make decisions to acquire right-of-way to support the roads that are necessary.

MR. FEDER: I agree.

COMMISSIONER COYLE: And I don't like making that same mistake here, but I would like to caution against something, that I don't think there is anybody here who is really smart enough to look out 25 years and with a great deal of accuracy predict what things are going to look like out there.

And for that reason I considered the 2025 plan to be pretty much a crystal ball result. No matter how much modeling is conducted with that, I remain convinced that our planning horizons from the standpoint of expenditure of money for building roads should not exceed 10 years, because I think we might be able to have some fairly reasonable estimates of what is necessary there.

But the acquisition of right-of-way cannot be delayed that way. And so whatever we do, I want to work to resolve some of the safety issues and access problems that the residents have, but I can't in all conscience say that we shouldn't start moving on right-of-way acquisition.

But I'd like to say the same thing with respect to the ultimate southerly extension of that route so that we know where it's going and we can remove all the uncertainty and we can acquire right-of-way necessary to do that.

MR. FEDER: Commissioner, I agree fully. First of all, your issue about trying to go after reductions on possible right-of-way,

obviously when we went through the impact fee process, we agreed, we need to address that and we applaud your initiative there. There's a lot of things staff is already trying to do on that.

I will tell you, on the modeling, you're correct, that the long-range transportation model that's plus or minus one lane is a tool. And the only thing we know about it for sure is it's not right. But it tells me I go in this direction, and I adjust and I constantly update it, so I know I'm not going over there or over there, I'm in the right direction, I'm constantly adjusting. And that's the best you can do when you talk that far out, especially with our explosive growth.

Yet at the same time, if we are going to protect right-of-way, we need to have that understanding in that field beyond. But I don't think you necessarily buy right-of-way for something you need in 20 years, not with the demands we have on our system and financially right now. So what -- we need to balance those two, and I think you're quite correct on that.

CHAIRMAN COLETTA: And I think Commissioner Coyle's offering to head up the committee on the right-of-way purchasing and try to come up --

MR. FEDER: The report.

CHAIRMAN COLETTA: -- with some new thoughts on it is going to go a long ways toward our future plans.

COMMISSIONER COYLE: It's not going to focus on this route, I can assure you.

CHAIRMAN COLETTA: Oh, no, no, no.

Let's go to Commissioner Fiala.

COMMISSIONER FIALA: Yes. I applaud that you're trying to get this highway system done. I know that you've had to fight it all the way, and it hasn't been easy, because we didn't have a grid. And what you're trying to do is create a grid. And this is a road that you feel will connect you from 41 east, all the way into Lee County, and that's a good thing.

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My problems with it are, it just so happens that this particular road, even though it would connect all the way through, is stretching from one end to the other with residential, other than a very few blocks that have commercial. And whenever I see a six-lane highway, I see the six-lane highway jotted with commercial on both sides, because who wants to live on a six-lane highway?

So what I'm saying to you is, if we buy the right-of-way for six lanes, we're really going to doom all of that residential area. And I'm talking from U.S. 41 all the way out to Lee County, other than a few blocks there. We're going to doom them to have a six-lane highway in their front yard, with their driveways backing out into it.

I mean, I don't see any six-lane highways that are through residential neighborhoods. And that's what I'm very, very concerned with. I think that the -- I think the approach we should be taking is to streamline, as you say, the intersections and make them the highest tech streamlined intersections they can be, with timing of lights so that you can accommodate the flow of traffic, as you see in all the major cities. They don't have six-lane highways through their residential neighborhoods, they have four-lane roads that are designed to carry traffic -- to carry through traffic from one end of the town to the other and keep it moving smoothly, and I think we can do that.

MR. FEDER: With all due respect, most ever I've seen has a six-lane set of arterials, four-lane arterials and collector roads. And I would love to have the second two of those categories, and that's something we're still trying to work on.

To the issue of residential, I agree with you wholeheartedly, we do not want ourselves in the situation that we find ourselves in, and that is that we did not provide for an arterial system and are now looking to retrofit. This area has been known to be going to six lanes, and yet at the same time, like I said, I've got residences backing out in driveways directly onto a four-lane arterial today. Even if I

don't do anything at all, that exists. That is an arterial, whether you want to call it four lanes or six lanes. And yet the overall system need is that I addressed -- I'm not taking it lightly, I understand the issues there. But what I'm telling you is you have other areas where you have six lanes in residential and you're going to have more.

The bottom line in the future is that if we're going to address the growth that we have out in the Estates area, we're going to have to plan for identifying what those corridors are, and then try to respond.

I think some of what we're trying to do in maybe offering whole take is a response to the fact that we probably shouldn't have had that developed that way. If we had done the planning that the commissioner's talking about, we wouldn't be finding ourselves in some of these situations we are finding.

But as much as I say that, we're not totally unique. Neighbors to the north have taken hundreds of homes for West Terry Street, for Mid-Point Bridge, for others. I'm not advocating that, please understand what I'm saying. But I am saying to you that we are going to have to face some of these issues. I'm not relishing that idea. I don't do it lightly and not acknowledging that folks -- that hopefully are going to get a chance to speak in just a few minutes -- have very strong passion and rights about that's their home.

And yet for the full community, we've got to decide, are we going to move through, are we going to develop a system that allows us to respond and have what we need to meet the full community in the future. And that's the direction I need from this board.

We spent five years debating Livingston, because it was backing up to some estate lots and to some developments. I'm not sure we can afford to do that, yet at the same time I'm not insensitive to the other.

COMMISSIONER FIALA: Well, and that's good, and that's the way I feel, too. I just feel that we have enough talented people within our county to take this four-lane highway, being that we need to go

all the way through, but make a four-lane highway, accommodate a free flow of traffic, as they do in other major cities, rather than impact all of these homes. That's all you have along this thing are homes, and --

MR. FEDER: Commissioner, what I think --

COMMISSIONER FIALA: -- I think we have to think about that.

MR. FEDER: -- with the four-lane, what you have to do to move out of the intersections and how far back you go on that, you effectively create much of the design that we're hitting on. We've just got so much volume coming through a limited number of facilities, and we don't have those four-lane or two-lane relievers.

COMMISSIONER FIALA: And let me just say one other thing, while I've got the floor here, and then I'll give the floor up. I'm sorry if I've --

CHAIRMAN COLETTA: No, you continue, please.

COMMISSIONER FIALA: Thank you.

Another thing that I see as a problem is we talk about the four lanes and the six lanes and the four lanes, and I've said it before, I'll say it again in this venue, and that is it's kind of like the snake swallowing the pig. How does that pig get out the other end if you're going back down to four lanes?

So I'm concerned. I just think you'd have a much smoother flowing road, and I don't think people would mind going a little bit slower on four lanes, especially in a neighborhood. Maybe by having four lanes, you'd slow down the traffic a little bit for those children that are catching the school buses right there in their neighborhoods. I just --

MR. FEDER: And the school bus will be picking up on both sides.

COMMISSIONER FIALA: We have to make safer neighborhoods. I understand six-lane highways are wonderful, but I

think through a neighborhood they have to be safe roadways. Thank you.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: Commissioners, I've been to this dance before, and I want to tell you, that partner was an ugly, ugly partner. And the ugliness was, first of all, you didn't have a strategic road plan. Secondly, you didn't have a board of county commissioners that had the political will to make those tough decisions. Because what's presented to you now is a plan, and this happens to be a corridor plan. If we go back to planning 101, that's a critical path.

And what's on that path? It's called time and it's called cost. And the longer you delay it, the more expensive it gets. No matter what you do, how many studies you do, how many things that you do, time shrinks, cost goes up. Can't change that.

What folds into this? I have listened to this thing, I have read this thing. You've got turn lanes, you've got signalization, you've got road width, should it be four lanes or six lanes, debating back and forth, you've got to acquire your right-of-way in order to make all of this happen, do you have bike paths, do you have sidewalks, you give up one or the other, all become part of design. And decisions can be made on that as this evolves.

And then you've got the demographics. You can't change demographics. People move to this area. Why? Because they can afford to build a home in that area. If more and more people move into the area, the longer you wait to do what you have to do, the more that you're going to upset neighborhoods.

But the fact remains is, as this county goes forward, you're going to find some ugly situations where you're going to have to make tough road decisions through existing neighborhoods. We've been able to avoid that in this county. And that time is going away. And now some people are going to get real upset. And I'm sorry for that.

But the fact is the people you put in these chairs either will make those decisions to do what's needed to be done, or you're going to continually compound and exasperate your traffic movement within this county.

Therefore, I think this study has been well thought through and that what they're asking us to do is to go forward so that you can get the right-of-ways, so that you can do the planning and work through the best options as possible with neighborhoods. And there are particular situations within that neighborhood where people do have to back up, but there are aprons that can be put at the end of a driveway where you can back up and then head out.

Will you be able to cut across six lanes of traffic? I wouldn't recommend that. But my whole district is lined with arterials and collectors that are four lanes and six lanes, and people find a way to work through those systems to get to where they need to be.

So you're right at a break point, fellow Commissioners. You're either going to take this and you're going to do what you need to do and make the dance work out as best as possible, or you're going to come back to the dance and it's going to be a 350-pound gorilla, and you're not going to be a happy camper.

CHAIRMAN COLETTA: I'll be the next gorilla to go up here, and then from there we'll go to Commissioner Coyle and back to Commissioner Fiala.

I'm very concerned. When we first started this whole scenario of roads, back when we got elected and we made a firm commitment that we were going to build the roads, we got a briefing from Mr. Feder, telling us exactly what we were going to be up against. And so far, it's been absolutely true.

And he said also the fact that when you get to a point where you're starting to see some of the congestion being abated through some of the roads opening, you're going to get resistance on opening other roads.

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And he's been totally true on this. It's been coming right down. He said it's going to get more difficult as it goes through. He said getting them approved when you're building them, there's a lot of resistance. And when you get them in, people accept them and they love them. But it's a painful thing. It's like the birth of a child. You go through a lot of pain, when it's over, you appreciate what you've got.

Myself, I'm impacted by these things. My own daughter is going to be losing her home on Terry Street in Bonita Springs, a home that she worked very hard for. But they're working out a real good deal for her and she's going to hopefully be moving up here to be closer to her family in Golden Gate.

Myself, my own road is in the distant future probably about six to eight years out going to become a thoroughfare from the Estates right on through to 951. I live on 17th Avenue Northwest, there's a school going in, and the road that's going -- they're going to use the road there hopefully to be able to join up 16th Street to relieve some of the traffic that takes place on White. There's a tremendous impact there, there's a lot more construction going on.

So I realize that the days of my quiet residential street is going to be sacrificed for the public good. Hopefully we're going to -- I'll be able to still be able to speak the people's voice, probably from out there on the floor, and make sure that we get the right kind of planning, and that all sorts of amenities are offered to be able to make up for some of the losses that we'll have. I'm not looking forward to it, but I accept it. I know this is going to happen.

I guess what we're looking at now is if this thing here today does not go forward and if we take a step back to four lanes and say four lanes is going to be fine, we'll leave it to a future commission to figure this out, as our brothers before us have done, are we really solving a problem or are we just passing it on?

Also, too, the minute we draw back and we say four lanes is no

longer nec -- six lanes is no longer necessary, four lanes are, then what we have done is we've just taken this whole house of cards and knocked it down. It's going to be one right after the other, like a domino effect. And we're going to be right back to where we were when we started. And we had the commitment before and I hope we can keep the commitment to go forward.

In the meantime, though, we have to keep up our movement forward to make sure that the needs of the residents on these streets are met. We have to show the compassion that's necessary to meet their needs. We have to come up with all sorts of various tools for them to be able to choose from, what they want to do, as far as what's going to be fair for them, possibly even the offer to purchase their whole property, if they think they're going to be impacted.

And as far as the loss of property values, I'd say if we ever make that deal where we're going to buy their property, that it be a historical high, so if there is a detriation (sic) of the property values, that we're not going to be impeding their investment, that they be able to get the historical high and it would continue forward.

But we have to do what's right and we have to do what's right for everyone, including the residents on the street and the rest of Collier County.

Commissioner Coyle and Commissioner Fiala.

COMMISSIONER COYLE: I'm not really advocating that we avoid trying to make the tough decisions here. It is a tough decision. I'm merely wanting to make sure that it's the right decision and that we have exhausted all other alternatives.

COMMISSIONER CARTER: My comments, sir, were not --

COMMISSIONER COYLE: I understand. I understand. I didn't take it personally.

CHAIRMAN COLETTA: I ask you to please wait your turn.

COMMISSIONER COYLE: OI'm not being defensive here, I was just making an observation.

I'm not a road planner, but let's just take one idea as an example. What would happen with respect to traffic through put on the existing four-lane road if we were to create access roads for the residents on either side, close off the medians, the residents would have access to the road at traffic signals at reasonable intervals. That way you could devote the entire four lanes to moving traffic rapidly back and forth and you would have the access road for the school buses and for the residents to get out from their driveways in a safe manner, it wouldn't create any difficulties for the school children or the school buses, it would make sure everybody had an opportunity to exit at a point in time where there was a traffic light, not trying to fight traffic to get onto a busy highway.

It's just an idea. I'm not saying it's even feasible. I don't know if it's feasible. But I'm convinced you could do it with the same right-of-way space that we're talking about right now. And I don't know if we've evaluated it, and I'm willing to listen to any arguments.

But the only other comment I'm going to make about this is that when we have uncertainty with respect to what we're going to do with routes, it creates a lot of problems for residents. If we've got two or three routes under consideration, and that means that the residents along all those routes are uncertain about what's going to happen to their property, and it decreases the value of their property, because no one is going to buy it if they think they're going to have a big road coming right through their yard.

And I think we need to resolve that as quickly as possible, get those alternative routes out of the way and make a decision about where we're going to put them, in a way that has the least impact upon our residents, okay?

MR. FEDER: Commissioner, again, for the record, Norman Feder.

We agree wholeheartedly. I label it -- and I was talking to this board about that as it's holding people hostage. I don't like to do that.

We need to make the decisions and go forward.

What I would like to do is have some staff at least talk to you a little bit about the fact that we did look at issues of service roads. Please understand that we don't take these things lightly, in spite of some opinion or impression I hear here, even on right-of-way acquisition, although we welcome any additional assistance we can get.

But having said that, Wayne will tell you what we looked at.

MR. HARTT: The traffic engineering report that Wilson-Miller prepared, it considered the frontage road alternative, recognizing that there are many driveways, particularly along Golden Gate City, along the east side of Santa Barbara. The -- it would require probably a full taking of that first lot along Golden Gate City.

The problem, in terms of the operations of that, is that for frontage roads to work, there has to be adequate setback to the intersection that you're now creating between the side street and the frontage road. And when we looked at how far that would have to be offset, it then became an extraordinary task with respect to the right-of-way costs. It could be done. It would have an order of magnitude impact on the right-of-way costs for the project.

But we did look at it and it is documented in the report. So we're just -- you know, we're trying to be as sensitive as we can to the needs and doing the best we can with what we have.

MR. FEDER: If I could, Commissioner, and Wayne, please stay around to make sure it's accurate, it's not just costs, although they're very significant. The key is, another issue that we've been presented by the board, is that we are trying to avoid -- I won't say at all costs, but I think I've heard that as my direction -- avoid the taking of homes.

To look at a service road, I think what Wayne was saying to you was not just the cost but to get that separation, you'd basically not only across the city but all the way up to Logan on that east side, as

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an example, would have to take basically the first row of homes the whole way, and so you'd have a very significant impact on that roadway, more so than necessarily taking "X" number of feet off of a further setback lot to where we're closer than that. We're recommending to you that we make offers to the take whole takes, but essentially you'd have to take all that along that area. And then you'd have some operation expenses.

COMMISSIONER COYLE: I know what you're saying. And I don't want to try to design a road right here today.

MR. FEDER: Appreciate it. I just wanted to answer your question.

COMMISSIONER COYLE: But I would say to you that it is not necessary to have that large a setback at the intersection itself to permit traffic to enter onto the roadway. That can be done with traffic signals. It's done in many cities throughout the United States. And this service road could run parallel with the other four lanes, with barely a small median as an intersection -- as a separation.

It could even be designed so it's one way on the east side of the street and the other way on the west side of the street, so you're not having double lanes on both sides.

These are concepts that I have experienced personally where neighborhoods have had to go through this sort of a change. It can be done.

The question that I have is what is the impact? Do we get the through put that we really need on the main road?

MR. HARTT: Just if I could make another -- reiterate a point. It's where that side road comes into the major connecting side street.

COMMISSIONER COYLE: Yeah, I understand. And I'm saying to you, that is not necessary to have that separated. It can be separated by as little as a six-foot median, and all you need is a traffic signal there that blocks the traffic long enough for those people from the service road to turn onto the major road. And they can turn on it

and make a left turn or they can turn on it and make a right turn. And all it takes is a traffic signal to do that.

CHAIRMAN COLETTA: Okay, what we're going to do now is we're going to go to Commissioner Fiala, and then and after that, we're going to start listening to our speakers, which we have how many now?

MS. FILSON: Eleven.

CHAIRMAN COLETTA: Eleven?

COMMISSIONER FIALA: Oh, gee, I hate to take much time, so I'll just --

CHAIRMAN COLETTA: No, you take as much time as you want. Every commissioner here is going to have to explore this fully. That's what we're here for. That's what we're paid the big bucks for.

COMMISSIONER FIALA: Well, and I -- I've heard the tough decision and the not-so-tough decision. I think it's a tough decision to remain with four, to remain with four, make it work with four.

And yeah, you know, you're fighting what analysts say -- analysts say you should go to six, and that's the easy way to do it, just go with six and put that road through and then you have it. But I think it's a challenge for us to stay with four, make it work for us, make it -- design it around the neighborhoods we're going to be barreling it through. And design it properly so that it moves the traffic most efficiently. I think that's important to us.

I've been trying to think as we're sitting here going through this little --

CHAIRMAN COLETTA: Discussion.

COMMISSIONER FIALA: -- discussion. And I was trying to think of anyplace in Collier County where we have a residential neighborhood, especially a long residential neighborhood, we're talking about miles here, where we have a six-lane highway through it. And darn it, I can't think of one. But maybe there is something. I'd love to know about it, just maybe so I can ride on it myself and

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talk with people and see if they're having problems on this six-lane highway. But I don't know of a six-lane highway through a residential neighborhood.

COMMISSIONER CARTER: Try 41 North.

COMMISSIONER FIALA: Who lives on there?

COMMISSIONER CARTER: Well, I don't know, all the residents of Pelican Bay along the berm could probably give you an ear full.

COMMISSIONER FIALA: Well, yeah, but they live on the side. You know, they don't live -- their driveways don't go out onto U.S. 41 North.

COMMISSIONER CARTER: Well, that's true, but to hear them talk --

COMMISSIONER FIALA: Even along --

COMMISSIONER CARTER: -- you'd think they would.

COMMISSIONER FIALA: Yeah, but they have lights and everything to get out on.

And even along that same road on 41 North, they even have -- what do they call that little road along, in front of the --

COMMISSIONER CARTER: An access road on --

COMMISSIONER FIALA: Access road.

COMMISSIONER CARTER: -- the east side.

COMMISSIONER FIALA: Right. Because they don't want to be pulling out onto a six-lane highway. They can't. It's too dangerous. And they don't want their children to be picked up on a six-lane highway.

It's just -- I've never seen a highway through a residential. And that's -- I think of Logan Boulevard right now. That's where I'm thinking of. And all those homes all along Logan. And all of a sudden we're going to destroy their whole neighborhood. Well, anyway, I'll finish.

CHAIRMAN COLETTA: No, that's fine. I'm glad you shared

that with us.

Would you please call the first speaker, and then one for backup -- oh, I'm sorry, let's take a short break. Forgive me. We're supposed to go every hour and a half. We got so carried away in our discussion, we've missed it. Ten-minute break.

(Brief recess.)

CHAIRMAN COLETTA: Please take your seats. Let's go with the first speaker.

MS. FILSON: Okay, the first speaker is Neno Spagna, and he will be followed by Tom Grant. Would Mr. Grant like to come up and stand on board.

CHAIRMAN COLETTA: It's an honor to have the president of Golden Gate Estates Civic Association in this room.

MR. SPAGNA: Well, thank you very kindly, Mr. Chairman, Ms. Fiala, gentlemen.

Good afternoon. My name is Neno Spagna, and I'm here on behalf of the Golden Gate Estates Area Civic Association, and I do not represent myself or any of the Santa Barbara/Logan Boulevard residents. They will be represented by their own membership and themselves. So if I accidentally say we, what I mean is the civic association and not me and somebody else, other than the civic association.

What I'm here for today is to speak briefly about the resolution which the association passed on September the 18th. At that meeting there was a group of residents along the Santa Barbara/Logan Boulevard corridor who were present at our meeting, and they expressed some of their views and concerns about the six-laning of Santa Barbara Boulevard. Those concerns -- the association members felt like those concerns were valid, and as a result they did adopt a resolution, which I sent to each member of the board. I think you all have copies. I did bring some extra copies along.

Briefly, what the resolution consisted of, and my interpretation

of what the residents along Santa Barbara/Logan Boulevard were concerned about were two matters: Number one, they felt that there needed to be more studies as to whether or not the timing was proper for the six-laning of Santa Barbara Boulevard. They felt that perhaps some additional studies should be made in order to confirm that the timing was proper.

Also, they felt that the -- some of the design standards that had been designed into the widening were unnecessary, and that perhaps the reason -- well, that gets me into their second concern. Perhaps the reason why there could be better design put into the project was because they felt that they had not been consulted.

Now, probably this is a project that has been in standing for many, many years. Many of them have moved in probably within the last few years and may not have been fully aware of some of the efforts that the county made in order to keep everyone informed. However, the group felt that they had a good point, that many of them who are living there could come up with some very good ideas that would be very helpful to the designers --

CHAIRMAN COLETTA: Go ahead and sum it up, Mr. --

MR. SPAGNA: -- of the facility. So we did pass the resolution, and you all have copies of that.

And I hope that whatever action you take today will not preclude any further discussions between Mr. Feder and the groups, and that these people will still have a chance to express their views and ideas. And I thank you.

CHAIRMAN COLETTA: We thank you, sir.

MS. FILSON: Your next speaker is Mr. Tom Grant, and he will be followed by Alan M-O-N-I-Z.

MR. GRANT: County Commissioners, thank you for listening to me. I've been at all the meetings that have been going on --

COMMISSIONER FIALA: What is your name?

MR. GRANT: Oh, I'm sorry, my name is Tom Grant. I'm a

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long-time resident of Collier County, probably one of the older ones. And I'm also an affected property owner. But I do realize a lot of things that do happen, I've seen a lot of changes in Collier County.

But just to reiterate a few things that I want everybody really to consider and keep in mind, we've got the new interchange coming in. That traffic's got to go someplace. It just doesn't stop there. And you can't keep piling it on certain roads.

The Golden Gate/Santa Barbara intersection's a very important intersection, and all of the other intersections, but I'm affected by that intersection.

The other thing is, is we know that this has been a major north-south corridor road since the 1980's. I knew it when I moved here, I -- before I bought my property I did a lot of studies. That's why I've done this, bought the property and so forth, is because I felt that I knew where I wanted to buy and why.

Most of the property owners like myself are going to lose some property. And also, from what I understand through all the meetings and everything, we are going to be made whole, 100 percent whole. I don't understand, there is -- I only know of one place that's going to be affected by their house being taken. One.

Also, we're going to have roughly 35,000 now, possible 70,000 in the future. And I agree with Mr. Carter, I've watched many, many commissioners here, Max Haas on up, that's how long I've been here. And if you keep passing the buck, the buck has got to stop someplace.

And I commend you guys for doing what you did, because we don't want to be in an emergency road situation again. I don't like sitting in a parking lot when I'm on a four-lane road. And that's what it reminded me of.

But the roads are getting better. And that's what I commend you on. But to stop some of this -- and I'm sorry that some of us are upset, but sometimes you have to just knuckle it up, suck it up and

move on. Because again, it's the betterment for that whole area road system. If we back off of this road system, you're going to back off someplace else, you're going to affect somebody else. I don't think that's fair. You come through my neighborhood, which is six-lane Airport Road. That's my neighborhood. I've got to deal with six lanes. Why can I not drive through their neighborhood just as effectively as they drive through mine?

COMMISSIONER FIALA: Do you have a driveway onto Airport Road?

MR. GRANT: No, because the county did not let us. And that's what they're trying to do, they are trying to make a provision so that these people can safely get across the road.

Last time I crossed Santa Barbara, I darted across two lanes to hit the median perfectly so I didn't get hit in the front or hit in the rear. I mean, that's what you're talking about up there.

And I'm just saying, please, make a decision, let's move forward. Because the longer we wait, the problem is not going to be solved by stalling or waiting. That's it.

CHAIRMAN COLETTA: Thank you.

MS. FILSON: Your next speaker is Alan Moniz, and he will be followed by David Ellis.

MR. MONIZ: Thank you. For the record, my name is Alan Moniz and -- Mr. Chairman, Commissioners.

For the record, I do have property that fronts Santa Barbara Boulevard. I've had that property since 1979. I've seen growth. I've lived there. I've backed out onto the highway. I still back out onto the highway today. I still deal with the traffic.

I realize that people have to make sacrifices for the betterment of everyone in the community. I have to applaud Commissioner Carter, and it's true, we have to bite the bullet sometimes and do what sometimes is not very palatable to all of our constituents. But like Mr. Grant said, we drive through all neighborhoods of Collier

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County where road improvements were made at one time or another. We all sacrifice. I'm going to have to sacrifice for my children so they don't have to deal with the problems that we have here today.

I am certain that this board and most residents in Collier County are aware that our traffic and road network has been neglected by past administrators for many years, and now we're trying to correct this situation and bring these failing roads to a present standard and code, which our staff is working very hard at doing it, and we've seen a lot of improvements. Since '79 I've seen tremendous improvements. And just recently, not in the past commission. We can't hold them accountable. They're gone. You have to deal with it. And that's what we're asking for you to do.

Now, summing it up, the Florida Department of Transportation had a quote that was rather good and I'd like to quote them, if I may. It had to do with Golden Gate Parkway widening to six-lane, which is going through a lot of neighborhoods on Golden Gate Parkway. And I can't see why they can't do it on Santa Barbara.

If I may quote for a minute: The Golden Gate Parkway improvements and Santa Barbara are a direct result of state and county government answering the public's concern. Tremendous growth has occurred in the above area as a result of -- traffic volumes have increased dramatically. It may be determined that intersection improvements (sic) alone can no longer resolve many of the capacity needs. They see that.

Listen, I can't tell you how to build roads. I'm an electronic engineer. If you want me to design a circuit or you want me to design something, I'll design it for you and I'll make it work. I don't expect a road engineer to come and tell me how to design a circuit. On the other hand, I as an electronic engineer cannot tell transportation how to build roads. All they can do is make recommendations for you and hopefully you'll listen to your staff. That's why we pay them. If we're not going to listen to them, as I've

heard before, get rid of them and do nothing, as has been done in the past.

I'm urging that you please listen to staff. Do not make the mistakes -- the past commissioners have not dealt with these problems. And please, move forward on the project. Thank you for listening.

CHAIRMAN COLETTA: Thank you, sir.

MS. FILSON: Your next speaker will be David Ellis, and he will be followed by Bob Stone.

MR. ELLIS: Good afternoon, Commissioners.

Before I start my comments, I would like to say congratulations on your decision on the eastern lands today. It was a very historic decision you were able to make. I was part of the, I guess, sister process in the rural fringe and I know how hard that group worked, and it's exciting to see a plan come together like that.

Briefly, Commissioners, I -- Commissioner Carter, you were the only one that was here when we came before you in 1999 with the Collier Building Industry Association to talk about roads in Collier County. We asked you to evaluate your funding sources. You've done that. As a matter of fact, we've been through two very challenging times in evaluating impact fees, as well as looking at other funding sources.

Commissioner Coletta, you're leading an effort now to look into other funding sources, and we talked about some of that earlier today. We suggested that you restructure your department; you've done that, you've brought it all under one roof. You put together a team that can build the roads.

And finally, the last thing we said in that thing was now it's time to build the roads. We've been through a time frame in Collier County where we did not build roads for a number of reasons. All of them came together to create what we now have as a backlog in our community.

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I certainly don't pretend to speak to the details of what the -- the decisions you have to make as far as the alignment of the road, the design of the road, but I would encourage you, Commissioners, to think of three things that we've talked about oftentimes in this process. We need to develop the good plan, we need to fund that plan, then we need to execute the plan as relates to roads.

As a matter of fact, Collier County, we've done a pretty good job over the years of developing plans. I think your staff can show you plans for all kinds of roads. They can show you plans back into the Seventies for the building of Livingston Road. We even had funding sources available oftentimes for those things.

But where we've fallen short is in the execution of those plans. Certainly it's a little easier to say five years from now we're going to do something. When we get closer, those decisions do become more difficult.

I encourage you to move ahead with the safe, efficient and cost-effective approach to building these roads. It's just come a time in Collier County where we have to deal with those execution issues.

I've met with all of you and showed you the survey that we did at CBIA this last year. We do it every two years. The question was asked, which of the following do you think should be the top priority for elected officials in Collier County to work on for the next two years? 36 percent of the citizens that were surveyed spontaneously answered something to the effect of reducing road congestion. It was an open-ended question. The survey person said that was rather significant that they would all identify a certain answer. Now, in Collier County, many of us think that would be a natural. But it was an answer that was no ques -- no answer even came close to half that as far as the amount. 36 percent of the people said that needs to be your top priority.

Again, I encourage you to move ahead. In this recent discussion of impact fees, we found by far it was the cost of right-of-way that

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was the main driver in driving up the costs in the equations that led to the significant increase in impact fees.

Commissioner Coyle, I applaud you in your thinking today in bringing forth some ideas about what can we do to reduce those costs. I encourage you to pursue those things, but more than anything, I encourage you to move ahead with what we need to do to continue to build a workable road network in Collier County. Thank you.

CHAIRMAN COLETTA: Thank you, Mr. Ellis.

MS. FILSON: Your next speaker is Mr. Bob Stone. He will be followed by Jeff Provenzano.

MR. STONE: Good afternoon, Commissioners. For the record, my name is Bob Stone.

On Friday, October 11th, we presented to the MPO our concerns regarding the widening of Logan and Santa Barbara. These concerns were presented, along with our proposed solutions to the widening project. Both our concerns and the research and study of our proposed solutions are valid, and they're based on county FDOT and FHWA guidelines.

We ask that you delay a decision until additional studies using up-to-date intersection design techniques could be employed to prove that state-of-the-art improvements to intersections on the network would solve the problem of traffic flow without the widening project and save millions of dollars in taxpayer funds.

Nothing I've heard here today from the engineering staff of Wilson-Miller has convinced me that this has been done. I have heard that they've used a modeling technique used for mid-block modeling. Mid-block modeling has nothing to do with intersection modeling. They've not said that Sedra (Phonetic), Transact or any of the intersection modeling systems were used to do this modeling.

I'd like for you to look at our existing intersections, if you will. The thing I've heard today is that they want to expand these lanes out.

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You'll still come to a complete stop when you make a right turn. Our problem is origination and destination flow. Our problem is at peak traffic hours. If we take and we widen Logan/Santa Barbara in the middle, we're going to have twice as much choke at all of these intersections.

Every manual, every guide, everything you see that's put out by the Federal Highway Department, the state, anyone else, tells you that intersections are nodes. They're choke points along an arterial. Unless you take and increase the capacity of those nodes and intersections first, what makes sense in widening an arterial?

What we've asked is that you study the intersections, you improve the intersections, then if it's necessary, to then widen that roadway. That's another subject.

We ask that a decision be delayed on this project until studies could be made. The MPO did not vote to go ahead with it; they delayed this due to our concerns and the studies and research that we had conducted. We believe that this was a proper decision by the MPO. We found --

CHAIRMAN COLETTA: I'll ask you to wrap it up, sir. Continue, you know, the next couple of sentences until you come to a conclusion there.

MR. STONE: I would urge that the Board of County Commissioners view this as a collective county-wide effort. This affects everyone in Collier County, not just the residents of this particular neighborhood. I would advise you to weigh your decision today very carefully, and I'd ask you also to allow the studies to be made before you go ahead with the decision to continue this project.

CHAIRMAN COLETTA: Thank you very much, Mr. Stone.

MS. FILSON: Your next speaker is Jeff Provenzano, and he will be followed by Gail Geary.

MR. PROVENZANO: Good afternoon.

Before I start, for the record, I would like to respectfully request

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Mr. Coletta to disclose any conflicts of interest and also any and all communications between himself and all parties connected with Mr. Thomas L. Grant, including Mr. Grant and Mr. Moniz, who will make a substantial amount of money if this resolution is approved today. They were speaker number one and speaker number two.

CHAIRMAN COLETTA: I know Mr. Grant very well -- no, no, Mr. Grant, you cannot reply to that, only I can. You're not at the podium, you haven't been invited to reply.

I've known Mr. Grant for many years. He's a wonderful person. He worked at the Chamber of Commerce with me. I know that he owns some land on Golden Gate Boulevard. I -- socially a number of years ago, I've known him in the Chamber of Commerce. That's about the extent of it.

My other conflict of interest, if you want to call it conflict of interest, is that I'm a citizen of Collier County and I drive on the roads and I'm very much personally affected. My wife's a registered nurse who's on the roads continuously for hospice, and she's very much affected by the roads. So that's a pretty common analogy that many people here can share.

I'm not too sure where the connection is that you're looking for, but I'll be surely happy, as long as your time is here, to answer any questions that you would like concerning my relationship to anyone.

MR. PROVENZANO: And that's -- for the record, that's your statement as far as communications concerning this project, for the record, okay?

CHAIRMAN COLETTA: Well, no, no, correction. You have to make a request for records, and we'll be more than happy to share them with you. As far as I know, you haven't. But there may have been e-mails at different times, there may have been letters. And any of that is available to you upon request.

MR. PROVENZANO: I do have e-mail, and I am asking you, for the record, to please recuse yourself.

CHAIRMAN COLETTA: No, sir, I will not. I don't see a conflict of interest.

MR. PROVENZANO: I need to give these documents to --

COMMISSIONER HENNING: Court reporter.

Let the record reflect that Mr. Jeff Provenzano submitted some material for the records.

MR. WEIGEL: And may the record also reflect that the material provided the court reporter is not before the Board of County Commissioners as they sit today.

MR. PROVENZANO: I'm sorry, Mr. Weigel, I didn't catch that.

MR. WEIGEL: I said you have provided some documents for the court reporter for the record, but those documents were not with and being discussed with the Board of County Commissioners. The Board of County Commissioners do not have them in their possession.

MR. PROVENZANO: I understand that. Most of these documents, they do have through the MPO board. And of course we only were permitted -- we only had a one-day notice before this meeting, which was yesterday. So --

CHAIRMAN COLETTA: Would somebody care to comment on that?

MR. PROVENZANO: Is that my time?

COMMISSIONER HENNING: No, Commissioner, if I can help you, the residents -- Jeff Provenzano and some other residents in the area have been working with staff on this road improvement, and it's been a great relationship, from what I understand.

The problem with this item on the agenda, it wasn't until I spoke to Jeff Provenzano, I think it was late, late on Sunday to let him be aware that this item was on the agenda.

So his concern is a lot of the residents are not able to change their schedule to be here today, and I think he might be requesting a

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little bit more time to cover some of those issues that those residents have shared with him that he wants the Board of County Commissioners to hear today. Is that correct?

MR. PROVENZANO: Yes, it is. We didn't -- we had no idea, it wasn't on the agenda that Wilson-Miller was going to give a presentation today. You know, with a little bit of time -- we've already documented the facts that -- what Wilson-Miller has said here today and what they've said in the past is not true, and we have professionally come up with a -- with road designs and analogies that prove that this particular section of Logan/Santa Barbara will never need to be six-laned for any type of capacity. It just doesn't make any sense.

But I think it's going to be hard to explain when somebody's already given you a presentation, and we found out something one day that was printed in a paper. I was one of the only ones, I was fortunate that Mr. Henning did call me late Sunday. But everybody else, that was it. One day notice. I don't know how fair that is. I mean, this is supposed to be America.

CHAIRMAN COLETTA: Yes, sir, it is America, and we're very proud of it.

MR. PROVENZANO: Well, I --

CHAIRMAN COLETTA: God bless America.

MR. PROVENZANO: -- am, too, and I fought hard for that freedom. And I've got scars on my body --

CHAIRMAN COLETTA: And I want to remind you that we just --

MR. PROVENZANO: -- fighting hard for every one of you people sitting up there.

CHAIRMAN COLETTA: Sir, I appreciate that. Your three minutes is up. We cut the -- we had everybody else for three minutes. I'd have to call back the president of the Estates Civic Association, allow him more time, how about the president of the

contractors association, he did three minutes.

MR. PROVENZANO: Mr. Coletta, how much time did you give Wilson-Miller and everybody in here?

CHAIRMAN COLETTA: Mr. --

MR. PROVENZANO: You put the government and the employees before the people.

CHAIRMAN COLETTA: -- Provenzano. Sir --

MR. PROVENZANO: That's -- it's a freedom of speech and that's my statement.

CHAIRMAN COLETTA: And we allowed you to exercise it, and I'll ask you to sit down now.

MS. FILSON: The next speaker --

COMMISSIONER HENNING: I would like to appeal to the Board of Commissioners because of this item and the citizens' involvement in it, and Commissioner Coletta, you stated that's what we're here all about is to give them enough time to air their concerns so that we can make a logical decision.

CHAIRMAN COLETTA: Commissioner Henning, three minutes is adequate time. We've been through this scenario of events about two, three times now. I do think that we have given adequate time to everyone. If we're going to do that, we're going to start this whole proceedings over again from square one and have everyone come up and we would do it.

COMMISSIONER HENNING: Point of order.

CHAIRMAN COLETTA: I think the point of order is three minutes.

COMMISSIONER HENNING: The question is Roberts Rule, is it up to the Board of Commissioners or is it up to the chairman on presentation or the request by one commissioner?

MR. WEIGEL: It's generally the prerogative of the chair to set the standard. The ordinance provides for five minutes, but this board has been operating for three over a period of many meetings,

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different kinds of meetings, and that's all right, too. If the board, as a collective board, takes a formal vote to change the order of procedure, then I would opine, if asked, that that would be the procedure for the day or for the item.

COMMISSIONER HENNING: I make a motion that we allow the citizens to -- allow them enough time to get their presentation across for the Board of Commissioners to make a logical decision.

COMMISSIONER FIALA: I'll second that.

CHAIRMAN COLETTA: Okay, we have a motion from Commissioner Henning, a second from Commissioner Fiala. Any discussion?

Hearing none, I'll call for the motion. All those in favor, indicate by saying aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Opposed?

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

The motion fails.

COMMISSIONER HENNING: Thank you.

CHAIRMAN COLETTA: Thank you.

Who's the next speaker?

MS. FILSON: The next speaker is Gail Geary, and she will be followed by William Snelling.

MS. GEARY: I just have one quick question. Are we going by the five-minute --

CHAIRMAN COLETTA: Three-minute, ma'am.

MS. GEARY: -- excuse me, that was stated in the agenda, or the three minutes from an agenda from a meeting that isn't here now?

CHAIRMAN COLETTA: You have three minutes, but I need you to come up to the podium so everybody can hear your questions.

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MS. GEARY: Okay. My name is Gail Geary. I live on 12th Avenue Southwest, Golden Gate Estates, and I've lived there for 25 years.

Referring to the October 11th meeting with the MPO board, we presented reasonable and factual information as to why this project must be reexamined before it's allowed to continue. Here we are just 11 days later. And it tells me that the -- all of us, you, the commissioners, and the people that presented wasted an entire day so the MPO could go on record as having given its presentation time. But the questions have not been answered and the problems and inconsistencies that we presented have not been reviewed, discussed or resolved.

Mr. Coletta, you stated at the MPO hearing that during your campaign you promised that, quote, come hell or high water, these roads will go in.

What are these roads? At the time of your campaign, the six-laning of Santa Barbara was never mentioned. And does hell or high water mean regardless of the impact on the neighborhoods or the soundness of the engineering?

You are constructing a highway designed solely for through traffic, with no regard for the more than three miles of residential neighborhood. You're setting a precedent for Collier County and the rest of the state for the destruction of a residential community.

Mr. Coletta, you also spoke of encroachment of our property and stated that you would like to have in the toolbox the ability to purchase the residential property of those who live directly on the corridor outright, fair market value or historical high plus a five percent aggravation fee to make them whole.

This is not mentioned in the resolution here today. And for a commissioner to suggest such an enormous undertaking in time, energy and most of all tax dollars, where is that extra money going to come from, truly reveals the inappropriateness of this project.

And why would you only give consideration of those people who live directly on the corridor, without giving any consideration to those of us who live on the side streets and reside in Golden Gate City that are also going to have our property and our travel and everything directly and adversely affected by this restricted six-lane expressway?

You stated that we were creating excuses for delay, delay, delay, when in fact we have repeatedly stated we want action. Not delays, we want action with state-of-the-art improvements, not expansion of the roadway and intersections, which was illustrated in our documentation.

This project has become a reckless and runaway steamroller that is built on conflicting statistics, lack of studies to evaluate the impact on everything from safety, neighborhood isolation, noise, air quality, anything you can think of, and if allowed to continue it, it will be a waste of the tax dollars and, by Mr. Coletta's own words, a decrease in the property values of those residential properties along the roadway. It will destroy a residential community and forever change the landscape of Collier County.

CHAIRMAN COLETTA: Thank you very much.

The next speaker?

MS. GEARY: Got it in.

MS. FILSON: Next speaker is William Snelling, and he will be followed by Jim -- it looks like S-P-O-U-N-I-A-S.

MR. SPOUNIAS: Spounias.

MS. FILSON: Spounias.

MR. SNELLING: My name is William Snelling.

Six-laning of Logan and Santa Barbara will inconvenience and hurt thousands of Collier County voters, directly and indirectly, including many others and me who do not live on either road and who already detest and abhor the road with good reason. We count on you to please protect all of us from this 28-million-dollar mistake.

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I turn over the rest of my time to Jeff Provenzano.

CHAIRMAN COLETTA: Three minutes per individual, sir. You may continue with your remainder of your three minutes. You can't assign your time.

MR. SNELLING: Oh. This is such a serious thing, and it lasts a lifetime for me and for all the people that live on my streets. Please have pity on us. I mean, this is a serious, serious thing. And there are thousands of us that are going to suffer from this for the rest of our lives. That's not some -- Collier County is a wonderful place, but this destroys a whole lot of it, including the very American idea that the public is supposed to be the boss. You're supposed to be our servants. For goodness sakes, please.

I hope you're really hearing me. This is serious.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yeah, as he's saying that, I remember a while back, long before I was ever here, when I first got started civically, they wanted to put a homeless shelter into a neighborhood, and we fought that tooth and nail. We said if you build it, they will come. Put it in an area that could accommodate the homeless shelter. We were voted against, and they put the homeless shelter in our neighborhood. The bigger they built it, the more people came.

They have a lot of problems in that area now. And instead of locating it where it should have been, we're going to have to live with it forever.

And just as this gentleman just said, some of these serious mistakes affect us forever. Our vote up here today affects our community forever.

And I feel if we build it, they will come. The bigger we build it, the more people will use it. If we design it as a roadway through a neighborhood, people will use it as a roadway through a neighborhood. Thank you.

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CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: Are we done with public speakers?

CHAIRMAN COLETTA: We still do, but I -- you were just ready to push the button.

COMMISSIONER CARTER: Oh, no, I'll wait. I'll probably be a little cooler when I respond. I think we ought to finish the public --

CHAIRMAN COLETTA: How am I doing?

MS. FILSON: Your next speaker is Jim Spounias, and he will be followed by Mike Reagan.

MR. SPOUNIAS: For the record, my name is Jim Spounias. I live at 52237 Mahogany Ridge Drive. And I hope to bring the contentiousness down a bit.

I want to thank the commissioners for sharing your opinions and perspectives with us. And I think that -- I agree with Commissioner Fiala wholeheartedly when the question is put to us about a six-lane highway through a residential area. I know that road projects have been fought. The term nimbi is used frequently, and in some cases that's the case.

This is a very special example, though, because Commissioner Fiala asked the question, a lot of people repeatedly do, where is there a six-lane highway where there are driveways? And your questions and comments, all of you, are very insightful in that sense, and I want to thank you for that. Because that's what we're talking about, in a way. Political process is about compromise, it's about line drawing.

Now, my preference is to draw the line at four lanes. These people had an expectation when they brought their property. It was already -- I forget the term, it was already deeded, so to speak, for a four-lane highway. There was a reasonable expectation that that would be. It is a residential corridor.

According to County Resolution 247, it's an access seven corridor. I haven't heard that discussed either. This is

unprecedented. To vote on it today, I believe to vote for it is a big mistake. And I don't think that we're going to have many problems if we seriously tackle this issue within the next few months. The property values will not escalate so high that if it is reconsidered, that is the six-laning, and I am wholeheartedly against it, I don't think at that time there will be any impact.

We just learned of this meeting. That's why there aren't more people here today. That's why we didn't get, in our opinion, a fair chance to adequately address Wilson-Miller's report. Obviously Wilson-Miller knew that this was going to be on the agenda well before the citizens did. And no disrespect to the commission, but that's simply a slap in the face. Thank you.

CHAIRMAN COLETTA: Thank you.

MS. FILSON: The next speaker is Mike Reagen, and he will be followed by Ron Talone.

COMMISSIONER CARTER: Mr. Chairman, before Mr. Reagen speaks, the last speaker said everybody knew before they did. I find that hard to believe. I think this was publicly noticed. It was at the MPO.

I think that -- you know, I'm going to say it one more time, citizens have a responsibility, too. And if you want to find out something, we're trying to make it available for you to find out. But to come in here at the 11th hour and 59 minutes and tell me as a seated commissioner we're being unfair because you didn't know, I'm sorry, ladies and gentlemen, I can't go there.

MR. REAGEN: Ladies and gentlemen of the Commission, my name is Mike Reagen. I'm the president of the Naples Area Chamber of Commerce. I'm here to ask you to begin to move forward with the right-of-way acquisition.

We have challenges in this community today because, as you've stated over and over again, your colleagues, your predecessors did not make decisions, they didn't make plans and they didn't fund them

and they didn't move forward on them.

The details of how you go forward in the next several years clearly need to be worked out. And you've articulated that and you're very sensitive to that, and I'm not in any way on behalf of the chamber trying to diminish that. But if you don't move forward on the right-of-way acquisition process, I think you're doing yourselves and the community a disservice and will not begin the ball rolling to begin to look at those hard decisions.

What you're doing today is in concert conceptually with the growth plan you have for the community and with the MPO, generally a consistent plan. It's the right thing to do. There are tens of thousands of people who travel on these roads and other roads to work and to live. So I would ask you to begin the process of acquiring the land and move forward. Thank you.

MS. FILSON: Your next speaker is Ron Telone. He will be followed by Tom Conrecode.

MR. TELONE: Good afternoon. My name is Ron Telone, I'm with the consulting firm of David Plummer & Associates. I'm here on behalf of the Southwest Florida Transportation Initiative, otherwise known as SWFTI.

We encourage the board to move forward with the implementation of the county's long-range plan by approving this project for the six-laning of Santa Barbara Boulevard. Our firm has studied long-range transportation needs in Collier County on a number of occasions previously. Those studies have consistently shown the need for six lanes in this corridor. I have no doubt that six-laning is needed in this corridor.

As far as the timing, the county's AUIR, the volumes and projections in the AUIR indicate that the six-laning -- the four-lane Santa Barbara would be deficient within the next two to three years. So therefore, on behalf of SWFTI, we recommend that you follow through with your plans to six-lane this corridor. Thank you.

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CHAIRMAN COLETTA: Thank you, sir.

MS. FILSON: Your next speaker is Tom Conrecode --

CHAIRMAN COLETTA: How many more speakers are there, Ms. Filson?

MS. FILSON: Your final speaker is Judy Stevens.

CHAIRMAN COLETTA: Thank you.

MR. CONRECODE: My name is Tom Conrecode, for the record. Thank you for the opportunity to speak today.

It's certainly a shame that this has resulted in personal attacks over some differences of opinion about a road project.

Aside from that, I'd ask that you please keep the project moving forward. Staff has made numerous revisions to the plan. They've made design changes and certainly some pretty good concessions to the property owners.

If you fall into the trap that previous commissioners have, you're setting a very bad precedent for the future, for every project that's going to follow this one. Please don't repeat the errors of previous commissions. Develop a plan, fund the plan, more importantly, execute the plan. Thank you.

CHAIRMAN COLETTA: Thank you, sir.

MS. FILSON: And your final speaker is Judy Stevens.

MS. STEVENS: My name is Judy Stevens, and I live at 5410 Mahogany Ridge Drive, which is the corner of Logan Boulevard and Mahogany.

And I had no intentions on speaking today, but I've been to all the meetings. I'm not one to speak. I wanted to turn my time over to Jeff, but that's not going to be allowed today.

I can say that I'm highly opposed to this project for obvious reasons; children safety being number one. There have been two accidents on the corner of our street within this year where two people have died. And by increasing the traffic to this area, it is not going to help, it is only going to hinder the project.

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I'm not happy about my property value, that I'm going to lose money as well.

I don't know what else to say other than, you know, think big. You know, you have to think and make the right decision for yourself.

CHAIRMAN COLETTA: Thank you, ma'am.

And that concludes our speakers and closes the --

MS. FILSON: Yes, sir.

CHAIRMAN COLETTA: -- public portion of the meeting.

I'd like to make a motion at this time, recommending that the Board of County Commissioners adopt the attached resolutions authorizing the acquisition by gift or purchase of all rights and interest in real property which are required for the construction and maintenance of a six-lane section of Santa Barbara Boulevard/Logan Boulevard from Davis Boulevard to North Pine Ridge (sic), and, two, where property owners are willing to sell the parent tract and all improvements and the county has determined that a significant impact will occur to the parent tract as a result of the project, authorize staff to require the parent tract at fair market value; and to authorize the Chairman to execute same on behalf of the Board; and to approve all and any budget amendments required.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: Motion from Commissioner Coletta, a second from Commissioner Carter.

We'll go to discussion, first Commissioner Henning, then Commissioner Coyle.

COMMISSIONER HENNING: I'm not opposed to making that tough decision of expanding this roadway. I guess what I'm opposed to is taking a look at the design of the intersection that Bob Stone presented at the MPO, with two dedicated right-hand turn lanes that would funnel into the main line of Golden Gate Parkway was just one of the examples. And I think his example could be fit throughout all

of Collier County, and it would not impede the traffic of that right-hand movement. We have so many signalized intersections where a right-hand turn does need to stop and wait for the green arrow and so on and so forth.

That's one thing that I thought that the direction from the MPO was to the design team and the staff of Collier County. And that was not performed.

The intersection that was modeled was the existing proposed intersection improvements. If that would alleviate and allow the main line to flow on Logan/Santa Logan, then I think it's worthy of looking at. Because we can use that money for other areas that we need to improve here in Collier County.

So I would hope that the motion would fail so that we can really take a good look at good intersection improvements. And this is -- part of the community character is not so much widening the road as to keep them two-laned or four-laned with other improvements.

So if it does come back that that design will not work for past 2015, I think it's prudent that we go forward with the six-laning, but right now I'm not convinced that that is the best thing.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: I have a couple questions of staff. If Santa Barbara remains four lanes, what are your projections on traffic with respect to level of service?

MR. FEDER: Basically out there now, very shortly, as mentioned in the AUIR, if we don't make intersection improvements or anything beyond the four-laning, we're talking two plus years where we have failure at the level of service.

If you make intersection improvements as was identified -- and I'll speak to the other -- then you can try and have that hold until about 2011. You'd be able to finish those about 2007, and then you have about four years before you then ended up in failure of level of service, and then would have to go to the ultimate six lanes.

We did look at other design alternatives. Now, what was presented at the MPO, and I'll let staff speak to it as a consultant, was you heard the term and we heard it quite a bit, state-of-the-art design.

When I asked what state-of-the-art design was at the MPO, I was shown a picture of Bayshore. And Bayshore has nice trees and it's four-laned, it is not an arterial. And I made that comment. But the statement was that was state-of-the-art.

To the free-flow dual left that has been noted just recently, as that was shown during the MPO meeting, we never received any further concept on it. But that is typically what you use coming off of an interstate or an expressway. It takes up an awful lot of right-of-way, it doesn't eliminate your left-turn triple lefts; you still have to deal with your dual rights.

It does extend it out and try to take that a little bit out of the phase, but what it requires is on the receiving facility, whether or not that happens to be Pine Ridge, Golden Gate or off of those onto Santa Barbara/Logan, it requires considerable room of merging from the two to the one and the one into the free-flow lanes of the major other arterials, which in this case is six lanes.

So I can let the design people talk to that more specifically, but we did look at it.

COMMISSIONER COYLE: In order to make the improvements to the intersections, must you purchase right-of-way?

MR. FEDER: Yes. And I will let the design team go through that. We've asked them and that's what they were presenting to you, and I'll ask them to --

COMMISSIONER COYLE: It's just a yes or no question.

MR. FEDER: My understanding, and everything I've been told and what I've looked at, is to make the intersection improvements, you have to buy the right-of-way. Even in the state-of-the-art, you'd have to buy different right-of-way, additional right-of-way, the answer is yes.

In effect, you buy the right-of-way pretty close to the six-laning, and you have to buy it a ways back to allow for that merge or that weave from the existing land configuration over to the revised at the intersection.

COMMISSIONER COYLE: Okay, there are two situations then: One is assuming that we proceed with the intersection improvements first to see what their impact is and one I favor, but that will require purchase of right-of-way.

The next thing is, if Santa Barbara then becomes overloaded, you will have to take action to improve traffic through put on Santa Barbara through some method, either widening it or closing off a lot of the accesses onto the highway and using some other means of access, whether it's a service road or whatever. And in either case, it seems to me that right-of-way is required.

MR. FEDER: Correct.

COMMISSIONER COYLE: Now, I think it is financially irresponsible to delay a decision on that issue for 10 years, but I very strongly feel that if we do any construction at all on that highway, that we should take into consideration those intersection improvements first before we ever begin anything with anything else.

And furthermore, I think that we need to continue to look at this design process to be sure that we're doing the right thing. I do not see the acquisition of right-of-way as meaning that we will in fact construct a six-lane highway there.

MR. FEDER: We still have to come back to you for the construction contract approval.

And if you note also in your executive summary, this agenda item, we noted that since you have to buy the right-of-way, effectively the six-laning at the intersection a ways back for that merge, that what we were asking for is your approval to move on the six lanes, and then for the board to, after we continue to work with the community, to go from a 60 percent plus design plans to address

some issues. And we heard today some discussion relative to on-street bike lanes and other issues we still need to look at.

But as we complete further that design, we come back to you, before we actually go out to construction, we still have to have that approved by this board. Whether or not we implement the intersection and wait on the six-laning or do the six-laning all at one time, it --

COMMISSIONER COYLE: If the board should approve the right-of-way purchase, can we require that the right-of-way purchase for the intersections be done first?

MR. FEDER: We'd acquire the full area. Obviously we can concentrate on that. But as far as our negotiations efforts, we would go for the full corridor. But we can focus as much as we can --

COMMISSIONER COYLE: But what I'm getting at is that the residents have asked for more time to make sure that we have evaluated all the alternatives. And I know that the staff and the consultants have said yes, we have. The residents have said no, you haven't. We still need to resolve that issue.

But if everyone understands that intersection improvements are essential, it seems to me that it's in everybody's best interest to at least proceed with the right-of-way acquisitions for the intersection improvements.

MR. FEDER: And how far back. As --

COMMISSIONER COYLE: Yes.

MR. FEDER: -- we showed you, it goes quite a ways back.

COMMISSIONER COYLE: I understand. Whatever is necessary to create a safe intersection would seem appropriate, and then we can begin evaluating this other issue and trying to resolve the differences with the residents before we start buying up the rest of the right-of-way. Is that a reasonable way to proceed?

MR. FEDER: Obviously direction of the board is always reasonable, sir. But what I will tell you -- but I will tell you --

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COMMISSIONER COYLE: Then make this problem go away.

MR. FEDER: I am trying to, sir, and I don't want to add a problem. But I did tell you that along with that is a very important and difficult decision.

What I would tell you is you then would create some time, while we're negotiating on what would be most of this corridor, by the time you're done pulling that back. And I'll let the consultant show you some of the analysis.

You would then delay that process of appraisals and negotiations with others in the middle and not be holding them hostage.

What I'm telling you is the need for the six lanes is out there. However, we do not move on six lanes. I do not move past phase construction or any construction until this board authorizes my construction contract as well.

So what we're asking you today, and I'll ask you, in spite of your good comments, Commissioner, is that we move on the six-lane, with the understanding that we will continue in our design to look at a number of features and issues with the community, and that as far as whether or not you build six lanes or you keep to a four-lane main line and build the intersections on a base construction, that will come before this board in the future.

COMMISSIONER COYLE: Well, actually, what I'm suggesting is something slightly different, and that is that everybody recognizes that intersection improvements would be the first step. So perhaps we can reach agreement on focusing on the intersection improvements initially, both from the standpoint of right-of-way as well as construction approval. And then that will give us time to deal with the residents' concerns about the other areas where we have not reached a conclusion.

MR. FEDER: And again, Commissioner, I meant in my statement, obviously we'll take direction from this board.

But I do want to bring to your attention, what was presented to you is an example between Pine Ridge and Green Boulevard.

Essentially to address, as you're putting it, the intersection improvements under the fact of the 4,700 feet, leaving essentially 650 feet of that, where that frontage is, I would not acquire the right-of-way right now, from what you're telling me.

And what I would propose to you is that I'm holding those folks hostage. I'm not acquiring that and giving them the opportunity to get their issues addressed and resolved. I think that we ought to be completing that gap, because that gap is very small relative to the intersection improvement needs.

COMMISSIONER HENNING: Can I help out here one minute?

CHAIRMAN COLETTA: Well, you're out of order, but go ahead, Commissioner Henning.

COMMISSIONER HENNING: Thank you.

CHAIRMAN COLETTA: I mean out of order as far as who's next.

I'm sorry.

COMMISSIONER FIALA: That's all right.

COMMISSIONER HENNING: There is still -- we need to acquire some areas for water retention, even if we just do the intersection improvements. If the board is going in the direction of let's take a look at what the intersection improvements are going to do and leave it four-laned, we still need that acquisition process. So I feel comfortable with the resolution, if that's the intent of the board.

COMMISSIONER COYLE: It's not approval for construction, right? That's what you're saying, right?

COMMISSIONER HENNING: Correct.

MR. FEDER: Commissioner, obviously we'd like to be in that stage, but what I am telling you is we have to come back before this board, and we've even put into the executive summary an

acknowledgement that it may be a staged construction with the intersection possibly put in before the main line six-laning.

CHAIRMAN COLETTA: To simplify it even more, what we're saying is that we purchase the right-of-way for six lanes, but we still -- the talks are still ongoing where it might still be -- end up being four lanes. Is that what you're saying?

MR. FEDER: Four lanes, with intersection improvements --

MR. MUDD: Mr. Chairman, you're absolutely correct.

And Norm, I'm going to interrupt for just a second here. And if during that design, as we take a look at things -- and I've asked the transportation planning folks and Norm to take a look at access roads to see if it can fit within the right-of-way in that process in order to take a look at that and get at some of the safety issues for busses and get them off the road and see what that'd do for us based on the comments that were made.

But when you even look at the access roads, you're still going to need the right-of-way, that footprint. And when I talked to the design engineers a little bit earlier, on the intersections, they're talking a footprint, a cross-section of 300 foot, okay. And when you get on the long stretches outside the intersections, you're looking at 150 foot during that corridor. So those are the cross sections. And I know Commissioner Coyle, you're -- you've got interest --

CHAIRMAN COLETTA: Once again, I'm going to try to put it in the simplest terms possible so that we all understand it. And I can't tell you how much I appreciate Commissioner Henning coming up with some thought process into this that offers some different options than we're looking at.

We -- everything can still be going forward. We're running parallel, but the parallel idea with the road being four- or six-laned haven't reached that point where they crossed. We'd be purchasing the rights to property for up to six lanes, or an access road, but we -- and we're moving that forward so that we can act accordingly when

the time comes.

Meanwhile, dialogue is still going on with the community. Is that correct? Is that what you just said?

COMMISSIONER HENNING: Uh-huh.

CHAIRMAN COLETTA: Very good.

Commissioner Fiala, then Commissioner Carter.

COMMISSIONER FIALA: Well, the first one kind of lost its effect. But Commissioner Henning was talking way back a couple times ago about whatever statement he made. What he said was in essence smart growth. That's what he was talking about, smart growth. And that's the way we should be addressing this road, smartly. I think that that's very important for us to understand.

Again, I still -- I'm still looking for a six-lane highway through a residential neighborhood, just so I can compare to see what kind of havoc we're going to wreak on this neighborhood, if indeed we are. I mean, maybe it will just fit in real nicely in a residential neighborhood, but I don't have one to compare with. So here we are voting on something and we don't know what damage we can do by this vote. So I wanted to say that.

And let's see. I think what our main objective is, and what we've been talking about all along, really, moving traffic smoothly, we're talking about moving it all the way to the Lee County line. That's something Norm wants to get done, to have another through road. And I think four lanes, if we're moving it all the way through, we're still accomplishing that. From U.S. 41 East all the way out to the Lee County line. And if that's four roads (sic), it's still going to be moving a lot of traffic.

If we build it smartly with the proper intersections and with the proper signaling, I think we can have a great highway and yet not disrupt or destroy a neighborhood.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: Commissioner, a couple of

thoughts. I would say this because I've seen it too many times, but I'm going to give you a philosophical statement, which you won't have to listen to after one more meeting.

Commissioner decisions long delayed and expectations by neighborhoods long nourished create morale problems, they create animosity, and they create distrust in government.

So I don't know what people are going to hear out there today, but I support the original motion, because you're going to acquire all of the right-of-ways. It also gives you that opportunity to six-lane, because at the end of the day this board will never probably have to deal with that, but some board's going to deal with that. And if you didn't buy the dirt, they're going to look at you just like we looked at the people that sat in these chairs before we did and said why didn't you have your lights on.

Commissioner Fiala says I don't know of any other six lanes in a community.

COMMISSIONER FIALA: No, in a residential.

COMMISSIONER CARTER: Okay, a residential community. Let me give one right in your area. Lely Resort.

COMMISSIONER FIALA: No, that's not a six --

COMMISSIONER CARTER: This was a report -- this is a report from Goodlette, Coleman and Johnson. The attorney was Ken Cuyler. This says Lely Development, six-laning requirement. Closing paragraph says, in conclusion, based on the development projections and development commitments provided by the developer, we find that there is a development commitment to six-lane the north/south main boulevard between U.S. 41 and Rattlesnake-Hammock Road as a part of the Lely development internal arterial system.

Now, you're going to see this one long after I'm gone. But you're going to see them. So you're going to see them in every neighborhood in situations like this.

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So I don't see any difference here, frankly, Commissioner, that you're going to be looking at this whether it's in your neighborhood or whether it's in Tom Henning's, or whether it's up north, you're going to see these things.

CHAIRMAN COLETTA: I'm going to ask you both to soften it just a little.

COMMISSIONER FIALA: Okay, and just -- I just have to respond.

CHAIRMAN COLETTA: Please do.

COMMISSIONER FIALA: I think that the four lanes that are in Lely Resort are kind of typical of the same four lanes you have in Pelican Bay. They're nice, landscaped roads and they lead into communities on the side. There aren't any homes with driveways that are backing onto those four-lane -- well, and they're not six lanes, obviously. But there aren't any driveways there. And this is what I'm talking about. I'm talking about the people along Logan who have driveways right on the street. That's what I'm concerned with.

COMMISSIONER CARTER: I'm not saying that I'm not concerned with this, Commissioner. And I'm not angry. I'm just trying to make --

COMMISSIONER FIALA: Well, it sounded like it.

CHAIRMAN COLETTA: It sounded like it to me, too.

COMMISSIONER CARTER: If I was angry, ask Commissioner Coletta when he saw me in the parking lot this morning. That's anger.

What I'm saying is probably with passion, that you can't avoid making these decisions. They're going to keep coming at you and coming at you. And at some point in time county commissioners have to say I empathize with all of it, I think we've got a workable plan, but let's not raise false expectations. Let's do what we have to do and then work with the community to find the best possible solution. And if you can find something that is more appropriate or

feasible or acceptable -- you're never going to get them all. Because you're going to get some folks, no matter what you do, are not going to like it. And you've got to live with the majority and not the minority.

COMMISSIONER FIALA: But we have to make wise decisions. We have to make decisions that affect our community now and for the future. And we have to take --

COMMISSIONER CARTER: Commissioner, we could debate this all night. I think a wise decision is --

CHAIRMAN COLETTA: I think both of you made your points, and I'm going to take just a moment here now to make a couple of small comments.

First off, this did not turn out to be the most pleasant experience I have had as a commissioner. It's not every day that I have somebody make claims that I'm in bed with somebody and that I -- you know, what I'm saying is, and I want to draw a comparison here, I can't -- sir, I forgive you for that, but I want to tell you right now that those kind of misinformations is the same kind of misinformation we've been receiving up here with a lot of the data that's been coming across, little bits and pieces. We pay Mr. Feder, by God, lots of money. I'm not going to mention the salary, believe me. It's considerable. And the reason we do that is because Mr. Feder is extremely qualified. We pay this man to get us on the right track, to advise us on what to do, and he's very brave when he stands up here, but he's giving you a message. He'll do whatever you want to do in the end. But he's being honest and he's trying to be polite about it. But he's telling you that you need to have this road or else it's going to fail time after time.

Now, we can disregard his advice, and we can do whatever we darn well want to do. But let's be honest about it. Let's say we know the roads are going to fail but we don't give a darn. We're going to live just like the commissioners did before us. We're going to do just

what our predecessors did. Why should we have to do anything different? Why should I have to worry about a road that's going to be built when I'm out of office and retired? Why should my staff have to worry about it when they're going to be retired from this road's built (sic).

No, I'll tell you, it's not an easy thing to sit up here and tell people that something has to be done, when it has to be done, and take the advice of somebody like Mr. Feder, who has the experience to be able to advise us.

And I'll tell you something, if I have to take advice from someone, I'm going to take advice from staff that's professional, has the background, has proven that they know what they're doing through years and years of experience, rather than somebody comes in with distorted information. And you've seen an example of it, when you try to tie me with Tom Grant. I can't believe it. But I forgive you, sir.

And with that, we'll go on to -- Commissioner Coyle is gone. Okay.

COMMISSIONER HENNING: Were you done?

CHAIRMAN COLETTA: No, I'm not done. Now I'm done. Go ahead, Commissioner Henning.

COMMISSIONER CARTER: He's just getting started, Commissioner.

COMMISSIONER HENNING: Because this is costing the taxpayers money, so I call the question.

CHAIRMAN COLETTA: I'm sorry, Commissioner Henning?

COMMISSIONER HENNING: I say this is costing the taxpayers a lot of money, making political statements, so I call the question.

CHAIRMAN COLETTA: No, you don't quite so quick. Commissioner Coyle's light's on, and if he wants to call it, then we'll go from there.

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COMMISSIONER COYLE: Oh, no. Oh, no. If you're going to vote, I'm not going to delay that.

What was the motion again?

CHAIRMAN COLETTA: The motion was to -- as I originally stated, purchase the property.

COMMISSIONER COYLE: And Commissioner Henning had suggested something else, or something slightly different, or a clarification?

COMMISSIONER HENNING: It sounds like the board is going into a direction to where we're going to acquire the intersection and we need to acquire even more of that for -- even if we just do the intersection improvements, that Mr. Feder's understanding is let's take a look at the intersection improvements and see how that -- how far out that brings us. And I think that -- what I've seen is the majority of the board of commissioners in favor of that, and if it --

CHAIRMAN COLETTA: Well, clarify it.

COMMISSIONER HENNING: -- and if it fails within a certain period of time where it's not reasonable, then his understanding is we're going to do the six-lane.

CHAIRMAN COLETTA: No, that wasn't my understanding of the motion, Commissioner Henning. The motion was to purchase the land to keep the discussion going with the residents, to purchase the six -- enough to be able to do six-laning, with the idea in that footprint that if we find that there's another way, we would go to four-laning and with possibly an access road, but to move forward on the purchasing of the property.

Commissioner Coyle?

COMMISSIONER COYLE: I think that's the primary difference, in the positions of at least two commissioners.

Let me see if I can focus on a compromise. We all know that the intersections are necessary, right? Everybody says the intersections are necessary. We all know that additional right-of-way is necessary

to do the intersections.

COMMISSIONER FIALA: Right.

COMMISSIONER COYLE: Okay? And so we all know that the intersections should be done first. So if the intersections should be done first, why shouldn't a right-of-way purchase for the intersections be done first, and then as we're doing that, we'll have an opportunity to evaluate the effectiveness of the intersections as we proceed, and we can continue with acquiring the right-of-way, if there's an indication that it is necessary to do so.

Now, I'd like to say one other thing about this: Based upon what we've been told, and I'm not vouching for it, but based upon what we've been told, something is going to have to be done with Santa Barbara, even if we leave it four lanes. You're going to have to buy more right-of-way, even if you leave it four lanes, because you cannot have a four-lane highway with the projected amount of traffic on it and have driveways coming out every couple of hundred feet. That's just not safe. And it's not going to happen. You cannot permit that to happen. So if the situation is that you leave it four lanes but not provide some limited accesses, then you've created a very, very serious safety hazard.

So you're going to need some additional right-of-way, even if you leave Santa Barbara at four lanes.

COMMISSIONER FIALA: For access.

COMMISSIONER COYLE: For something. For something. So people can get out on the road safely. Because even at four lanes, it's going to get crowded.

MR. FEDER: Mr. Chairman, the Commissioners previously asked me to hopefully give them something to get this issue resolved.

COMMISSIONER COYLE: Please.

MR. FEDER: I hope I'm going to be doing that right now.

I think what I'm hearing from the board is pretty much also what I think we presented to you. And I hope I'm right in this statement.

Much like when we go from two lanes, knowing that we may need four and possibly six, shortly after we purchase the right-of-way for six, only build the four, if it's going to be a long period of time before the six is needed, or come to you and say we should go with the six initially right away.

In the same vein, we're recommending we buy the right-of-way for the ultimate six. I need it for the intersection improvements. For the mid-part becomes do I need to go six initially.

So in effect the way I characterize it is buying the right-of-way for the six. The decision of going from two to four is going from four to intersection improvements. And going two to six is going to the ultimate six from the four-lane.

We have to come back to you to get approval of that construction contract, either to go from the four lanes to enhanced intersections within that six-lane right-of-way, or to go to the ultimate six-lane cross-section. And you get to approve that at that time. I think that's accomplishing what you're saying.

COMMISSIONER COYLE: Yeah, that's where I'm going. Because the motion before us is not to build a thing.

CHAIRMAN COLETTA: No.

COMMISSIONER COYLE: We're not giving you authorization to build a single lane thing.

MR. FEDER: Motions for the right-of-way in the executive summary specifically cites that with the issues raised, that in fact the board may have to decide whether it wants to do what I'm calling incremental construction or phased construction.

COMMISSIONER COYLE: Yes. Okay, thank you.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: Mr. Feder, would you give me some estimate of what the cost differences would be to take the approach that you're recommending, as far as efficiencies in building? Do you have any idea?

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MR. FEDER: We don't have that cost data at this time. But before we come to you either recommending one or the other, we will have the ultimate for your consideration costed out as well, as we do in each case.

CHAIRMAN COLETTA: Okay. So I can incorporate that in my motion, that we will -- that the actual size of the road, the footprint of the road will be made at a future date when the contract's going to be -- prior to the contract being awarded.

COMMISSIONER COYLE: The construction.

CHAIRMAN COLETTA: The construction, right. Does that sound acceptable --

COMMISSIONER CARTER: Well, I'll adopt --

CHAIRMAN COLETTA: -- Commissioner Carter?

COMMISSIONER CARTER: -- that in my second in the art of compromise.

CHAIRMAN COLETTA: Okay. And with that, if there's nothing else, we're going to -- I'm going to call for the motion: All those in favor, indicate by saying aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

Opposed?

(No response.)

CHAIRMAN COLETTA: And the ayes have it, 5-0.

Thank you very much. It's been a long -- take a short five-minute break here. Don't go too far.

(Brief recess.)

Item #10C

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**BID 02-3424 AWARDED TO AJAX PAVING INDUSTRIES INC.
IN THE AMOUNT OF \$12,495,051.66; AND \$600,000
ALLOCATED FOR CONTINGENCY PURPOSES TO
CONSTRUCT THE PROPOSED GOODLETTE-FRANK ROAD
PROJECT FROM PINE RIDGE ROAD TO VANDERBILT BEACH
ROAD**

CHAIRMAN COLETTA: Now we've got a quorum.

Okay, let's go right back to it. Next item is legislative agenda, right? Here we go.

MR. STRAKALUSE: Commissioners, Gregg Strakaluse, for the record. Item 10(C) is award of bid for a construction contract in the amount of \$12,495,051.66 to Ajax Paving Company for improvements to the Goodlette-Frank Road, of which we already do have the right-of-way.

The improvements to this road include six lanes between Pine Ridge and Center Street, and then four lanes from Center Street to Vanderbilt Beach Road. It include sidewalks, pathways.

Any questions?

COMMISSIONER CARTER: No. I move for approval.

COMMISSIONER HENNING: Second.

CHAIRMAN COLETTA: We have a motion for approval from Commissioner Carter and a second from Commissioner Henning.

Any questions?

MR. MUDD: Do we have any speakers?

CHAIRMAN COLETTA: Any speakers?

MS. FILSON: No.

CHAIRMAN COLETTA: All those in favor, indicate by saying aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER FIALA: Aye.

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COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: Aye.

The ayes have it, 5-0.

Next?

Item #10D

CONSTRUCTION CONTRACT TO APAC-FLORIDA, INC. IN
THE AMOUNT OF \$28,986,526.90; AND \$1,000,000.00
ALLOCATED FOR CONTINGENCY PURPOSES TO
CONSTRUCT THE PROPOSED IMMOKALEE ROAD FOUR
LANE WIDENING FROM CR 951 TO 43RD AVENUE NE

MR. STRAKALUSE: Next item is item 10(D). Award of construction contract in the amount of \$28,986,526.90 to APAC of Florida, Inc, And allocate \$1 million in contingency for items which include protection of public health and safety during construction.

CHAIRMAN COLETTA: This one here is mine. I'd like to make a motion for approval.

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: Motion from Commissioner Coletta, second from Commissioner Carter.

Any discussion?

MS. FILSON: No speakers.

CHAIRMAN COLETTA: No speakers?

All those in favor?

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Aye.

Thank you very much. It's a red letter day, 5-0.

Moving on.

Item #10E

PRESENTATION OF COLLIER COUNTY'S 2002-2003
LEGISLATIVE AGENDA – ISSUE #1 – APPROVED; ISSUE #2 –
APPROVED; ISSUE #3 – APPROVED; ISSUE #4 – DENIED;
ISSUES #5 THROUGH #7 – APPROVED; ISSUE #8 – DENIED;
AND ISSUES #9 THROUGH #12 – APPROVED

MR. MUDD: Commissioners, next item is 10(E), and that's the Collier County 2002-2003 legislative agenda. And that will be presented by Beth Walsh.

MS. WALSH: Good evening, Commissioners. For the record, my name is Beth Walsh, I'm the assistant to the county manager.

What we have before us today is the tentative list of items that with the board's approval will become our legislative initiatives for 2003.

We have a few issues that need to be discussed before they are approved, so let's get underway.

The first item for discussion is the real estate transfer tax. As has been suggested, the transfer fee attached to real estate transactions would equitably spread the cost of infrastructure improvements. It's also been suggested that to increase this initiative's probability for its success, we need to define this initiative and narrow the focus of what we are asking our legislators to support.

With that, I'll turn it over perhaps to Commissioner Coletta, who can further go into some detail about it.

CHAIRMAN COLETTA: Well, as you know, our agenda for these different items has grown a little bit. And now is the time, before we go to the Florida Association of Counties, to give serious consideration, we're going to be going there on December the 5th, to

present our -- what we're looking for and to be able to support other people that have similar ideas to ourselves. And I wanted to go through this and review it item by item with you to be able to make sure that we're still on track. And we also have here -- where are you, Keith -- Keith Arnold, who is our -- excuse me, my voice is starting to give out -- who's our lobbyist, and a very effective one at that, I might add, to guide us through this process.

And Beth has been very helpful. I appreciate all the help that she has given up to this point.

We have some lights on already, so why don't we just start right off with Commissioner Henning, Commissioner Coyle, and then whoever else wishes to weigh in. You can direct questions to Beth or to Keith. And then Commissioner Carter after Commissioner Coyle.

Commissioner Henning?

COMMISSIONER HENNING: I have a question for Commissioner Coletta.

CHAIRMAN COLETTA: Yes, please.

COMMISSIONER HENNING: Is this to replace impact fees, augment impact fees, pay for a deficit of infrastructure?

CHAIRMAN COLETTA: I'd like to see a balance stricken between all the above. Also some of it possibly being a local option. I'd like to see some of it maybe weigh in for affordable housing.

And in the case of this -- and this is purely a suggestion at this point in time. As far as the transfer tax, title tax, if that was to become a reality, I'd like to see that offset some of our ad valorem taxes, to be able to bring down the cost to our taxpayers locally.

COMMISSIONER HENNING: Well, this, I think it says it is for infrastructure, so I'm trying to determine what kind of tax you're creating for. Again, replacing impact fees?

CHAIRMAN COLETTA: It would replace them to a degree, yes. That's for this commission to decide. I couldn't possibly make that decision for myself.

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COMMISSIONER HENNING: Correct.

CHAIRMAN COLETTA: I would like to see -- I'd like to see some of them replace impact fees in certain directions. There's no doubt about that at all. That's one of the prime drives on this> Especially when it comes to the transfer title tax. In that case, I think we're looking at something that would replace the majority of the impact fees.

COMMISSIONER HENNING: Okay. The reason -- I know you were spearheading this tax, so that's the reason I was asking you what was in mind there, where we're going with it. And thanks.

CHAIRMAN COLETTA: No, thank you. It's a -- basically what you're looking at, Commissioner Henning, is a concept I need for you and the rest of the commissioners to help to fill in the lines so we're carrying a clear and concise message when we go on to Fort Walton Beach and also later to Tallahassee.

Commissioner Coyle?

COMMISSIONER COYLE: Mr. Chairman, if you'll indulge me for a little bit, this is going to take a little while. But I'd like to address each of these items, at least maybe four of them independently very briefly, if I can. Because I think it's essential that we understand how these things are supposed to work before we go up and try to get them implemented. And I think we need a general understanding of exactly what it is we have in mind.

Because what we're really telling the public is that we're going to go up and try to find ways of increasing your taxes in a number of different ways, with no indication as to how that tax is really going to be applied and to whom it is going to be applied.

And so let's start with the indexing of the local option gas tax.

CHAIRMAN COLETTA: Okay, that's a good one.

COMMISSIONER COYLE: It's my understanding that that is part of a SWFTI bill anyway right now.

CHAIRMAN COLETTA: That's correct.

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COMMISSIONER COYLE: And I don't know that we need to take any more action on that particular issue, except to encourage our lobbyists and our legislative delegation to support it, which I think they already are.

Now, let's go to the real estate transfer tax. Now, this one gets a bit complex.

CHAIRMAN COLETTA: It does.

COMMISSIONER COYLE: I know that the reason that this was originally brought up is because of the impact fee issue. There are lots of people who are moving into Collier County, buying existing homes, and they never pay an impact fee, yet they have an impact on our infrastructure. But a real estate transfer tax doesn't just apply to the people who move into Collier County from the outside and create an additional impact. It will apply to anyone who buys real estate in Collier County. Even if you're someone who has already paid your impact fee, you'll be paying it again, if you move to another house.

So let's suppose you built a house five years ago, you paid your impact fee, now you move out of your home and you go to another used home and you buy it. Now you're going to get hit with a real estate transfer tax, because we set up the real estate transfer tax for the purpose of catching those people who hadn't paid for their impact on the infrastructure.

So it's a complex issue, and I think we need to give it some thought to what it is we expect to do and how is this going to be applied.

Now, I have thought about things like exempting anyone who has a homestead exemption in Collier County, because if they had a homestead exemption, they've already paid their impact fee, theoretically, and they shouldn't be required to pay another one. And that way you get only those who are not homestead exempted. That gets even more complex, because now if we're calling it a payment of

an impact fee, where is the rational nexus and is all that legal?

So, you know, those are the kinds of things I think we've got to sort out. I think when we first decided to approach these things, these were concepts, and I think they're good concepts, but I think we need some additional analysis to understand exactly where we're going on that.

The four percent tourist development tax, the legislature, as I understand it, has reserved this for financing of a professional sports facility, a spring training franchise, and a convention center. I've got an idea. Why don't we apply that four percent TDC and build something like a golf stadium, which would be sort of interesting. But -- that was a joke. That was a joke, Naples Daily News.

The document stamp surcharge again is an issue. Who pays it and when? And I'm a little concerned that we haven't really thought through that process.

And I would also say that my reaction would be, if I were sitting in Tallahassee and I was being asked to make a decision that would benefit Collier County and perhaps other counties, I would look at all these and I would not focus too much on any particular one, and I might very well disapprove them all. But if you come to me with a good argument for a specific tax or a specific issue, I think it might receive better consideration.

CHAIRMAN COLETTA: I hear you.

COMMISSIONER COYLE: So those are my remarks concerning that.

The rest of the things I think are reasonable and I don't know that I have any serious objections to them. But with respect to the taxes, I think we've got to be very careful, because I do not want to leave people with the impression that we're rushing into slap four new taxes on the people of Collier County.

CHAIRMAN COLETTA: No, not at all. No, that's not the case.

COMMISSIONER COYLE: And I would very much like to see us take a little time, study these issues a little bit longer in deciding what do we want the money for, who is going to have to pay it, how are we going to apply it, and is our rationale legal? And I think I'd rather do that than asking our lobbyists to go up to Tallahassee and start trying to get something that perhaps we haven't completely thought through.

CHAIRMAN COLETTA: Well, if it's any help to you, there's already an initiative on. I mean, it's not ours, but it's taking place now in the indexing of the local option gas taxes. You're probably well aware that some years ago when they put these gas taxes in place to help pay for the roads, the state also had a gas tax. And theirs was indexed, ours wasn't.

And over the years our revenue stream has depreciated because of the devaluation of the dollar. This would be a small increment, that it would go up every year, to give ourselves a revenue stream that would be predictable as far as the value of it in future years. That is something that's already well underway. There's a tremendous amount of support for it. With or without Collier County's involvement, I think that's still going to move forward. And I wouldn't be surprised if it reached approval, if not this year, the following year.

As you know, the state is cutting back on their financing of a lot of projects. The state has been at a loss because the revenue from sales tax has been down over the years, and that's the main source of funds that the state works with. And you can't divvy up dollars that aren't there.

So they're telling us as a county that we have to be more resourceful and come up with our own ways to raise the funds. And let's face it, there's only so many ways that you can pay for something. I just don't want it to fall on the backs of the taxpayers of Collier County through an increase in ad valorem.

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COMMISSIONER COYLE: Neither do I. And that's one of the things I'd like to do, is if we think these things through clearly and we have some answers about who will pay them and under what circumstances they will pay them, and we understand that there's a reason why it should be applied that way, then I think we have a better chance of getting support for it.

And with respect to the local option gas tax, perhaps it would be sufficient for us or the Chairman to send a letter indicating our support for the bill that is designed to do that, which I understand Representative Goodlette is sponsoring. So -- but the other things are troublesome to me --

CHAIRMAN COLETTA: Let's take one at a time, Commissioner Coyle. And let's go ahead and we can vote on it as a group on each particular item and then discuss them at length, rather than try to combine them together into one package.

I make a motion that we move forward on the indexing of local option gas tax.

COMMISSIONER FIALA: I'll second that.

CHAIRMAN COLETTA: So we have a motion and a second. Motion from myself, Commissioner Coletta, a second from Commissioner Fiala.

Any discussion on the local option gas tax? Commissioner Henning, then Commissioner Carter. Commissioner Carter, forgive me, your light has been lit. I'm going to go to you first, because you've been waiting the longest. Then Commissioner Henning and Commissioner --

COMMISSIONER CARTER: You've got a motion on the floor for the one on the taxing. My question is bigger than that. I was going to ask our lobbyist, Keith Arnold, to step to the podium and give us an assessment of this laundry list and his opinion on what would be reasonable for us --

CHAIRMAN COLETTA: That's an excellent idea. What we'll

do is each item, as we go through it, we'll bring them into play.

Mr. Arnold, would you step up to the podium, please. And right now we have a motion and a second towards the indexing of the local option gas tax, as one of our legislative incentives. Would you please comment on that.

MR. ARNOLD: Sure. For the record, my name is Keith Arnold with Florida Lobbyist Associates, in Tallahassee.

Your issue number one, indexing and local option gas tax was something the legislature dealt with last year. It failed in its adoption, but it looks fairly probable this year. There's a lot of sentiment for passing this. There really wasn't any strong opposition to it last year, it simply got caught up in the legislative process. I think it has a very viable chance of passage this year.

CHAIRMAN COLETTA: Okay, is there any other discussion on -- I'm sorry, Commissioner Henning?

COMMISSIONER HENNING: Commissioner Coyle brought up a good point. If somebody is already carrying something for us -- SWFTI in this case is looking at the indexing -- we can focus on other things to bring to our legislation delegation and let SWFTI take this initiative through. And it sounds like somebody mentioned that Representative Goodlette is going to carry it through. So that process is always -- is in the works, so I hope that we can delete that from our list and move forward with some other things.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: Actually, my light was on to make a comment about the next item.

CHAIRMAN COLETTA: Okay.

Commissioner Henning, I hear what you're saying, but I think it's just about the reverse we're looking for. Our Representative Goodlette will be looking for our support on this item. He'll be looking for us to be active with our Florida Associations of Counties and also in Tallahassee, to be able to talk to other representatives.

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COMMISSIONER HENNING: I don't see any nods.

COMMISSIONER CARTER: I think the Chairman's right.

MR. ARNOLD: Sorry?

COMMISSIONER CARTER: I think the Chairman's right on this issue. Sure, it's in the SWFTI bill, but you better go in and protect the pieces of that bill you want. You never know what's going to get flushed in Tallahassee, and you better have your priorities right and you better have your list of what you really want. And this one has been on the agenda three years that I can recollect, and each year it gets a little closer. And I think this one, they might boot it home.

And finally, all you're doing is protecting your income base that you already have --

CHAIRMAN COLETTA: That's exactly --

COMMISSIONER CARTER: -- by allowing us to index, which the state had no problem doing for years.

CHAIRMAN COLETTA: Any other comm --

COMMISSIONER CARTER: For them it's not a tax, for us it is.

CHAIRMAN COLETTA: I'll call the motion. All those in favor of having that item one -- issue one, rather, included as part of our legislative agenda, indicate by saying aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: Opposed?

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Okay, the ayes have it, 3-2. Two opposed, three for. So that item's passed.

Real estate transfer tax. Mr. Arnold, would you give us a rundown, the possibilities of this? This could be a contanctious (sic)

one, for sure.

MR. ARNOLD: This one is almost certainly a contentious one in Tallahassee. I of course watched from afar, I might add, your issues down here dealing with the impact fee increase, which you just passed.

Really, when you're dealing with a real estate transfer fee, you're dealing with another set of opposition. In this case it would almost certainly be the Florida Association of Realtors, perhaps others, but they would be more inclined to not support this; whereas, in the impact fee debate you generally deal with contractors.

This idea has been around Tallahassee for a number of years. It's never been seriously considered by the legislature. My personal opinion is, is that under this administration, under this legislature it probably won't be seriously considered by the legislature. Of course, anything can happen on November the 5th, and we know that particularly the governor's race is very, very tight, and perhaps there could be differing views if there was an upset in that particular race.

I would say that, Commissioner Coyle, the issue would be, at least from a legal perspective, complicated by making a distinction between those people who are moving here paying the tax and those people who already live here and already buy -- or are buying real estate or are moving from one location to the other.

You have at least two or three legal issues at play here, and I would ultimately have to defer to your counsel on that. But there's equal protection issues, there's also the rational nexus issue, which you have already brought up, and certainly Constitutional issues.

I'm not sure -- I'm not sure legally we could do what you would suggest. But again, I would have to defer to your counsel on that. And in the final analysis, if it was determined to be legally permissible, it would be difficult. And B, it would almost certainly, if it passed, undergo a Constitutional challenge.

Be that as it may, the decision of course is yours. But it is a

difficult issue.

CHAIRMAN COLETTA: What kind of support is out there for this particular item at this time?

MR. ARNOLD: The only logical support for this particular proposal would be from your colleagues around the state who are county commissioners struggling, city councilmen and women struggling for local finance of local road projects. And so that's where the support would, generally speaking, come from, potentially the Florida Association of Counties. Although I don't think they considered this specific issue. Potentially the Florida League of Cities, although again I don't believe they've considered this issue. And then the obvious support from the Florida Road Building Contractors, who support all sort of revenue enhancements to build roads.

CHAIRMAN COLETTA: Beth, would you correct me, but isn't this on the Florida Association of Counties' radar screen?

MS. WALSH: Yes, it was discussed at the last meeting and will be further discussed at the meeting in December.

CHAIRMAN COLETTA: It's coming back on December 3rd for further consideration by that particular group.

Also, too, to tie in with this, not that I want to get off the subject, but it's a direct tie-in, maybe a less intrusive way to accomplish some of our goals, is a doc. stamp, very similar to what they have over at Miami-Dade. Instead of having a transfer title fee, adding on a new tax. This would be a small increase to the one that's already there.

Beth, do you want -- have you got a little more details on that?

COMMISSIONER HENNING: I thought we were going to take one item at a time.

CHAIRMAN COLETTA: We are, but I just want to draw -- we don't have to go into detail, but what I'm saying is one may be easier than the other, and both of them would achieve the same end.

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MS. WALSH: Well, currently Miami-Dade County is the only county authorized to levy a document stamp surcharge, and they levied their surcharge on mostly deeds that are taxable by the state under Florida statute.

The way their surcharge is set up now, it currently exempts single-family homes from the tax, and their proceeds from that go towards affordable housing.

CHAIRMAN COLETTA: Commissioner Henning?

COMMISSIONER HENNING: Okay, which item are we on, Commissioner?

CHAIRMAN COLETTA: We're on item two.

COMMISSIONER HENNING: Okay. And we talk about rational nexus on a real estate transfer fee. And we're talking about transportation. The Governor's commission on growth has identified you can -- you should do this for a deficit of roads, have a real estate transfer fee. But, you know, living in a home that has paid impact fees, and if I was to sell that home, and you're asking me for another fee for transportation, this person is going to balk. Because it's not a rational nexus in my eyes.

So I don't know, I don't think that we should even take up this issue of real estate transfer fees at this time until, like Commissioner Coyle has stated, until we hash this out a little bit further so we know exactly what we're going to be doing.

COMMISSIONER FIALA: I agree.

CHAIRMAN COLETTA: Well, that would be the next legislative session a year from now. Which in any case is just fine.

So is it the consensus of this board that we pass over this one? Is that what I'm hearing?

COMMISSIONER FIALA: Yes.

COMMISSIONER COYLE: You don't need a vote?

CHAIRMAN COLETTA: Well, that would be an idea, make it in the form of a motion.

COMMISSIONER HENNING: I make a motion that it be denied.

COMMISSIONER COYLE: Second.

CHAIRMAN COLETTA: Okay. So we have a motion from Commissioner Henning, a second by Commissioner Coyle to not to consider the real estate transfer tax as part of our legislative agenda.

Any discussion? All those in favor of that motion, indicate by saying aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

And opposed?

(No response.)

CHAIRMAN COLETTA: The ayes have it.

Next item would be expanding the allowed use of the fourth penny tourist development tax.

And once again, this is an item that Commissioner Coyle just covered fairly well in the fact that this is not a new tax, it's a tax that already exists for the use of the counties, but not for roads.

What we're looking to do is expand the terminology so that it would come for roads and give about \$3 million and help to spread the cost of the roads over a larger part of the people that use it.

Commissioner Henning, and then we'll go to you, Mr. Arnold.

COMMISSIONER HENNING: If we're using it for roads and we're tying it to the attractions that the tourists are coming to, or the hotels that they're staying in, isn't the hotels and motels already paying an impact fee? And maybe if it's too low, maybe we should look at that avenue and -- instead of another tax on infrastructure.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: There is an additional argument

that some people would use against this, and that argument essentially is this: As we attract tourists here, they pay sales tax and gasoline tax, theoretically. Consequently, they are paying at least part of their share for impact on infrastructure, because those fees would be available for dealing with some of those things.

So once again, it is an issue that I think we need to study, because I do believe it is absolutely ridiculous for us to be restricted to using this money for a professional sports facility if we don't want a professional sports facility, or a spring training franchise if we don't want a spring training franchise.

So I don't like the restriction. What we use it for is something entirely different. But I just don't understand why we're restricted in the use of that tax.

But I have to ask a question: Are we really collecting that tax right now? Do we get that tax?

COMMISSIONER CARTER: No.

MR. MUDD: No, sir, we only collect the third penny.

COMMISSIONER COYLE: So it's not being collected at all right now.

MR. MUDD: No, sir.

COMMISSIONER COYLE: Okay. Then I guess I have the same feeling, until we decide exactly how we're going to use it and what we're going to use it for and how much it's likely -- I think you mentioned an amount it was likely to raise.

MR. MUDD: \$3 million.

CHAIRMAN COLETTA: \$3 million for roads.

COMMISSIONER COYLE: I think we need to take a -- again, study it. I wouldn't be opposed to it ultimately, but at this point in time I find it hard to support it.

CHAIRMAN COLETTA: Also, too, this is an initiative that's underway with or without the Florida Association of Counties. Any support they got (sic) from us might help to move it forward.

Mr. Arnold, do you have something you want to add on this particular --

MR. ARNOLD: Well, Mr. Chairman, I mean, this issue is more pragmatic than the preceding issue, but it is difficult. The obvious opposition would probably be the tourism industry, who, generally speaking, to the extent they support tourism taxes, which is questionable in the first place, but to the extent they do support those, they want them used for the intended use, which is fairly narrowly defined in the statutes. And the more you expand the opportunity for these revenues to be used beyond a specific scope, the more attractive they are to local governments and the more likely they're going to be imposed. So you can almost certainly bet that the big players in the state, Disney, Universal Studios, Anheuser-Busch, et cetera, would stand in opposition to this proposal.

Having said that, it is not an increase in a tax rate, so the legislature would look at this more permissibly, because it expands the nature of the utilization of an existing source of revenue. So it's not impossible. It's difficult, but it's not impossible.

CHAIRMAN COLETTA: And it's possible that if it got on the radar screen, that it may be considered in the near future.

Commissioner Fiala?

COMMISSIONER FIALA: Yes, the concern I have with this particular tax is I think right now the tourism industry is reeling from the impacts of the recession that we're dealing with right now, along with the 9-11 situation, and I don't think we need another thing to overcome. So I would prefer to put this aside. I think we need the roads, certainly, but right now I think that the tourism industry needs to recover and we don't need to give it a sock in the jaw.

CHAIRMAN COLETTA: One comment on that, because this argument is far from old. Of course they imposed it too when the industry was going quite well, but it wouldn't be enacted for about two years if at that if we started now. In that point in time, all

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indications are that we're going to be in a much better picture.

Also, too, this would be a local option where if it became -- if it was something that was going to be over-imposing upon the industry, we wouldn't have to enact it.

Commissioner Carter?

COMMISSIONER CARTER: I didn't support this at the regional planning council, I will not support it now. I don't believe in penalizing the number one industry in your county. It is my judgment it only raises \$3 million. It may sound like a lot of money, but it builds about a mile and a quarter of a road.

I am not convinced the people who come and stay in hotels and motels and use the beach and stay right there and conventioners, we're spending millions of dollars to bring them here, now we want to turn around and tax them more to stay here. This will not fly, in my judgment, in Tallahassee, when you're spending millions to attract and you want to turn around and penalize somebody.

We need this industry to participate with us. I just think this is like raising a -- waving a red flag in front of a bull. I can't support it. I don't believe it's in the best interest of the community to go after such a small amount when there are other opportunities that may exist.

CHAIRMAN COLETTA: And I seem to be getting some mixed signals. Because originally these ideas came from the meetings we were having considerably earlier than this, especially when it came to impact fees and everything.

But I have no problem. The farther we whittle this down, the easier my job becomes.

So let's take a vote on that. I take it that -- let me make it real easy. A vote for rejecting that is one of the issues. That would be issue number three.

COMMISSIONER FIALA: Second.

CHAIRMAN COLETTA: You got a motion for a rejection,

second from Commissioner Fiala.

All those in favor, indicate by saying aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: Aye.

Okay, and the ayes have it.

Next one is a document stamp surcharge.

Beth, do you want to give a little -- tell us how that's different than the title tax?

MS. WALSH: As I said before, this is a -- it's a surcharge on the actual process of getting the doc. stamp on an illegal document. It's my recommendation that we follow the precedent that's already been set at Miami-Dade County, and structure this around proceeds for affordable housing. I think that would be our best bet for getting this through this legislature.

CHAIRMAN COLETTA: Once again, start off with Commissioner Coyle, then Commissioner Henning.

COMMISSIONER COYLE: Actually, that was from the prior discussion, so Commissioner Henning.

COMMISSIONER HENNING: Thank you. How much money will this raise, and who's going to pay it?

MS. WALSH: Actually, that depends on what documents we're going to tax.

And as I said, in Miami-Dade-Dade County, they exempt single-family homes and exclude condominiums as well. So I don't have those figures for you, but it would exclude a large base of the documents that are being recorded.

CHAIRMAN COLETTA: This would be a local initiative. It's not something that we would be doing through the state organizations, because we wouldn't expect them to be able to support

us in saying that we're standing along.

COMMISSIONER HENNING: So what you're saying in a previous statement is if we, you know, do -- there's an example out there and we follow that example of Miami-Dade, it won't tax single-family homes or condos, it will tax mainly businesses or vacant lots or --

MR. MUDD: Commissioner, what it's for, they use it as an augmentation to pay some of the fees for affordable housing. And so they don't go with the single-family homes or the condos, because that could be going against the affordable housing folks that you really want to house and augment.

And it's a way for them to increase the availability of it. They have a shortage in affordable housing, just like we do. And you've heard Cormac tell you that we're short 15,000 right now, and in the next 10 years we'll be short 25,000. We had the road impact fees go up, and then we talked about the SHIP funds not being -- coming back a little bit and not being able to do as many as we did before last year. It was like 130 or 140. And his projection is we'd only be able to help 85 this year. I think my numbers are pretty close. And Joe Schmitt will be back there to help me out a little bit. But I seem to remember those numbers that Cormac gave us.

This would give us the ability to help augment some of those shortages in order to help the folks get affordable housing, help pay impact fees, or whatever we deem we want it to be used for, buying real estate in order to build the project or whatever.

CHAIRMAN COLETTA: It could take the place of those linkage fees that you were looking for?

COMMISSIONER COYLE: No, she still wants those.

COMMISSIONER FIALA: Yeah, I like those, but I don't even know how much money can -- if you don't really tax single families and you don't tax condos, I mean, I don't want to put any more strain on businesses. We've just kicked them really hard in the rear end as

it is with all these impact fees. For the 26 bucks left that you would derive, I don't think it would be enough to give a shot in the arm to the affordable housing.

MR. MUDD: What Cormac -- and it's back on tab four, and I'm looking at item number four, local option doc. stamp. And the local option stamp of five cents would create a local funding source of work for housing generating approximately \$2.5 million a year.

COMMISSIONER FIALA: But who is that tax imposed upon to get 2.5 million?

MR. MUDD: I think Cormac's got it as everybody under doc. stamps in a particular year, based on the transfer of property.

It would be something less if you went with a Miami-Dade version, in the fact that you would get rid of a lot of single-family residences, which we build a lot of every year.

COMMISSIONER FIALA: And what does the five cents really mean? I mean, five cents per thousand?

MS. WALSH: I believe it's five cents per \$100 of value.

COMMISSIONER CARTER: That's a piece of change.

MR. MUDD: Yes, sir.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: I know this must be frustrating to you. We ask you to do all this, and then we turn around and disapprove it. But I -- I would like to study this one a little bit longer, too. At least that's my opinion. I think that five percent is a bit hefty. And I think we also have to take into consideration who it would apply to -- to whom it would apply.

And I would recommend that we not consider this one at the present time until we can figure out exactly who's going to have to pay it, how much it's going to raise.

CHAIRMAN COLETTA: Well, that's fine, because like I say, this is strictly a local option, it's not one -- so, you know, you could even -- if you really truly are interested in it, you can direct staff to

get those answers for you.

COMMISSIONER COYLE: I'm really truly not interested in it.

CHAIRMAN COLETTA: Well, then, that's an honest answer.

Rqther than draw this out and have it brought back again. So why don't you make a motion to that effect.

COMMISSIONER COYLE: I make a motion that we --

COMMISSIONER HENNING: Second.

COMMISSIONER COYLE: -- that we disapprove this one.

CHAIRMAN COLETTA: Any discussion?

All those in favor of the motion, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

Okay, number five. And this one I need you to give serious consideration to, because this sounds like it's absolutely necessary.

COMMISSIONER CARTER: I move for approval on that one.

CHAIRMAN COLETTA: Thank you very much, Commissioner Carter. It's a pleasure. I'll give a second to that.

Any discussion? Any questions?

What about Keith, what do you see for this issue number five?

MR. ARNOLD: I think it's quite doable. It's -- you're adding a road to the state transportation list, and it's been done before. There's certainly quite a bit of precedence. It's already been done for part of this road in the first place.

CHAIRMAN COLETTA: Can we possibly give a big star in front of this one, really push it?

COMMISSIONER FIALA: You don't --

CHAIRMAN COLETTA: Now I've got a purpose to life.

COMMISSIONER FIALA: -- have any impartialities there, do you?

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CHAIRMAN COLETTA: I was beginning to wonder what I was supposed to do.

MS. WALSH: Is there a motion for approval?

MR. MUDD: Commissioners, you voted on every one, so --

CHAIRMAN COLETTA: Did we vote on this one?

MR. MUDD: Yes, sir, a vote on every one of them.

CHAIRMAN COLETTA: Okay, all those in favor, indicate by saying aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER HENNING: Discussion.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

CHAIRMAN COLETTA: Discussion? Go ahead, Commissioner Henning.

COMMISSIONER HENNING: Who's the one that put this on the agenda?

MS. WALSH: Norman did.

COMMISSIONER HENNING: Thank you.

COMMISSIONER CARTER: Mr. Chairman, I'd move that we approve the next item, support of the following grants: Florida Communities Trust, Barefoot --

COMMISSIONER HENNING: Second.

COMMISSIONER CARTER: -- Beach Outparcel, Goodland Boating Park, an FRDAP for North Naples Regional Park. And I also would include in that the proposed special act codifying, consolidating, all special acts relating to the Collier County water district into a special act for this district, et cetera.

COMMISSIONER HENNING: Second.

COMMISSIONER CARTER: So we can move both those items.

CHAIRMAN COLETTA: Any discussion?

All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

The ayes have it.

Okay, issue eight. This one here, there's some --

MR. MUDD: Commissioner, if I can jump in on this one. I'm Jim Mudd, county manager, for the record.

Article five, revision seven, is a Constitutional amendment, and they've got to do something with it. And our legislature knows that.

And there are several subcommittees that are meeting right now, trying to figure out the wherewithal and the implementation instructions and how much of it's going to happen and how much isn't.

We've got issues with, you know, are we going to have a clerk of courts or a clerk of finance, depending on if they're going to have a center overarching state forum to look at this. Our courts could go to the 20th Circuit. There's all kinds of unknowns here. And to give a carte blanche support of implementation without having the details, I think the commission puts themselves in a bad position, because if something comes up that you don't like, they're going to say, well, wait a minute, you gave me your carte blanche full support of this and I'm ready to go, Collier's behind it. You might not even know that you've got a problem.

And what happens if they decide they don't want to fund some of the things like Teen Court and other very positive community-type things that we have in our court system, what do we do then after we've already thrown in all our support.

I would just caution you, before you jump on this one, as far as support. This is a fact item that we pulled off because it is a Constitutional amendment they do have to implement. But I'm not

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too sure that you want to give your support right now before you know all the details.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yes, this one leaves far too many questions for me and too many uncertainties, so I vote to --

CHAIRMAN COLETTA: Make a motion.

COMMISSIONER FIALA: I make a motion, yes.

CHAIRMAN COLETTA: That's okay.

COMMISSIONER FIALA: Yes, thank you.

I make a motion to disapprove it.

CHAIRMAN COLETTA: That's very good, okay.

COMMISSIONER HENNING: And I'll second that.

COMMISSIONER COYLE: We're on item what?

CHAIRMAN COLETTA: Item number eight.

COMMISSIONER FIALA: Eight.

COMMISSIONER HENNING: If we include in that motion that -- direct staff to keep an eye on this and report back to us when we need to take a proper position.

COMMISSIONER FIALA: Absolutely.

CHAIRMAN COLETTA: Commissioner Henning made a very good point. We should not only be coming out with this to be not on our agenda for approval, we should be going after this to make sure it doesn't get through.

COMMISSIONER FIALA: Yes.

CHAIRMAN COLETTA: In other words, be lobbying it and opposed to it.

COMMISSIONER HENNING: Or they're going to do something like --

COMMISSIONER CARTER: Or they're going to do something.

COMMISSIONER HENNING: So we don't know what it is we are required by the staff -- the Constitution to do something,

Commissioner. It will come back, Mr. Arnold will keep us informed, Mr. Weigel will keep us informed, I'm sure the clerk of courts will, of what the legislators are doing on this item, report back to us, and if we need to take a position at that time, then we should move forward with that position.

CHAIRMAN COLETTA: Well, I've got to remind you, this is going to be coming up to the Florida Association of Counties. We could take a stand on December 5th at Fort Walton Beach to make our feelings noted, and if we can slow it down, that's going to be all the more reason that you might not make the final call where you have to worry about it at the end.

What's your feelings on this?

MR. ARNOLD: It seems to me, Mr. Chairman, members of the board, that you're struggling with really two separate aspects of this. One is the substantive changes; what will the legislature do to reorganize the criminal justice system and the court system, the clerk's office, many others that are part of this overlapping judicial process.

The second part of the equation you're struggling with really -- and I think that's where most counties are focused on, is who pays for it. And I think frankly, I would assume that your direction ultimately, to me, would be that we want to figure out a way to have the state pay a greater percentage of these costs, vis-a-vis the local governments, specifically county governments, without a lot of substantive changes in the structure of the criminal justice system. That seems to be where you're headed. In other words, you'd like to keep essentially the current system in place, but you'd like to be reimbursed for your expenditures. And I think that that's where most of the counties will go.

I understand you have some serious concerns with some reorganization issues, and those are appropriate. But, I mean, my sense is that's what you're going to direct me to do is basically keep

the present system intact but figure out a way to pay for it and help you financially. Is that a fair statement of where we're headed on this issue?

CHAIRMAN COLETTA: I would say so, wouldn't you?

Okay, we have a motion, we have a second on this. All those in favor to disapprove this one, indicate by saying eye.

COMMISSIONER FIALA: Aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

The eyes have it 4-0, with Commissioner Henning absent.

Next item, number nine.

COMMISSIONER CARTER: Mr. Chairman, I think we could take the next three, if you reference to the back the act regarding to animal control, cross reporting of family violence and opposition of legislation increasing the county share for nursing home and inpatient hospital costs, all the Medicaid mandates.

If the commissioners take a quick look at those. I can see that you probably wouldn't want to -- you would either support or not support based on the statement made.

Animal control simply says that this is -- they can expand the use of legalized drugs for the substances -- for the purpose of immobilization and euthanasia, as well as standardized training for animal control officers.

I think they're looking for a little more flexibility and the proper way to -- of dealing with animal control.

MS. WALSH: That's correct.

COMMISSIONER CARTER: And the other one on family violence, they tried to make that a cross situation, and that's been opposed by FAC for some time.

And the third one is the issue number 11 in our back, in our references. We're trying to find a way to do the least amount of

damage to us on Medicaid transfer downshifting of fees to the counties. Because the game in Tallahassee, in which Keith works with us very diligently, is they try and cost-shift as much as possible. We try to stop them from cost-shifting as much as possible. So it's one of those things we battle every session.

MS. WALSH: Commissioners, you might want to bundle issue number 12 in there as well. It's also a general statement of fact regarding infrastructure funding.

COMMISSIONER CARTER: I would include that, ma'am.

CHAIRMAN COLETTA: Okay, so your motion is to -- Commissioner Carter?

COMMISSIONER CARTER: Is to include bullets -- actually, if these were numbered on the summary sheet, they would be bullets --

MS. FILSON: Nine, 10, 11 --

COMMISSIONER CARTER: -- nine, 10, 11 and 12.

CHAIRMAN COLETTA: And you want to include them in the agenda package, okay.

MR. MUDD: Then we're basically -- and we're basically saying that you're going to support or oppose, based on --

COMMISSIONER CARTER: Support or oppose, depending on the recommendation by each poll.

COMMISSIONER HENNING: I'll second that, if there isn't one.

CHAIRMAN COLETTA: Okay, so we have a motion by Commissioner Carter, a second by Commissioner Henning.

All those -- any discussion? All those in favor, indicate by saying aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: Aye.

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Thank you, that takes care of that.

MS. WALSH: Okay. And then I'll make those changes and go ahead and submit them to Jim for his approval and then on to Mr. Hart, the legislative delegation.

MR. MUDD: They need to be in Mr. Hart's office this Friday, which is the suspense.

MS. WALSH: Thank you.

Item #10F

**DEVELOPER CONTRIBUTION AGREEMENT WITH COLLIER
LAND DEVELOPMENT, INC., FOR ROAD IMPACT CREDITS
AND FUTURE CASH REIMBURSEMENT SUBJECT TO
DEVELOPER COMPLYING WITH ALL CONDITIONS OF THE
AGREEMENT IMPOSED BY THE COUNTY – APPROVED**

CHAIRMAN COLETTA: Okay, now we're at item 10(F).

MR. MUDD: Yes, sir. And that is to approve a developer's contribution agreement with Collier Land Development, Inc. for road impact credits and future cash reimbursement, subject to developers complying with all the conditions of the agreement proposed by the county.

COMMISSIONER CARTER: I move for approval.

COMMISSIONER HENNING: Second.

MS. FILSON: And, Mr. Chairman, I have a speaker as well.

CHAIRMAN COLETTA: We're going to need a brief description of what we're dealing with for the public.

MR. FEDER: I'll be very brief and I'll make sure that Jackie Robinson corrects anything that I may have been incorrect on it being brief.

Essentially what we're looking at here is the developer taking care of a problem we have with an offset right now at Thomasson,

Rattlesnake-Hammock and U.S. 41. They're going to be building an extension of Rattlesnake-Hammock that will line up with Thomasson, consistent with the original PUD. They'll be providing the right-of-way with no credits to the county. They are then going to be constructing that facility and another connection over to the old Thomasson. And in doing that, they'll be vesting 1,766 residential units. Based on current impact fees, that's a total of 3,382,293.

Their non site-related construction, which is the only thing we're giving impact fee credits for, total \$2,222,861. And the difference between the total impact fees needed (phonetic) on the 1,776 units and what the costs are for the non site-related construction is 1,159,432. Under current impact fee levels, they will be depositing that with the county in the trust, and then as they go to pull building permits -- first of all, they can't pull them until the roadway's completed, and then they will pull and taking out the credits of what they have until they're used at the rate of impact fees at the time they go to pull the building permits. That's a very quick overview.

CHAIRMAN COLETTA: Very good.

Any questions?

Okay, Henning -- Commissioner Henning?

COMMISSIONER HENNING: Will there have to be an RFP for the design and the building of the road?

MR. FEDER: No. They've done an estimate of cost and we've agreed, based on our engineering analysis. And that's part of what's built into these estimates of cost.

COMMISSIONER HENNING: So if there's no RFP, it could be done sooner?

MR. FEDER: They are going to build the road. The commitment they've made is to open it by ideally December of 2003, if not, May of 2004, all the way from 41 over to its connection with Thomasson.

COMMISSIONER HENNING: I see this is one of those good

news items.

MR. FEDER: I hope it is. It's much like we did at Mediterra. It's a public/private partnership, and I think it's a good item for East Naples and for the county.

COMMISSIONER CARTER: I still move for approval, Mr. Chairman.

CHAIRMAN COLETTA: I hear that.

Commissioner Coyle, then Commissioner Fiala.

COMMISSIONER COYLE: It is a good news item. And I think you've done a good job.

MR. FEDER: Jackie did most of the work.

COMMISSIONER COYLE: Just to summarize what I think the good points are, the developer is actually going to construct the new intersection at Rattlesnake Road and 41, and line up Thomasson Road and build an extension over to join old Thomasson Road.

But in addition to that, we are -- have assurances that the Lely outfall drainage ditch is going to be available for use and that there will be an arrangement either to have an easement so we can maintain it or they will maintain it. So we are killing a couple of birds with one stone here.

MR. FEDER: Commissioner, thank you for raising that. That's an important part of the --

COMMISSIONER COYLE: It's a very important part, because that drainage issue is extremely critical for Lely. And the developer has been very cooperative in making sure that we can have that drainage across their property.

The other good thing about this -- not good for the developer, but good for the county government -- is that the impact fees they'll be paying will be the impact fees that exist whenever the permits are pulled, so that we can double impact fees again real quickly and we can make a killing on this deal.

MR. FEDER: I'm sure I'm looking forward to that just as you

are, sir.

CHAIRMAN COLETTA: We could also take and put 10-lane roads through the whole darn thing, right? Why not, since we're on a roll.

Commissioner Fiala?

COMMISSIONER FIALA: Yes, thank you. You brought up something that's near and dear to all of our hearts in East Naples and that is the flooding problem along Rattlesnake-Hammock and County Barn. Those are all areas that just flood terribly right now. And they're trying to build drainage system throughout that entire area. And we've just been anxiously awaiting for the Lely -- or for the Collier family to come in and start this project. So thank you very much for bringing that up.

CHAIRMAN COLETTA: With that we have a -- oh, Commissioner Coyle, you're still here.

COMMISSIONER COYLE: Oh, yeah. I'm not going to belabor this; I'm not going to take much more time. I just want to thank the staff and the developer, because I think this is a perfect example of a public/private partnership that worked out very well for everybody. It saved, I think, the government some money. So I'd like to congratulate you for the good work you've done, and encourage you to keep doing more and more of that.

MR. WEIGEL: And we've got a public speaker.

MR. FEDER: I'd like to recognize Jackie Robinson at this time. That's really her team.

CHAIRMAN COLETTA: We have a public speaker on this one, correct?

MS. FILSON: Yes, sir, Larry Casey (phonetic).

MR. CASEY: We don't have anything to add.

CHAIRMAN COLETTA: Thank you. With that, if there's nothing --

MR. WEIGEL: Commissioners, with your motion and second,

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and you're about to take a vote, so that you've had the explanation of the document, and we want to place the document of record, and that is the document that will come before the Chairman for signature upon your authorization, should you do so.

COMMISSIONER COYLE: That's the same document we have, I presume?

MS. ROBINSON: Yes. I have made bound copies with all of the exhibits, if you'd like a copy.

CHAIRMAN COLETTA: I believe we've already got them, don't we?

MS. FILSON: Yeah.

MS. ROBINSON: Well, you don't have a full -- with all the exhibits.

CHAIRMAN COLETTA: Okay.

MS. ROBINSON: But I have them here, if you'd like.

CHAIRMAN COLETTA: Thank you very much.

Okay, and with that, I'm going to call the motion. All those in favor, indicate by saying aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: The ayes have it, 5-0.

MS. ROBINSON: Thank you.

CHAIRMAN COLETTA: No, thank you. Wonderful job. Next item?

Item #10G

AGREEMENT WITH THE FLORIDA DEPARTMENT OF
TRANSPORTATION TO RECEIVE \$7,450,000 IN
TRANSPORTATION OUTREACH PROGRAM (TOP) FUNDS

FOR COSTS DIRECTLY RELATED TO THE WIDENING OF
GOLDEN GATE PARKWAY FROM FOUR TO SIX LANES
FROM AIRPORT PULLING ROAD TO SANTA BARBARA
BOULEVARD AND THE CONSTRUCTION OF A GRADE
SEPARATED OVERPASS AT AIRPORT PULLING ROAD AND
GOLDEN GATE PARKWAY – APPROVED

MR. MUDD: Is 10(G), which used to be --

CHAIRMAN COLETTA: 16(B)(1).

MR. MUDD: -- 16(B)(1). And that's the \$7.45 million TOP
strand.

COMMISSIONER COYLE: A what?

CHAIRMAN COLETTA: 16(B)(1).

COMMISSIONER COYLE: 16(B)(1)?

MR. MUDD: And this was pulled at Commissioner Coyle's
request. And it wasn't so much that he doesn't like to get free money,
it had to do with questions that he had about deconfliction of road
construction as we proceed in the out years, to make sure that the
staff was looking at those and try to get some explanation at this
meeting for the board.

COMMISSIONER COYLE: Yeah, if I could just elaborate on
that just a bit. My concern is we've got a lot of road projects that
we're going to be undertaking and that are still -- that are currently
underway. I am concerned that we take into consideration
appropriate traffic circulation so that our simultaneous construction
projects do not create gridlock.

So I'm looking for a way to display that, hopefully on a map that
shows where traffic is going to flow while we're involved in all of
these different projects, so that we can, if necessary, phase these
projects to make sure we have a way to go.

And it's my understanding, talking to the county manager, that
they have already been working on this, or started working on this

before I brought it up.

So again, thank you very much, and tell us what we're going to do.

MR. FEDER: For the record, again, Norman Feder, transportation administrator.

What was just passed out to you highlights just the issue that Commissioner Coyle is relating to, and that is that we have -- we've already said previously, I inherited 14 and it's now 21 projects, a very, very aggressive construction program.

The good news is seven of those segments are done or about to be completed. The other news is that what you have in front of you gives you an idea of the overlap of construction projects. And with us completing the second phase of Livingston by December of this year up to Pine Ridge, that will give us an opening and access to the interstate, and hopefully is going to be a relief for some that follow.

But having said that, it's not really this year, it's 2004, as you look down that graphic, where we have the projects that are starting up right now, Immokalee, Goodlette-Frank and the other two sections of Livingston that are in process of getting completed as we start up the east-west portions of Immokalee over 41, I-75, Vanderbilt Beach Road, Golden Gate, as well as 951, and as you see down the list here.

In reference to that, we've looked at, in each one, we need to move on that schedule. For instance, we need to move on Golden Gate Parkway, the six-laning portion which you see here, essentially to be ahead of the opening of the interchange and out of their way in their construction process, that being the state, the Golden Gate interchange and I-75.

In the case of Vanderbilt Beach Road, we've got considerable backup today basically east of Airport Road. Relief needs to come as soon as it can on that. And the same on the section of 41 to the interstate on Immokalee Road.

So our feeling was that we couldn't necessarily solve it by

delaying projects. The question was, as the commissioner pointed out, how can we be smarter about the phasing of projects and other actions that can respond.

First of all, computerized signal system that the state's putting in, although delayed about three months, should come on line, gives us the opportunity to do incident management.

Beyond that, we are changing some of our practices in the way we've approached items in the past and, as most areas do, when you go under contract from point A to point B on a corridor, essentially what you do is give that over to the contractor, and it's essentially their road. Well, they also control or don't control, if you will, the signals. And quite often they'll cut the loops and all of a sudden you're on cam time and other issues, and we've experienced that.

Well, that's not acceptable at all. So we're going to maintain under our contracts -- and I'm sure we'll have some issues with our contracts -- to be able to maintain control of the signals so that we can make sure that we don't experience that.

We're also looking at putting in some of the basically laser so that we can do, rather than loops, what you see mounted on the posts that can do essentially the same and that is identify vehicles in the cube and trip the computer for timing, rather than necessarily relying on loops to get that up during construction process.

We're also looking at trying to take each of these construction items as they're going to come up close to each other and look at them and work with a payout item of different items that we can do. So when we bring to you the letting of this one, we're going to review, this is what our basic construction is, but we're looking at some issues like more night work on this one, looking at other issues that we can look at and say these are the costs. And we've asked for unit costs to add on some of these features. And then review at that time, Commissioner, probably the map and how we see people getting around as we bring each one on successively, collectively and

successfully.

So the point is very well taken. We've tried adding turn lanes in areas. We need to get well beyond that. Especially 2004, as you can see from this graphic, a very heavy level of construction throughout the county.

COMMISSIONER COYLE: So we're going to have a graphic soon, right? Thanks.

MR. MUDD: Sir, if you look at the chart that Norman gave you, it's the east-west roads that really get you kind of jammed together. If you talk about the big six, you've got four of them with major construction going on in 2004. We're going to have to monitor that, make sure the lanes are open during -- fully open. The existing lanes are full open during rush hours, to and from work, so that they're opened up and we avoid any kind of stoppages by the contractor to any lane that's opened during those particular times, to make sure that we keep the traffic --

MR. FEDER: And the second meeting in November, we're also going to be bringing to you, in an effort to try and keep the private construction, especially for turn lanes and issues, out of the peak season as well. So it's a number of things we're bringing together.

But we share with you that concern. People have to get around at the same time that we're trying to respond to these needs.

COMMISSIONER COYLE: I make a motion we that approve item 16(B)(4).

COMMISSIONER CARTER: Second.

CHAIRMAN COLETTA: Okay, we have a motion from Commissioner Coyle, a second from Commissioner Carter for approval.

Any discussion?

All those in favor, indicate by saying aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

The ayes have it, 5-0. Thank you.

Next item would be 16(E) --

MR. MUDD: No, 16(E)(3) was continued, Commissioner, and that had to do with the sheriff's lease on the Town Center. We'll come back in the next meeting with that one.

Item #10I

AGREEMENT BETWEEN OUTDOOR RESORTS OF AMERICA, INC., AND COLLIER COUNTY TO MANAGE STORMWATER FOR PROPERTY ALONG IMMOKALEE ROAD IN THE AMOUNT OF \$105,920.00 – APPROVED

CHAIRMAN COLETTA: So 16 --

MR. MUDD: That brings us to 10(I), which is 16(B)(8).

CHAIRMAN COLETTA: -- (B)(8).

MR. STRAKALUSE: Commissioners, Gregg Strakaluse with transportation division, for the record.

They say timing is everything. And in this forward item, it really is. First I'd like to recognize Heidi Ashton for doing a lot of hard work in working out the legal language for the agreement that not only makes this fair but also protects the county from what-if situations.

Essentially what we have here is a win-win opportunity. Two projects: A road project and a developer project, which is a pretty interesting developer project, for a motor coach resort. Both projects need to control their storm water, or manage their storm water.

Well, before I got here, the county and the developer got together to start talking about how to best do that. And somewhere

along the way, the South Florida Water Management District was involved in those discussions.

What you have here is basically an opportunity to enter into an agreement with the developer to co-manage storm water for both properties. We've taken a look at the fiscal impact associated with this.

Initially appraisals were done for the county to determine what kind of storm water requirements were necessary, as far as property acquisition, to create a basin. And those appraisals came in at about just over \$600,000.

By working with the developer and co-managing the storm water, what we have is an opportunity to save a substantial amount of money, and for just over \$100,000 acquire an easement with the developer to manage the storm water and to treat it and discharge it. Really a win-win opportunity here.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: This is another example of good staff work, I think. If I understand the fiscal impact analysis, you've just saved us \$500,000; is that right?

MR. STRAKALUSE: That's correct.

COMMISSIONER COYLE: I think you should be recognized for that.

And thank you very much, Heidi. Even though I required you to stay late. I have a thing about getting stuff at the last minute.

But I would appreciate it if you could very briefly tell me on this, this diagram, where our responsibility ends and where the developer's responsibility begins as far as these drainage easements are concerned.

MR. STRAKALUSE: Everything within the outlined area -- and correct me if I'm wrong, Heidi -- within the outlined area here, to direct storm water into the drainage basin and out the drainage basin would be the responsibility of the developer.

Everything associated with the road improvement project, the piping system, the swale system, would be the responsibility of the county.

COMMISSIONER COYLE: But if the developer fails to do this by the specified date, we have the right to go onto that property and develop these retention areas ourselves, right?

MR. STRAKALUSE: That's correct.

MS. ASHTON: Yeah, there are two alternatives, and that's why we wanted to make sure that the legals were attached to the agreement that you had in your agenda package.

If I could just quickly go through. Exhibit A is a legal description of the outdoor resorts property.

Exhibit A-1 is the legal description that goes with the map that Mr. Strakaluse has put on the overhead. And that is the legal which we're hoping will be the one that will remain for the project. That will allow the developer to build his on-site system, and the county will essentially connect to that and will be able to use the on-site drainage for our storm water retention.

There's also, in default legal, which is a legal description A-2, and that's the legal that if the developer does not construct their on-site system by a certain date, then the default legal will be the legal that will be used and we will end up constructing our own pond on their site. It will allow us to go forward if they don't meet their deadline. And I believe the deadline was June 30th of 2003 for the construction of the on-site system.

The way this will work is that the county will get an easement for both easements. And one will automatically terminate based on certain conditions.

Also, the other exhibits that were attached was a storm water easement agreement, which is our standard form that we use for the real property department, and they will go forward and they will close the storm water easements.

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And the other thing that I want to note, if I could real quickly before Mr. Henning -- I understand your question is that the property owner is donating the right-of-way, road right-of-way that's needed for this project, as well as the utility easements. And that's what the last item in your package is. That's already been approved under the condemnation, resolution and the authority the real property department has.

COMMISSIONER COYLE: I make a motion to approve.

COMMISSIONER HENNING: Second.

CHAIRMAN COLETTA: We have a motion from Commissioner Coyle, a second from Commissioner Henning for approval.

Any discussion?

All those in favor, indicate by saying aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER HENNING: Aye.

COMMISSIONER CARTER: Aye.

COMMISSIONER COYLE: Aye.

CHAIRMAN COLETTA: Aye.

If I'm not mistaken, that concludes the agenda items.

MR. MUDD: No, Commissioner, that gets us to public comments on general topics.

Do we have any speakers, Ms. Filson?

MS. FILSON: We have one, Bob Krasowski, but I think he has left.

CHAIRMAN COLETTA: He's left. Okay, with that --

Item #13A

RESOLUTION 2002-443, NEW PRECINCT LINES TO CORRECT MAPPING ERRORS AND IMPROVE ACCESS TO POLLING PLACES – ADOPTED

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MR. MUDD: That brings us to other Constitutional officers, 13 Alpha, which is Jennifer Edwards to talk about the new precinct lines.

CHAIRMAN COLETTA: Good afternoon -- or good evening, Jennifer.

MS. EDWARDS: Good evening.

COMMISSIONER COYLE: My election is over, I don't care what you do.

MS. EDWARDS: I know. You know, we received a call today from a voter that was upset because your name wasn't on the ballot.

COMMISSIONER COYLE: I told you, it would have been a 90 percent margin if they hadn't done that.

CHAIRMAN COLETTA: Jennifer, I think we need a recount for Commissioner Coyle.

MS. EDWARDS: Don't say that word.

We found, after the primary, that there were some housekeeping changes we needed to make to a few precinct lines, and so since you're required to approve those, that's why I placed them on the ballot -- on the ballot, see, that's all I'm talking about is elections -- on your agenda.

One is in precinct 412, which -- precinct 412 is Village Walk, which is a gated community. And we had mistakenly placed Bermuda Island Apartments within those boundaries. So one of the changes today is to move that boundary, or move them into another precinct.

We also had another mapping area, and that was in Pelican Marsh. We mistakenly placed some people who are in Pelican Marsh outside Pelican Marsh. So we're putting them back within that development.

And then we found that after receiving several calls from concerned people living at a facility called Aston Gardens at Pelican

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Marsh, that we were causing senior citizens living there to drive a longer distance to vote when indeed they only had to drive across the street to vote, if we move them to another precinct. So we have made that change to aid them in easier access to their precinct.

We have mailed a letter to every voter that's affected, and also included a new I.D. card. We have not crossed any district, so we're not creating an additional ballot style. And we will also post notices in the affected facilities.

So I am asking for your authorization for those changes.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER CARTER: Move.

COMMISSIONER COYLE: I'll -- we'll get there.

Just a quick question. Is there a legal requirement that we approve the boundary changes that you think are appropriate? And if there is, is there good reason for it?

MS. EDWARDS: There is a legal requirement, which is why I'm here. And whenever we make a change to a precinct line, we're required to bring it to the Board of Commissioners. We're also required to notify the voters by sending them a new voter I.D. card.

COMMISSIONER COYLE: But we've got to approve it, right?

MS. EDWARDS: You have to approve it currently. I will tell you that the Florida State Association of Supervisors plan to lobby the legislature in 2003 to remove this requirement from the law.

COMMISSIONER COYLE: I think Commissioner Carter was about to make a motion.

COMMISSIONER CARTER: I was going to move for approval, since we have --

COMMISSIONER COYLE: I'll second.

CHAIRMAN COLETTA: Okay, we have a motion from Commissioner Carter, a second from Commissioner Coyle for approval.

Any discussion?

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All those in favor, indicate by saying aye.

COMMISSIONER HENNING: Aye.

CHAIRMAN COLETTA: Aye.

COMMISSIONER COYLE: Aye.

COMMISSIONER FIALA: Aye.

COMMISSIONER CARTER: Aye.

CHAIRMAN COLETTA: The ayes have it, 5- 0.

Keep up the good work, Jennifer.

MS. EDWARDS: Thank you very much.

COMMISSIONER COYLE: Get my name on the ballot, all right?

COMMISSIONER FIALA: You don't want to do that again.

COMMISSIONER CARTER: Could you get mine on the ballot, too? I feel a little lonely.

CHAIRMAN COLETTA: Yeah, as a write-in.

Okay, under 15 we have the SAP update by –

Item #9G – Continued from earlier in the meeting

ANNUAL PERFORMANCE APPRAISAL FOR THE COUNTY ATTORNEY – ISSUE OF SENIOR MANAGEMENT POSITION TO BE ADDED TO THE LEGISLATIVE DELEGATION AGENDA (CONSENSUS); AND 2.1% COLA APPROVED

MR. MUDD: Commissioner, I'd ask you to -- let's go back and finish up 9(G) before we --

CHAIRMAN COLETTA: Oh, I'm sorry, I thought we did.

MR. MUDD: -- before we go to communications.

I've checked our records. The -- I wish the senior executive service issue was more clear-cut.

I will tell you that we at the county HR side of the house take his position, and we allocate one of the senior management service

positions that we can by law. David's name is on it.

There are some difficulties to pay David for the senior management service retirement allocation in Tallahassee, because there is a current law that states that any contract employee outside the county manager, because it's -- the Florida statutes are quite clear, the county manager will be in the senior management service -- that no contract employee, other than the county manager, can be in the senior management service.

Now, that is a point of contention. Some counties do it, some counties don't. And in the past, the clerk of courts has not been successful in making that happen. And I'd ask Mr. Mitchell to come forward and try to clarify from his perspective.

MR. MITCHELL: Commissioners, good evening. For the record, Jim Mitchell, the director of finance in the county for the clerk's office.

This is an issue that David and I continue to discuss year after year when his review comes up. When his contract was first let, it was an issue that we brought to his attention, that there is a specific prohibition against contract employees having the senior management service designation.

David has brought to our attention that there are some counties out there that do have their county attorneys in that particular designation. He's also brought to our attention that there's an opinion from an attorney in Hillsborough that says that it is a valid designation for a contract employee.

However, I did talk with the Department of Revenue today, and they did say that there is a -- that prohibition still exists.

What I'd recommend that we do is David, myself and Jean Merit with Mr. Mudd's officer, sit down and talk about this issue and see if we can find some resolution to it.

Keep in mind that what we're talking about here is a contribution to his state retirement account. It's not a direct payment

to David, but it is a payment that affects his retirement when he retires. And basically what it is, it's the difference between 1.6 percent for every year that he's worked, compared to 2 percent for every year that he's been in that senior management class designation.

Now, if it is determined that he is eligible for that, we can go back and retroactively apply him to that designation from the point that his contract was let. But based on my discussions with the retirement system, I have questions if that's going to apply.

CHAIRMAN COLETTA: Should we direct staff -- there goes my voice. Should we direct staff at this time to take it back?

Commissioner Henning?

COMMISSIONER HENNING: My light's on.

The -- this is something that we should add to our list for a legislation delegation is to include the county attorney or full-time employees for changing that in the Florida retirement system. And I don't know if it's too late to do that now, but we're working on the issue with the contract with the county attorney, and whatever decision that we make or whatever comes out of the legislation or the meeting with the clerk of courts and that should reflect a decision that we do here today.

And I don't know that we can take this at a two-step process, because what I hear David -- or Mr. Weigel would desire is to be in the system. And I'm all in favor of that. And what he's asking for is a COLA and to be in the Florida retirement system.

So how can we make that happen, since he has given us good service? Well, I think one way to do it is to make a motion for a -- continue the contract for another year, and whatever we can do as far as getting him on the Florida retirement system, we should do.

CHAIRMAN COLETTA: Commissioner Coyle?

MR. MITCHELL: Let me just state, there is specific criteria that has to be met to be in that designation. And David meets every single one of them, with the exception of a single exclusion that's out

there and that is a contractual employee. So I agree that David's position is definitely suited to be in that designation; however, because of that contractual relationship, it is totally excluded.

COMMISSIONER COYLE: Then we can solve that very quickly, we just cancel his contract.

He's not smiling, so I guess he doesn't think that's a good idea. What is the rationale for this prohibition?

MR. MITCHELL: I can't specifically answer that. In talking with the retirement system, it's -- basically what they say is they have to serve at the pleasure of. They cannot have a contract between them and the board, with the exception of the county manager. That's the only statements that they've made to me.

COMMISSIONER COYLE: So the county manager can have a contract and be included in the retirement program --

MR. MITCHELL: It is mandated that he be included.

COMMISSIONER COYLE: -- but the county attorney can have a contract and he can't be included.

MR. MUDD: That's correct. And neither can the airport authority director, who's another contract employee.

Commissioners, if it's the pleasure of the board, Commissioner Henning brought up a good thing, and it's not too late to add something to our legislative agenda. And this seems to be a pretty easy one. We basically add the fact that if the board votes on it, we can add the thing that Collier County supports that the county attorney be a mandatory senior management service employee as far as our legislative initiative is to go forward.

At the same time, we can ask for an attorney general opinion to get some clarification and do that at the same stead. And then while we're doing it, David, Jim, myself, Jean Merit, can all get together and we can work through this process and try to come up with some solution or recommendation, if everything else fails on those particular items that I suggested.

And I think that's fair to David to try to get some resolution on this thing and to do it within the legal bounds that we have.

COMMISSIONER COYLE: Yeah, I definitely think he should be part of the program.

COMMISSIONER CARTER: I'd agree. So what we need to do is make a motion as a board to do that, or can you just -- can we extrapolate from what you just said is board direction?

MR. MUDD: You tell us board direction, you want to add this to our legislative agenda. That's the one thing I need from the board right now.

COMMISSIONER CARTER: I would recommend we do that.

CHAIRMAN COLETTA: Well, make that in the form of a motion, since everything else has been --

COMMISSIONER CARTER: No, I don't think we -- do we need that? All he needs is direction.

CHAIRMAN COLETTA: Fine, let's do it.

And then what about currently? I mean, have we taken care of every one of the issues with David's contract?

COMMISSIONER CARTER: No. You still have an issue back there, I think it was a motion, of where you recommended -- maybe it was defeated, I don't know. You were recommending a 2.5 percent increase. That got into the discussion of being a part of the senior program.

Commissioner Henning had also raised the issue about COLA.

CHAIRMAN COLETTA: It failed for a lack of second.

Did you want to make a new motion?

COMMISSIONER CARTER: No, I'm not going to do anything.

COMMISSIONER HENNING: I make a motion that we extend the county attorney's contract for one year, recognizing the changes that we're going to make through our delegation and go through all those avenues and whatever.

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If that does not materialize, then we can look at a merit pay for David Weigel.

COMMISSIONER FIALA: Second.

MR. WEIGEL: For the record, my contract has one year still on it. So if you're just looking to continue it for a year or extend it a year, you need to be clear about that, or a year beyond that, so --

CHAIRMAN COLETTA: So we have a motion, we have a second.

Commissioner Coyle?

COMMISSIONER COYLE: No, that's --

CHAIRMAN COLETTA: Okay, that's before.

Any other --

COMMISSIONER CARTER: Clarification. David Weigel says I've already got a year on this contract.

CHAIRMAN COLETTA: So you don't add anything.

COMMISSIONER CARTER: Or are you making a motion to extend it beyond the year that he already has?

COMMISSIONER HENNING: No.

COMMISSIONER CARTER: So you don't need a motion to extend his contract, it's already there.

COMMISSIONER HENNING: So we don't need to take any action. Then let's wait to see what happens with our legislation delegation, whether they're fruitful in Tallahassee on this item.

COMMISSIONER FIALA: If they're not, can we come back and revisit this then?

COMMISSIONER HENNING: Yes, make it retroactive.

MR. MUDD: My suggestion is if we're not successful, then we come back and we take a look at David's 457 contribution that the county makes to kind of compensate for that so that it is in a retirement account for him, to try to come up with something that's amiable and we do the difference kind of thing. And that's something that I think the board should address, if everything else fails, and we

can go back and retroactive that, that process.

CHAIRMAN COLETTA: Fine.

COMMISSIONER HENNING: Great.

CHAIRMAN COLETTA: Now, does that conclude -- anything else from any other constitutional officers? I guess that's it for that part.

Mr. Mudd?

Item #15A

SAP UPDATE BY STEVE CARNELL, DIRECTOR,
PURCHASING DEPARTMENT – PRESENTED

MR. MUDD: That brings us to the presentation by Steve Carnell to talk about SAP -- an SAP update.

And I will say, I have one other item. It has to do with FEMA. We have a 30-day update window where we either have to file an objection to the new mapping and it's going to put a lot of things in the flood plain in the Estates and in the City of Naples that they've got some bad data. And I'm going to let Joe brief that to you right after Steve's done, and I won't say anything else.

MR. CARNELL: For the record, Steve Carnell, purchasing director. Hopefully you'll like this one, short, sweet and you don't have to vote on anything.

What I want to do is just give you an update of where we are with our new financial management system implementation. We are scheduled presently to bring this live in your agency and in the clerk of courts and supervisor of elections agency, in December and on January 2nd.

If you'll remember, this package includes modules that support our human resource, our payroll, our purchasing and all our basic financial, accounting, accounts payable-type functions. And we're

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going to be bringing all those up and into production, as I said.

The payroll will actually start in December. We'll be entering time for all the employees. And then the first paycheck issued out of SAP for board employees will be on January the 2nd, and on the clerk and supervisor of elections agencies the following week.

Just a couple of things I wanted you to be aware of. Right now the project team, which consists of roughly 30 to 40 people from the clerk, board and elections agencies, along with our outside integrator, are working very hard to finish up the key parts of testing the software to make sure that it's properly functional in our environment. And they're going to be moving in -- starting very shortly, really next week, with delivering training to over 400 employees in three agencies who will be using the software. We've had a very enthusiastic reception from not only the project team but from the employees at large who seem to be very anxious and prepared for this. We've appreciated the help from many, many of the employees who participated in the project, including your own Sue Filson and Kathy Highbaugh, who have been very instrumental in helping us with the grow-out of the project.

The testing and the training are really the two big issues left to finish strong with. And right now we think we have a good plan to make that happen and be successful.

We think that when we get this on board, that you're going to be very pleased with some of the results you see.

The five of you individually may not touch this software, initially may not touch it for a while. But I assure you that you will see the impact of it throughout the organization in terms of a more modern operation, better reporting information, and just more efficient processing of a number of transactions that occur day-to-day throughout all three agencies.

With that, I'll just tell you where I'm target -- on track right now to meet all of our goals to get this up and live. We're within budget

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right now. We have been monitoring our resources very closely in terms of the people within house and also as well as the use of our outside integrator and some of the resources that we used to support the project.

Right now we're within budget. There is a possibility that to meet all of our goals fully on or after January 1st, that we may need some additional funding, but that's not to be discussed now. We'll be bringing that back to you later, if need be.

At this point in time, however, we are within budget and we're on schedule to bring this up in January. Just wanted to let you know that, and be sure the five of you were aware. If you have any questions, I'll be happy to answer them. I do want to thank Jim Mitchell for his support, Jim's --

CHAIRMAN COLETTA: Thank you, Jim.

MR. CARNELL: -- with the clerk's agency, been very instrumental in cooperating with us to help make this be successful.

COMMISSIONER HENNING: Thank you, Mr. Carnell.

Item #15B

**DISCUSSION BY JOE SCHMIDT RE APPEAL OF FLOOD
ELEVATION MAPS – TO BE BROUGHT BACK AT THE
NOVEMBER 19, 2002 MEETING**

CHAIRMAN COLETTA: What's the last item that we have?

MR. SCHMITT: The last item -- for the record, Joe Schmitt, administrator, community development, environmental services.

This is just an update on an issue that's been around since December of last year. And it has to do with the appeal of the flood insurance restudy proposed basin flood elevations for Collier County and the City of Naples. The flood map for Collier County and the City of Naples.

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And I'm going to provide a brief update of where we are in this, with the assistance of Assistant County Attorney Patrick White, who will answer any of your questions.

On September 25th, 2002, staff, along with Bob Devlin of the City of Naples, and our contractor, Richard Thomasello of Thomasello Consulting Engineers, TCE, as they're known as, met with Mr. Doug Bellomo of the hazard study branch, federal insurance and mitigation administration, Federal Emergency Management Agency, or FEMA, and his representatives to discuss our appeal of the revised FEMA flood insurance rate maps.

In sum, the letter that you were just given that was addressed to the chairman, acting as the chief executive officer for Collier County, stated that TCE's methodology was not superior to the methodology of FEMA's contractor, and that TCE had not validated that the FEMA data was technically flawed.

So what in essence that letter says is they have denied our appeal.

As a result, on behalf of the City of Naples and Collier County, staff is preparing a letter of comment for the county manager's signature, which will initiate and trigger the next phase of the appellate resolution of process that will require FEMA to respond in writing to our comments.

So this is the next phase, and we'll be doing this jointly with the City of Naples as the one Collier County appeal.

The City of Naples has expressed interest to meet jointly with the board and to coordinate how to best resolve this appeal. And the city manager has been in contact with the county manager, and we're trying to set up that meeting so that both the board and the city council can negotiate as to how they want to proceed.

Based on follow-on date provided by staff, FEMA has expressed a strong desire, and I want to express a strong desire, to work with the community to resolve this -- the methodology and the associated

flood insurance maps. I think they would rather do that than go through a lengthy litigation. This is certainly going to require additional financial commitment by the county and the city to secure TCE's services.

To that end, staff will provide a detailed briefing, and we'll come back to you with an analysis on the issues and the options, and we're going to schedule that for the November 19th Board of County Commissioners' meeting.

So that fundamentally kind of summarizes where we are with this. This is a long and ongoing process. We appealed. They did not recognize the data as grounds for the appeal. Now we're going back, initiating the comment period, which will start about an eight-month process prior to them, them being FEMA, publishing in the Federal Register that these maps are valid. So we're pushing the camp further down the road so we don't get into issue here.

And my commitment to you is come back with both our contractor and with any -- with some of the support from the city as we try and explain to you where we are with this whole situation.

MR. MUDD: Commissioner, what this presents, what's happened with these new maps is there's areas in Collier County that they've designated on their maps that would have to carry flood insurance that don't presently carry flood insurance right now. On needed flood insurance. Because we have -- in our opinion and in the City of Naples' opinion, they've got some faulty data. And I think we've gotten them to understand what it was that caused them to come up with a bad conclusion as far as Collier County is concerned. And we're just trying to prevent people from having to have flood insurance when they don't need to have it, based on maps that aren't correct.

MR. SCHMITT: Let me just kind of piggyback off of that. Frankly, we're really talking about a lot of homes in the Estates. And what that means is that if you have a federal loan -- which 90 percent

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or so of them out there are of some sort of another, backed by a federal agency -- you will receive a letter from your lending institution demanding that within 60 to 90 days you initiate a flood insurance for your home. And the only way they will be able to dispute that is through individual appellate process through FEMA.

We're going to delay that as we begin to try and convince FEMA that their data was faulty. We'll need TCE's assistance, and that will be a joint effort between both the City of Naples and Collier County.

CHAIRMAN COLETTA: Mr. Schmitt, I hear you. And this is indeed bad news. It's totally unwarranted. I know the study, when they did it, they took land that was far removed from Golden Gate Estates, which had a much lower level, and flooding was much -- would take place there at a faster rate, and used that as part of their model. I thought this was all cleared up. Obviously the problem's still there.

Whatever we have to do to keep this from happening we have to, because the expense and the burden on the residents of Golden Gate Estates is totally unwarranted.

Also, too, is there another way that if this does become fact and we can't fight it any longer, we exhausted the appeal process, can individual lots get exemptions from this?

MR. SCHMITT: Yes, there are.

CHAIRMAN COLETTA: And would you explain that, to maybe take some of the panic off of our homeowners out there?

MR. SCHMITT: Can I -- that's a little more detailed legally, and I'm going to defer to Patrick, if I could for.

CHAIRMAN COLETTA: And then we'll go to you next, Mr. Carter, and Commissioner Coyle.

MR. WHITE: Good evening, Commissioners. Again, assistant county attorney Patrick White.

There's two processes, and they're both set forth in an e-mail we've received from Mr. Bellomo October 10, indicating both their

apology for the mistake with respect to what's more commonly referred to as the Sheet II-D study for Golden Gate, as to those data errors. And those are things that will be number one on our list of comments for resolution with FEMA.

But the two processes that are available for property owners, those that may somehow, even after we've gone through and gotten these data corrections, still be required to obtain flood insurance, based upon their elevations, there's a process called letters of map revision, and also letters of map amendment.

We're going to have to look at how many of them are remaining after the data are corrected, and my belief is that many, many of them will be corrected and there will not be the need to have that level of revision by either what's called the LOMR or the LOMA.

So we're going to have to wait and see. But we already have this e-mail from Mr. Bellomo at FEMA --

CHAIRMAN COLETTA: Okay, so we --

MR. WHITE: -- indicating that they recognize the mistake. And we're working with our contractor and the FEMA contractors to resolve those as quickly as possible.

CHAIRMAN COLETTA: At this point in time, they can't force the people out in Golden Gate Estates to buy flood insurance, is that --

MR. WHITE: No.

CHAIRMAN COLETTA: -- correct?

MR. WHITE: We're a minimum of at least eight months away from any type at all of an implementation of these maps. And as Mr. Schmitt had indicated too, we're working diligently with the offer that FEMA has made as part of this letter that you have at the very conclusion to enter into a parallel process where we would be looking to actually have them acknowledge the methodology that our contractor has brought forward, that they cannot do as part of their standard review for these maps.

But they're willing to work with us, they're willing to commit to a certain limited amount of funding from their agency for the purposes of resolving some of these technical differences and getting us to a place where we might actually have maps that are more appropriate and akin to what we believe is a better methodology.

It may not be sufficient to meet the standards for a review by the agency, FEMA, but it will be something that I think ultimately in this parallel process will get us a better map, the one that our committee has been looking for for years.

CHAIRMAN COLETTA: I hope we get this resolved. Because Florida is a donor state. We take care of everybody else up and down the eastern seaboard. Our money underwrites their expenses.

MR. WHITE: That's one of the things I think that's been compelling, and something that's certainly been hurting Washington. So I think the efforts of all of our ad hoc committee, as well as the representatives of the city have been very helpful in getting us to the place where we are today.

I just believe that it's a question of timing. If we can become actively engaged with FEMA at the earliest possible date, resolve these technical matters with respect to methodologies, get on to the point of utilizing the data, as we're going to have them corrected through this study and other points in the county, I think we'll ultimately be able to minimize, perhaps even down to zero, the number of days where we will have to live with maps that we believe are not technically correct.

CHAIRMAN COLETTA: I appreciate that. Would you keep me apprised of every situation along the way --

MR. WHITE: Yes.

CHAIRMAN COLETTA: -- so that I can be following this and react when I have to?

MR. SCHMITT: Mr. Chairman, we certainly will. And I just want to for the record make sure and understand that there are also

not only Golden Gate, but there are over 600 homes along the coastal community that will be impacted as well, and that is including the City of Naples; many homes in the City of Naples and businesses in the City of Naples that will be significantly impacted by a change in these flood maps.

So it is a very important issue, and we will get -- certainly make sure you know when we're going to have a joint meeting. And I'll depend on County Manager Mudd to at least advise staff as to when that meeting will be so that we can jointly at least define a course of action that we want to take and to object to the technical data --

CHAIRMAN COLETTA: Very much so.

MR. SCHMITT: -- that they're now using.

CHAIRMAN COLETTA: Commissioner Carter?

COMMISSIONER CARTER: I won't prolong this, other than I congratulate staff and your persistence. I've been in this for three years and probably -- and God knows how many years before this. If we stay the course, FEMA, as the Chairman alluded to, even at the end of the day, Florida could say I'll tell you what, we'll just pull out; we'll be self-insured, you can kiss the rope. When it comes to that, FEMA would back down. And I think the letter indicates, gee, we'd really like to work with you, but candidly, we've spent all this money and we don't want to revisit our data. It's just another one of these games that we're going to play until we finally get to that point that says do we or don't we? And I truly believe, and you know from working through bureaucracies a long time, that we'll probably prevail at the end of the day. And people, as Commissioner Coletta said, do not panic, don't worry, nothing's going to happen now.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: Yeah, I've been involved in this since it first came up from the standpoint of the city council in Naples, and it is a very serious issue. And I think we should continue fighting it.

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And I'd like to say, too, it's my belief that there's far more than 600 homes impacted. There are thousands of homes impacted. And let me tell you what has happened. After Hurricane Donna, in 1960, the base flood elevation was increased, I believe, to six feet. After that, the base flood elevation was increased to 11 feet along those areas in the City of Naples, let's say three to 400 yards from the beach. And a lot of homes were built at 11 feet. Now all of those homes are not going to be in compliance, if this goes through.

Now, what does that mean from the standpoint of insurance coverage? It means that technically -- at least this is what I was told at the time -- technically the current owner would continue to be able to get flood insurance and continue to pay a premium, although that might go up. Once the house is sold, the house is below the required flood elevation.

Now, what is the difficulty in getting insurance coverage for a house that's below the elevation? It could be a brand new house. And now you're stuck. And yes, you can get it, but it's going to cost you money.

So it's a very, very serious problem. And I believe that the -- Commissioner Carter's idea is great. The amount we get back from our flood insurance premiums is a mere fraction of how much we pay. And the FEMA map and the base flood elevations are based upon storm assumptions that have never occurred on the East Coast -- or West Coast of Florida. Never occurred. They have failed to consider that most of the hurricanes that hit our coast actually come across the state and are consequently not as severe. And they've made assumptions that -- of hurricane levels that have never occurred here.

There are just lots of other apparently obvious mistakes, but I guess we have to develop the technical data to refute that.

But I very strongly encourage that we fight it. And if we have the authority, and I don't know if we do, but if we have the authority

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to be self-insured, I'd sure vote for that, because we'd save a lot of money.

But I really believe that FEMA's objective is to make it punitive to live on the coast. They are getting hit so hard with respect to government bail-outs for cities that are flooded out, even in Tennessee and other states that are located in flood plains and in coastal communities that are hit by hurricanes, I believe they are intentionally trying to drive people from the coast. And I think this is merely one step in the plan. And if there's a way we could become self-insured, I'd sure go for it. I think we'd all save a lot of money.

CHAIRMAN COLETTA: Any other comments?

MR. MUDD: We plan to come back to the board on the 19th of November with this particular issue.

Just as a note of information, the City of Marco Island has filed a complaint in the 20th Judicial Court about the takeover of the Florida waters by the Florida Water Service Authority, and I'll let you know that that happened -- I got noticed on Monday that that transpired.

Item #15C

DISCUSSION RE MR. KRAMER'S COMPLAINT AGAINST MR. HAMMOND

To answer Mr. Kramer's petition for information as far as what have we done as far as the bills to Mr. Hammond, we've sent out a second notice for the bill. Next week we'll send out a third. Within 10 days of that notice being sent out, if there is no reply, then we'll turn it over to a collection agency for that particular item.

The other petition was Ms. Hampton's, as far as the front part of her wheel when she hit a pothole. You told the staff to go back and work on policy. One of the things I told Jeff Walker this morning is I

said instead of just saying well, if we haven't been noticed, how about adding a police report to the particular accident, so that if the sheriff went out there, saw the pothole and the front end was laying in the pothole, that's another issue. And also put in our policy that the right way to appeal a particular decision by risk management on a claim is to go to small claims court versus the Board of County Commissioners. So he's going to work on those two items.

Outside of that, I have nothing else further to give the board.

COMMISSIONER COYLE: Just a quick question about Mr. Kramer's complaint about the guy --

CHAIRMAN COLETTA: Mr. Hammond.

COMMISSIONER COYLE: -- Mr. Hammond.

Can you put a lien on his property for that amount of money?

MR. MUDD: We're sending the notices to a P.O. Box. We haven't got the property issue down pat yet.

COMMISSIONER COYLE: If we can find the piece of property, can we put a lien on it for that amount of funding?

MR. MUDD: I'd have to look at that.

MR. WEIGEL: It's not an assessment, so first we'd have to take it to court and get a judgment and put a judgment lien on his property.

COMMISSIONER COYLE: Okay, thanks.

CHAIRMAN COLETTA: Anything else, Mr. Mudd?

MR. MUDD: No, sir.

CHAIRMAN COLETTA: Mr. Weigel?

MR. WEIGEL: Yeah, just one last little thing. In your review, annual review of me, you had an action plan to look at, and it is the custom of the board to use it as its tool and me as my tool in regard to expectations. And so if it needs some tweaking, I typically in the past have worked with a commissioner and brought it back. And again, I think we learn from it every year.

I was wondering if this board had desire for either the current

Chairman or a commissioner over the next few weeks to work on it so it could come back and be in place in its call it new improved form for this next year. I think there are some complicated areas in a few places there.

CHAIRMAN COLETTA: Mr. Weigel, if I may recommend, I think you really need to talk to each one of the commissioners on that.

MR. WEIGEL: Well, I'd be happy to do that. And of course I already have spoken with them some. I might come out with something that's -- well, I can put together something, having spoken with you and speaking again briefly, and bring it back to the board for observation.

CHAIRMAN COLETTA: I think that would be the best action to take.

MR. WEIGEL: Okay. Thank you.

CHAIRMAN COLETTA: Okay, let's start with comments. Commissioner Henning?

COMMISSIONER HENNING: I'm sure everybody's aware, I've seen some articles in the Naples Daily News, on some allegations or some reporting on previous commissioners dealing with the waste management, waste management contract, so on, so forth.

And I've been gathering some materials, and I'm considering bringing back to the Board of Commissioners in the next meeting a item dealing with that and making recommendations that the state attorneys investigates that aspect of it. I didn't know if any of the commissioners thinks it was inappropriate to bring that item to the Board of Commissioners.

CHAIRMAN COLETTA: Any comments?

COMMISSIONER CARTER: I'm not sure, Commissioner Henning.

COMMISSIONER FIALA: Why would we want to do that?

COMMISSIONER CARTER: I would have some guarded

reservations about that type of thing.

COMMISSIONER HENNING: Well, without --

COMMISSIONER COYLE: But if Commissioner Henning has some information which really should be --

CHAIRMAN COLETTA: Shared with the legal authorities.

COMMISSIONER COYLE: -- shared, I think that would be entirely appropriate.

COMMISSIONER HENNING: Okay.

CHAIRMAN COLETTA: Anything else, Commissioner Henning?

COMMISSIONER HENNING: That's it. Thanks.

CHAIRMAN COLETTA: Commissioner Coyle?

COMMISSIONER COYLE: Nothing from me, thank you.

CHAIRMAN COLETTA: Commissioner Fiala?

COMMISSIONER FIALA: Yes, I have two things. First of all, I wanted to just note for the record that I still oppose item 10(B), because I still cannot embrace that issue. So I'm just going to say that for the record.

Also, I wanted to say to David that one thing, he asked for ways to improve this thing. He didn't ask us to tell you how good you were. And you just told us to -- and you've always been there for us.

And I wrote in there my comments. But you're always there whenever we call. We can call you at home, day or night. Your staff has always been there for us. And no matter when we call, we get a response quickly and efficiently. And I want to note that for the record.

Also, I think that you go to extra pains to make sure that you research everything that we need to help us to make an informed decision, so I just want to state that on the record. Thank you.

CHAIRMAN COLETTA: Commissioner Carter?

MR. WEIGEL: Thank you.

COMMISSIONER CARTER: Just quickly. I've been thinking

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about, Commissioner Henning, what you mentioned. Whatever you put together, it is my recommendation that you use legal counsel to frame that as it comes back here, to make sure that we're walking on the right waters here without getting into something where we don't want to be.

Secondly, I concur with Commissioner Fiala, David Weigel I think has done a fine job. He has done some things differently over the last year than in the past. I would keep encouraging more of the same. When he said he really didn't care whether he got a pay increase or not, I think that was a signal to the board I'm okay where I am. And if you weren't, you needed to tell us that. At least if I read the tea leaves up here.

Other than that, I don't have anything else, Mr. Chairman. It's been a pleasure.

CHAIRMAN COLETTA: This isn't your last meeting, though, is it?

COMMISSIONER CARTER: No, it's just been a pleasure today.

CHAIRMAN COLETTA: Oh, I'm glad you enjoyed it. I did, too.

I would like to echo my sentiments, David. I truly enjoy working with you. You've been tremendous, and you've always come across. And I know today probably didn't go quite the way a lot of us would have liked to see on a lot of different things, but it's been interesting. We've put a lot of things in front of us, we've got a lot of things behind us, and we've still got a lot of things to get done.

COMMISSIONER FIALA: And we did understand everything he said today. He promised us he would be doing that, right?

CHAIRMAN COLETTA: And with that, we're adjourned.

***** Commissioner Carter moved, seconded by Commissioner

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Henning and carried unanimously, that the following items under the Consent and Summary Agendas be approved and/or adopted: *****

Item #16A1

CARNIVAL PERMIT 2002-08, RE PETITION CARNY-2002-AR-3192, JOSEPH C. DELFINO, OF THE NAPLES ITALIAN AMERICAN CLUB, PERMIT TO CONDUCT A CARNIVAL FROM OCTOBER 31, 2002 THROUGH NOVEMBER 3, 2002, ON PROPERTY LOCATED AT 7035 AIRPORT ROAD NORTH

Item #16A2

ACCEPTANCE OF \$10,000 OFFER AS FULL AND COMPLETE SATISFACTION OF LIEN IMPOSED IN CEB CASE NO. 99-067, COLLIER COUNTY V. ROLAND SURIN & ZELTA ROBINSON

Item #16A3

SHIFT DIFFERENTIAL PAY FOR THE CODE ENFORCEMENT EVENING SHIFT FOR WORK HOURS OTHER THAN SPECIFIED IN CMA INSTRUCTION 5341 SECTION 17 (B)

Item #16A4

SATISFACTION OF LIEN FOR CODE ENFORCEMENT BOARD CASE NO. 2001-053, RE CHAD DUTTON

Item #6A5

IMPACT FEE REFUNDS DUE TO CANCELLATION OF BUILDING PERMITS RE KENMARK CONSTRUCTION INC. IN THE AMOUNT OF \$3,070.82; BAY BUILDERS OF BONITA

SPRINGS, INC. IN THE AMOUNT OF \$4,238.82; AND JAMES E. HIRST IN THE AMOUNT OF \$3,045.82

Item #16A6

FINAL PLAT OF “WHITE LAKE CORPORATE PARK, PHASE TWO” – WITH CONSTRUCTION AND MAINTENANCE AGREEMENT, PERFORMANCE SECURITY AND STIPULATIONS

Item #16A7

AMENDMENT TO CONTRACT 99-2976 (COMMUNITY CHARACTER MASTER PLAN) WITH DOVER, KOHL AND PARTNERS IN THE AMOUNT OF \$211,370 FOR THE DEVELOPMENT OF A NAPLES PARK COMMUNITY PLAN

Item #16B1 – Moved to Item #10G

Item #16B2

EQUIPMENT LOAN AGREEMENT WITH 3M TRAFFIC CONTROL MATERIALS DIVISION FOR THE USE OF AN HSRA-48C SQUEEZE ROLLER APPLICATOR USED FOR SIGN SHEETING APPLICATIONS AT NO COST TO THE COUNTY

Item #16B3

STAFF TO PROCEED WITH THE FORMATION OF A MUNICIPAL SERVICE TAXING AND BENEFIT UNIT (MSTBU) FOR IMPROVING A PORTION OF SOUTH EIGHTH STREET AND DOAK AVENUE EXTENSION IN IMMOKALEE

Item #16B4

STAFF TO PROCEED WITH THE FORMATION OF A
MUNICIPAL SERVICE TAXING AND BENEFIT UNIT (MSTBU)
FOR IMPROVING LITTLE LEAGUE ROAD IN IMMOKALEE

Item #16B5

CHANGE ORDER #1 WITH APAC, INC. FOR ROADWAY
IMPROVEMENTS ON THE NORTH 11TH STREET EXTENSION
PROJECT AT THE INTERSECTION OF STATE ROAD 29 – IN
THE AMOUNT OF \$31,733.60

Item #16B6

RESOLUTION 2002-432, PROHIBITING THE OPERATION OF
TRUCKS AND OTHER COMMERCIAL VEHICLES HAVING A
RATED LOAD-CARRYING CAPACITY IN EXCESS OF ONE (1)
TON FROM THROUGH-MOVEMENTS ON CERTAIN STREETS
IN THE NORTHERN HIGH POINTE NEIGHBORHOOD

Item #16B7

RESOLUTION 2002-433, TO REMOVE A NON-WARRANTED
TRAFFIC SIGNAL FROM THE INTERSECTION OF
GOODLETTE-FRANK ROAD AT THE DRIVEWAY TO THE
ROYAL POINCIANA GOLF CLUB

Item #16B8 – Moved to Item #10I

Item #16B9

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UTILIZATION OF INSURANCE PROCEEDS TO PURCHASE
TWO RECONDITIONED TRANSIT BUSES AND OTHER
SUPPORT EQUIPMENT – IN THE AMOUNT OF \$91,853

Item #16B10

DEVELOPER CONTRIBUTION AGREEMENT WITH FIRST
BAPTIST CHURCH OF NAPLES, INC., FOR ROAD IMPACT
FEE CREDITS – IN THE ESTIMATED AMOUNT OF \$668,056.81

Item #16B11

BUDGET AMENDMENT TRANSFERRING \$250,000 FROM
TRANSPORTATION GAS TAX RESERVES FOR MARCO
ISLAND PROJECTS FROM FISCAL YEAR 2002

Item #16C1

CONTRACT #02-3417 FOR ANNUAL MAINTENANCE OF
CHLORINATOR EQUIPMENT – AWARDED TO WATER
TREATMENT AND CONTROLS COMPANY IN THE
ESTIMATED AMOUNT OF \$100,000

Item #16C2

BUDGET AMENDMENT TRANSFERRING \$381,400 FROM
RESERVES TO CORRECTLY FUND THE FY 03 BUDGET FOR
PAYMENT OF THE COUNTY WATER AND SEWER DISTRICT
PILT

Item #16C3

FUNDING IN THE AMOUNT OF \$132,600 TO UPSIZE THE
WASTEWATER FORCE MAIN TO THE LIVINGSTON ROAD
REGIONAL PARK

Item #16C4

BID #02-3402 FOR UNDERGROUND UTILITY SUPPLIES –
AWARDED TO VARIOUS VENDORS AS INDICATED IN THE
EXECUTIVE SUMMARY – IN THE ESTIMATED AMOUNT OF
\$1,000,000

Item #16E1

BID #02-3405, ADDITION TO THE IMMOKALEE LIBRARY –
AWARDED TO M. J. SIMPSON CORPORATION IN THE
AMOUNT OF \$490,000

Item #16E2

UTILIZATION OF STATE CONTRACT PRICING TO
PURCHASE EQUIPMENT AND SERVICES FOR THE COUNTY
TELEPHONE SWITCH NETWORK

Item #16E3 – Moved to Item #10H

Item #16E4

FIRST AMENDMENT TO LEASE AGREEMENT WITH ARNOLD
PROPERTIES, INC., FOR ONE ADDITIONAL YEAR'S USE BY
THE SHERIFF'S OFFICE OF A GARAGE/WAREHOUSE SPACE
AT A TOTAL COST OF \$20,703

Item #16F1

REIMBURSEMENT OF \$40,000 TO THE BAY COLONY
COMMUNITY ASSOCIATION AND BUDGET AMENDMENT
TRANSFERRING FUNDS FROM PELICAN BAY FUND 109
RESERVES TO THE OPERATING BUDGET

Item #16F2

APPROPRIATION OF UNANTICIPATED REVENUE OF \$12,178
IN THE ISLES OF CAPRI FIRE DEPARTMENT BUDGET FROM
PROTECTIVE INSPECTION FEES, SURPLUS SALES AND
CARRY FORWARD

Item #16F3

RESOLUTION BAR 2002-03, APPROPRIATING GRANTS,
DONATIONS, CONTRIBUTIONS OR INSURANCE PROCEEDS
TO THE FISCAL YEAR 2001-02 ADOPTED BUDGET

Item #16F4

BUDGET AMENDMENT 03-035

Item #16I1

MISCELLANEOUS CORRESPONDENCE – FILED AND/OR
REFERRED

The following miscellaneous correspondence, as presented by
the Board of County Commissioners, has been directed to the various
departments as indicated:

Item #16J1

DETERMINATION THAT THE PURCHASE OF GOODS AND SERVICES DOCUMENTED IN THE DETAILED REPORT OF OPEN PURCHASE ORDERS SERVE A VALID PUBLIC PURPOSE AND AUTHORIZATION FOR THE EXPENDITURE OF COUNTY FUNDS TO SATISFY SAID PURCHASES

Item #16K1

STIPULATED FINAL JUDGMENT RELATIVE TO THE ACQUISITION OF PARCEL 205 IN THE LAWSUIT ENTITLED COLLIER COUNTY V. ARMANDO A. LAMBERT, ET AL, (IMMOKALEE PHASE 1 PROJECT) – STAFF TO DEPOSIT THE SUM OF \$2,300 INTO THE REGISTRY OF THE COURT

Item #16K2

AGREED ORDER AWARDING SUPPLEMENTAL ATTORNEY'S FEES RELATIVE TO THE EASEMENT ACQUISITIONS OF PARCELS 172 AND 772 IN THE LAWSUIT ENTITLED COLLIER COUNTY V. DOMINIQUE RIHS, AS TRUSTEE OF THE LAND TRUST NUMBER S146-A, ET AL, CASE NO. 01-0819-CA (LIVINGSTON ROAD PROJECT NO. 60071) – IN THE AMOUNT OF \$525

Item #16K3

STIPULATED FINAL JUDGMENT RELATIVE TO THE FEE SIMPLE ACQUISITION OF PARCELS 105 AND 105OB IN THE LAWSUIT ENTITLED COLLIER COUNTY V. FIRST BAPTIST CHURCH OF NAPLES, INC., ET AL. LIVINGSTON ROAD

PHASE III (PINE RIDGE ROAD TO IMMOKALEE ROAD) –
STAFF TO DEPOSIT \$51,175 INTO THE REGISTRY OF THE
COURT

Item #16K4

STIPULATED FINAL JUDGMENT RELATIVE TO THE
EASEMENT ACQUISITION OF PARCELS 118A, 821B AND
821C IN THE LAWSUIT ENTITLED COLLIER COUNTY V.
TIBURON GOLF VENTURES LIMITED PARTNERSHIP, ET AL,
(LIVINGSTON ROAD PROJECT #62071) – STAFF TO DEPOSIT
\$1,800 INTO THE REGISTRY OF THE COURT

Item #16K5

STIPULATED FINAL JUDGMENT RELATIVE TO THE
EASEMENT ACQUISITION OF PARCELS 187 IN THE
LAWSUIT STYLED COLLIER COUNTY V. MANUEL
ALVAREZ, ET AL, CASE NO. 02-2182-CA (IMMOKALEE ROAD
PROJECT #60018) – STAFF TO DEPOSIT THE SUM OF \$4,000
INTO THE REGISTRY OF THE COURT

Item #16K6

MEMORANDUM OF AGREEMENT/LETTER OF
UNDERSTANDING FOR THE BOARD OF COUNTY
COMMISSIONERS AND FOR THE COUNTY MANAGER WITH
THE PELICAN BAY MUNICIPAL SERVICE TAXING AND
BENEFIT UNIT ADVISORY COMMITTEE PURSUANT TO
COLLIER COUNTY ORDINANCE 2002-27

Item #17A

RESOLUTION 2002-434, RE PETITION CU-2002-AR-2366, RON BEAVER, REQUESTING A CONDITIONAL USE IN THE "E" ESTATES ZONING DISTRICT PER LDC SECTION 2.2.3.3.7 TO ALLOW A LAKE EXCAVATION ON 6.6 ACRES LOCATED AT 4640 31ST AVENUE NE, GOLDEN GATE ESTATES

Item #17B

RESOLUTION 2002-435, RE PETITION CU-2002-AR-1943, GOLDEN GATE SEVENTH DAY ADVENTIST CHURCH, REQUESTING A CONDITIONAL USE IN THE A-MHO ZONING DISTRICT PER LDC SECTION 2.2.2.3.7, TO ALLOW A CHURCH/PLACE OF WORSHIP ON 4.56+/- ACRES LOCATED ON THE EAST SIDE OF RIVER ROAD, 500+/- FEET SOUTH OF IMMOKALEE ROAD

Item #17C

ORDINANCE 2002-52, CREATING THE IMMOKALEE BEAUTIFICATION ADVISORY COMMITTEE

Item #17D

RESOLUTION 2002-BAR-04, AMENDMENTS TO THE FISCAL YEAR 2001-02 ADOPTED BUDGET

Item #17E

RESOLUTION 2002-436, APPROVING PRESENTATION TO THE COUNTY'S LEGISLATIVE DELEGATION A SPECIAL ACT CODIFYING INTO THE PROPOSED SPECIAL ACT FIVE

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**SPECIAL ACTS RELATED TO THE COLLIER COUNTY
WATER-SEWER DISTRICT AND FIVE SPECIAL ACTS
RELATED TO THE PELICAN BAY IMPROVEMENT DISTRICT**

There being no further business for the good of the of the County,
the meeting was adjourned by order of the Chair at 7:03 p.m.

**BOARD OF COUNTY COMMISSIONERS
BOARD OF ZONING APPEALS/EX
OFFICIO GOVERNING BOARD(S) OF
SPECIAL DISTRICTS UNDER ITS
CONTROL**

JAMES COLETTA, CHAIRPERSON

**ATTEST:
DWIGHT E. BROCK, CLERK**

These minutes approved by the Board on _____
as presented _____ or as corrected _____.

**TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT
REPORTING**

BY: Terri Lewis, RPR and Cherie R. Nottingham, RPR