

**August 30, 2011**

Chairman Mann: Welcome To Our August 30th, 2011, County Commission Meeting. It Is Our Custom To Begin -- Are We On Time?

It's Our Custom To Begin Each Meeting With An Invocation. Is Pastor Sparrow Here?

If Would You Join Me, Pastor Mann Will Do His Best And Remain Standing For The Pledge Of Allegiance.

Father, We Come To You Once Again Trying To Do The People's Will And Your Will. Give Us Calm, Peaceful, Respectful Hearts. Let Our Wisdom Be At Our Highest Level So That We May Serve You And Our Fellow Man. Amen.

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

What Is The Temperature In Here?

Chairman Mann: About 68.

Our Recap, If I'm Correct On This Shows No Revisions, Corrections.

We Have A Walk On And A Carryover We'll Get To After The Administrative Agenda. With That We Come To Public Comment.

On Items Of Our Consent And Administrative Agenda.

Matt Kruse. This Is Your Opportunity. Good To Have You.

Good Morning.

Matt Kruse, Assistant Park Manager With Lovers Keys State Park.

On Behalf Of Park And Pacific Service We Would Like To Thank You Lee County For Continued Support And Including Us With The Beach Renourishment Slated For Next Year. Beach Renourishment Would Certainly Improve Facilities For Lee County Residents, International, Tourists And Improve Quality For Wildlife At Lovers Key. Thank You.

Chairman Mann: Thank You And Thank You For The Work Do You To Make This A Better Place For All Of Our Citizens. We Like Your Hairdo This Morning.

So Do I.

Chairman Mann: Ed Weiner With The Lehigh Economic Development Team.  
Welcome Back.

Good Morning Mr. Chair, Members Of The Commission.

I'm Going To Be Brief.

On Item 7-1, Transportation Development Plan, We Would Recommend You Adopt This. I Sit On The Transit Development Taskforce. We Have Gone Through This.

It's A Requirement Of The Federal Government For Lee Tran To Complete This.

It's Very Well Done And Put Us Out Into The Future. As An Aside To That,

Yesterday's Budget Chairing We Talked About Dropping Off \$648,000 Made Chills Go Up And Down My Spine. We Tried To Make The Budget Revenue Neutral So We Lost \$648 Out Of Operations And Put It Into Other Services, Adding Buses To Lehigh And So On And So Forth. When That Fell Off And Nobody Stopped It I Kind Of Got -- Kind Of Got Shook Up. We Are Desperate Out In Lehigh.

You Know How Desperate We Are For Extra Bus Services.

In Conjunction With The Plan That Pushes Transit I Would Ask You On Behalf Of Economic Development On Behalf Of The Citizens Of Lehigh Not To Drop The \$648,000. It Makes It Neutral After Transportation Has Dropped 10% Of Its Budget. Thank You.

Chairman Mann: Good Job Zipping A Nonagenda Item Under An Agenda Item There. Others In The Audience That Would Like To Speak To The Commission On Any Agenda Item? Seeing None We'll Come Back To The Board And To Mr. Bigelow For Any Item To Be Pulled On The Consent Agenda.

Commissioner Bigelow: I Have Three.

3-A, 3-B, And 8-A.

Commissioner Manning, Commissioner Hall.

Commissioner Hall: I Had 8-A.

Motion By Hall, Second By Manning.

Show That Adopted Without Objection.

Commission Are Bigelow, 3-A.

Commissioner Bigelow: This Is To Improve The Budget Transfer Of Just Over \$300,000 For The 10 Mile Linear Park Project.

This Is An After The Fact Budget Amendment As I Have Been Advised By The County Attorney.

I Also Believe It's Linked Closely Enough That I Will Have To Recuse Myself.

Move.

Second.

Commissioner Bigelow: I'll Tell You Why Because My Father Had A Parcel On 10 Mile Canal In Close Proximity That This Money Would Fund De Facto.

Chairman Mann: Motion By Commissioner Judah To Move It.  
Second By Commissioner Manning.

Still Under Your Father's Care?

No State Ethics Law If You Vote On A Matter That Inures To You Or Your Relatives' Benefit You Must Recuse. I'm Stating I Have A Purpose To Not Vote.

Chairman Mann: Objection? Show It Passing Forward To Do Nothing With Commissioner Bigelow Abstaining On A Possible Conflict Of Interest.

Commissioner Bigelow: Recusal.

Chairman Mann: 3-B

Commissioner Bigelow: Authorizing County Management To Have Staff Construction Manager To Solicit Bids For Pine Manor Community Center Enhancements Of Projects. I Will, As District Commissioner, For Those Two Fine Communities Heartily Move This Item.

Second.

Chairman Mann: Further Discussion.

Commissioner Bigelow: Yes.

I Would Like To Happy Praise On County Management That We're Going To Handle This In House. County Management Has Seen Fit To Direct Her Staff To Be C.M. And Seek Subcontractor Bids. Let's All Hope That There -- That Bids Will Be Frugal And Favorable For The County.

Chairman Mann: Praise To Staff Noted For The Record. Is There Objection To This? Show Its Passing Unanimous. Now 8-A Commissioner Bigelow And Commissioner Hall Had An Interest In This As Well.

Commissioner Bigelow: This Is To Award A Contract For Bonita Beach Nourishment To Coastal Beach Corporation Not To Exceed \$414,000 For Bonita Beach And To Approve A Transfer From T.D.C. And Lovers Key In The Amount Of \$136,000 And Thirdly To Execute Professional Services Agreement. Steve, I Have A Couple Questions. First Of All, According To The Funding Source Portion Of The Blue Sheet, We Will Be Spending General Fund Dollars That Here Says City Of Bonita Springs Reimbursement.

Can I Be Sure It's 100% Reimbursement For The General Funds Monies Being Transferred.

Steve Bottle.

Yes, We Already Have An Agreement With The City That Commits Them To Reimburse Their Portion.

Commissioner Bigelow: So We're Fronting The Cost.

And They'll Pay Back As We Go.

Commissioner Bigelow: The Lovers Key Nourishment Project Fully Funded With T.D.C. Dollars?

Yes.

What We Do Is Keep The Funds In The Beech And Shoreline Reserves And Use Them As The Projects Are Ready To Go.

Commissioner Bigelow: OK.

Then, Why Is It Though That For Instance On Fort Myers Beach, While They Are Participated In It Not To The Tune Of 100% For Sure, But Bonita Springs Is Now Required To Refund Us 100% Of The Beach Renourishment Costs Within Their Incorporated Area?

That's Not 100%.

There's A Formula We Apply To All Project Where We Look At The Recreational Benefits And The Public Accessibility Of The Shoreline And Calculate Out The Storm Projection Benefits. That's Something We Always Try To Assign To The Property Owners. In This Case The City Represents The Property Owners. The Portion That's There Is Really Only A Fraction Of That Cost And Represents The Benefit In Terms Of Storm Protection To Those Property Owners. There's Additional Funding That Comes Out Of The Bed Tax That Addresses The Recreational Benefit And State Of Florida Will Seek Cost Sharing With The State Of Florida On That, As Well.

Commissioner Bigelow: If I Press Rewind And Start Anew, The Portion Of The Renourishment That The City Of Bonita Springs Is Reimbursing Us For Is Not 100% Of The Costs, Of That Project's Cost, But It Is A Portion That Is Equal To Proportionately Equal To What The Southern Of Fort Myers Beach? Are We Treating -- Not Equal Too Because We Are Treating Them Fairly And We Apply A Formula. Let Me Give An Example. On Fort Myers Beach We Have Lots Of Public Access In Form Of Parks And Other Access Points. So General Public Has Accessibility To Virtually That Entire Project Length. So That Helps With Both The T.D.C. Portion And The State Eligibility. In Bonita Springs, The Northern End Of The Project Has Several Large Condos, No

Public Access Across Those Properties.

That's More Of A Private Recreational Benefit And A Storm Protection Benefit. So Proceed Portion Natalie They're Paying More But That's A Function Of The Characteristic Ticks Of That Shoreline According To The Formula We Apply To All Of Our Projects.

Commissioner Bigelow: How Is It That County Management Reached The Decision To Hire Coastal Technology Corporation, A Nonlocal Firm?

I Don't Believe There's Anything New Here From The June Discussion On The Ranking Of This. I Was Not On That Selection Committee, But Essentially We're Looking At The Experience, Skills, And Abilities Of Those Firms As Well As Their Local, Nonlocal Status And The Project Approach They Specifically Recommended. In This Case One Of The Things That Is Important For Us Is The Time Critical Nature Of This, Because Of The State Funding For Lovers Key. Which Was On A Line Item Appropriation. We Need To Get On To That Quickly And The Coastal Tech Approach Get Us To Construction In Their Estimate Of 15 Months.

Commissioner Bigelow: Who Is The Town Of Fort Myers Beach Renourishment To?

This Contract Before You Today Is Professional Services Only, Coastal Tech. The Professional Services On Fort Myers Beach Were Done Primarily By Coastal Planning And Engineering Out Of Boca Raton And The Construction Manager Is Florida Dredge And Dock, The Next Phase For Bonita.

Commissioner Bigelow: That's Somewhat Relieving.

OK.

Mr. Chairman I'm Fine.

Commissioner Judah: I'll Move It.

Chairman Mann: Second.

Chairman Mann: Is There Further Discussion?

Commissioner Hall: Yes.

Steve, We Have A Lot Of Beach Projects Going And Past Projects And Future Ones Coming In. I Think That At Some Point I Would Like To Get A Briefing On What We Look Out And What We Project Our Next Five Years And 10 Years Are Going To Be On Beach Renourishment. I Have Had Questions Of Folks In The Industry, Are We Setting Aside Enough To Plan For Those Projects. As A Commissioner I Don't Know What Is In Your Pipeline. I Know We Have A Great Advisory Board But I Think All The Commissioners Would Like To Know What We're Looking At Long Term Since We Are Looking At Budgets. What We Don't Set Aside We Look For Answers From. I Want To Make Sure As I Look At The T.D.C. Budget We Are Always Protecting

Those Beaches And Ensuring We Will Be In A Position To Fund Because We Know The State And Federal Government Are Giving Us Less And Less And Less Meaning More Of The Burden Will Full Upon Us.

I Don't Want To Lose Sight That That Is Our Number One Objective With That Fund, Our Beaches And Clean Water And Making Sure We Have An Environment That's Consistent. That's What Saved Us During The Recession.

When Visitors Had A Choice They Came To Our Beaches Because We Have A Great Product That Ensures Them Of A Great Experience With Their Families.

I'm Sure The Other Commissioners Would Like An Idea.

I'll Leave That To You And The County Administration To Brief Us On That Or Give Us An Outline I Would Appreciate It.

Happy To Do It.

Commissioner Hall: Thank You.

Chairman Mann: Maybe A Letter Outlining The Project Copied To Each Of Us Yes. We Have That Available. We'll Get It To Your Offices If There's Additional Information You Want We'll Address It As It Comes Up.

Commissioner Bigelow: To Be Perfectly Clear That I'm Clear, This Is Not 100% Funded With T.D.C. Tax Dollars And The City Of Bonita Springs Participation, Correct?

We Also Have State Of Florida Obligation From D.E.P. For Lovers Key Portion. We Have An Agreement With Them Now. An Amendment Is Forth Coming That Will Include Additional Funding For The Lovers Key Portion.

Commissioner Bigelow: Those Funds Only And General Found Is Fronting Monies.

That's Correct.

Commissioner Bigelow: It Will Be Wholly Repaid?

That's Correct.

Commissioner Bigelow: That Number Is?

Using To Front The Bonita Springs Money As Outlined There, I Believe \$73,427.84 Is What We Calculate The Bonita Springs Portion If I'm Reading That Correctly And The Lovers Key Portion May Have A Subsequent Budget Amendment Resolution When We Amend The Interlocal Or Funding Agreement From D.E.P.

Commissioner Bigelow: Does Voting For This Involve General Fund Dollars We Won't Get Back?

No.

Chairman Mann: Show It Adopted Without Objection.  
Move On.

Commissioner Hall: Move The Item.

Chairman Mann: This Is Beautification On Both The 41s In Fort Myers.  
Any Objection?  
Show It Adopted Without Objection.  
Item 14-A.

Commissioner Judah: Move The Item.

Commissioner Hall: Second.

Chairman Mann: Motion By Commissioner Manning, Second By Commissioner Hall.  
What's The Dollar Amount?  
\$37,-- \$27,300.

Chairman Mann: I See. Is There Further Discussion?  
Objection? Show That Adopted Without Objection.  
Item 14-B.

Commissioner Manning: Move The Item.

Commissioner Hall: Second.

Be  
Chairman Mann: Discussion On This One?  
Objection To This One?  
Show That Adopted Without Objection.  
Now 14-C.

Commissioner Manning: Move The Item.

Commissioner Hall: Second.

Chairman Mann: Motion By Commissioner Manning, Second By Commissioner Hall.  
Objection To It?  
Hearing None, That Passes Without Objection.  
Going To The Walk-On, We Have One.

Commissioner Hall: Move The Item.

Commissioner Manning: Second.

Commissioner Hall: This Is For The E.D.A. Grant.

Chairman Mann: Questions Of Staff? Further Discussion? A Motion By Hall, Second By Manning?

Commissioner Bigelow: I Have A Question.

Chairman Mann: Commissioner Bigelow.

Commissioner Bigelow: You Said Little Grant.  
How Much Potentially Could This Grant Be?

Good Morning.

Good Morning, Pam Keys, Lee County Utilities Director.  
We Have A 50% Match, So Our Grant And Now Potentially Can Be 549250.

Commissioner Bigelow: How Much? \$549,250.

Commissioner Bigelow: Sounds Good.

Commissioner Bigelow: So It's A Million With Our 50% Match?  
That's Not Little, Frank.

Chairman Mann: Further Discussion.  
Show The Walk-On Adopted Without Objection.  
We Have A Carryover.

Commissioner Judah: Move The Item.

Chairman Mann: Second By Commissioner Manning. I'm Going To Vote For Your Project. I Pointed Out My Frustration Many Times That We Have A Single Source Contractor, In This Motorola, Apparently It's Extremely Difficult To Break Out Of All Of Your Electronic Equipment And Suddenly This Brings Somebody Else In To Yank Out Something That's Connected In So Many Different Ways And Bring Another Source Provider Into The Picture. But I Remain Frustrated But We Can't Take Advantage Of Competition In These Years When Competition Is Very Robust. I Think The County Could Be The Beneficiary Of That Sometime In The Future. I Pray You Will Continue To Think About That.

Show It Adopted Without Objection.

Thank You, Mr. Wilson.

That Completes Our Walk-On And Our Carryovers And Brings Us To Commissioner

Items. We're Moving Right Along Here This Morning. Commissioner Hall?

Commissioner Hall: I Have None.

Chairman Mann: Commissioner Manning.

Commissioner Manning: I Have A Few. You Received A Copy Of My E-Mail With Regard To The Request Of The Foundation Of Sarasota Involved With The Pine Island Asking Our Approval To Send A Letter To Service To Grant Funds For Habitat Rehabilitation.

Commissioner Judah: So Moved.

Chairman Mann: Objection? We'll Send A Letter.

Commissioner Manning: I Also Want To Compliment Department Of Human Services. Received The U.S. Department Of Housing And Urban Development Audit On The Neighborhood Stabilization Program Where We Received \$18 Million To Be Used To Purchase Homes Where We Were Able To Rehabilitate And Then Sell Those Foreclosed Properties At An Affordable Price. Looks Like The Audit Is Clean And Supportive Of The Overall Effort Of The County. I Feel It's A Commendable Effort And Wanted To Give A Shout Out To Those Involved In The Program.

Mr. Chair, Also I Received A Letter From Dr. Leroy Hummerdink From The Library Board. Their Board Was Not Meeting Until October. But This Gives Them An Opportunity To Read That Out And Been Submitted To The County Concerning The Investigation Of The Library. Although They Have Already Been Investigated By The Auditor General And Have Been Given A Clean Bill Of Health I Know This Board Has Discussed Options That We May Want To Consider, But Could We Defer Until October And Give The Library Board A Chance To Review All The Comments, Allegations And Then Get A Chance To Res Respond To The Board?

Chairman Mann: Seems Like A Fair Request. Do You Have A Particular Date In October?

Commissioner Manning: I Don't But As Long As It's Sometime In October.

Chairman Mann: When Is The Next Scheduled Meeting For The Library Board?

Commissioner Manning: September 27th.

Chairman Mann: Any Time After Would Be Acceptable For The Blue Sheet To Come Back, Would Give Them An Opportunity To Participate.

Commissioner Judah: Respond.

Chairman Mann: Further Discussion?  
Show That Adopted.  
We'll Hear That In October.  
Hold The Motion.  
Hold The Vote.

Commissioner Judah: I Think It's A Good Idea.  
I Don't See The Huge Rush To Do Anything Sooner.  
However, I Am Interested In Knowing A Little Bit About Who It Is That's Interested  
In Performing An Audit That We May Or May Not Later Decide To Try To Seek  
Request. If This Joint Legislative Auditing Committee Is Saying They Don't Involved  
Is That The Auditor General?

Chairman Mann: No.  
I've Been Briefed On This.  
Mr. Green's Office Could Do It, Or If He Would Rather Not, Then We Go To The  
Auditor General's Office And Ask Them To Do It.

Commissioner Manning: And They Have Already Done It.

Chairman Mann: They Previously Did That. These Are Items That We Would Take  
Up When We Have The Blue Sheet Before Us. And That Information You Can Glean  
From The County Attorney's Office Between Now And Then. This Is Just To  
Postpone Taking Up The Blue Sheet Item.

Commissioner Judah: I'm Going To Plead Some Serious Ignorance Here.  
This Is A Floor Legislation, Joint Legislative Auditing Committee Letter August 2,  
2011 In Response To A July 15th Letter From Mr. Durant And Mr. Martin.  
Is That Not The Auditor General Then? Anybody?

Commissioner, The Letter That Was Sent Addressed Certain Issues Nod An Ought  
For General Report. It Doesn't List With Specific Items That Would Be Listed.  
If The Board Itself Or The Auditor General Did The Type Of Study That Is Listed  
Under State Statute. They Responded To Specific Questions That Were Raised In  
The Letter That Was Sent To Them.

Commissioner Judah: The Flavor Of Their Letter Here Is That They Don't Do This  
Kind Of Thing. They're Not Open For That Kind Of Business.

And They Perhaps Wouldn't But They Were Addressing Specifically The Issues Listed  
In The Letter. We Would Go Back. If The Board Didn't Want To Do It We Would Still  
Ask Them And They Could Still Reply In The Same Way It Was Done There, But  
From The Standpoint Of What The Letter Was Addressed That Dealt With A Very  
Specific Issue And Doesn't Address The Issue Of The Evaluation That Would Be  
Done If It Were In A Broader Context.

Commissioner Judah: If We Made The Request And Had It Itemized Specifically What We Would Like Them To Audit.

It's A Possibility.

Commissioner Judah: Or They Might Punt. The Clerk Has Punted. I Wonder If We Might During This Period Between Now.

Chairman Mann: Please, Excuse Me. This Motion Is Simply To Defer The Blue Sheet. You're Talking About The Details Of The Blue Sheet And That Has Gone Beyond What The Motion Is About. I'm Going To Have To Call For A Vote. All Of This Can Be Taken Care Of Now And Between The Time The Blue Sheet Comes Up And Answers Will Be Available. But This Is Beyond The Subject Of The Motion.

Commissioner Bigelow: I'll Be Glad To Bring It Under My Commissioner Items Then.

Chairman Mann: Feel Free.

Commissioner Bigelow: Thank You.

Chairman Mann: Show It Adopted Without Option.

Commissioner Judah: One Last Item, Mr. Chair. We Had A Wonderful Celebration Of The New Opening Of The General Aviation Facility. It's A Wonderful Facility. Not Only Did We Give Honor To All The Veterans That Have Given Honor To This Community In Preparing For World War II And The Training That Took Place At Page Field But The Fact That The Job Itself Created Numerous Employment Opportunities. It's Certain Will You A Facility We Can Really Be Proud Of. It Will Be The Gateway For Aviation And Help To Provide To Our International Airport. One Point I Wanted To Make, Mr. Chair, Is Commission Are Bob Janes Was In On That Vote, One Of His Last Votes, March 2010. I Wanted To Give Credit To The Late Commissioner Bob Janes.

Chairman Mann: Quite Appropriate. Thank You, Commissioner Judah. Further Items?

Commissioner Judah: No That's It.

Chairman Mann: Commissioner Bigelow.

Commissioner Bigelow: Issued Say No. Why Should I Bother But Frank, Appreciate You Letting Me Have The Opportunity. I Was Trying To See If We Might Benefit From An Attorney General Opinion That Would Guide Us, Because We Are Deciding

If I Understand Our Position Right Now Correctly, We Are Trying To Decide If We Will Or Will We Not Take Up An Intermediary Position With Respect To Complaints Of The Library Board's Actions Or Inactions, Whatever, Allegations. It Seems To Me The State Created This District And Yet We Are Left Holding This Hot Potato And We Can Decline Or Accept It. With Whom Is It That We Would Then Have An Objective Review And Analysis Of It. Seems To Me We're Not Very Sure. The Clerk Doesn't Want It. I Don't Blame Him. Auditor General According To The Letter That They Provided August 2 Think They Are Not In The Business Of This. Maybe During This Period Of Time We Just Ask The County Attorney To Ask The Attorney General What Would We Do. We're Not Inventing The Wheel, I Have To Imagine. I Would Like To Suggest That We Do Ask The County Attorney's Office To Seek An Attorney General Opinion On Guidance. The Question Would Be What Would A Local Government Do Given This Scenario Or What Have Local Governments Done In The Past When They Found Themselves In This Position.

Chairman Mann: Let Me Ask The County Attorney To Speak To This. I've Been Briefed On This Process And I Think I Understand It. But Could You Just Walk Through What The Law Allows Us To Do Or Allows Us To Ignore?

The Process Itself, Mr. Chairman, Under State Law Section 189 Or Chapter 189 Of Florida Statutes Essentially It Has, There Are Limited Powers The Local Government -- Not Local Government But The County Can Exercise In This Approach. One Of Them Is To Do This Evaluation If You Will. But It Doesn't Allow -- By State Law It Only Allows The County To Make Recommendations. It Doesn't Give Them Any Administrative Or Enforcement Authority Whatsoever. So, Asking For An Attorney General Opinion Would Not Necessarily Give You Any More Comfort Or Advice Or Direction Than What We Have Already Looked At. Also, Just From A Timing Factor, I Don't Think We Could Send A Request For An Attorney General Opinion And Get One In Less Than Two Months. So You Would Be Placing It Further Back In The Schedule As Opposed To Trying To Expedite This. Just From The General Standpoint, Again, We Have Had Four Attorneys Look At This In The Office And Collectively Came Up With The Same Opinion That There Are Limited Powers Granted To The Local Government And We Have Set Forth In Letter And To The Board Already Explaining Those Limits.

Commissioner Bigelow: Have You Or The Three Or Four Other Attorneys Looked At What Other Local Governments Or Districts, Be County Governments Have Done In The Past When They Found Themselves In This Situation?

We Have Looked At Some. I Don't Recall Directly If It Was This Specific Item Because It's Unique. We Also Have A Special Act That Goes Along With This. But Again -- Commissioner Bigelow: That's My Idea To Ask The Attorney General.

But I'm Saying The Attorney General In That Context Would I Don't Think Opine An Opinion With Respect To What A Board Should Do.

That's Not Normally What They Do. They Deal With Questions Dealing With The Authority Of The Board In This Case The County And Say What The County Could Do.

Commissioner Bigelow: At One Of Your Meetings We Are Holding Frequently Can You Share With Me Whatever Research You Have Done As Far As What Other County Governments Have Done When They Found Themselves In This Be In Between Place. I Have One Other Item, Mr. Chairman. And I'll Be A Little Careful Here. Tomorrow We're Meeting In Executive Session. Again. And I'm A Little Concerned With The Selection Of Our Legal Counsel In This Matter. It's A Little Different Than It Was The First Time. I Won't Say Why Or How. You Want To Speak?

Yes, Sir.

This Issue Is For Tomorrow And I Would Really Respect If You Would --.Let Me Ask You A Question. How Do I Register My Protest Of That Selection Made By The Former County Attorney Who Is Now With That Law Firm? How Do I Register That Personally.

I Can Explain That In Tomorrow's Closed Session.

Commissioner Bigelow: I'm Going Into A Closed Session With An Attorney -- Let Me Explain It This Way. The Attorney That Are You Talking About Is Not Representing The County In This Case Except -- Commissioner Bigelow: The Board.

Except In An Advisory Capacity.

Commissioner Bigelow: OK. I Need To Get This Out, I Think, On The Record Beforehand. This Is The Only Opportunity I Have To Talk To My Colleagues About This Matter.

Chairman Mann: Commissioner Bigelow, Let Me Suggest This --

Commissioner Bigelow: I'm Going To Be Professionally Courteous By Putting Whoever Needs To Know This On The Record.

Since I Am Entering This Executive Session With A Protest Of This Counsel Representing Us, If That Proves To Be The Case That That Does In Fact Happen, Because We Have Not Seen A Waiver Request Of Conflict Of Interest Come Before Us To Discuss This. Absent That Majority Vote, I Believe There Is A Conflict That Exists That We Have Not Waived. I Will Then, Forced To Do This, Will Have To Complain To The Ethics Commission As Well As The Florida Bar. I Wanted To Let You And Anyone Know And Anyone Involved That I Take This Very, Very Seriously.

Chairman Mann: No One Questions The Seriousness Of How You Take This Or Any

Of Us Take Such A Meeting, But There Are Reasons That The Florida Legislature Has Allowed Executive Sessions Such As The One We're Going To Enter. All Of Your Questions Can Be Put Forth At That Time And All Of The Answers Can Be Had And If Not, We'll Make Arrangements That They Do To Your Satisfaction Be Responded To At Some Point. And All Of That Information, Even Though It's In Executive Session, Closed, Is Ultimately Open To The Public And Everything That Is Said Can Be Seen By All Of The Media And Whatnot. I Think In That Executive Session It Would Be Quite Appropriate For To You Pursue This. But At This Point, I Don't Think This Is The Place.

Commissioner Bigelow: You Mean In Executive Session I'm Going To Pursue, Discuss, And Try To Get Some Resolution On The Fact That A, We Haven't Waived A Conflict Of Interest On This Selection Of The Former County Attorney Now With A Firm? I'm Entering This Executive Session With Legal Counsel Whose, Who Has In Their Office The Brain Center Of The County Attorney's Office Who Knows More About This Case Than Any Of Us, I'm Sure. Is Working, Therefore, For The Firm, Because We Have Our Own Lawyer For A Reason. That Is That The County Attorney Who Has To Represent Himself As Well As County Management Has Agreed To Take Somebody -- Pick Somebody For Us Which He Later Went To Work For. I See Huge Ethical Implications Here None Of Which Makes Me Comfortable.

Chairman Mann: And All Of Which I Would Encourage Our County Attorney To Be Prepared To When We Begin Our Meeting Tomorrow.

Commissioner Hall: Mr. Chairman.

Chairman Mann: Commissioner Hall.

Commissioner Hall: When We Go Into Executive Session We Are Narrow In What Can Be Done Behind Closed Doors. If We Are Going To Discuss Legal Counsel That's An Executive Discussion We Can Have. I Know This Board Was Made Aware In Public Meeting Who Our Advisory Council Is Going To Be. If You Have This Discussion Happening, I Just Would Like To Make Sure Mr. Hunt, That That Can Be On Our Agenda To Be Discussed Behind Closed Doors.

Yes, Ma'am.

Commissioner Hall: Thank You.

Keeping In Mind That Legal Counsel Picked, Former County Attorney Has Changed.

Chairman Mann: We Have Heard Your Point, Commissioner Bigelow. I Think It's Clear And We'll Entertain It Further Tomorrow If I Have -- Do You All Have A Letter From Congressman Mack Regarding The Pace Energy?

Commissioner Bigelow: Move The Item?

Commissioner Judah: Second?

Chairman Mann: I'll Send That Letter. Let Me Bring Up To What Is Referred To As A Chicken Issue, The Lehigh Chicken Issue. It Happens To Be In My District. I've Been The Recipient Of Most Of The Direct Mail And Interest From The Community. But I Need To Know How Far This Commission Wants To Go With This. This Began When A Lady Was Contacted By Code Enforcement And Told She Couldn't Keep Her Chickens In The Yard Because The County Ordinance Does Not Allow For Chickens In Residential Area.

To Be Clear She Contacted Code Enforcement To Find Out.

Chairman Mann: At Any Rate This Was Triggered. It's Now Before Code Enforcement. Through Various Conversations With Our Own Staff, With Code Enforcement, My Aide Has Spent A Lot Of Time Trying To Pull This Together. We Got A Detente With Code Enforcement Not To Shoot Her Chickens Or Anything Like That Until We Could Walk Our Way Through This, Have A Full Staff Review Of The Ordinance. Other Cities And Counties And States What They Do In The Same Situation. That Has All Been Completed Now And We Have Back Before Us A Report From Miss Gibbs' Shop, Which I Think Everybody Has. It Recommends We Make No Changes To The Existing Ordinance. We Subsequent To That, We Have A Request From Our Sustainability Office Here That They Would Like To Pursue It And Have An Opportunity To Weigh In Also And They Seem Inclined To Support Some Change. So We Have Staff On Each Side Of This Issue. I Will Say Further That Lehigh Planning Council Has Addressed This Issue. And A 12-0 Vote Recommended Against Any Change In The Existing Ordinance. I Don't Know About Your Own E-Mails, Letters, Contacts From Wherever. In My Office Since It's My District, I Think I Have Probably Don't As Much If Not More Than Most Pouch The Response Is Overwhelming Opposed To Any Change In The Existing Ordinance. Our Choice Here Is To Either Let The Issue Die And Take No Further Action, Leave Everything Status Quo, Or Do You Want To Blue Sheet This Item So Folks Can Fill The Chambers Here And Tell Us Their Thoughts On It And Then We'll Make A Decision After Such. If Someone Wants To Have The Public Hearing Or Blue Sheet Item And Hear About It Or Based On What You Have Been Receiving Or Your Personal Review Of This, I Need Some Direction Here. My Inclination Is To Take No Further Action After What Miss Gibbs' Office Has Already Done. If The Three Of You Want To Do Something Else Now Is The Time?

Commissioner Bigelow: No.

Commissioner Manning: Is Mary Gibson Here?  
If She Could Highlight For The Benefit Of Those Listening In.

Chairman Mann: Bullet Point A Couple Of Things, Mary.

Commissioner Manning: The Reason I Ask Is Initially This Was Presented As An Economic Issue And Tough Economic Times How Could You Not Be Empathetic And Allow For The Chickens In A Residential Zone Property. Of Course, They Are Still Allowed In Agricultural Zone Land But I Thought The Report Was Compelling In Defusing The Economic Argument And Now It's More Of A Lifestyle-Health Issue With Regards To Raising Your Own Chickens, Having Organic Eggs, And That's A Whole Another Argument Than What Was Presented As An Economic Issue. Plans Mary Could --

Chairman Mann: If Could You Summarize And Touch On The Economic Issue.

Commissioners, What We Did Was We Surveyed Selected Counties And Cities In Florida And We Also Surveyed The Ones Some Of The Ones That Have Been Brought Up By Some Of The People That Supported The Chickens As More, The More Advanced Places Throughout The Nations. We Did A Survey Of 35 Different Communities Throughout The State And The Nation. What We Found Was 2/3 Of The Communities Did Not Allow Chickens On Your Standard Residential Lots. If You Had An Acre Or Two Acres In General Or More Or Agriculturally Zoned Properties. We Are Not Ask Is Counting The Sustainability Issue And This Is A Trend But If You Actually Examine The Economics Of It, It Is Probably Cheaper To Buy Eggs Than Raise Them. We Understand People That Want To Have Chickens There's Other Factors, They Like Them As Pets, They Like Them Because It's A Little Movement Toward Sustainability. But We In Our Survey And Information, We Found The Fact That It's Really Not Cheaper To Raise Them But Cheaper To Buy Eggs. That Wasn't The Premise It.

It Was Based On The Fact That Allowing Them In Residential Standard Lots Creates Ramifications For The County. We Have Hundreds Of Thousands Of Residential Lots And There Are 7500 Square Feet. If You Were To Allow Them You Need To Look At The Ramifications Of Do They Need To Be Permitted? Licensed? Not Need To Be Licensed? The Proximity To Residential Homes Nearby And The Fact That A Lot Of Times The Neighbors Complain. Even Though You Keep The Coops Clean People May Not And You Have Odors And Nuisance Issues. The Main Reason We Said Tonight Change The Ordinance Is Because They Are Allowed On Agricultural Land If You Have One-Acre Size Lots. To Allow Them On Smaller Lots Creates A Possibility Of The Nuisance Factor. It's Very Hard. We Looked At The City Of Gainesville Where They Did Allow Them On Smaller Lots. Their Code Enforcement Required Licenses And Setbacks And Chicken Coops To Be Built To Building Codes. When They Got Down To It They Didn't Enforce It, Just Did It On A Complaint Basis. That Was The Basis Of Our Recommendation.

Chairman Mann: Questions?

Commissioner Bigelow: So, They Developed Regulations To Be Able To Make It Possible For Someone To Have Chickens And Raise Eggs On Small Lots And Still Address The Off-Site?

In The City Of Gainesville.

Commissioner Bigelow: I Wasn't Finished. It Was A Complaint Process Not Enforcement Process. That's How It Usually Operates.

It Depends. Sometimes They Are Pro-Active The Point I'm Trying To Get Across If Did You Decide To Do It I Think It Would Be Difficult To Enforce.

Joan Laguardia From My Staff Called Around And Talked To A Lot Of People And What They Found They Put A Lot Of Restrictions In Place And A Permit And A Fee But It Comes Down To The Fact That It's Very Difficult To Enforce.

Commissioner Bigelow: Mr. Chairman, I Have Some Opinions On This And Would Like To First Hear From The Community Sustainability's Advisory Committee. A Chair, A Volunteer Not The Office Of Sustainability That's Made The Request To Take Up This Matter. I Would Like To Seek Their Opinion First On The Matter Before We Do Anything Or Not Do Anything. Mary's Report, I Think, Was Good, But It Looked More In The Rear-View Mirror Not Forward Thinking. She Mentioned Trend. There Are Trends Out There That Indicate This Is Just The Tip Of An Iceberg Of What We're Going To Have To Do Differently Here In Lee County If We're Going To Be Community Sustainability Leaders. I Think That Those Trends Were Not -- They Weren't Given A Fair Look Or Study. In Mary's Report. I Would Ask Her To Maybe Consider Helping To Balance Out That White Paper, If You Will, With An Analysis Of Trends. Because, You Know, They Call Us Leaders. The Bureaucracy Is Not The Leadership Branch Of This Government. We Are.

If We Lead On Community Sustainability As We All Wish To Do, That This Is Not Something We Can Just Throw To The Wayside Because We Have A White Paper That Says Others Tried It And Failed Or It's Difficult To Enforce Or Something Like That. Let Me End With This. Just Because This Person Who Contacted Code Enforcement Seeking To Find Out How She Might Comply And Was Sided -- Excuse Me, That's Not Correcting With Commissioner.

Commissioner Bigelow: I Apologize.  
That's What I Was Told Was Correct About It.

That's Not Correct. We Do Have People Calling, We Have Had Neighbors Complaining About It And That's The Reason For Citation.

Commissioner Bigelow: I Stand Corrected That's Not A Problem But What I Was Trying To Say Is I Think The Fact That This Started In Lehigh Doesn't Necessarily Mean This Is Only Solely Lehigh Issue.

It Could Have Been Anywhere, North Fort Myers Or Fires, Not The City Of Fort Myers But City Of Fort Myers Incorporated Area.  
The Issue Is That Important And Timely For Us To Be Sure That We Have Given This A Fair And Broad Review And I Think The Community's Sustainability Committee Would Help In A Large Way To Do That For Us.  
That's Why We Have These Boards, For Advice.

Chairman Mann: OK.

Now We're Going To Dispose Of This Issue Or We're Going To Have Forward With It. If There Is A Motion To Pursue This Further And Bring It Ultimately To Either -- I Want A Motion That Says Take It To Management And Manning Or Take It To A Blue Sheet So We Can Have Total Public Input, I Would Entertain Such A Motion At This Time. If The Motion Is Not Made Or If It Fails, Then The Issue Is Finished.  
Is That Clear? No, Sir, We Can't Have Public Input At This Time.

Commissioner Bigelow: I Would Motion That We Wait To Take Action Until We Have Heard From The Community Of Sustainability Committee?

Chairman Mann: A Second To That Motion.

Commissioner Bigelow: We Don't Want To Wait.

Chairman Mann: That Motion Dies For Lack Of Second.  
Do You Have A Further Motion?

Commissioner Bigelow: I Would Then I Guess Suggest That There's Somebody Wishing To Speak, But We Could Commissioner Could Ask –

Chairman Mann: That's Not Proper Under These Circumstances.  
They Will Have An Opportunity. Any Of You Folks Can Come Back.  
We Have Opportunities To Speak At The End Of Our Meetings On Any Subject That You Would Like To. Today Is Not One Of Those Days. Am I Right On That?

Commissioner Bigelow: It Is One Of Those Days.

Commissioner Hall: We Did It Last Week.

Chairman Mann: Public Comment At The End?

Commissioner Hall: No.  
We Did It Last Week.

Chairman Mann: And You Can Say Anything You Want On This Issue And You Main Entire Three Commissioners To Change Their Thinking On It.  
Put For Right Now, The Motion That Was Proffered Has Been Rejected For Lack Of

Second.  
And I Hear No Other Motion On The Matter.  
So, I Would Go To County –

Commissioner Bigelow: Wait.  
On That Issue.

Chairman Mann: We Are Through With That Issue.  
Somebody Can Bring It Up At The Proper Time As I Have Just Outlined But We  
Were Through With That Issue Now And We're On Appointments.

Commissioner Hall: I Have None.

Commissioner Manning: I Have Four Reappointments To The Land Development  
Code. Michael Anton, Liz Donnelley, Chris Eyeback And Ian Land?

Commissioner Hall: Second.

Chairman Mann: Show It Adopted. I Have Several.  
Let Me Take Them In Two Spots Here. Armando More Say.  
Marvin Smith To Land Development Advisory And Peter Comezes To The Land  
Development.

Commissioner Hall: Move.

Commissioner Manning: Second.

Chairman Mann: Show That Adopted And Also Lawrence Freezewick To The Lighting  
Unit And Charlie Doss To The Special Improvement District.

Chairman Mann: Show That Adopted Without Objection.  
Mr. Judah.

Commissioner Judah: Michael Lovelace To The Housing Authority.  
Steven Brown To The And Ronald Vaness.  
Theresa And Delores Miller.

Chairman Mann: Show That Adopted. Mr. Bigelow.

Commissioner Bigelow: I'll Motion For An Appointment Of Robert Peace To Town  
River Improvement Unit. A.B. Cook To The Construction Licensing Advisory Board.  
Jerry Murphy To The Land Development Advisory Board.

Commissioner Hall: Second.

Chairman Mann: Show It Adopted Without Objection. That Takes Us To County Manager.

No, Sir. There Was A Request Last Week For The Solar Water Heater Program To Be Presented Today. But We're Going To Defer That For Three Weeks.

Make A Motion If Need That We Have A Date And This Issue Will Be Brought Back To The Court.

Commissioner Bigelow: Second.

Chairman Mann: That Doubt Certain, Do You Want To Try To Establish That? Otherwise The Motion Doesn't Say Much. September 20th.

Commissioner Judah: They Board Meeting. Can I Ask A Question. Is The Letter To Congressman Mack A Hurdle, Just A Hurdle We Have To Overcome?

Chairman Mann: Yes. We Have Already Proved That.

Commissioner Judah: I'm Asking, Tied Together, Frank, Is It A Road Block?

Currently It Is Until Congress Changes The Legislation.

Commissioner Judah: That's What I Thought.

One Of Many Options.

Chairman Mann: Objection To The Motion?

Commissioner Judah: I Know More About That State Federal Law Conflict When We Bring This Up? Could You Address That? If It's A Roadblock That We Could Fashion An Alternative Approach We Need A Study.

Yes, Sir. It Is A Roadblock And The Letter Will Help Greatly, I Hope In That. What We Were Going To Talk About Today In Solar Water Heaters And Options For Leasing Type Programs And That Will Come Back On The 20th.

Commissioner Judah: Those Issues Are Linked?

No, Not Really.

Commissioner Judah: OK.

Chairman Mann: We Do Have An Issue That We Need To Take Up From The County

Attorney. Mr. Hunt.

Thank You, Mr. Chair.

As You Are Aware Currently The County Has A Contract With Rose Sunstrum Bentley L.L.P. Off A Consulting Services That Address Tourist Related Issues, Shoreline Erosion Protection And Inland River Enhancement.

The Funds That Have Been Used To Pay For This Have Been T.D.C. Fund In The Past. Recently The Clerk Of The Court Has Notified The County That There Would No Longer Be Checks Issued For This Current Contract.

The Basis Of The Refusal Is That The State Law Does Not Authorize The Use Of T.D.C. Funds For Such Tourist-Related Services And Is Too Indirect Under State Law. As A Result Of That, We Are Asking For Your Guidance In Terms Of What Options To Take. We Talked In The Office And We Have Three Options To Propose And We Have One We Would Like To Recommend.

The First Option Is To Seek An Attorney General Opinion, But The Clerk Has Already Stated That He Would Not Be Bound By Such An Opinion So I Think That Would Have Little Use. The Second Is Seek A Revision Of Your Current T.D.C. Local Ordinance, But There Is Still The Same Concerns There In Terms Of Whether The Clerk Would Abide By That. So, Our Option, Third Option Is To File A Declaratory Action In Circuit Court And Have The Court Decide, Determine What The Parameters Are Of The County's Authority And Ability With Respect To Use Of T.D.C. Funds With Respect To This Particular Use.

Commissioner Hall: Commission Mr. Chairman?

Chairman Mann: Feel Free To Jump In.

Commissioner Hall: Mr. Hunt, Is The Clerk Only Not Paying The Sunstrum Rose Contract?

He's Not Paying On Another Contract, I Believe For The Same Reason. He Believes That The Use Of T.D.C. Funds He Believes Too Indirect And Not Authorized Under State Law.

Commissioner Hall: We Have Several Contracts That Come Under The Three Different Categories For The Funding Mechanism By State Statute. Have We Received Notification? I Think There's Several Contracts. Have We Received In Writing From Him That He's Not Paying These Or Do We Receive In Writing From Hum That On The Sunstrum Rose Contract Was Not Going To Be Paid.

We Received Word Last Week On The Sunstrum Contract And Word In Writing Yesterday On The Van Skoya Contract For Beach Renourishment.

Commissioner Hall: He's Chosen Not To Pay These Two Based On Regulation That We Are Not Allowed To Pay?

Yes, Ma'am.

Commissioner Hall: Thank You.

Commissioner Judah: It's Pretty Clear In The Statute That There Are Certain Criteria Within Which The County Is Eligible In Using The Tourist Tax Money To Pay Mr. Fumero For His Services Regarding Water Resources, Beaches, Rivers. And I Just Would Like To You Reiterate The Language That Is In The Statute And The Nexus Within Mr. Fumero Has Been Hired In Protecting Our Water Resources.

If You Would Give Me A Second.

OK, Section 125.104 Subsection 5, Subsection A Subsection 4 State T.D.C. Funds May Be Used To Finance Beach Park Facility Or Beach Improvement, Maintenance, Renourishment, And Shoreline Control And Protection.

Enhancement And Clean-Up Of Inland Lakes And Rivers To Which There Is Public Access As Those Sites Relate To The Inland River, Lake Or Shoreline.

Section 125 Section 0104 Subsection 5, Subsection 5, Subsection 3.

Tourist Bureau Information Centers As County Agencies By Contract With The Chambers Of Commerce Or Similar Associations May Include Any Indirect Administrative Costs For Services Performed By The County On Behalf Of The Promotion Agency.

In This Case Connecting Of The Dots Is The Use Of Tourist-Related Funds To Do The Type Of Tourism Oh Or Tourist Related Consulting That The Rose Sunstrom Is Doing Is Permitted Under State Statute.

Commissioner Judah: I Wanted That Stated On The Record For All Those Listening And Viewing In. The Reason Bag That The Statute Is Real Clear And The Board Of County Commissioners Has Been Accurately And Appropriately Interpreting The State Substitute. Utilizing T.D.C. Funding To Pay For Mr. Fumero's Services To Help In The Restoration And Protection Of Our Critical Water Responses The T.D.C. Knew That Years Ago. That's The Key To A Functional Tourism Industry Here In This County Is To Protect Our Water Resources.

We Have Been Under Assault With The Drainage Of The Caloosahatchee And Our Back Bays And Estuaries And Therefore The Need To Hire Mr. Fumero To Help Us Working With The Agencies Like The South Florida Water Management District And Working With Cummings Or Hall A Number Of Years Ago On The Northern Everglades Protection Act With Restoring Our Rivers And Estuaries.

This Is Something That's Been Consistent Since I Believe 2004 When The Tourist And Development Council Recognized It Was Important To Step Up And Seek Legal Services To Ensure The Protection Of Our Water Resources.

Yes, Sir.

Commissioner Judah: And Here We Are In 2011 The Clerk Of Court Has Decided That We Are Acting Inappropriately And That There Is No Nexus With Regard To T.D.C. Funding For Mr. Fumero's Contract. I Find That Puzzling. I'm Also Very Disturbed To Hear That He's Challenging The Funding For I Suspect It's A Law Firm That Is Also Assisting Us On Restore And Protect Our Natural Resources.

It's Just Sad. It's Really Sad.

We're Struggling Living Downstream From A Lot Of The Pollution Being Discharged Our Way, That We Are Trying Valiantly To Restore Our Water Resources, Protect Our Tourism And Quality Of Life And From A Financial Standpoint.

The Clerk Of Court, Charlie Green, Is Forcing The County Into A Position Where We Will Have To Take Him To Circuit Court And Force A Declaratory Judgment. This Has Broader Ramifications For All The Other Counties And Municipalities In The State Of Florida That Use T.D.C. In An Appropriate And Responsible Way.

My Concern Now Is We Are Under Contract With Mr. Fumero. We Have To Fulfill Our Obligation To Pay For His Services And We Are Now Stymied From Being Able To Do So. The Money Will Have To Come From Some Other Source. There Are Penalty If We Don't Fulfill Our Obligations. I Hope The Board Will Support The Declaratory Judgment. Hopefully We'll Get A Decision As Soon As Possible So We Can Get Back Into The Business Of Taking Care Of Our Natural Resources. But It's Very, Very Troubling.

It's Sad That This County Commission Has Been Forced Into This Situation. As I Said, It's A Colossal Waste Of Taxpayer Money On Behalf Of The Clerk Of Court Forcing This County Into This Situation. But I Feel Strongly This Is Something We Have Done Consistently, The Statute Is Pretty Clear With Regard To The Nexus Of Using T.D.C. Money To Pay For Mr. Fumero's Services And Hopefully We'll Be Able To Move Forward.

Commissioner Bigelow: When We File This In Circuit Court, Are We Filing Against The Clerk?

Yes.

Commissioner Bigelow: So We Are File A Lawsuit Against The Clerk Of Courts And He'll Use Mr. Carda, Probably To Attend His Position. And In Mr. Carda's Letter He's Saying The Attorney General Opinion That He Studied And Used To Form His Opinion, An Opinion Like Yours Or Mine Or Mr. Carda's Or Mr. Green's Are Just Opinions.

I Do Support Going To Court To Try To Get Definitive Judgment On It, But Mr. Carda Is Saying The Attorney General Says That Any Determination Of Proper Use Of Such Funds Must Show A Distinct And Direct Relationship Between The Expenditures Of Such Revenues In The Promotion Of Tourism.

Chairman Mann: OK.

Commissioner Bigelow Your Point Here? It's Not Our Purpose Here To Try The Case. It's Our Purpose To Decide Whether We Want The Attorney Recommendation. I Have Such A Motion And Second. Commissioner Bigelow, Do You Want To Support The Motion?

Commissioner Bigelow: I Think You Are Developing A Habit That Is Extremely Concerning For Me. Are You Consistently And Often Cutting Me Off. I Don't Know Why Are You Doing That.

Chairman Mann: I Have As The Chair The Obligation To Keep Us Focused On Point. Our Point Here Is This Recommendation.

Commissioner Bigelow: Have I Wandered Off Into The Weeds?

Chairman Mann: You're Not Listening To Me, Commissioner Bigelow. I'm Exactly On Complaint.

Commissioner Bigelow: That's My Complaint With You.

Chairman Mann: You Are Trying This Case And It's Up To The Lawyers To Try The Case And Get A Declaratory Judgment And That's What They Have Recommended And You Were Straying From The Point Here Which Is To Either Take Their Recommendation Or Not. That Is What Is Before Us. The Chair Is Quite Proper In Limiting The Conversation To That. I Have A Motion And I Have A Second. Is There Further Discussion?

Commissioner Bigelow: Yes.

Chairman Mann: On The Motion To Have Our Attorney File For Declaratory Action.

Commissioner Bigelow: Thank You For The Liberty, Frank.

Chairman Mann: You Don't Need To Thank Me For Adhering To Roberts Rules Of Order. Are You Recognized As Properly You Should Be. Speak.

Commissioner Bigelow: If You Would Compare The Latitude You Provided Commissioner Judah, Compared To The Inability I Was Given, The Restriction I Was Given.

Chairman Mann: Are You Recognized To Speak On The Motion.

Commissioner Bigelow: My Question For The County Attorney Is Can You Assure Us When You File This Lawsuit In Circuit Court You Will Be Able To Determine These Are Proper Use Of Funds Because You Have Distinct And Direct Relationship Between The Expenditures Of Such Revenues And The Promotion Of Tourism?

That's Not What The State Law Says. It Talks About Also The Indirect Expenditures. Mr. Carda Brings Out One Point But That's Not Necessarily The Point That Should Be Addressed. We Will Be Acquainted With What The State Law Says.

Commissioner Bigelow: Are You Hanging Your Hat On Indirect.

I'm Hanging My Hat On State Law, Sir, Which Includes Indirect.

Commissioner Bigelow: OK. One Other Question. There Seems To Be Some Difference, I Think, This Is A Question, Between Whether Or Not Expenditure For Legal Services Is Appropriate As Opposed To A Consultant. Can You Tell Me, Is There Any Difference In Your Mind?

The State Law Does Not Address Legal Or Consulting.  
There's No Difference In The State Law.

Commissioner Bigelow: OK.

I'm Going Back To The Blue Heat?

A 3-2 Decision We Decided To Continue A Legal Contracting With Legal Services Contract With The Sunstrom Law Firm. I Tried To Point Out If They Are Truly Just Consultants We Would Have To Go Back Out On The Street And Readvertise. Is Any Of That Going To Be Addressed? Or That Issue Decided In The Circuit Court?

No.

Commissioner Bigelow: I Would Like Some Resolution Or Conclusion On That Particular Issue. As We Know Evidenced By Our Own Director He Serves More An Advisory Consulting Capacity Than He Does For Legal Services. If He Were Truly Providing Legal Services He Would Be Working With A Contract -- The Limits Of Asking For Declaratory Judgments Don't Go That Far. A Judge Is Not Going To Respond To That.

Commissioner Bigelow: In The Blue Sheet They Cited Statutes Requiring Us To Continue It. But It's Only Allowed Because It Was Legal Services, Not Consulting Or Advisory Services.

Chairman Mann: Commissioner Bigelow, It Pains Me To Point Out That You Have Once Again Strayed From The Substance Of The Motion.

I Think The Record Reflect That.

Commissioner Bigelow: I Think It's Just Too Much Detail For You, Frank But Thank You.

Chairman Mann: Perhaps True. Is There Objection To The Motion?  
Show It Adopted Without Objection.

Commissioner Judah: Mr. Chair, I Apologize.  
We Have To Follow Up And Still Be Able To Pay The Bills.  
That Money Has To Come From Somewhere While We Seek Declaratory Judgment.

Commissioner Judah: It's Got To Come From Somewhere.

Commissioner Hall: Could We Ask Staff To Review That And Come Back With A Recommendation.

Chairman Mann: Yes And We'll Take That As A Motion Under Commissioner Item At The Next Meeting. We Are Adjourned.  
Thank You Very Much.

Commissioner Bigelow: Happy Birthday To You, Frank.