

## **September 16, 2008**

Chairman Judah: Good Morning, Everyone We'll Go Ahead And Get Started.

We'll Start With The Invocation From Pastor Gaspar Anastasi From Word Of Life Church.

Good Morning, Pastor.

Good Morning.

Thank You For The Privilege.

Let's Bow Our Heads And Pray.

Father, We Thank You For This Day That You've Created For Us That We Could Experience Your Blessings, Your Provision And We Ask For Wisdom Today, Lord, In Every Decision That's About To Be Made Here In The Board Of Commissioners.

We Pray, Father, That Your Truth Will Prevail And That Your Name Will Be Glorified In This County.

You're The King Of Kings And The Lord Of Lords.

We Praise You This Morning And Say, Lord, You're The Beginning Of Our Day, The Middle And The Finishing Of Our Day.

It's All About You.

Let This Day Be A Day That We Can Rejoice In You And That You Can Be Well Pleased With Us And Everything That We Do And Everything That We Say.

We Invite The Holy Spirit To Take Charge To Bring Peace And To Bring Joy.

We Give You The Glory And Honor.

In Jesus's Name We Pray, Everybody Says Amen.

Chairman Judah: Remain Standing.

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

Chairman Judah: Thank You, Pastor.

O.K.

We'll Go Ahead And Get Started Here.

I Just Want To Make Sure.

I Don't Have Any Ceremonial Presentations.

We Have Two Walk-On Items In The Recap.

At This Time We'll Go To -- I Apologize.

Administrative Item 6-A Needs To Be Deferred Indefinitely.

Chair Will Entertain A Motion.

Comm. Janes: So Moved.

Comm. Hall: Second.

Chairman Judah: We Have A Motion And Second.

Discussion? Objection? Hearing No Objections, The Motion Passes. 6-A Gets Deferred Indefinitely.

For The Benefit Of The Public, That Had To Do With The Binding Offer To Property Owner In The Amount Of \$128,000 For The North Lee County Water Treatment Plant Expansion.

Hopefully That Will Come Back Soon So We Can Keep Moving Forward.

We'll Now Take Public Comment.

I Don't Have Any Cards.

Anyone From The Public Wish To Comment Today? Yes, Please Step Forward.

Don't Be Shy.

You Can Always Sign Your Card After You Speak.

[Indistinct] Chairman Judah: You Can Talk Now If You'd Like.

Comm. Bigelow: Mr. Chairman, Just A Point Of Clarification.

The Deferred Item Is Actually The 2020 Parcel Under -- Chairman Judah: I Thought It Was 6-A.

Comm. Bigelow: That's Consent 6-A.

Chairman Judah: I Apologize.

Thank You For The Clarification.

Comm. Hall: It Was Administrative 6-A.

Chairman Judah: My Mistake.

The Expansion Will Go Forward.

It's Administrative 6-A.

The Item Has Been Withdrawn At The Request Of The Seller.

You're Right.

That's A Conservation 2020 -- Comm. Bigelow: At The Request Of Who? Chairman Judah: The Seller.

Thank You For The Clarification.

That's Administrative 6-A.

Anyone From The Public Wish To Comment? Yes, Please.

Step Forward.

Good Morning.

Good Morning.

Chairman Judah: Just A Clarification, Each Of The Speakers Will Have Three Minutes.

My Name Is Jim Cooper.

I'm From Charlotte County.

390 Coral Creek Road And I'm The President Of Lumbacon Ser Venn Si Here To Speak On The Walk-On Item.

Unfortunately I Was Delayed In Traffic.

I'm Not Sure Which One It Is.

Chairman Judah: Number One.

That's What I Want To Speak To.

I Think It's Important That You All Vote Yes For This Item.

It's A Very Important Item For You, Especially At This Point In Time And I Will Explain Why.

The Problem Is The South Fort Meade Mine As Proposed Will Take Out 511 Acres Of Wetlands.

In Doing It They Will Take Out Fresh Water Flows That Are Vital To The Health Of The Peace River And Charlotte Harbor.

Why Is That Important? Well, For Me In Charlotte County My Drinking Water Comes From The Peace And We Depend On The Peace Harbor For Our Economy.

To Your Economy It's \$2 Billion A Year.

Why Is That Important? Well, I Think It's Obvious In This Tax Situation We've Got.

We Need All The Help We Can Keep In The Economy.

We Need To Keep The Harbor Sustainable.

Taking Out The Wetlands Isn't The Right Thing To Do.

It's Not Just Jim Cooper Saying It.

The Epa Said It In 2007 In A Letter They Wrote Saying It Loud And Clear.

They Said 511 Acres Is Too Much.

You Should Reduce It Down.

Unfortunately The Only Way I Got That Letter Was A Freedom Of Information Act Request Because I Thought There Should Have Been A Cumulative Impact Study Which Hasn't Been Done Yet.

Hopefully That Will Happen.

Here's What I'd Like To Point Out To You.

As You Know, As Was Proven In This Letter And Also In The Recent Charlotte Harbour Study Done By The Fdp Themselves Or The State Taxpayers Paid About -- Between \$750 To A Million-Four, Fresh Water Is Reduced By Destroys The Streams, Ditch And Mine Systems And Destroying Wetlands.

Yet The Center Of Abundance For Baby Game Where Blue Crabs Grown Is The Fish Nursery Area Upstream Where The Water Has To Stay No Higher Than 18,000 Parts Per Thousand To Work To Make The Fish Be Productive.

Sea Water Is 35 Parts Per Thousand.

That's What's Going To Come In If The Fresh Water Flows Don't Come.

If The Salt Water Comes In, Because We Know Mining Reduces Fresh Water Flows There Will Be Impacts To The Fish Nursery.

That Sets Up A Huge Potential For Loss To Our Economy.

It Also Sets Us Up For A Worst Acceptable Risk And That's Red Tide.

That Would Be A Devastating Situation.

Now, We Know It's A Nationally Significant Item Because The Epa Talked About It.

My Recommendation Is You Should Vote For It.

It's In The Interest Of Lee County To Challenge This Permit.

And It Comes Down To A Simple Balancing Act For Me.

You Know, Do You Want To Spend Approximately What It Would Cost For A Lot On Boca Grande To Protect Your Economy And The Peace River Which Is Part Of Our Economy.

We're Partners.

We Have Worked On This For A Long Time.

Since 2006 We Have Worked As Partners.

Charlotte County Would Really Like You To Step Up And Be A Partner And Take This On For Us.

Appreciate Your Support.

Thank You For Caring All These Years.

Chairman Judah: Thank You, Mr. Cooper.

And I Have Copies Of The Letters For You.

Chairman Judah: Do You Have An Extra Copy For The Minutes? Sure.

Chairman Judah: Thank You Very Much, Mr. Cooper.

Don, If You Don't Mind Providing Mr. Cooper With A Card.

[Concurrent Voices] Chairman Judah: O.K.

The Next Speaker? Good Morning.

Good Morning.

Chairman Judah: That's All Right.

Take Your Time.

If I Could Have You State Your Name.

I'm Sarah Watkins Here Representing The Gasparillo Island Conservation.

You're Used To Seeing Misty Nichols.

Chairman Judah: Give Her Our Best.

I Will.

We Wish To State That We Join With Other Organizations That Believe A Mining Project Of The Magnitude Proposed By Mosaic Fertilizer Would Negatively Impact The Health Of The Peace River, Tributaries And Charlotte Harbour.

The Gicia Reck Memberships Supporting This And Oppose A Plan For New Mining With The Potential To Adversary Affect Drinking Water For Hundreds Of Thousands Of Residents In Charlotte Harbour Who Rely On The Peace River For This Resource.

We Believe Mining In The Areas Proposed Within The Peace River Water Shed Will Cause Loss Of Water Quality And Decreased Availability And Have Far Reaching Adverse Impacts On Plants, Animals And People Who Rely Upon The River And Tributaries For Life, Growth And Sustainability.

I Believe That You Are Going To Be Approving An Amount Of \$650,000 Today.

That's What I Was Informed Of.

We Commend And Support Lee County Commissioners For Their Willingness To Set Aside \$650,000 To Fight To Deter Mosaic From Future Damage To Charlotte Harbour's Waters.

Thank You.

Chairman Judah: Thank You.

If You Wouldn't Mind Filling Out A Card.

Comm. Hall: Just Give It To Don.

Chairman Judah: Anyone Else Wish To Comment? Jim, I'll Take It.

Excuse Me.

Thank You Very Much.

Good Morning.

Good Morning, Commissioners.

My Name Is Kathleen Roar, A Resident Of Gasparilla Island In Lee County.

Among My Volunteer Activities Are Membership On The Chnep Advisory Committee Which Is Created Under The Clean Water Act And Serves The Charlotte Harbour Water Shed And Lemon Bay Conservancy Advocates Responsibility In Charlotte, Lee And Sarasota Counties.

The Organizations Have Asked That The Army Corps Of Engineers Create An Environmental Study Before Any New Strip Mining Permits.

The Position Of The Entities Has Not Changed.

I Stand Before You As A Private Citizen And Taxpayer In Lee County.

I Stand Here Alone Because The Addition Of This Item To The Agenda A Few Days Ago Forestalled The Ability Of My Community To Rally Forces To Be Here Today.

I Stand Before You Because Of The Critical Decision You Will Make.

At Issue Is Whether To Spend \$650,000 Of Taxpayer Dollars To Engage The Services Of An Attorney To Challenge The Issuance Of A Permit To Mosaic L.L.C.

That Permit Will Open Flood Gates To Strip Mining That Will Start With 10,855 Acres In Hardy County.

Yes, Commissioners, You Should Spend Taxpayer Dollars For This Challenge.

The Attorney Has Unique Qualifications On The Issue And Demonstrated Competence In Gaining Critical Concessions To Control Strip Mining That Will Protect Residents.

He Will Remain Here When Mosaic Walks Away In 30 Years.

We Are Assured They Will Leave The Landscape Better Than It Was But Can Provide No Sound Examples To Promote Their Claim.

In A \$2 Billion Budget, \$650,000 Is Lost In The Rounding Off.

The Potential For Degrading The Peace And The Disruption Of The Economy Would Bring A Cost Far In Excess Of The Litigation.

Remember Piny Point? Today's Economic Woes Often -- Excuse Me -- Stem Directly From Poor Oversight Of Free Enterprise.

We Have Let The Fox In The Henhouse And We, The Hens, Are Paying Dearly.

This Is An Investment, Not An Expense.

The Mine Permit Is The Most Ominous Of All.

Why? Strip Mining Will Take Place Within A Few Miles Of The Peace, Bringing With It Direct Negative Impacts On Charlotte Harbour.

Scientifically Proven Effects Of Strip Mining Are Diminished Fresh Water Quality, Quantity And Timing Of Flow.

The Disruptions Lead To Red Tide, Impaired Fish Nurseries And Reduced Harvest Of Bivalves And Shell Fish.

Also Disrupted Will Be The \$2 Billion Revenue Flow To Lee County From The Harbor.

Tourism, Sport And Commercial Fishing And The Quality Of Life Expected By Residents Of The Barrier Islands And Coastal Areas Are All At Stake.

November Is A Very Important Month.

A Few Short Weeks After Elections, I Will Send You A Very Big Check.

With The Expectation You Will Use My Tax Dollars Wisely.

That Check Along With Tax Dollars From My Neighbors From Boca Grande, Sanibel, Captiva, Burnt Store And Everyone Else In The County Are Important To The Budget Of Lee County.

For Myself And Many Neighbors, I Hereby Authorize You To Spend My Tax Dollars To Go Forward With This Litigation.

In Fact, I Will Dare To Instruct You To Go Forward With This Litigation.

With Deep Respect, I Thank You And May Wisdom Guide Your Decision Today.

Chairman Judah: Thank You Very Much, Ma'am.

The Next Speaker, Please? Good Morning.

Good Morning.

Chairman Judah: I'd Be Happy To Distribute Them.

Could I Ask That You Give One Copy To Minutes, Please? The Lady On Your Left? I'll Distribute It.

Thank You.

Good Morning, Commissioners, Attorney And Staff.

My Name Is Sue Reske, I'm Here As Chairperson Of The Greater Charlotte Harbour Group Of The Sierra Club, As A Citizen And To Speak For The Strip Mine Expansion.

You Have Heard In Epa Letters Just Released That, Given The High Quality And Value Of Wetlands Involved And The Size Of The Proposed Wet Lands Impacts Epa Believes That The Applicant Could Further Avoid Minimize The 511.3 Acres Of Water Of The U.S., Proposed To Be Impact Bid This Project.

It Goes On To Say, Quote, The Applicant Has Not Adequately Addressed The Secondary And Cumulative Impacts Associated With The Project And, Quote, We Recommend Denial Of The Project.

That's From The Epa, Just Released This Year.

Came Out Last Year.

It Was Just Released By The Army Corps.

We Agree -- And I Have Documentation I Have Given You As To Why -- First The Phosphorous Mining Spill Into The Peace River.

Second All The Spills Documented Since 1967, Nine Happened Since 1993 And Six Of Those Came From Either Inc Or Cargo Operations Which Are The Parents Of Mosaic.

This Is Not An Old Problem.

This Is A Problem We Need To Be Vigilant About.

Next, You Will Have In Your Package The Top 100 Florida Polluters List Identified By The Epa In 2006.

Mosaic Fertilizer Takes Numbers 19, 20, 34 And 41 At Four Different Plans In Poke And Hardy Counties.

Then You Have In Your Pact Mosaic's Own 2007 Annual Report Which Notes The Notices Of Violations They Have Received By The Epa Related To The Handling Of Hazardous Waste In Four Florida Facilities.

Next You Have In Your Packet From The Florida Institute Of Phosphate Research Documentation That Hard Shell Turtles Had Seven Times As Much Radium As Those From Unmineralized Habitats.

Lastly, I Have Included The Report Prepared For The Epa In 2001 And It Documents, Quote, Elevated Levels Of Radio Chemical And Inorganic Constituents In Soil Samples Collected From Several Former Tailings Areas, Clay Settling Ponds And The Former

Processing Operations Area.

That's Out Of Auburn Dale, Florida.

In Fact, Right There -- Elevated Levels Of 15 Radio Nuclides Were Found With Radium 26 At 20 Times The Cancer Screening Values.

In Fact, In The Document You Have There -- I'm Almost Finished -- The Epa Listed 21 Phosphate Mining Or Chemical Sites As Super Fund Sites.

How Duds This Relate? The Mining Companies Are Mining The Same Basic Way They Have Been Strip Mining For Generations.

They Dredge Into The Heavy Layer Of Toxic Metals And Leave The Toxicity On The Surface.

In Fact, Manatee County Has Said Much Of The Mined Lands Cannot Be Released Due To The Radiation Concerns There.

So In Closing, I Ask You To Approve This Motion.

Thank You.

And Protect Our Multi Billion Dollar Gem, Charlotte Harbor.

Chairman Judah: Thank You, Ma'am.

Anyone Else Wish To Comment? O.K.

I'm Going Back To The Board.

Because Of The Severity Of The Situation, I'm Going To Ask That This Issue Be Discussed At This Point In Time.

This Is Walk-On Item Number One.

We're Going To Lose One Member Of The Board In 20 Minutes.

At This Point I Would Like To Ask David Owen To Step Forward And Give Us A Brief Presentation As To Why This Matter Is Before Us.

David If You Would Also Please Elaborate On The Reason We're In This Particular Situation Is A Result Of Last-Minute Legislation That Occurred Last Session With Mosaic Mining Receiving A Favorable Decision By The Legislature Through Their Own Influence Of A Particular Bill That Really Creates Inequity.

I'm Going To Have You Explain With Regard To The Expedited Permitting And The Parties That Requested It.

Good Morning.

For Walk-On Number One Your Blue Sheet Is A Request For The Board To Provide Direction With Respect To The Authorizations To Continue With The Delapart Law Firm To Continue With The Prosecution Of Lee County Versus Mosaic Fertilizer Case Related To The South Mead Mine.

Let Me Lay A Predicate Per The Request Of The Chairman.

The Last Legislative Session, There Was A Bill Introduced Which Was Attached To The Dep Reauthorization Bill Which Comes Up Before The Legislature Every Five Or Ten Years.

I Can't Recall Which.

In That Bill Though Was A Proposed Change To A State Law Related To The Issuance And The Challenges To Phosphate Mining Permits.

The Original Law Read Could Be Held On A Permit Challenge If All Three Parties To The Challenge Would Agree To It.

That Was The Petitioner, The Party Seeking The Permit, The Dep And The Challenging Entity -- Whether It Was An Individual, A Government Or An Environmentally Oriented Group.

The Change To The Bill Was Such That Now Only One Party That Needs To Request The Expedited Hearing And It Can Be Granted By The Dep And Doa For Expediting The Hearing.

The Expedited Hearing Is On A 90-Day Track.

Typically The Hearings In The Past Have For Several Months, A Year, Year And A Half With All Of The Parties Marshaling Their Information, The Science, The Scientists Having A Hearing In Some Cases That Took A Month Or Two To Be Heard Much The Same Way As A Large Federal Case.

With The Reduction In Time, In Some Instances This Can Put One Or Two Parties At A Disadvantage.

The Petitioner Has The Advantage Because The Petitioner Has Put The Permits Together, Has All Their Science Available, Has Marshalled All Of Their Information And Presented That In The Permit Application.

Once The Permit Application Has Been Advertised For Being Approved By The Dep, That's Typically When The World Gets To See That Permit And What The Terms And Conditions Are.

With This Change In The Law, That Then Gives The Governmental Entities, The Environmental Entities Or Individuals A Very Short Period Of Time To Go Through An Analysis Of The Terms And Conditions Of The Permit And Then Challenge It Within The 90-Day Basis.

That's The Predicate That You Were Looking For, Mr. Chairman.

That's What's On The Table Here.

This Is Partly Why There Is A Walk-On And Why There Is A Need To Go Forward.

Mr. Delapart Has Been Diligent On Our Behalf And Has Been Working To Keep The Case Moving, Waiting For The Board's Final Decision As To Whether Or Not You Want To Continue To Prosecute The Case.

That's Why We're Here Before You Today.

What I'm Asking For This Morning -- And I Have In Your Blue Sheet The Estimate Of The Dollars Needed To Fund The Delapart Law Firm And The Experts Necessary For The Case For A Three-Week Hearing In November With One Spare Week Being Set Aside For The First Week Of December In The Event We Cannot Conclude The Proceedings In November.

The Hearing Is To Begin November 3 Which Is Just Some 50 Days From Now.

This Will Give Us The Amount Of Time We Need To Get Together The Discovery, The Arguments Of Counsel, Arguments Of Experts And Then Present The Case In November.

This Is A Very Short Period Of Time For A Case Of This Technical Magnitude.

A Request Is Being Made To Continue With This Matter.

We Have Presented You With Three Memoranda Here Fairly Recently From Ms. Henderson.

I'll Have Her Go Through The Details If You Want To Hear Them.

They Basically Outline What The Issues Are In This Particular Permit.

It's Somewhat Older In Its Form And Did You Want Include The Altman And Ona Mines And When They Were Litigated.

The Bill Contained The Expedited Proceeding Rider In It Back At The End Of June.

Shortly After The County Through Mr. Delapart's Office Filed Its Petition On That Same Day The Mosaic Corporation Requested For An Expedited Hearing.

That Was August 8.

So That Set The Tone For The Proceedings In This Matter.

The Petition Was Close To Some 90 Pages Long And Outlines The Issues That The County Has Concerns With As The Result Of The Altman And Ona Litigations And The Cumulative Impact Study That Was Issued By The Dep In January Of Last Year Which Was Not Incorporated Into The Ona Proceedings And Is Part Of What The Litigation Currently Is With The Ona Mine.

We'll Be Going To The Second Dca To Hear It In The Second Week Of October.

I Think It's Also Axiomatic To Note None Of The Terms And Conditions That Were Set Out Or Were Developed As The Part Of The Compact Proceedings Are In The South Fort Meade Mine Either.

I'll Leave It To Your Pleasure At This Point, Mr. Chairman, If You're Going To Get Into The Technical Aspects Of This.

I'll Have Ms. Henderson Go Through Them With You.

The Only Other Piece Of Information That's Come To Us In The Last Few Days Is That Sarasota County Has Agreed To Intervene In This Case Should Lee County Go Forward.

They Had Directed Their County Attorney And His Attorneys To Prepare Their Motion For Intervention.

It Is Prepared.

I Expect Them To File It Shortly After Whatever Board Action Today If The Board's Action Is Favorable.

Comm. Hall: Mr. Chairman? Chairman Judah: Yes.

Comm. Hall: I'm Going To Make A Motion To Approve, But First I Want To Say The County Has Spent Billions Of Dollars On Water Quality Monitoring.

One Of The Reasons I Have To Leave Early Is To Secure Our Chief's Report For The C-43 And The Water Quality Component For Federal Funding Which Is Over Half A Billion Dollars.

These Are Partnerships And It's Critically Important That We Don't Lose Our Standing.

These Are Tough Budget Times And This Is Where It Comes Down To Prioritization.

All The Things People Have Come Forward And Asked For Won't Mean Anything If We Don't Have An Opportunity To Have Quality Of Life Here.

I Think This Board, More So Than Any Other Board I Have Seen Recognizes That Economic Diversity And Economic Stimulus Is First Based On Our Quality Of Life And The Idea That People Can Go Onto Our Rivers, Bays, The Gulf Of Mexico And See What You Can't See Anywhere Else In The World.

We Need To Protect That.

Chairman Judah: Motion By Commissioner Hall.

Seconded By Commissioner Janes.

Discussion? Comm. Mann: What Can We Anticipate The Next Step To Be And How Much Will That Cost? Possible Outcomes Could Be A Settlement By Adding Additional Conditions To The Permit As It's Currently Structured.

Could Be A Full Hearing On The Merits Of The Case With The Administrative Law Judge Ruling For The Counties Or Additional Protections To Streams, Wetlands And Properties That Will Be Destroyed By Mining Or The Administrative Law Judge Could Rule For Mosaic And Say The Terms And Conditions And Application Of The Law By The Dep Is Correct, Exact And Therefore The Permit Should Be Issued.

Those Are Your Three Basic Outcomes That Could Come From That.

Comm. Mann: Costing Upwards Of \$650,000, What Would The Full Hearing -- Is That What We're Requesting? This Is What You're Requesting.

Comm. Mann: The Full Hearing Costs More Than 650? Comm. Hall: No.

No.

What You Have Before You Today -- Comm. Mann: Pays For The Full Hearing? Unless The Parties Get Together And Solve The Matter Prior To November 3.

This Estimate, Commissioner Mann -- Comm. Mann: So They Either Win Or We Get Some Additional Concessions And Then It Is Over? It May Be Over At That Point.

Comm. Mann: What Would Keep It Going.

If We Lost, What Options Are Available? Either Side Can Appeal If They Lose, As Has Been Done In The Ona Case, On Several Occasions Over Several Matters.

Some We Have Been Successful And Some We're Still Waiting On.

That Would Cost Additional Dollars.

Commissioner Mann, Let Me Explain To You Though -- What You're Looking At Here Is The Trial Aspect Of The Case, The Most Expensive Part Of The Proceedings.

This Is Where The Case Has To Be Heard With All Witnesses Present, Experts, The Testimony, Evidence.

This Is The Big Bite.

This Is The Big Chunk.

When You Get Into An Appellate Phase There Are No More Expenses With Regard To Experts.

Most Of Your Presentation Is All Paperwork By The Attorneys And We Have Worked With Mr. Delapart With Those Costs Being Negligible.

Comm. Mann: This Is A Big Bite, You're Telling Me? Yes, Sir.

This Is The Trial Expense.

Comm. Mann: Thank You.

Comm. Hall: Mr. Chairman? Chairman Judah: Commissioner Hall.

Comm. Hall: We Have A Workshop To Talk About Core Services And Budget.

I Really Need For David To Be Prepared On The 22nd To Talk About Other Issues We'll Deal With Throughout The Legislative Session.

I Would Like To Go Forward With A Budget That's Not Dipping Into Reserves Throughout The Year.

I Want David To Be Prepared For Budget Going Forward Into The 2008-2009 Schedule And What He Anticipates Isn't In The Budget We May Have To Look At.

So When We Adopt A Budget It's Not One We Have To Go Back And Forth And Dip.

At The End Of The Year We Find It Was A Big Dip 20 Times.

That's A Very Important Discussion We Need To Have With David.

Chairman Judah: Further Discussion? Comm. Bigelow: Yes.

David, Can You Give Me More About What Sarasota Is Willing To Do? Are They Going To Be A Partner And We're The Payor? That's My Understanding At This Point In Time.

Sarasota County Has An In-House Person In The County Attorney's Office And They Have Coat-Tailed Charlotte County On Our Efforts On The Ona Mine.

They Bring Expertise To The Table.

They Bring Another Voice From Another County.

But I Think It's Unlikely At This Point That They Will Be Providing Funds Now.

I Can't Say Positively That's Ruled Out.

My Understanding From The County Attorney's Office In Sarasota Was That They Were Going To Prepare The Pleadings And File Them Intervening In The Case Should Lee County Go Forward.

That's The Only Instruction They Got At That Point In Time.

Comm. Bigelow: O.K.

And Where Is This Coming From -- The 650? It Says Requires Board Funding For Action In The Amount Of \$650,000.

Chairman Judah: General Fund Reserves.

Comm. Bigelow: O.K.

So We'll Have To See A Budget Amendment Following This? I Guess That's For Don Or Dinah.

Yes? Comm. Hall: This Is The Amendment.

If We Approve It.

Chairman Judah: It Is? It Doesn't Specify -- O.K.

Typically -- I'm Asking For Authorization From The Board.

If You Authorize The Funds That Will Be Worked Out With Administration.

Comm. Bigelow: So We're Signing Off.

One Other Question Or Comment, I Suppose.

Commissioner Mann, I Think I'm With You In The Sense That This Is A First Step And The Rest Are Going To Come Perhaps With A Cost Attached And There Is An Unknown There.

I'm Wary Of That, Although I'm Supportive Of This Effort.

Looks Like It's Not Us.

And The Consequences Are Far Too Potentially Grave For Us.

It's Like We Have No Choice.

We're In A Corner And We're Probably Going To Be The One To Suffer The Most, I Think.

It All Goes Downhill And It's In The Charlotte Harbor And Most Of That's In Our County.

I Do Though Want To Try To Send A Message To Sarasota That, Hey, You Know, We Can Only Go So Far Carrying You.

We'd Really Like To Know We Could Get Some Financial Cooperation, Too.

We're Going To Take The First Step And It's Costly And A Big Bite And We're Willing To Do It, But We're Not Just Willing To Carry On The Fight Alone.

Chairman Judah: I'll Pass On The Message.

If I Recall, Sarasota Provided Funding In The Ona Case.

I'm Just Saying As Of Today They Hadn't Put Any Funding On The Table When They Authorized Their Attorneys To Intervene.

Comm. Bigelow: But This Is A New Battle.

Yes, Sir.

New Situation.

Comm. Bigelow: Right.

O.K.

Thank You, David.

Thank You, Susan, Too.

Oh, She's Left.

There She Is.

Chairman Judah: You're Correct, Commissioner Bigelow.

We Have A Lot And A Debt Of Gratitude For David And Susan Bringing This Through At The Time They Did So We Can Pursue The Administrative Hearing With Regards To The Intent To Issue By Dep.

Further Discussion? Comm. Mann: One Last.

Chairman Judah: Commissioner Mann.

Comm. Mann: I Just Want The Adding Machine Tape.

I Have A Sense That We're Close To \$4 Million As Lee County's Commitment On This.

Far More Than The Other Two Counties Combined.

No, Sir.

I Believe We're Short Of Two.

Chairman Judah: We'll Just Have The Tape Running.

We Can Provide That -- Comm. Mann: We Were Talking About This Two Years Ago And We Were Past Two, Approaching Three.

Now It's Another 650.

The Point Is Lee County Has Come To The Plate And Hit Harder Than Anyone Else.

Chairman Judah: Charlotte County Contributed Some \$12 Million.

Comm. Hall: A Full Spreadsheet.

Chairman Judah: We Are A Strong Partner In This Effort.

Good Point Though.

Comm. Bigelow: I Asked A Question In Private With David And Susan.

Already Our Contribution Is About \$1.3 Million And This Is Another \$650,000.

So Approaching About Two, I Think.

That's My Take On It.

I Would Under Line In Bold Your Comment That This Is Costly And We Need To Be Wary, I Think.

Chairman Judah: We Are Definitely Doing Our Part.

That's The Point You're Trying To Make.

Absolutely Correct.

We Also Recognize This Is Helping To Save Billions In Terms Of The Environment, The Economy.

So It's A Great Investment.

I'm Proud Of The Board.

Further Discussion? Objection? Hearing No Objections, The Motion Passes. Travel Safely Commissioner Hall.

Appreciate Your Good Work.

Bring That Money Back.

Comm. Hall: And The Water Quality.

[Applause] Chairman Judah: We'll Move Onto The Consent Agenda.

Items To Be Pulled.

Commissioner Bigelow? Comm. Bigelow: Yes.

I Have 1-A, 2-B, C And D, And I'll Take Them Together If You Don't Mind.

3-A, 4-C, And 9-A.

Do You Need Me To Repeat It? Chairman Judah: I Have It All.

Thank You.

Commissioner Mann? Comm. Mann: 8-A, 13-A.

Chairman Judah: Commissioner Janes? Comm. Janes: None, Mr. Chairman.

Chairman Judah: Let Me Make Sure.

The Item With Regards To The Public Safety Building On Pine Ridge, I'm Trying To Recall Which Item It Is.

Is That One Requested To Be Pulled? That's 4-A And B.

Chairman Judah: Let Me Go Ahead And Pull Those For The Purposes Of Discussion.

The Chair Will Entertain A Motion Of The Balance Of The Agenda -- Anything That's Left.

Comm. Janes: So Moved.

Comm. Mann: Second.

Chairman Judah: Hearing No Objections, The Motion Passes. Commissioner Bigelow.

Item 1-A.

Comm. Bigelow: O.K.

Mr. Chairman, If You'd Like I Would Defer Since We Have Some Able-Bodied Folks Here Who May Want To Take 4-A And B First.

Chairman Judah: Very Good.

Let Me Have A Motion To Move On 4-A And B To Move The Floor.

Comm. Mann: Moved.

Comm. Janes: Second.

Chairman Judah: I Want To Thank The Fire District, Sheriff, Our Own Public Works Department, E.M.S.

All Working Together Collaboratively To Move Forward With The Safety Building At Pine Ridge Road.

This Is The Complex I Believe Will Provide Proficiency And Effectiveness That The County And The Taxpayers Demand.

I Thank The Parties For Getting It Together And Collaborating The Way We Have To Provide This.

Unless There Are Other Issues.

Hearing No Objections, The Motion Passes. Thank You Very Much.

O.K., Commissioner Bigelow.

Thank You So Much.

1-A.

Comm. Bigelow: Yes.

Thanks For Coming.

This Is A Resolution For Corporate Headquarters -- I'm Sorry.

Industrial Development Authority Request.

Ironically This Looks Like A Budget Decision We Will Be Making Setting Aside \$25 Million To Diversify Lee County's Economy.

That's A Good Thing.

Or A Good Effort, Good Goal.

I'm Wondering, Don, Perhaps You Can Tell Me.

This Is \$1.5 Million Allocated From General Fund Reserves For Implementation Of Lee County's Business Incentive Program.

Does This Contemplate That We'll Make The \$25 Million Set Aside Decision? Chairman Judah: It's Separate And Apart From That.

Comm. Bigelow: This Is A Previous Set Aside? Chairman Judah: Yeah.

Comm. Bigelow: This Is News To Me.

How Much Is Set Aside? 1.5.

Comm. Bigelow: That's All That -- [Indistinct] Comm. Bigelow: How Much Is Already Set

Aside? \$1.5 Million Is Set Aside For The County -- Comm. Bigelow: So This Is 100% Of What's Set Aside -- This Decision? No, No.

Comm. Bigelow: What's The Total Set Aside This Will Come From? Chairman Judah: We Have The Budget Director.

Let's Get Dinah Up Here.

Comm. Bigelow: Sorry If I Wasn't Clear.

Good Morning.

Dinah Lewis Administrative Services.

The Set Aside Anyway Is \$1.5 Million.

This Particular Allocation Is \$14,000.

Comm. Bigelow: So \$1.5 Million Is Currently Set Aside And This Says It Is Allocated For Implementation Of Lee County's Business Incentive Program Including Participation In The Local Match For State Of Florida Qualified Target Tax Refund Program.

So This Is Only 20% Of The \$1.5 Million Set Aside So The Total Is \$1.5 Million? The 20% Is The Local Match Over Four Years.

We Would Match 20% And The Local Match Under This Particular Thing Will Not Exceed 14,400 Over Four Years.

This Doesn't Use The Entire \$1.5 Million That's Set Aside.

Comm. Bigelow: So On The 22nd In The Workshop To Discuss The \$25 Million I Can Hold In My Head We Have \$1.5 Set Aside For Business Incentives? The \$1.5 Million Is For A Different Kind Of Economic Incentive Than The \$25 Million Envisions, But Certainly There Is Discussion About The Overall Effort We Can Have On The 22nd.

Comm. Bigelow: I Look Forward To Hearing About What We Have Set Aside And What We'll Do.

I'll Move The Item.

Chairman Judah: Motion To Move 1-A.

Second? Comm. Mann: Second.

Chairman Judah: Hearing No Objections, The Motion Passes. Item 2-B.

Comm. Bigelow: Mr. Chairman.

If It Serves The Pleasure I Would Like To Take B, C, D Together.

They Are All Related.

Chairman Judah: O.K.

Comm. Bigelow: I'll Move The Item.

Comm. Mann: Second.

Chairman Judah: Moved And Seconded.

Commissioner Bigelow? Comm. Bigelow: This Is To Authorize The Expenditure Of Funds For Insurance, Casualty And Property.

Let Me Just Say 2-B Is Apparently The Casualty And Loss Insurance For The Facilities.

Cape Coral Operations, Mid-Point Operations, Sanibel, Right? Upon Approval Of The Fiscal Year Budget, Funding Will Be Available In -- And It Gives Three Account Numbers.

Are Those -- Maybe You Could Tell Me What The Different Funds Are And Why It's Separated Out Like That.

Is That From Three Different Facilities? The First Item, 2-B Is For The Excess Insurance On Toll Bridges.

Those Accounts Are The Three Bridges Individually.

Comm. Bigelow: Cape Coral, Midpoint And Sanibel In That Order? I'm Curious Why We're Taking 44% From One, 38% From Another And 18% From The Third.

That's The Insurance Premium For Each Of The Bridges.

Comm. Bigelow: So Of \$1.3 Million Here For Casualty And Property Insurance, We Separate It Out Into These Three Different Toll Facilities And Those Different Percentages? That's Correct.

Comm. Bigelow: O.K.

Thank You.

This Is A \$6 Million Total Property Casualty Insurance.

How Do We -- Can You Give Me A Little Run-Through As To How It Is We're Being Sure This Is Competitive Or Matched Up With Other Offerings? Yes.

The County Uses An Insurance Broker -- Brown & Brown.

They Go To The Insurance Markets And Solicit And Negotiate The Rates On Our Behalf With Various Insurance Companies.

I'm Pleased To Tell You Our Broker Representative Is Here Today If You Would Like To Ask Furs Questions.

These Show Significant Reductions From Last Year's Premiums.

We Think It's A Collaborative Effort To Make Those Reductions Happen.

Comm. Bigelow: O.K.

So Brown & Brown Brings You The Policies And We're Looking At Them Not Just From A Policy Betting View But Also At The Prices And Together, Then You're Making Decisions As To -- With Brown & Brown -- As To What To Bring Forward And In That Process There Is An Apples To Apples, Price To Price Comparison.

There Is.

Chairman Judah: Hearing No Objections, The Motion Passes. Item 3-A, Commissioner Bigelow? Comm. Bigelow: Yeah.

Is Mary Gibbs In The House? Chairman Judah: Jim Mud Is Here.

Comm. Bigelow: Maybe I Can Send A Message Through Jim.

Isn't It Interesting -- Different -- Interesting For Me, And Different From What I Have Seen Before That The Competitive Negotiation Committee Selected The Fort Myers Land Development Code Contract Contractor.

The Selection Committee Was Made Up Of Pete Winton, Jim Mud And Gardener, Of The Planning Committee.

That's Correct.

Comm. Bigelow: What I Like About The Make-Up Of The Selection Committee, Members Of The Board, Is That John Gardener Isn't Employed By Lee County And We Get Citizen Involvement.

Jim Mud Doesn't Answer Directly To Pete Winton.

There Are Several Managers, Layers Between The County Manager And Mr. Mud.

I Like The Separation If I Can Call It That, Of Positions So That There's Less Likely To Be What I Call Coffee Talk As To Which Contracted Tor Or Director May Have Preference To.

There Is Less Possibility For Influence That Would Decide The Contractor Or The Ranking Of The Contractors With A Preconceived Notion As To Which One The Boss Likes.

Hopefully I Have Explained That.

I'm Going To Support This And Give That Nod Of Approval For A Difference Of -- A Change In The Selection Committee.

Chairman Judah: Motion By Commissioner Bigelow.

Seconded By Commissioner Mann.

Hearing No Objections, The Motion Passes. Commissioner Bigelow, 4-C.

Comm. Bigelow: Jim, Will You Tell Mary I Like The Way The Committee Was Made Up? Thanks.

This Is A Change Order For And Maybe The Last Phase Six Tower With Justice Center Tower Construction.

The Blue Sheet Here Shows A Long List Of Change Orders To The Project.

As I Review It And Look At The Conception Of The Project It Looked Like It Came To The Board As A \$3 Million Request For Foundation And Utility Package And That At Some Point, I Guess, Shortly After That It Became Then A Ten-Story And Garage Addition For \$45 Million.

Together Let's Call It \$48 Million.

It May Have Seemed At The Place And Time The Board Was Looking At The Tower It Was A \$48 Million Facility We Would Be Building But It's Turned Out To Be A \$56.2 Million Project.

I'm Not Opposed To The Project.

It's Desperately Needed And It's Looking Nice And I'm Hearing Wonderful Things From The Potential Future Tenants.

I Would Like To Point Out For The Benefit Of The Board That The \$48 Million Which Is The Initial Apparent Cost Became \$52.6, A 10% Overrun.

I'm Concerned As To Whether Or Not The Change Order Approach For Contracting Here Is In Our Financial Best Interest And If We Could Have Perhaps Seen This In A Different Format In The Beginning Where We Could Have A Better Understanding Of What The Cost Is Up Front Through A Competitive Bid Contract Process, I Think Would Certainly Give Me Comfort That We're Trying To Watch The Dollars Os Closely As We Can.

Let Me Ask A Question, Jim.

Is This The Best You Can Tell At This Point The End Of The Change Orders We'll See Or Putting It Another Way, Is This Tower Just About Done That There Is Probably No More Surprises Like Another Change Order? Most Of The Change Orders Were Anticipated.

We Do Work That Overlaps.

A Lot Of Things Happen Concurrently.

The Reason The Site Package Was Started Was To Start Work Early.

That Happens On A Lot Of Projects.

Site Work Starts Early So You Can Shorten The Conception Time Which Saves Us Money.

There May Be One More That Is To Do With The Plaza.

We Have A Certain Dollar Amount For The Plaza But We Haven't Completed The Design Yet.

The Board Has Made A Commitment In The Past To Do Some Mentioning Of Names At The Plaza.

Some Of That Has To Occur Yet.

The Building Is Substantially Complete And I Suspect It's Winding Down.

O.K. So We'll Probably See Another One Associated With The Urban Plaza In Front.

So This \$52.6 Is Not Yet A Final Number.

You Know, I -- I Guess I'm Going -- I Think I'm Not Going To Support It Because I Think I Want To Be Consistent In My Opposition To This Approach.

Hopefully -- I Hope I Have Explained It Well Enough To Give You Scenes Of What Makes Me Uncomfortable About The Approach.

That's All.

Chairman Judah: Motion By Commissioner Mann To Move Forward.

Seconded By Commissioner Janes.

Discussion? Objection? Hearing No Objections, The Motion Passes. Commissioner Bigelow Dissenting.

Comm. Bigelow: Thank You.

This Is 9-A.

This Is Not One I Will Support.

Comm. Janes: I'll Move It.

Chairman Judah: Discussion? Comm. Bigelow: Yes.

Just To Say We Have The Public Works Director And Then We Have A Subordinate To Him,

Rolen And I Would Contrast This Selection Committee To The One Previous Where I Think There Is Too Much Boss To Subordinate Relationship.

It Gives Me A Little Discomfort.

Maybe Great Discomfort.

We Don't Have Any Citizen Involvement In It.

I'd Prefer That.

Chairman Judah: Further Discussion? Objection? Motion Passes 3-1.

Commissioner Bigelow Dissenting.

O.K.

Commissioner Mann, 8-A? Comm. Mann: That's Walker.

Mr. Chairman This Is The Arch At San Carlos That Was Run Over And There Was Insurance Proceeds That Did Not Cover The Cost To Rebuild -- Chairman Judah: Was That Your Bucket Truck That Hit That? Comm. Mann: Not Mine.

My Brand New Bucket Truck Would Have Slipped Right Under That.

Comm. Janes: Eight Years Old Is Brand New? Comm. Mann: We're Not Recovering The Money From The Mstu To Fix It -- What's Going On Here? Commissioner, Libbey Walk With Public Resources.

We Did A Loan To Pay For The Arches To Be Reconstructed With The Support Of The Community As Well As The Board.

We Only Obtained About \$50,000 In Insurance Proceeds.

The Community Was Aware That With What We Were Not Able To Collect From The Insurance That They Would Pay For.

We Are Paying Back Annually.

We Had Hoped To Pay It Back At This Point In Time But Due To Current Economic Conditions We Need To Extend It Out.

Comm. Mann: How Much Are They Paying Back Each Year? Isn't There Some Amount That Citizens Are Paying Or It's Assessed Only On The San Carlos Residents? The San Carlos Park Residents Are Paying Back With The Excess Revenues We're Able To Collect Given The Millage We're Able To Tax Them With.

So We're Paying For Their Street Lighting And Landscaping Efforts There And With The Residual Moneys Left In The Budget We're Paying Back A Portion Each Year.

We Have Approximately \$140,000 Still Left To Pay Back.

We Would Hope To Pay The Bulk Of It This Year And The Remaining Amounts, I Don't Know The Exact Numbers, Next Year.

Comm. Mann: By Two-Ten You Hope It Will Be Done? I Would Hope So.

Comm. Mann: So We Did Not Increase The Tax The Citizens Are Paying.

We're Paying This Back With Whatever Surplus Occurs Each Year? That's Correct.

Comm. Mann: I'll Move The Item.

Comm. Bigelow: I Have A Question.

Chairman Judah: I'll Second For The Purposes Of Discussion.

Commissioner Bigelow? Comm. Bigelow: You're Loaning Some Money To This San Carlos Park Mstu.

Coming From Fund 01400, What Is That Fund? The 10400 Is A Restricted Fund.

It's The Fund In Which One We Have Excess Dollars We Have Collected, Excess Penalties, Things Of That Nature.

It Goes Into That Fund.

With Those Moneys We Are Able To Support New Projects To The Small Inner Fund Loans And Things Of That Nature.

It's Restricted Strictly To The Msbu Projects.

Comm. Bigelow: How Much Is Roughly In There? Top Of My Head, I Would Say \$2 Million.

Many Of Those Dollars Are Committed To Projects That Are Ongoing Now That We're In The Works With To Provide That 20% Support.

We Also Use The Moneys For Hardship And Grants.

Comm. Bigelow: So This Is A Loan From The Excess Pool? That's Correct.

Comm. Bigelow: To Be Completely Paid With Interest? With Interest.

Comm. Bigelow: O.K.

Interesting.

O.K.

Thanks.

Chairman Judah: We Have A Motion And Second.

Under Discussion.

Any Further Discussion? Objection? Hearing No Objections, The Motion Passes.  
Commissioner Mann, 13-A? Comm. Mann: This Is My Bucket Trucks Of The Week.

Chairman Judah: O.K.

Comm. Mann: These Are The Scrapers That Clean Out Ditches.

What I Failed To See In The Blue Sheet Back-Up Is They're Asking For Three New Pieces Of Equipment, About A Quarter Million Each.

Are These Replacements Or Are These Additional Vehicles? Paul Wingard, Dot.

These Are Replacement Vehicles.

All Three Were Purchased In 1998-99.

They Are Replacements For Those Pieces Of Equipment.

Comm. Mann: I Mentioned This Last Week.

My Gratitude For Dot For Working With Natural Resources In Getting This Type Of Equipment Quickly Out To Fichter's Creek Where Within A Week After Fay Came Through They Cleaned Out A Ditch Quickly.

The Equipment We Have Is In Excellent Shape And Doing A Superb Job.

That Was Why I Wondered Why We Needed Three Replacement Vehicles.

I Would Normally Oppose These, But I See That The Price Is Going Up At The End Of This Month By \$23,000 Apiece Or Something Like That.

History Tells Me That Commissioner Bigelow Has Supported My Opposition To These.

That Would Bring Us To A 2-2 Standstill Today If That Were To Happen.

Then When Commissioner Hall Was Back We Would Pass It 3-2 But It Would Have Cost Us The \$23,000 Additional On Each Vehicle.

So With Great Reluctance, I Am Forced To Move The Approval Of This Item.

Chairman Judah: We'll Continue To Take Care Of Your Creeks.

Comm. Mann: You Bet You.

They'll Probably Send The Old One To My Place But They Still Work Fine.

Chairman Judah: We Have A Motion.

Do We Have A Second? Comm. Janes: Second.

Chairman Judah: Second By Commissioner Janes.

Discussion? Commissioner Bigelow? Comm. Bigelow: Where Do You Get The Savings?  
Comm. Mann: First Page, Bottom Of The Attachment.

A Difference Of Over \$32,000 After September 30, According To Their Specs.

Comm. Bigelow: It's Not Like Real Estate.

Not Going Down.

Comm. Mann: It Should Be.

This Is The Only Information I Have.

Comm. Bigelow: No More Questions.

Chairman Judah: Hearing No Objections, The Motion Passes. Thank You, Paul.

That Takes Care Of The Consent Agenda.

Now To The Administrative Agenda.

The First Item, 6-A Was Deferred Indefinitely.

Comm. Janes: Withdrawn Now.

Chairman Judah: 9-A.

Comm. Janes: Move The Item.

Chairman Judah: Do We Have A Second? Comm. Mann: I'll Second It, But I Want To Look At It.

Chairman Judah: Seconded By Commissioner Mann.

Do We Have Someone Overseeing The Item? John? Yes, Sir.

Chairman Judah: Just In Case There Are Questions.

Good Afternoon.

Assistant County Attorney.

This Is A New Administrative Code We're Bringing Forward To Supplement The Manatee Protection Code In Place.

It Will Provide Assistance To Folks Who Want To Take Advantage Of Some Of The Provisions In The Manatee Protection Plan.

It Will Lend Uniformity To The Types Of Documents Or Striments We Would Use.

I Have Justin McBride From Natural Resources With Me This Morning.

If You Have Questions About That And The Manatee Protection Plan He's Really Quite Good And Knows A Lot About This.

I'm Sure He Can Answer The Questions As Well.

I'm Here For Your Questions.

Chairman Judah: O.K.

Comm. Mann: My Question Would Be -- Does This Do It? Does This Adopt It Or Does It Set It For Hearing And People Come To Talk About It? It Looks Like It Does It.

This Does It.

This Is Administrative Code Only.

Comm. Mann: Can I Have The Bullet Points On What It Does? Let Me Have Justin Come Up.

Chairman Judah: We Can Get It In Writing Later, Right? Comm. Mann: No, No.

Chairman Judah: Oh, Sorry.

The Manatee Protection Plan Is Already Adopted.

Comm. Mann: With A Lot Of Grief, Blood, Sweat And Tears.

Yes, Sir.

Comm. Mann: How Much More Blood Will It Bring? Justin McBride, Natural Resources.

This Will Hopefully Ease Some Of That.

These Documents Allow Property Owners To Move Slips Around And Maintain Protection From Manatees.

It Just Allows People To Create Projects Within The Manatee Protection Plan That Are

Economically Viable.

It's Like Tdr -- Transfer Of Development Rights.

Same Thing.

Comm. Mann: This Is To Protect The Manatees But Gives Flexibility To The Owner There?  
Correct.

Comm. Mann: Don't Tell Me Anymore.

You've Confused Me.

Do You Understand That? Comm. Bigelow: If I Own A Dock -- I Need More.

I Own A Piece Of Property.

Under The Plan I'm Allowed 12 Slips.

To Build My Marina I Need To Build 25.

I Can Find A Similar Piece Of Property And Purchase The Rights To Those Slips, Put A  
Conservation Easement On The Property And Move Them To Mine And Build My 25-Slip  
Marina.

Comm. Bigelow: Sounds Like It Locks Down The Total Number Of Slips In The County And  
There Are No More Created.

The Manatee Protection Plan Actually Did That In Essence.

Comm. Bigelow: But Every Canal Frontage Lot In Cape Coral Has A Potential Slip, Right?  
Correct.

Comm. Bigelow: That Would Be Included.

This Happened Before We Got Here, Frank.

Comm. Mann: Yes.

Chairman Judah: We Have A Motion.

And A Second By Commissioner Bigelow.

Comm. Bigelow: Sure.

Chairman Judah: Further Discussion? Thank You.

Comm. Mann: Commissioner Janes Moved It And I Seconded It.

Chairman Judah: Thank Discussion? Objection? Hearing No Objections, The Motion Passes. Item 15-A? Motion By Commissioner Janes.

Comm. Mann: Second.

Chairman Judah: Discussion? Objection? Hearing No Objections, The Motion Passes. Item 15-B.

Comm. Janes: Move The Resolution Of Necessity.

Chairman Judah: Motion By Commissioner Janes.

Comm. Mann: I'll Second It But I Want Somebody To Talk About It.

Chairman Judah: I Think Jim Might.

Do We Have Anyone From Marine Resources? It Will Be John Turner.

Comm. Mann: There's So Much History To This Co-Op Project.

I Need To Know What This Little Addition Is All About.

Good Morning.

John Turner, County Attorney's Office.

It's My Understanding That This Acquisition Is For An Easement Across An Existing Driveway For This Project.

Mr. Chairman? Comm. Mann: What's It Going To Cost? I Don't Have -- Is Robert Clemens -  
- Chairman Judah: Jim, Do You Want To Respond? I Don't Have The Appraised Value.

I'm Not Sure What The Appraisal Came In.

This Is A Unique Situation Where Mr. Gulnak Owns Essentially Demeri Key If You're Familiar With The Parcel.

There Is A Causeway That Runs To There.

At The Foot Of The Causeway Where It Intersects With The County's Co-Op Property There Is A Thumb That People Must Travel Over In Order For Business To Be Conducted At The Co-Op.

Until This Year We Were Paying Him A Lease Every Year To Use That Property.

We Did A Five-Year Lease In The Beginning.

That Lease Is Up.

Mr. Gulnak, There Were Negotiations Between Him And The County Attorney's Office.

He Wanted To Escalate The Lease Amount And Had Other Provisions To Add To It.

County Attorney Office And We Decided To Condemn The Property.

Mr. Gulnak Will Still Have Access To His Property But We Will Not Have An Ongoing In Perpetuity Lease Payment That Would Have Been The Case Had We Not Condemned This Property.

Comm. Mann: Are We Condemning It By This Action Or Is This Setting Us Up To Do That? There's No Dollars.

How Much Are We Paying For A 50 By 20 Foot Strip? We Don't Have That Information.

We Need The Resolution Of Necessity First.

Comm. Mann: That's What I'm Asking.

It Will All Be Sorted Out When We Go To Court As To The Value.

Like Any Condemnation.

I Would Assume.

Comm. Mann: We Can Agree Before We Go To Court.

We'll Have That Figure Before We Go To Court.

Commissioner Mann, We Will Have A Good Faith Estimate Of Value Prior To Going To Court.

We Don't Have It At This Point.

We Are Just Here To Acquire The Authority For The County To Proceed In This Direction.

Comm. Mann: O.K.

When We Get Around To -- Are We At The Point Where He Can Charge Anything He Wants For Us Crossing This Little 50-Foot Strip? Chairman Judah: We're Trying To Preempt That.

Comm. Mann: We Have Had The Land For Several Years Now.

We're Paying Him X Dollars A Year.

I'd Like To Know What We're Paying And What He's Asking To Go To And What We'll Be Asked To Pay For The Thing So I Get A Sense Of Whether We Ought To Be Negotiating With Him As Opposed To Buying It.

I Don't Have Numbers Here To Make The Commitment.

I Don't Know What We're Paying, What He's Asking Or What We Have To Buy It For.  
We'll Get The Numbers In There For You.

We Can Give You The Lease Payments, But As Far As Down The Road, That Type Of Information, We'll Get It To You When We Have It.

Comm. Mann: O.K.

We Need To Know More About This Before It's Concluded.

I'm Sure We'll Have All That.

Yes, Sir.

Comm. Mann: Did We Move And Second This? Chairman Judah: Evidently Not.

If You Would Like To Move It.

Comm. Mann: I'll Move It.

Comm. Janes: Second.

Comm. Mann: With A Request For A Visit Later.

Chairman Judah: I Don't Think We Moved It, Did We? Motion By Commissioner Mann And Seconded By Commissioner Janes.

Hearing No Objections, The Motion Passes. O.K.

We Will Now Go To The Other Walk-On.

Do We Have A Public Hearing? I Don't Believe So.

We'll Go To The Walk-On Item Number Two.

Comm. Mann: I Forgot What It Was.

I'll Move That.

Chairman Judah: Motion By Commissioner Mann.

Second? I'll Second For Purposes Of Discussion.

Any Further Discussion? Objection? Hearing No Objections, The Motion Passes. Onto Commissioner Items.

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

Comm. Mann: No.

Comm. Janes: I Sent You All An E-Mail Indicating That I Would Like To Discuss At This Session Today To Ask David Owen, Our County Attorney With Karen Haws And Anne Arnell To Draft A Letter From The Commissioners To The Agency Or Agencies To Investigate Some Allegations Into Mr. Snell's Comments About Manta Christian And Their Tax Exempt Status.

I Believe It Indicates To Them That We Have Had Concerns About The Possibility Of Perhaps Violating Their Tax-Deferred Status.

I Just Want To Get Your Permission To Help Draft A Letter From The Chair To The Agencies.

Chairman Judah: Motion By Commissioner Janes.

Comm. Mann: I'll Second.

Chairman Judah: Discussion? Comm. Mann: I Missed This.

Whatever -- Was This In The Paper Or -- Comm. Janes: No.

I Sent It By E-Mail To Each Of You.

Comm. Mann: I'm Sorry.

Comm. Janes: You Didn't Read Your E-Mails.

It's In Your In Basket.

Comm. Mann: How Was It Triggered? Comm. Janes: There Was A Letter From Mr. Snell Who Suggested That Manta Christian Mission May Be Profiting From Other Activities That May Violate Their Tax Exempt Status.

In Other Words It Is A Profit-Making Entity Rather Than Non-Profit.

It's Just To Take A Look At It.

It's Not Our Problem, Per Se.

It's The Relationship Of The Other Agencies Like The I.R.S. Would Have.

Chairman Judah: Just To Draft A Letter.

Comm. Janes: To David Owen And Anne And Karen Draft A Letter To The Various Agencies.

I Have The List Of The Agencies Somewhere.

Chairman Judah: Just To Sd Them To Conduct An Investigation.

Objection? Discussion? Hearing No Objections, The Motion Passes. Anything Else? Comm. Janes: That's It.

Thank You.

Chairman Judah: I Have A Couple Of Quick Things To Administration.

There Have Been Some Comments Made Recently About The Flooding That's Occurred In Manta Christian And Perhaps The Culverts That Are Being Reviewed Under I-75 With The Widening Of I-75 Are Needed More Than Ever.

I Would Submit That There's Already Been Indication That There's Blackage To Those Conveyances Such As Oak Creek And Spring Creek In The Southern Part Of The Flowway That Have Prevented These Tributaries To Be At Capacity To Handle The Volume Of Water That It Otherwise Should.

So I Just Want To Make Sure On The Modeling That's Done With Regards To Those Proposed Culverts Under I-75 That We Take Into Account All The Drainage Conveyances As Part Of The Water Shed Including Oak Creek, Gladner And Spring Creek.

If Those Creeks Aren't Handling The Volume Of Run-Off As It Should, That Really Doesn't Paint A True Picture Of The Number Of And Elevation And Sizing Of Those Culverts To Be Installed Under I-75.

In Other Words, I Don't Want A Biased Report Saying, Yeah, We Need The Five Culverts At I-57 To Convey More Water To The Estero River When The Conveyances To The South At The Tail End Of The Water Shed Aren't Working Properly.

I Want To Make Sure That's Included In The Study And In The Modeling.

We Did Pass An Item Today With Regards To Passing More Water Onto Burnt Store Road Because At Times Of Heavy Rainfall Events The Road Gets Flooded.

That Brings To Light The Concern We Have All Had With Regards To Excess Run-Off And Drainage Into The Spreader Swale With No Longer Having A Water Quality Control Structure In Place And It Being Discharged Into Mount Lachey And We Have Been Having The Die-Off Of Sponges And Problems With Algae Blooms And Die-Off Of Grass Beds.

I'm Looking At Jim Because He's Overseeing Public Works.

We're Also Looking Diligently At Where We Need More Storage Upstream Of This Water Shed.

If We're Going To Be Passing More Water Under Burnt Store There Is A Real Potential Problem There.

We Need Filtration Of The Run-Up Before It Gets Up There.

O.K.? The Last One Is Still Waiting -- And I Think The Board Is -- Some More So Than Others -- With A Status Report On Where We Are With The Proposals Submitted By Various Companies In The Private Sector To Move Forward With A Biodiesel Facility At The Lee County/Hendry Landfill.

We Have A 3:00 Meeting With You Today To Discuss That.

Chairman Judah: That's With Me And I'm Looking Forward To It, But -- We Had Eight Submittals, Just For The Board.

Chairman Judah: Also, Jim, We're Moving Forward And The Board Gave Direction To Finally Tap The Gas -- The Methane Gas, Create The Energy And Wheel It Back On The Grid.

So Hopefully -- I'll Get You A Status.

Chairman Judah: O.K.

Appreciate That.

Commissioner Mann? Comm. Mann: Just On Your First Comment About Manta Christian And The Flooding.

Mr. Wilson Advised Me This Week And It Stunned Me That The New Fema Maps Do Not Include Manta Christian In Any Flood Zone.

It's Flooded Over And Over And Over.

Am I Saying That Wrong? Chairman Judah: John, I'm Glad You're Here.

For The Record, John Wilson, Division Of Public Safety.

Both The Salvador And Manta Christian Aren't In The Regulatory Flood Plane Which Is The 100 Or 500 Year Flood Plane.

They Are In The X Zone Which Is An Area Not For Regulatory Purposes, Not Part Of The -- Comes Under Our Codes For Building.

Comm. Mann: Mr. Chairman, The Reason I Bring It Up -- There Are Several Obvious Reasons, But To Me, How Can We Regulate What Goes On In There If It's Not In A Regulatory Zone.

How Could It Not Be In A Regulatory Zone When It's Flooded Seriously Three Times In The Last Decade? There Is So Much I Don't Understand.

I Don't Know Whether To Say The Older I Get The More I Forget Or The More Things I Realize I Have Never Learned.

How Could We Not Have This In A Flood Plane Or A Regulatory Flood Zone When It Floods All The Time And We Have Thousands Of Hours Of Tv Records Of This? Rolen Otalini.

Typically When Fema Does The Analysis They Have The Study Limits And They're Modeling The Floodway In A Natural Creek, Stream Or Conveyance.

When You Get That Far East You're Getting Into Sheet Flow Regimes, Much Large Expanses Of Area.

Everything East Of I-75 -- You Know, All The Drgr, It Gets Wet, But They Are Not Designated Flood Zones In Terms Of A Collection Facility That Has A Designated Floodway Where You Can Build In And Encroach The Area.

What They Typically Do, If You Have A New Development, They Require You To Do Your Own Hundred Year Storm, That You're Containing The Rainfall.

You Have To Contain It And Establish The Finished Floor Of Your Homes Above That Level.

So, You Know, Obviously They Are Built Much Earlier Than When Those Regulations Came In Place.

That's One Of The Reasons Fema Has A Limit Of Their Flood Plane Studies And Sheet Flow Isn't Analyzed The Same Way.

Comm. Mann: This Relates To Your Original Point, Mr. Chairman.

I Touched On It A Few Weeks Ago.

If We Have Thousands Of Acres That Are Subject To Sheet Flow, This Is Going To Impact Whatever We Are Doing On I-75 And The Culverts And I Want To Be Certain That The Tens Of Thousands Of Dollars We're Paying On Studies Includes That, Too.

It's Got To Be Related.

That Was, I Believe, Your Point.

I'm Just Saying, Amen, Brother.

Chairman Judah: I Was Talking About The Conveyance Such As Oak Creek And Spring Creek.

You're Right.

When You Get The Sheet Flow Going On You Need To Include The Flow Way Or Water Shed.

Roland I Don't Know If You're Including The Modeling Or Not.

The I-75 Study Will Be Look At The Whole Area, All The Water Sheds In Connection South.

They're Having A Stake Holder Meeting Today.

Chairman Judah: Very Good.

At Copper Leaf.

1:30 If Anyone's Interested.

Comm. Mann: Thank You, Mr. Chairman.

Chairman Judah: Commissioner Bigelow? Comm. Bigelow: I Want To Know More About This Stake Holder Meeting.

How Sit Formed? Who -- What Are The Members Of It? There's No Formal Team Or Membership.

It's Water Management District As You Know Is The Project Manager For The I-75 Study.

They Have Basically Put Out Notice That The Study -- Or This Meeting -- This Is The Second Meeting, I Believe, Public Meeting We're Having On It.

The Consultant Boil Engineering Has The First Deliverable Done Which Is Data Collection.

There's Been Comments By The Conservancy And The Folks At Brooks And City Of Bonita Springs.

I Don't Know Their Means And Terms Of Getting The Information Out.

But All The Folks That Were Here When We Were Debating The Issue Were Certainly Notified On An Extensive E-Mail List.

Comm. Bigelow: So The District Is Holding A Public Information Meeting And People Are Attracted To It If They Get Notice Of It.

They're Not Sitting At A Table Working Out The Various Issues.

I Believe It's Supposed To Be Interactive.

Comm. Bigelow: But They're Not Equal Players.

It's Driven By The District, Right? The District Has A Responsibility To Manage The Contract And Make Sure Boil Is Doing -- Passed Their Outlines And Contracts.

They Are There To Do It For The People.

There Are A Lot Of People That Lived Through The Storms.

Even The Most Recent Tropical Storm Fay.

They Have Information In Terms Of Water Levels And Streets Out There And Brooks And

Various Other Areas.

Comm. Bigelow: Mr. Chairman, You Remember Last Week I Brought Up The Idea That We Try To Put Together A Stake Holder Group -- Chairman Judah: Four Corners.

Comm. Bigelow: In The Four Counties.

Mr. English, The List Would Be Longer Than That.

But That We'd Work Collaboratively On The Issue Since It's Widespread.

I Don't Think That's A Model I Would Like To Replicate.

It Sounds Like It's Been Driven Because Of Folks Working Together And Various Conflicting Aspects Of The Issues.

I Would Again Point Out How In The Drgr Ad Hoc Committee It's More Of A Process I Would Be Interested In Seeing With Respect To Northeast Counties.

This Is More Driven By The District And Less Open To Working Out The Differences.

But, You Know, We Have To Hope For The Best Down There.

We Have A Very -- And Rightfully So -- Upset Council In Bonita Springs.

Chairman Judah: I Didn't Say That.

Comm. Bigelow: It's Pretty Clear Councilman -- I Forgot His Name.

Spears.

And Seeing The Same Thing Happen Over And Over Again And The Problem Isn't Being Solved.

I've Got To Wonder If Maybe We Need To Perhaps Step In And Suggest A Different Approach To This Stake Holder Meeting.

Comm. Bigelow: We're Very Much Involved.

I Can Assure You.

Comm. Bigelow: O.K.

I Don't Have A Great Deal Of Confidence -- I Don't Feel It Right Now.

But Anyway.

We'll See.

Chairman Judah: O.K.

Can I Ask A Question? I Have Read In The Paper Where There's About 30 -- I'm Looking At Bobby Stuart.

There's Rick.

There's 30 Units In Manta Christian That May Be Habitable.

Most Are Not.

I Guess The Code Enforcement Has Done Their Work And Reached Some Conclusions.

I Think This Is Important Information For Us To Know And Try To Weigh Into The Current Events As Far As What's Going To Happen To The Folks That Are Still Being Harboured In The Civic Center.

Chairman Judah: Good Morning, Bobby.

Bob Stewart, Community Development.

We Have Completed Initial Inspections Of The Park And Manta Christian, Hoping To Get Saldoabar Park Power Back On Today So That The Water Plant And Lift Station Can Be Tested And The Health Department Can Test The Water And They Will Give The O.K. When Folks Can Go Back In.

We're Pretty Well Set There.

In Manta Christian, You're Correct.

It Was Only 30 Out Of 194 Units That We Felt Were -- Power Could Be Turned On So We Could Do A Unit By Unit Inspection And Possibly Let Folks Go Back In.

The Balance Are 164.

They Had Demolition To Do, Wiring That Needs Work.

If Any Of Those Can Be Inhabited Again It Will Be Very Few And On A Case-By-Case Basis If Repairs Can Be Made.

Comm. Bigelow: 30 Out Of 190 Doesn't Bode Well As A Snapshot Analysis Of The Public's Health, Safety And Welfare On That Parcel Of Land.

I Don't Know.

Chairman Judah, This Is Your District.

Do You Feel We're On A Course To Solving The Problem? Chairman Judah: We Are.

It's Going To Be A Difficult Road To Continue To Navigate Ape Long.

I Experienced This After The 1995 Floods.

We Received Several Bus Loads Of Residents Alarmed And Concerned They Were Going To Have To Comply With Code In A Short Time Frame.

These People Will Be Displaced.

There Is No Question About It.

That Was A Decision By The Board, Understanding That There Was A Public Health, Safety, Welfare Issue.

At Some Point In Time The Issue Had To Be Addressed.

Comm. Bigelow: O.K.

I Guess We'll Get An Appraisal Review Soon.

Chairman Judah: Yeah.

Comm. Bigelow: And Can Make Decisions That Way.

Well.

We'll Try To Get You Weekly Status Memorandum So You Can Know Where We Are With Regard To Abating The Violations And If We're Able To Get A Few Of The Trailers Back In The Mix Other Than The 30 We'll Let You Know In That Report.

Comm. Bigelow: And This Issue Is Somewhat Tied To The Walk-On Item, The Second One Today Where We're Extending The State Of Emergency.

Am I Correct? John Says Yes.

Comm. Bigelow: That's Fine.

So It Under Scores The Idea That We Need To Stay On Top Of It Week By Week.

Chairman Judah: Thank You, John.

Thank You, Commissioner Bigelow.

County Manager Items? Comm. Janes: Committee Appointments Chairman Judah: I'm Sorry.

Before I Get Back To The County Manager.

Commissioner Bigelow? Comm. Bigelow: I Have Two.

Chairman Judah: Hearing No Objections, The Motion Passes. Comm. Bigelow: A New Appointment Of David Stallings To The Well Construction Advisory Board.

Chairman Judah: Hearing No Objections, The Motion Passes. Comm. Mann: I Have None.

Comm. Janes: Commissioner Hall Asked Me To Nominate Mary Havener To The Lighting Unit Committee.

Chairman Judah: Motion By Commissioner Janes.

Hearing No Objections, The Motion Passes. Comm. Janes: I Have Two Reappointments.

One Is Jake Lutf To The Smart Growth Representing District One And Eric Lindblad To The Stuart Ship Committee.

Chairman Judah: Hearing No Objections, The Motion Passes. I Have No Committee Appointments.

County Manager Items? Nothing.

Chairman Judah: County Attorney? David, Let Me Thank You Again On Behalf Of The Board.

You And Susan Put A Lot Of Work In Positioning Ourselves.

We Thank You On Behalf Of The Community.

We Are Adjourned.