TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
April 21, 2011

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m. in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman
Melissa Ahern
Donna Reed-Caron
Diane Ebert
Karen Homiak
Barry Klein
Paul Midney
Bob Murray
Brad Schiffer

ALSO PRESENT:

Jeffrey Klatzkow, County Attorney
Ray Bellows, Zoning Manager
Thomas Eastman, Real Property Director, Collier County

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, April 21st meeting of the Collier County Planning Commission.

If you'll all please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. The roll call by the secretary, please.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney is absent.

Ms. Caron?

COMMISSIONER CARON: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Mr. Murray?

COMMISSIONER MURRAY: Yes.

COMMISSIONER HOMIAK: Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: And Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN STRAIN: ***Addenda to the agenda. One big announcement I'd like to make is that the first item up, which is the Quail Creek II PUD, it's Petition PUDZA-PL1891, has been continued indefinitely. So if you're here for that petition today, we will not hear it. Save you all time of waiting through a long meeting today.

Are there any other changes to the agenda anybody knows about?

(No response.)

CHAIRMAN STRAIN: Fred Reischl. Why are you here? When I see you, I think uh-oh, administrative code. Now, that will take longer to get through than the fertilizer ordinance will today. So that's not being added at the last minute to the agenda, okay, good.

But it's good to see you, Fred. Even though you might mean some intense study down the road here.

***Okay, with that we'll move on to Planning Commission absences. And our next meeting is our first meeting in May, May 5th. Does anybody know if they're going to miss that meeting?

(No response.)

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: Only at noon to go out for prayer day. On our break -- lunch break.

CHAIRMAN STRAIN: Okay. That's fine. If you're assuming we're going to go to lunch that day.

COMMISSIONER EBERT: We will.

CHAIRMAN STRAIN: Okay. Most days we finish up in the morning, so --

***Okay, approval of minutes from March 17th, 2011. They were sent to us in our e-mail.

Anybody?

COMMISSIONER SCHIFFER: I'll move to approve.

CHAIRMAN STRAIN: Mr. Schiffer moved.

Seconded by?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Ms. Homiak.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.
COMMISSIONER CARON: Aye.
COMMISSIONER KLEIN: Aye.
COMMISSIONER MURRAY: Aye.
CHAIRMAN STRAIN: Aye.
Anybody opposed?
(No response.)
CHAIRMAN STRAIN: Motion carries 8-0.

By the way, about the approval of minutes, they do come to us at our county e-mail site. Those of you who may have noticed last night, if you tried to check in your e-mail, you're locked out.

COMMISSIONER EBERT: Again?

CHAIRMAN STRAIN: Yeah, they started a new security program that every three months you have to change your password. But from what I understand, to change your password you have to be on the county's intranet. In order to do that, you've got to come to the county to tie into one of the computers at the county. So every three months, all of us, from what I understand, have to come to the county.

COMMISSIONER AHERN: I just called IT and they reset it for me. I didn't have to come in.

CHAIRMAN STRAIN: Well, okay. Because the e-mail they sent, it seemed to indicate you have to come in and use it -- change it on the intranet.

So now you can call them up?

COMMISSIONER AHERN: Yes, so call IT, and they can reset it for you.

CHAIRMAN STRAIN: Okay, and that works. Good information, because that's what we have to do then.

So when you all try to check your e-mail, call up IT department, go over the password change with them. They'll -- I assume then they'll type in the new password and give you the new password. We'll all have to probably do that every three months, from what I read for the new security.

It's a good idea, so it's -- I just wish it was simpler to put in place. But regardless, we'll get it done.

***Chairman's report. I have one comment, and it's about the Quail Creek II project. Mr. Yovanovich, is he here?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Richard, when you bring that back, would you mind bringing the ordinance back in a complete document with the strike-throughs in the complete document? Because what you provided now was only the sections of the old document that was struck through.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: So if you want to see how the general information of the old document read, you have to flip back to another ordinance and flip back and see how the new stuff fits in. So before this stuff comes back to us, could you just put it all in one big document. It would be easier to do it that way.

MR. YOVANOVICH: Yeah, what we did is the strike -- the process we're following is the strike-through and underline process for amending the PUD. So that's why you got it in the format that you got it in. But we can go back and show it in context for you.

CHAIRMAN STRAIN: Well, I'd still -- the strike-through is still the right process --

MR. YOVANOVICH: Right, we can put it in the whole --

CHAIRMAN STRAIN: -- but put it in the whole document. It's like a -- maybe it's a 13 or 20-page document. And, you know, by just using the excerpts you wanted to, it limits a few pages, but it's harder to read.

MR. YOVANOVICH: Okay, we can do that.

CHAIRMAN STRAIN: That would be much handier to have it -- look at it that way.

Okay, that takes care of -- there's no -- there's no consent items today from our last meeting, which brings us right to our first advertised --

COMMISSIONER CARON: BCC recap.

CHAIRMAN STRAIN: ***Oh, yeah. Ray do you have a BCC recap? I'm sorry.

Thank you, Donna.

MR. BELLOWS: On April 12th, the Board of County Commissioners heard the Addie's Corner PUD rezone and the PUD amendment for the Naples Daily News. Both those items were approved on the summary agenda.

The Board continued the Olde Cypress DRI and PUD amendment and the HDPUD amendment to April 26th.

CHAIRMAN STRAIN: Okay. Thank you.

MR. BELLOWS: You're welcome.

CHAIRMAN STRAIN: ***Okay, now we'll move into our first and only advertised public hearing. It's -- and by the way we'll -- after this one we go into what's considered old business, and that's where the fertilizer and watershed management ordinance are. So we'll go to those next.

The advertised public hearing that's up right now is for Petition PUDZ-PL2009-2496. It's Emmanuel Evangelical Lutheran Church. It's on the south side of Oil Well Road.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Okay, disclosures on the part of Planning Commission.

COMMISSIONER AHERN: I spoke with Mr. Yovanovich.

COMMISSIONER CARON: Also.

COMMISSIONER HOMIAK: Me too.

COMMISSIONER KLEIN: Me too.

CHAIRMAN STRAIN: Did you catch that show of hands?

And I did as well. So short conversation, but nonetheless, it was a conversation.

So with that, Richard, it's all yours.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich, on behalf of the petitioner.

With me representing the church are Tom Gemmer, who's been involved through the Comprehensive Plan amendment stage to today on behalf of the church; Bob Duane and George Hermanson with Hole-Montes, they're the planner and engineer for the project; and Ted Treesch is our transportation consultant for the project.

You have recently, within the last year or so, seen the Comprehensive Plan amendment for the mission subdistrict. And we are now at the stage of adopting the PUD zoning to implement the Comp. Plan amendment for the mission subdistrict. So a lot of this will be hopefully familiar. And my presentation will be brief, since it's been heard recently by you all.

The request is to rezone approximately 21 or 22 acres to the CFPUD for the Emmanuel Lutheran church project. The request is -- and you all have up on this -- on the board up there the aerial that shows the acreage for the property. And I'll put on the visualizer the master plan for the project, as soon as I find out where I put it. There it is.

The request is to rezone the property for 90,000 square feet of uses, and that's cumulative uses. That will include a 300-person child care and adult day care facility rooms for various outreach programs related to the church, a 450-student private school and then the church building itself.

These were all uses that were specifically discussed as part of the mission subdistrict. And as your staff report analyzes, they are -- our PUD is consistent with those requests of the Comprehensive Plan.

I wanted to just kind of highlight a few changes and discussions I had with members of the Planning Commission and how we would plan on implementing them in the documents that come back as part of the consent portion of this, assuming the Planning Commission agrees with the comments we received in our one-on-ones.

As you can see in the green area, I put a line that's to the west and south of the playfields. As you could tell from the aerial, we actually have -- that's where our adjacent neighbors are. So a concern was raised, what would be the noise that would come from children playing on those fields and would it disturb those neighbors.

So we propose to put a wall where I've labeled it green on the master plan to address concerns for the immediate neighbors.

As you can see, the rest of the surrounding properties are basically -- are vacant. And with our setbacks that are in our PUD of a minimum of 75 feet, and as you can see from the master plan, the buildings are even further back than that, we think we've addressed any compatibility concerns by locating the wall in the areas that I'm mentioning on this -- or highlighting on the master plan.

You'll see some green dots in the middle of the master plan. Those are actually -- I was asked what are those, because there's, you know -- there's boxes around the boxes that indicate the buildings. And I had thought that that was actually lawn area and green space area, and I was actually right.

The narrow areas are actually the sidewalks, so we were showing kind of, you know, sidewalk circulation, and that's what created those boxes that led to the question about what exactly are those boxes. So that's kind of lawn

area and green space planting areas on the site.

I was asked a question on Page 3 of 9, which is in Exhibit B. The question I was asked is the minimum distance between principal structures. It says half of the building height. And I was asked is that half of the actual building height or is that half of the zoned building height. And it's half of the zoned building height would be the distance between structures.

And then if we go to the next page, which is Page 4 of 9, under accessory structures, under perimeter setback it says 25 feet, but it really should be 75 feet, because that's the requirement. So need to correct that as well.

I would say, except for the area where we have the play fields, but as far as other uses go, and the water plant -- other uses, we would meet the 75-foot requirement, as you can see, with the master plan.

Now, the issue that I think -- the only issue in the staff report, because I think staff's recommending approval, really, the only issue related to the garden plots and whether they could be allowed to be utilized prior to the construction of the church facility itself.

And Tom Gemmer can get into this in greater detail. But I'll try to explain to you what our thought is. Garden plots have become more and more popular for people who live in communities to have an area to go and grow flowers or have small vegetables gardens for people who don't have space in their back yard to do them themselves. In fact, I think there was a pretty big article in USA Today about the popularity of these types of garden plots.

The church saw this as just a natural extension of their mission outreach to provide an opportunity for their members in the surrounding community to have garden plots. So we have requested the ability to have those garden plots within our PUD and have that use start before we actually put the church up. We thought it would be a natural outreach. It would give the community an opportunity to get to know the church and have them start attending church services.

To me it just -- it seemed like a very innocuous use, didn't see it as a big deal. As a matter of fact, we have one in my backyard we do with our kids and it's -- but I had them -- then someone said to me, Rich, where are people going to park? Where are people going to go to the bathroom?

I said, you know, I missed that.

CHAIRMAN STRAIN: Use your house.

MR. YOVANOVICH: Well, they can all drive back to my house after they plant. That's fine. If that will get it approved, that will work.

But that was a --

CHAIRMAN STRAIN: We will stipulate that.

COMMISSIONER MURRAY: Move to approve.

MR. YOVANOVICH: So, you know, that was a very good question that frankly I hadn't thought about, you know. So we have since then come up with what we think would be appropriate development standards related to this. And I know you don't like things handed out last minute, but I kind of have to do that in order to address the concern that was raised -- that was kind of raised that, you know, frankly we all missed when we were thinking about it.

CHAIRMAN STRAIN: Do you have copies for Kay there?

(At which time, Mr. Midney entered the boardroom.)

MR. YOVANOVICH: Yeah, we've already given it to Kay. I don't know what she -- or we e-mailed it to Kay. I don't know if she had a chance to look at it or not or what she even thinks about these standards. But I'll wait to go over them until -- what we tried to do was adopt reasonable standards related to these garden plots so we're not having a big farm area of 21 acres.

So the first item was to limit the garden plots to no more than 10 percent of the site, which would be about two acres of the site could be used for garden plots.

The garden plots need to be centrally located on the property so they're not right on the street. And so they would be in the center of the property.

We would limit the number of automobiles to 10 at any one time. And we would have a dust free gravel surface to address parking related to these garden plots.

We would provide temporary sanitary facilities until we had a permanent building at that location.

And really, the last one is our understanding of what the rules are in Collier County anyway, is that there would be no -- there's no SDP or Site Improvement Plan required as related to this. Because, frankly, if we had to do

all of that, it just becomes cost prohibitive so we may as well not do the garden plots.

So what we had done is we added that because that was our understanding and wanted to make sure. So we tried to come up with reasonable development standards to address the garden plot issue and our desire to have that use. I guess it would be a principal use and not an accessory use. But it would be related to our church. And it would be a principal use because it could predate the actual construction of the church building itself.

I think that is the only issue between staff's review -- I'm sorry?

COMMISSIONER EBERT: Water.

MR. YOVANOVICH: Water, what?

COMMISSIONER EBERT: For the garden when they plant. Is there going to be water out there?

MR. YOVANOVICH: I'm assuming we'll have a well or something to address watering the garden, yes. We'll have to provide some mechanism for irrigation, yes.

CHAIRMAN STRAIN: That's the end of your --

MR. YOVANOVICH: Yeah. I mean, you've seen it before, so I didn't think I needed to go through everything else.

CHAIRMAN STRAIN: What we saw before wasn't the detail that --

MR. YOVANOVICH: It wasn't the detail that I'm going through today, but the Comp. Plan and the traffic analysis was all based upon what you have in front of you today.

CHAIRMAN STRAIN: Right. But I just wanted to make sure the public -- that this is more detail, so we certainly are going to have more questions.

MR. YOVANOVICH: Correct, right.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Rich, I understand where you want to go with that, and that's fine.

What will happen to those plots over time? Will they remain in the center of the property with buildings around them? Doesn't look like it, but --

MR. YOVANOVICH: No, we'll have to at that point relocate the garden plots to an appropriate location on the site. But I don't think there was ever an issue with the garden plots if it was accompanied with a church. The issue came about what if you just had garden plots.

COMMISSIONER MURRAY: I understand that. Okay, thank you.

CHAIRMAN STRAIN: Is that the end of your presentation?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Okay. Does anybody -- Brad?

COMMISSIONER SCHIFFER: Rich, on Exhibit B, the perimeter setback, would you have a problem putting 75 feet on the north property? Also the -- I don't see any buildings up there, but let's keep Oil Well free of buildings right on the road.

MR. YOVANOVICH: So you're talking about a building perimeter setback of minimum of 75 feet?

COMMISSIONER SCHIFFER: Under principal structures.

MR. YOVANOVICH: Okay. Yes, sir.

COMMISSIONER SCHIFFER: Do you see a problem?

MR. YOVANOVICH: No. As long as we can still have some of the parking within the 75 feet, that's fine.

COMMISSIONER SCHIFFER: That's fine, yeah.

And you already on the accessory would change that to 75, correct?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER SCHIFFER: Then the only other thing is kind of a scrivener thing. In Exhibit E, you're looking for relief from a fence on the -- I think the word southeast should be separated, meaning south, comma, east and west, don't you agree?

MR. YOVANOVICH: Can you tell me what page you're on?

COMMISSIONER SCHIFFER: That's eight of nine.

MR. YOVANOVICH: Eight of nine. Thanks, let me look real quick.

Yes, sir.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Okay, anybody else have any questions at this time?

COMMISSIONER CARON: Excuse me.

CHAIRMAN STRAIN: Go ahead, Ms. Caron.

COMMISSIONER CARON: That whole section's going to change anyway, because you are going to have a wall.

MR. YOVANOVICH: We'll have the -- yes, yes. That's a good catch on the south, comma, east, we need to do that. And then we need to identify where we will have a wall.

CHAIRMAN STRAIN: Okay. On Page 2 under accessory uses, on number one, B-1, it's your recreational facilities. I would suggest we change the wording. Recreational facilities, including outdoor play areas and athletic fields, administration offices and facilities. Then I'd like to suggest adding the word and youth recreation centers indoors to support the church and their outreach programs. Drop the words and similar uses. You have that ability already in B-3, so I don't think we need and similar uses in B-1. If would just add to the additional ambiguity of someone's interpretation of what similar uses are.

MR. YOVANOVICH: Okay, I think that that's fine.

CHAIRMAN STRAIN: Okay. And I believe -- I strongly believe that we need to have hours of operation on the recreational area. You are alongside existing residential homes. You're going to put a wall up, but I don't see the need to go into long play hours.

So what do you -- do you have any suggestions on what you would like, and we'll see if it's reasonable?

MR. YOVANOVICH: Let me ask --

CHAIRMAN STRAIN: Yeah, go ahead.

MR. YOVANOVICH: -- I want to ask Mr. Gemmer about it, if you don't mind, because I don't know if we're going to light it or not.

Mr. Strain, my client can agree to a 9:00 -- cut-off at 9:00 p.m. at night.

CHAIRMAN STRAIN: What time in the morning, 7:00?

MR. YOVANOVICH: Yeah, if we get them up that early.

CHAIRMAN STRAIN: No sooner than 7:00, no later than --

MR. YOVANOVICH: No later than 9:00.

CHAIRMAN STRAIN: Have you had any input from the neighbors about any of the issues you've --

MR. YOVANOVICH: We have had neighborhood information meetings, and we've not received any feedback negative to our project.

CHAIRMAN STRAIN: Okay. Did any neighbors attend the NIM?

MR. YOVANOVICH: I don't remember anybody really showing up, to be honest with you.

MR. DUANE: One or two.

MR. YOVANOVICH: We had one or two show up, but we sent letters directly to our affected neighbors to highlight -- and I will tell you why I think there was an issue. In that letter we had worked with transportation staff to relocate the full turnaround median opening. And I'm going to walk over here real quick.

This is why I know people would have shown up if they were upset. The Oil Well plans originally had a full median opening here to serve these six homes. And we said, you know, that really makes no sense, we're going to have a much more intensive use on this property, really ought to move the full median opening here.

And they said, we think that makes sense, but we want the neighborhood to know that there's going to be that plan change. So we included that in our neighborhood information meeting. So if there would have ever been something that would have raised people's concern to come to a NIM, that letter would have done it. So I think if people were interested, they would have clearly been there.

CHAIRMAN STRAIN: Okay. On Page 4. At the end of B, there's a general note. It says: Except as provided for herein, all criteria set forth above shall be understood to be in relation to individual parcel or lot boundary lines or between structures.

Okay, why did you put that in? That's the first time I remember seeing that in an order -- why did you feel that clarification was needed for? Because the perimeter setback, for example, isn't in relationship to an individual parcel or lot boundary lines, or between structures, it's to the perimeter boundary lines.

MR. YOVANOVICH: My colleague tells me that he agrees with your comment, we don't need that general note, now that we've made that change to the perimeter setback.

CHAIRMAN STRAIN: Okay. Under the garden plots, I appreciate your offer to use your bathroom at your

home. And if you could put signs up to direct people there, I think that would be a fine move on your part, very -- but not practical --

MR. YOVANOVICH: That would violate the sign ordinance, so --

CHAIRMAN STRAIN: In your efforts for these gardens, are you going to come under the soon to be fertilizer ordinance, just out of curiosity? You want to get into that ball of wax now?

MR. YOVANOVICH: Can we wait until the next item? Which I'll be happy to participate in those discussions.

CHAIRMAN STRAIN: Okay. I understand the acreage, that's fine. And by the way, I mean, I've got a garden at my house, so I, like you, I mean, it's -- we use our own bathroom too.

The idea, though, that you can have up to two acres without any permitting for the number of cars coming and the sanitary facilities you're going to provide, how would you -- you would just go out and do this with no permit required by the county, or is there any oversight by the county involved in the process?

MR. YOVANOVICH: Bob?

MR. DUANE: For the record, Robert Duane.

We were not contemplating putting any permitted improvements in. We were going to put a little gravel to get to the garden plot. And obviously we wanted to put a little gravel over a parking area to accommodate up to 10 spaces, and that is a maximum number.

Mr. Gemmer tells me that, you know, there's more than likely going to be less than that. We thought the use was so passive with just merely a little gravel for access and a port-a-potty that it didn't rise to the level of going through a Site Development Plan approval or an improvement plan. I mean, that's what our thoughts were.

MR. YOVANOVICH: George Hermanson just told me there's actually a construction plan approval process that's short of the Site Development Plan process that we can use for our access road and our gravel parking area. I don't know that you really need anything to show where the plots are going to be. I think the bigger concern is the access road on our property and the parking area. And there's a construction plan approval process that we can go through with the county to show.

CHAIRMAN STRAIN: Ray, is that consistent with your understanding?

MR. BELLOWS: I think it can be done that way, but staff -- and this is the first I've looked at this language. And I would think a more appropriate process would be the Site Improvement Plan. It's not a full-blown SDP, but I think we can at least address a lot of the concerns about the location of the parking and these wellfield to provide water to the facility, the bathrooms, even if they're temporary in nature.

You know, I have some concern that we are trying to create a permanent use out of what's (sic) they're saying is really an accessory use to the church without the church being in place.

CHAIRMAN STRAIN: That's where I was going to go next. I would rather we call this an accessory use but we provide an exception to it as an accessory use in regards to its placement there after the church is in place. That would be different than anything we've done before. But a garden plot is something -- I've been here 10 years, I've not seen it come before the Board before, too. And it's not an intense use.

I think it's a good idea. I don't have a problem with it. But I'm very concerned about having someone else interpret it differently down the road and have a free-for-all that we don't expect.

So I think if we still tie it -- and you started your discussion on this with the fact it's going to be for church members. So I think we still should tie it as an accessory use to the principal uses, but with an exception -- and if you want to call it a deviation or whatever -- with an exception in this case we don't have to have the principal use buildings in place, just the ownership of the property should be significant for that.

MR. YOVANOVICH: And it, like other ministries of the church, are for the church and the surrounding community. And we thought by keeping the size at the two acres it wasn't going to become a 20-acre farm. So that's why we did that.

But there will be -- we hope the surrounding community is going to say, you know, this is great, how about us too within this two-acre area. We don't have an objection to calling it an accessory use as long as we can do the accessory use prior to the buildings going up.

And that's -- you know, that's -- call it whatever we need to to make everybody comfortable, but we hoped by offering these development standards it would never grow into something that would require an interpretation as to is this a farm within the mission subdistrict.

CHAIRMAN STRAIN: Well, I would rather we kept it classified as an accessory with exceptions in how it can be used rather than create a principal use out of something that needs to really be an accessory because it's a church facility.

MR. YOVANOVICH: And we're fine with that, too, as long as the timing issue can be before we put the buildings up.

CHAIRMAN STRAIN: Between now and consent I think that staff ought to work out that language so that it works that way.

MR. YOVANOVICH: That's fine.

CHAIRMAN STRAIN: You did say something, you kept saying only two acres. That's over 86,000 square feet. That's huge. I mean, my garden at home isn't that big. So I realize -- I'm not saying it's wrong to be that big, but two acres is a good size, Rich. That's a lot of acreage. I don't know how you're going to do it by hand. You're going to have to have equipment out there, you're going to have to till it, you're going to have to bring in tons of nitrogen and phosphorus for those. So Conservancy ought to be happy about that.

But you're going to have -- it's not going to -- it's going to be intense. It's not -- I mean, two acres is a good size garden plot.

And look at the irrigation. You going to use drip irrigation? Were you going to use rows? Are you going to use piping, you going to use ditches?

MR. YOVANOVICH: I'll be honest, this is the first -- I mean, this is such -- I really do think we're really making a lot out of something that's a good idea. I mean, what is wrong with having garden plots for the community to go and grow flowers or vegetables for their own use?

I mean, it's -- what's wrong with it? In this area -- look at the area.

CHAIRMAN STRAIN: You're missing the point. From a zoning perspective, if you had put this down as an accessory use, I guarantee you there probably wouldn't have been a single question. It's your insistence on making it a principal use that is changing the dynamics. And that's what this Board is here to look at.

MR. YOVANOVICH: The only reason we called it a principal use is because the normal rules that apply is you can't have the accessory use before you have the principal use. If I could have called it an accessory use and had it as I could build it first, I would have left it as an accessory use. But you can't -- you normally don't do that.

So we were not trying to make a big deal out of the use, it was just the way that zoning law works is usually the principal use is first, the accessory use follows.

And you can check with Ray on that issue. And I think we had that discussion about what's the proper place for this to be. And for us to be able to go forward with the use timing-wise we had to put it as a principal use.

But I agree with your suggestion, that's what made it seem like an issue.

CHAIRMAN STRAIN: Paul, you want to say something?

COMMISSIONER MIDNEY: Yeah, just say that's up to two acres. We don't know that the whole two acres is going to be used. It may only be just a small portion of it.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Maybe we could have a temporary use? How long do you want to do this? Is this two year thing, or five years from now there's a big U-Pick-Em out there?

MR. YOVANOVICH: No, we clearly said you can't have a U-Pick-Em. It has to be for individual consumption. So it's not going to become a U-Pick-Em.

And, you know, the PUD has a process, it has a life of basically five years with the ability to go one more extension to get to seven years. You know, so we're going to either move forward with the church within the timelines that are in the Land Development Code or we're not. So --

COMMISSIONER SCHIFFER: And then the other question, do you think you might need a small structure out there, a shed or something? A structure is defined by anything greater than 30 inches. If you're going to put a bunch of lock boxes on the ground --

MR. YOVANOVICH: I think -- I don't think we anticipate having that. People will bring their -- we don't anticipate somebody having a two-acre plot. We anticipate them having a small area where they'll just bring their own tools to take care of their plot area. So it's not going to be a big intensive use.

COMMISSIONER SCHIFFER: If they get hot from the sun, they go home.

MR. YOVANOVICH: They go home.

CHAIRMAN STRAIN: You know, your parishioners must have a lot of money to be able to drive all the way out there with the price of gasoline to raise a handful of tomatoes, so -- but more power to them, that's fine.

MR. YOVANOVICH: You know, and they may ultimately say thanks for getting it but we don't want to do it. But, I mean, it is a desire of the church community.

CHAIRMAN STRAIN: No, I think the idea of garden plots is good, I would encourage it everywhere. I just want to make sure the distinction between principal use and accessory use is --

MR. YOVANOVICH: We understand that.

CHAIRMAN STRAIN: -- that line is still strong.

Go ahead, Ray.

MR. BELLOWS: I still have a few more questions.

Is this going to be fenced off for security reasons? How are you going to protect it from vandalism? And are these going to be open to all the residents of the Estates or just church parishioners, or are they going to be members of some kind of rehab center the church is involved with? Who is going to be involved with the garden plots?

MR. YOVANOVICH: It's going to be the church and the community around it that want to get involved in these church plots. Just like if we were to open up --

MR. BELLOWS: Won't be members of anybody who's involved with the rehab center?

MR. YOVANOVICH: Let me give you another example. A lot of churches on Sundays will have blood pressure check, blood drives, may give flu shots. We don't say to those from the local community you can't come.

And we had this discussion during the Comp. Plan stage was, is it part of the church. And this is part of our mission and outreach. If there's somebody in the community that says we would like to get involved in doing a garden plot, we're going to see that as an opportunity for our mission work. So I can't tell you there's any limitations on who wants to get involved in that garden plot. We hope that the size of the plot or the two acres and make sure we have parking would address the concerns of this would become a farm.

MR. BELLOWS: I just want the PUD to accurately reflect who's going to use it so in case there are questions in the future.

CHAIRMAN STRAIN: If it's listed as an accessory use with the exception the principal use doesn't have to be in place for this to be utilized, then it has to be then connected to the church. Because it can only be an accessory use if it is. So I think that kind of fixes that.

As far as security goes, I don't think vandalism is going to be your problem, I think the deer and the hogs and the rabbits are going to be your problem, because they are at my house. So you're going to want to put something up. But that's up to you.

If you want to leave it so that it's a garden free-for-all for anybody that wants to drive by, have a bunch to eat and then go to your house and use the bathroom, I guess they should have the right to do that.

And with that, I think that's the last comment I have before we go to staff.

Okay, Kay?

MS. DESELEM: Good morning. For the record, Kay Deselem, Principal Planner with zoning.

And you do have the staff report that was submitted to you with the revision date of 3/28/11.

Just to hit the high spots. As you already know, we do have the issue regarding the garden plots that we've already discussed. Staff is recommending approval but does want to see that clarified.

And with the discussion that's gone on so far, I just had a few issues that I would hope that you would address if you do include any of that as conditions of approval.

One would be whether or not the garden plot use would count towards sunsetting provisions of the PUD. And the fence or wall that they're going to put up, where it has to run, from where to where and how high it has to be and when it has to be installed. More importantly, how high and when. I think he's pretty well showing on this master plan where it's supposed to be.

But I won't belabor the issues other than to say that staff has presented the staff report to you with our analysis, and we are recommending that it be found consistent. We do want to see the garden plot issue resolved, but we are recommending approval, understanding that the use is not objectionable, that's just how it's done.

And then depending upon what you do with the proposed addendum, staff, you know, has some questions about how that's worded. But I think we can go through that with the petitioner as we get ready for consent. For example, the maximum area should be limited to. I mean, is to be. Does that mean that's a requirement that has to

be? I think, as Mr. Schiffer mentioned, it should perhaps be limited to a maximum of.

And I don't know that number two serves a purpose. I don't know what exactly centrally located means and how to measure that.

And number three, again, maximum number of automobiles shall be limited to, instead of saying should be.

And number four is just kind of awkwardly worded. I think that the wording can be improved upon.

And we'd want to note that the temporary sanitary facilities would need to be provided and maintained by the owner.

And as Ray mentioned, I think a Site Improvement Plan would be the best mechanism to use to get the garden plot use on-site.

Other than that, I'm available for any questions you might have.

CHAIRMAN STRAIN: Good. Thank you, Kay.

Ms. Caron?

COMMISSIONER CARON: Did you say you saw on the master plan where you think this garden is going to be?

MS. DESELEM: No, I'm sorry, the fence, the fence, where he's showing it on green.

COMMISSIONER CARON: Okay.

MS. DESELEM: I don't know where garden plots were set, I don't know where centrally located, what that limits it to.

But, yeah, I didn't know exactly -- with the fence issue, the main thing is how high it's going to be and when it has to be installed.

COMMISSIONER CARON: For this ball field fence --

MS. DESELEM: Correct.

COMMISSIONER CARON: -- is what you're talking about there.

MS. DESELEM: Correct.

COMMISSIONER CARON: Okay, not the garden plot fencing.

MS. DESELEM: Yeah. I mean, that's up to him as far as -- I would be concerned, but I think the same thing, it's like, it's the bugs and bunnies, not necessarily the people that might get into the gardens.

COMMISSIONER CARON: Thank you.

CHAIRMAN STRAIN: Anything else of staff?

(No response.)

CHAIRMAN STRAIN: Okay, well, I think we're going to need -- Richard, we need you to respond to these items one at a time so we make sure we get it clear.

Kay had suggested changes to the language on the first one, limited to a maximum of two acres. Do you have any problem with that?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: Second one, garden plots will be centrally located. I would suggest that you adhere to the 75-foot perimeter setback, you'd be fine.

MR. YOVANOVICH: We were going to offer up 100 feet, so 75.

CHAIRMAN STRAIN: I think 75 works, gardens aren't too noisy.

Number three, the maximum number of automobiles shall be limited to. Do you have any problem with that?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: Four. And Kay, you had nothing to add to that.

Number five, maintenance, you guys would maintain the bathrooms, right?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Or they're going to be at your house.

MR. YOVANOVICH: And they're maintained there as well.

CHAIRMAN STRAIN: I hope so.

MR. YOVANOVICH: That's so there's not any confusion.

CHAIRMAN STRAIN: Just for the record, right.

MS. DESELEM: If it's at Richard's house, we want the good towels out there.

CHAIRMAN STRAIN: Number six, an SIP is required. I think that is as simple as it can get for permitting.

Do you have a better idea? I think George is shaking his head.

MR. HERMANSON: George Hermanson.

That's okay. The construction plan approval is a little simpler, because there's less paperwork and review fees. They get the same drawings, the same engineering. If you really want a Site Improvement Plan, okay. I just wanted to keep it a little -- the paperwork a little simpler.

CHAIRMAN STRAIN: Ray, a construction plan, how does it differ in its use compared to an SIP?

MR. BELLOWS: They don't go through planning and zoning. It's more of an engineering type of project.

CHAIRMAN STRAIN: Okay, well --

MR. BELLOWS: And it's usually not something that's affiliated with like a site plan issue that we normally deal with.

CHAIRMAN STRAIN: So if someone comes in for a construction plan, no one checks to see if it's zoned properly?

MR. BELLOWS: No, there is a review of building permits by zoning, and -- but construction plans don't typically deal with this, that I know of. It can be handled, I would think, but --

CHAIRMAN STRAIN: I'm not trying to change the process just for this. I'm trying to understand what (sic) a construction plan submittal differs from an SIP. And basically you said an SIP goes through a zoning check but a construction plan does not.

MR. BELLOWS: I don't work with construction plans that often, so I'd have to check on that.

CHAIRMAN STRAIN: Kay, have you ever reviewed any construction plans, or you do just SIPs and SDPs?

MS. DESELEM: No, sir, I've not been involved in that process either.

CHAIRMAN STRAIN: Okay. Well, I do think a zoning check is something that should be done, simply just to acknowledge it came through for zoning. So an SIP seems to be the way to get there. George seems to accept that as a default, so let's leave it with an SIP.

We've already talked about the setbacks.

The sunsetting. This will not -- now, can an accessory use, Kay, qualify sunsetting?

MS. DESELEM: Normally you don't have an accessory use before you have a principal use, so the issue doesn't normally come up. But that's why I said, we need to make it clear what the situation is, does it count or does it not count.

CHAIRMAN STRAIN: Well, no, it's not construction per se, so I don't see how it could counts as a sunsetting issue.

Do you have any problem with that, Richard?

MR. YOVANOVICH: No, sir. I never envisioned that this would vest us from a sunsetting perspective. So I have no problem saying it doesn't.

CHAIRMAN STRAIN: Ms. Caron, did you have --

COMMISSIONER CARON: No, I just wanted to get to that issue.

MR. YOVANOVICH: You want to talk about the wall. I think it's the only thing that was on the list.

I think code allows a maximum of six foot, so we go up to six feet. And we would build it when we build the facilities for the play area, the fields.

CHAIRMAN STRAIN: Before the fields are operational.

MR. YOVANOVICH: Before they're used, yes.

COMMISSIONER CARON: And it will be six feet, not it will be up to six feet.

MR. YOVANOVICH: Six feet, six feet, six feet. Not six-foot one, six feet.

COMMISSIONER SCHIFFER: Mark, I have a question.

CHAIRMAN STRAIN: Yes, sir, Brad.

COMMISSIONER SCHIFFER: The fields will never be lighted, right?

MR. YOVANOVICH: No, I didn't say that. We don't know. We may have -- we may -- who knows? We may have lights. I mean, we're going to stay open till 9:00 is the latest we would --

COMMISSIONER SCHIFFER: I mean, you're pretty close to property lines --

MR. YOVANOVICH: Right. But you're going to angle the lights away. I mean, the lights aren't going to go into the --

COMMISSIONER SCHIFFER: But they'll be bright.

MR. YOVANOVICH: And we have -- remember, I got these now.

Hopefully on Page 5 of 9 where we talk about the lighting, it will address the concerns, the spillover into neighbors. And that would be F, small letter B.

COMMISSIONER SCHIFFER: I mean, I don't think -- you know, if you left them on at midnight, that wouldn't be too much fun for the neighbors.

MR. YOVANOVICH: Well, how about we make sure that the lights go off at -- is 9:30 reasonable? I mean, 30 minutes after we stop.

COMMISSIONER SCHIFFER: Okay.

MR. YOVANOVICH: Give us time to get people out.

CHAIRMAN STRAIN: So in the paragraph F(b), you'd add another sentence, the recreational lighting to be off by 9:30.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay, anybody else have any questions of staff or the applicant at this time?

(No response.)

CHAIRMAN STRAIN: I have one of transportation.

MR. YOVANOVICH: Kay is pushing me out of the way.

MS. DESELEM: Sorry.

On their item number three for the garden plot, like I said, it's kind of awkwardly worded. I would suggest it be changed to say something to the effect of the owner shall provide dust-free gravel, access and parking areas, or something like that.

CHAIRMAN STRAIN: Number four is what you're talking about, not number --

MS. DESELEM: I'm sorry, yes, number four, sorry.

CHAIRMAN STRAIN: I don't think if you clean up the wording they're going to object to it. We'll just see it on consent when it comes back. Thank you.

John? Behind you.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: In reviewing the garden plots, the rest of it -- I think the report says it speaks for itself. Do you have any concerns over the garden plots' access to the site or use of an SIP to get there and all that stuff, for your purposes from transportation?

MR. PODCZERWINSKY: No, sir, we don't.

CHAIRMAN STRAIN: Okay, thank you.

Anybody else have any questions of anyone before we go to public speakers?

(No response.)

CHAIRMAN STRAIN: Ray, do we have any public speakers?

MR. BELLOWS: No, no one has registered.

CHAIRMAN STRAIN: Does any member of the public wish to speak on this issue?

(No response.)

CHAIRMAN STRAIN: Nobody wants to tell us to make sure we adhere to the future fertilizer ordinance, huh?

Richard, do you have any closing comments?

MR. YOVANOVICH: None that I should probably say, so -- just kidding.

CHAIRMAN STRAIN: With that, we will close the public hearing and entertain a motion.

COMMISSIONER SCHIFFER: I'll make a motion.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: I move we recommend for approval PUDZ-PL2009-2496 with the stipulations mentioned.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Okay, discussion?

(No response.)

CHAIRMAN STRAIN: Kay, we went through a lot of stipulations, and there are too many just to itemize because they're little tiny changes here and there to verbiage. Are you comfortable with what mostly transpired here

for your write-up?

MS. DESELEM: I believe I do have them. And I'm sure I can work with the applicant and County Attorney's Office, and we should have it pretty close to what we've discussed.

CHAIRMAN STRAIN: I would agree. I think we got it on the table.

Okay, any further discussion -- Mr. Schiffer?

COMMISSIONER SCHIFFER: The only discussion I have is I'm still thinking the SIP might be a cumbersome thing in terms of what they want to do out there.

Ray, is there a lot of requirements they have to meet?

MR. BELLOWS: It's pretty simple. I've never heard anybody having too much trouble doing an SIP.

COMMISSIONER SCHIFFER: And anything that's cumbersome would be used in the final version of the SIP when they bring the buildings anyway, so they're not wasting time, right?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay, any discussion?

(No response.)

CHAIRMAN STRAIN: All those in favor of the motion, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MURRAY: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: Thank you.

***Okay, now that's the end of our advertised public hearings and we are going to go into old business.

Absolutely the most important thing I think that most of you -- I shouldn't say the most important thing, but what most of you are concerned about seems to be the fertilizer section of this ordinance.

I know that I've never seen so much literature being suggested as being read to understand an issue and so much difference in the literature as this particular item had in what I've looked at to date.

In order to focus on what best reflects what the needs of the audience are, we have a watershed management ordinance discussion coming up that includes the fertilizer ordinance. We have a presentation on the watershed management part of it, as well as getting into the fertilizer part of it. But we can expedite things by focusing on the fertilizer part of it first, but I need to know how many people are here, and just raise your hands, if you're here for something other than the fertilizer ordinance.

Okay. Oh, Nicole?

MS. RYAN: Just the watershed plan in general.

CHAIRMAN STRAIN: Well, Nicole will sit here all day anyway.

So Mac, I think if you focus your presentation on the fertilizer ordinance in the beginning, we can help the people here get through the process. And then of those that want to stay for the balance of your presentation on the watershed, we can move into that afterwards. So that will get us to the most needed point right away.

MR. HATCHER: Mac Hatcher with Land Development Services.

And we'll start with the fertilizer ordinance.

There is a lot of literature. There's a lot of discussion. I think everybody has good intentions. And the end results should be an improvement over the existing conditions.

The model fertilizer ordinance was what was originally presented to you all. It includes training and licensing for all commercial applicators. It has a prohibited fertilizer application period that includes any identified storm watches or when ground is saturated.

It has an application rate for fertilizers that is limited to the current label restrictions. It has a voluntary fertilizer free zone of 10 feet. It has low maintenance area buffers where -- is also at 10 feet, and vegetation is required to be removed from this area after trimming.

It exempts agriculture. And it has some defined practices and standards which include no fertilizer on impervious surfaces or in water bodies.

I presented this to you all late last fall. Your suggestions, as well as the EAC's instructions -- suggestions were to present to the state more stringent ordinances similar to what is adopted by the City of Naples and Lee County, which includes a blackout period of prohibition of fertilizer application from June 1 through September 30th, a reduction in the allowable nitrogen load to four pounds per thousand square feet per year, a requirement to use at least 50 percent slow release nitrogen, and a mandatory buffer of 10 feet.

I drafted an ordinance based with these more stringent provisions and submitted it to the state agencies for their review. We got comments back from the FDEP watershed restoration bureau chief, who indicated that the rainy season prohibition, the blackout period, the science is incomplete on that topic. They recommended an irrigation program to maintain a slight irrigation deficit, indicating that reduction runoff was extremely important; decompaction of urban landscape soils to decrease runoff, ensure that citizens are aware of saturated soil conditions. And they pointed out that the four pound per year nitrogen restriction is less than the minimum recommendation for Bermuda grass in South Florida.

The Department of Agriculture and Consumer Services just indicated that they recommended the model ordinance, and indicated that the proposed more stringent restrictions jeopardize turf health and filtration capabilities of turf.

The University of Florida Institute for Food and Agricultural Sciences provided an extensive documentation of scientific studies that supported the model ordinance, indicated that the science supports fertilization during the growth period, and noted that June through September is part of that growth period, and noted that with appropriate application of fertilizers there's minimal nitrogen loss.

They also recommended -- or the current recommendation from IFAS for slow release nitrogen is 30 percent, and they include the one pound per application as the rate.

Soluble nitrogen at proper rates have low leaching potential. They also stress that proper irrigation was important, and keeping plant debris off of impervious areas and out of water bodies is important.

So with the recommendation from the three agencies, the staff support is for the model ordinance. The ordinance that I provided you is an update of the model ordinance for Collier County. It includes a penalty section. We would also recommend a public education component. We would include the existing buffer requirements for native preserves that are already in the LDC code, and a future evaluation of local conditions.

The education program would include web-based and TV education. The ordinance requirements would be posted at retail sales. We would like to have an irrigation and precipitation component to the education program and also a component to address reuse, which an awful lot of residents in Collier County have the ability to use.

And with that, I'll ask for questions.

CHAIRMAN STRAIN: Okay, one -- let me ask just a general question. On your first couple of slides or back a few, you talked about recommendations from the FDEP and the -- yeah, there it is, IFAS.

MR. HATCHER: Yes.

CHAIRMAN STRAIN: How many of those recommendations did you incorporate into your document that we have in front of us?

MR. HATCHER: I would say all of them except for the 30 percent slow release nitrogen is not addressed in the rule.

CHAIRMAN STRAIN: And did you specifically not include that for a reason, or are you just --

MR. HATCHER: Just because it's not in the existing model ordinance.

CHAIRMAN STRAIN: So even though they suggested it as probably something that should be done, it wasn't included because it wasn't in the model ordinance.

MR. HATCHER: Correct.

CHAIRMAN STRAIN: But we can improve upon the model ordinance, right?

MR. HATCHER: Absolutely.

CHAIRMAN STRAIN: I still got a lot of questions, but I'll let my colleagues go first.

Melissa?

COMMISSIONER AHERN: Considering the way that the current legislation is written and that all of the scientific data has to be considered, if we approve something more stringent that the data doesn't support, are we creating legal issues for the county?

MR. HATCHER: According to the legislation, yes. Practically speaking, they have not gone after any of the municipalities or counties that -- you know, to date.

COMMISSIONER AHERN: I was thinking more in terms of anyone from the public going after the county.

MR. HATCHER: That's always a possibility.

COMMISSIONER AHERN: Can we get County Attorney's opinion?

MR. KLATZKOW: My recommendation is go with the state ordinance, period. It gets rid of all these issues. But, you know, depending upon what this board and the Board of County Commissioners want to do, we'll look at it.

CHAIRMAN STRAIN: Anything else, Melissa?

COMMISSIONER AHERN: No, thank you.

CHAIRMAN STRAIN: Anybody else have any -- it might be useful for all of the panel here if we hear from the speakers first. Then we can have more interaction. Is that okay with everybody?

That's a little out of our normal standard, but let's approach it that way.

Ray, we have -- by the way, everybody, we have registration cards for registered speakers, but when we're done with the registered speakers, I will still ask if there's anybody in the audience that wants to address us.

We don't strictly limit you to five minutes, although we ask that you try to be as concise as possible and not necessarily be redundant to the person who may have already spoken. We hear it once, most of us have pretty good hearing, so we'll pick it up.

Okay, Ray, first speaker.

MR. BELLOWS: Amber Crooks.

CHAIRMAN STRAIN: And Amber, I know that you've spent a lot of time and provided a lot of detail to most of us. If you have specific issues and you could focus us on the pages and the language, that would be helpful to know how to review it as we go forward.

And I ask that of everybody that comes up. If there's a change that you'd like, try to give us a specific section so we know what we're looking for in the code instead of trying to figure out where it needs to be changed.

MS. CROOKS: Hi. I'm Amber Crooks from The Conservancy of Southwest Florida.

We're here today on behalf of our over 6,000 members to support a more effective and more stringent fertilizer ordinance for the protection of our water resources.

We are saddened to hear that the staff has moved away from its prior position and now is proposing an ordinance based on the state model.

CHAIRMAN STRAIN: Amber, you might want to slow a little bit down. This young lady's got to type as fast as you talk.

MS. CROOKS: All right, I'll put it on the low gear here.

The state statutes as they currently stand and the state model language itself allows for local municipalities to adopt more stringent measures to deal with the specific needs of their area.

They specifically recognize that more stringent measures are most appropriate when a municipality has verified water impairments such as Collier County's. Thirty-two percent of the county's water bodies by area do not meet state water quality standards due to excess nutrients, and in many cases additional restoration or reduction in loading will be needed.

In their February 2nd, 2011 memo requesting input from the state agencies, the county makes a strong and powerful case as to why additional protections are absolutely necessary in Collier County. The county acknowledges that to meet state administered TMDL or total maximum daily load restrictions, quote, the addition of any nitrogen from fertilizers is problematic, unquote.

The memo also states that given this needed restoration, quote, there is support for the assumption that the recommended -- and I believe what staff is referring to is the state regulations -- recommended nitrogen applications will contribute to further pollution in local waters.

The more stringent provisions adopted in the City of Naples and Lee County are intended to reduce the total quantity of nitrogen applied to landscapes, reduce the likelihood of leaching during the summer rainy season, and

reduce the likelihood of misapplication by requiring a full 10-foot buffer, unquote.

This memo, along with the other available documents, such as the scientific and technical information submitted by The Conservancy, the Sierra Club and others, can provide the support necessary to move forward with a more stringent ordinance.

We are disappointed by the state agency's feedback to the county and find it to be in direct conflict with many of their own studies. Most of the sources we cited in our letter are in fact from the Florida Department of Environmental Protection and the University of Florida IFAS themselves. Their documents encourage 50 percent slow release nitrogen, phosphorus only where a deficiency is found, as well as, believe it or not, limiting fertilizer application during the summer. These are some of the more stringent elements that The Conservancy supports and what we're asking for your support on today.

The county has the ability to move forward with a more stringent ordinance, regardless of the letters it has received from the state agencies, as the state only asks that the municipalities solicit and consider their input.

The state agencies, at least as the current law stands, do not have approval authority. Ultimately municipalities are the ones that are on the hook for ensuring compliance with water quality standards.

A stringent protective fertilizer ordinance is one of the most cost effective ways to improve our water quality.

The city of Cape Coral, who recently passed their ordinance, found that their more stringent regulations would save their citizens nearly $5 million over 25 years by reducing the overall cost of their stormwater treatment areas.

Due to the increased demand for slow release nitrogen and minimal phosphorus fertilizers, Florida companies that have already been producing these type of Florida-friendly products have benefited. So the county should be interested in these more stringent regulations, not just for their environmental reasons, but also for their positive economic effects. And of course, those are just the dollars we can quantify. The economic impact of poor water quality on our tourism and real estate sectors would be another consideration.

Stringent effective fertilizer ordinances are one of the best tools in the tool box. Recognition of Cape Coral's impaired waters and the benefits of a protective fertilizer ordinance is one of the reasons why a local representative from FDEP testified in strong support at their council proceedings back in November.

In light of Collier County's proposal, an FDEP representative from Tallahassee, 400 miles away, has recommended essentially the state model. This is not adequate for our local conditions. Instead these state agencies want us to fight our existing water quality impairments with one arm behind our back.

From Tampa to Naples we have a solid block of municipalities that have similar ordinances that are effective. By adopting a similar ordinance, we'll actually be following more consistently the state model's recommendations by avoiding confusing jurisdictional differences.

Sometimes a city boundary is one street over, and having consistent ordinances will be of benefit to applicators.

Unfortunately the benefits of a stringent fertilizer ordinance have been dominated by debate over a summer blackout period. Those who oppose the more protective fertilizer ordinance say they have the science to show that unhealthy turf will result in more nutrient runoff. What they have not provided is that these proposed -- that The Conservancy has proposed protective elements will actually result in that unhealthy turf they warn of.

Municipalities throughout southwest Florida have had their more stringent measures in place for three and four years now. In fact, many fertilizer industry folks that I've spoken with say that they've been doing some of these things for years now, because it just makes sense for Southwest Florida.

The municipalities that have already -- have their ordinances in place have reported back to us about the effectiveness of their ordinances. And I think one of the other speakers is going to touch on this.

These municipalities have not experienced the unhealthy turf, they have not experienced an increase in nutrient loading. To the contrary, we are aware of Sarasota, Venice and Naples having experienced positive water quality. And they've seen that in their water quality sampling data, and it correlates to the date of adoption of their ordinances.

Naples likes their restrictive ordinance so well that -- and is so concerned about their water quality that yesterday at their City Council meeting they passed a resolution urging the county to adopt a similar ordinance, not only for consistency considerations but for enhanced watershed management. And let's keep in mind that's why we're even here today is watershed management.

The CCPC certainly has a lot of information to consider as we try to figure out whether the more stringent measures are necessary. I don't envy you. You have a lot of information there.

The EAC in their consideration relied upon the positive experiences of the Southwest Florida communities, noting that the opposition claims, if they were in fact being realized in these other communities, that those ordinances would have been repealed or challenged. And they have not to date. The legal liability that we have with implementing something more stringent is the same that we have with any of our -- any of the other counties' regulations.

We want to again reiterate that neither the current ordinance nor The Conservancy's ordinance is intended to be applicable to golf courses. We encourage them to follow their BMPs, their Best Management Practices, as referenced in the ordinance language, as many of their BMPs are the same as what The Conservancy has been advocating for, such as utilizing a buffer to water bodies. The Golf Course Handbook suggests 25 feet, and we're looking for at least 10. Only fertilizing with phosphorus after performing a soil test, which is what we have been looking for, and utilizing no more than half pound of water soluble nitrogen per application. That's that 50 percent slow release.

I have with me a copy of the ordinance that The Conservancy originally proposed back fall, and I'll have -- essentially we're looking for a few key things.

We're looking for some restrictions on the content of fertilizer, that 50 percent slow release nitrogen, and for zero phosphorus, unless there of course is found to be a soil deficiency.

We're looking for a maximum application rate of four pounds per thousand square feet per year.

We're looking for a 10-foot buffer zone, that's that fertilizer free zone.

And finally, we're looking for the summer blackout period. That's that calendar based -- because you will get a lot of cumulative rains. They may not be a flood, hurricane or tropical storm, but you may have a series of light rainfalls that are less than two inches each but accumulate. And so doing the summer blackout period I think will be more implementable than what the opposition opposes. So we're looking for that summer blackout period, June through September.

And those things are in our ordinance that we had originally proposed. And they're also for the most part in the ordinance that Mac had put together and sent to the agencies for their review.

We encourage the CCPC to recommend the more stringent, more protective ordinance elements to the BCC. Given the threat of continued preemption at the state level, this may be our only chance to get it right and put in place an adequately protective ordinance for the sake of our sensitive waters and our quality of life.

Thank you. Let me know if you have any questions.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: The IFAS folks indicated that the science is incomplete with regard to the blackout period. What do you base your conclusion on then? What science are you relating to?

MS. CROOKS: Sure. We have science from the municipalities themselves, at least for City of Naples. When they adopted it, they showed a spike in their nutrient runoff during the summer rainy season.

And science is a consideration, of course. But so is the implementation of the practicability of implementing the ordinance. I think you have some benefit also to doing a summer calendar-based blackout, because, you know, this is not just for the regular industry folks, but this is for your Joe Schmo homeowners as well. So they have to -- if we do the state model, they would have to basically understand when they may get that two inches of rain or greater, which I'm not even sure the meteorologists can accurately predict. So doing something over the summer also makes practical sense.

COMMISSIONER MURRAY: The other documents that I have, in one of them, perhaps more, they indicate that that is the period when the nutrients are most required by the plants. So while you may have had some information from the ordinances associated with the city, do you have anything that refutes that?

I mean, do we -- there's a deprivation potential for the turf, and that's a serious condition. Homeowners and others, Joe Schmo, as you say, would not be as enthusiastic to comply if they thought that they would lose their investment and the aesthetics that were associated with it.

MS. CROOKS: There's an assumption there that that turf's not going to get any nutrients during that time. During the summer you would rely on getting some from also the atmospheric deposition, the rain. That's why our grass grows so much during the summer. So there isn't no fertili -- you know, no nutrients during that time. There

may not be fertilizer but there are nutrients. And also with the use of the slow release, we can also depend on that slow release lasting for part of that time within that summer blackout period.

COMMISSIONER MURRAY: I appreciate where your interest lies, but I'm looking for you to allow me to understand that you've taken into consideration in promoting your interests that the benefits that people who, Joe Schmo and others, are not going to be hurt in their effort to maintain the aesthetics and their pleasures. There has to be a balance struck.

And I'm not hearing -- I hear what you're saying. I recognize that grass clippings have nitrogen and so forth.

MS. CROOKS: Sure.

COMMISSIONER MURRAY: Yeah. But the runoff issues then promotes that problem. This is not an easy process, certainly.

But I'm looking for hard science. And I've tried to read as much as I can of this, and this is a lot of stuff. And I have some pretty good stuff here to have read. And I don't -- I mean, that's a real serious issue, that blackout period. So I'm just -- so it's basically anecdotal that you have information based on, the results of other municipality.

MS. CROOKS: Well, what the opposition, those who are supporting the blackout period, I don't think they have information to show that what we're proposing here will unequivocally result in the damage or dying of this turf.

I mean, in the municipalities that have had it in place, they have -- we've contacted municipality after municipality, and they have not reported back to us that they've had this dying turf. They haven't had the resulting additional nutrient runoff problem.

So I don't -- while their information may have some validity or some interest there, something that may be needed to be explored better in the future, based on what we've seen in southwest Florida, it's not come to bear.

COMMISSIONER MURRAY: So if I understand you correctly, and this is not a criticism, but if I understand you correctly and the position of The Conservancy is that the water -- if we take 100 percent of an issue, the water protection may represent more than 70 percent of the interest of The Conservancy, as opposed to the interest of the community as they see it in aesthetics and so forth. Is that a fair statement or not a fair statement?

MS. CROOKS: Well, I would also say that the community is also very much concerned with the total water quality of the area.

I mean, obviously I see where you're coming from, that there does need to be a balance, and people are also concerned about the aesthetics of their lawn. But we've had the City of Naples ordinance in place for three years now and some very expensive homes and some beautiful lawns, and I haven't seen that. In fact, like they did yesterday, they're asking the county to do something similar because they know it's good for water quality.

COMMISSIONER MURRAY: Let me just say that I understand, and this is not because I have the science, but I understand by, if you will, cultural hearsay, that most people overfertilize. Our society does, you know, many things to excess. So I recognize too that you -- you know, your advocation, I appreciate that.

From my part, I just want to have the best that we can start out with and not anything excessive either way. So that's where the probe of my questions lies.

MS. CROOKS: And I would also, for your consideration, Mr. Murray, is that depending on how this legislative session falls out, what we do in this ordinance may be as strict as we can go. Because, if -- depending on how the language ends up, and that's a question mark right now, I don't have a crystal ball, but from some of the discussions we've seen, there's been a push to preempt local governments from doing anything more stringent than the state model.

And so if we don't get something in place by their effective date of this new bill, that might be the most stringent that we can go.

COMMISSIONER MURRAY: If we had to put something in place are you suggesting that any new legislation would not subordinate any current ordinance that we would have?

MS. CROOKS: There's been back and forth, so I don't know what the final language is. But in this recent discussion in the House, there was --

COMMISSIONER MURRAY: Okay. I don't want you to speculate, but I just --

MS. CROOKS: Right.

COMMISSIONER MURRAY: -- thank you.

MS. CROOKS: It's a possibility.

COMMISSIONER MURRAY: Appreciate it.

CHAIRMAN STRAIN: Anybody else have any questions at this time?

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Just see if you can help. How much -- what percent do you think is applied by a homeowner versus an application in Collier County?

MS. CROOKS: You mean how many people do it themselves?

COMMISSIONER SCHIFFER: Yeah. I mean, if you just took a guess. If you can't guess, you can say I don't know.

MS. CROOKS: I don't know. I have a feeling that -- think it's probably -- I mean, I don't want to speculate, but I have a feeling there's a lot of people that do do it themselves, but then there's also a good share that do utilize the professional.

COMMISSIONER SCHIFFER: The other question is where does most of this fertilizer come from? Where is it bought? Is it a Home Depot, is it wholesalers to applicators or --

MS. CROOKS: Well, I under -- from people I've spoken with, it's your big box stores, but there's also some local places that maybe have been carrying this Florida-friendly products for a while now. So I think it's good to say that both. And that's why we want to have the notice of the fertilizer ordinance, I guess no matter what ordinance is passed, to have something that people can see when they go to buy the product, that they're aware an ordinance has been put into place, so that they can educate themselves on how they need to go about following the ordinance.

COMMISSIONER SCHIFFER: And the last question is, is this something that's uniform across the county? I know you predict a third of the waters have a problem. But, I mean, does this apply to Immokalee the same as it applies to the coastal areas of Collier?

MS. CROOKS: The way that either of the ordinances have been drafted is to apply to any applicator or fertilizer, regardless of their location. Of course agricultural areas would be exempt and also golf courses, as long as they follow their BMPs.

And in terms of the 30 percent impairments, that's actually from FDEP in their determination of impaired waterways. Some of them are impaired specifically for excess nutrients and some of them are impaired for DO with a causative pollutant of excess nutrients. So that's already verified.

COMMISSIONER SCHIFFER: But the question is, is a third of it coastal and then the interior things are fine, or is it spread out all over, or is it --

MS. CROOKS: It's spread out all over. You can see -- I would imagine the contributions of the nutrients is watershed issue. Some of it could be from the agricultural, but also some could be from many different sources in the urban area. Some could be from the septic, some could be from the wastewater, some could be from fertilizer.

COMMISSIONER SCHIFFER: Thank you, I'm done.

CHAIRMAN STRAIN: Tom?

MR. EASTMAN: You've spoken about the diminished water quality based upon overfertilization. Could you give us some specifics as to how it effects the ecosystem, or some of the --

MS. CROOKS: Sure.

MR. EASTMAN: What exactly happens?

MS. CROOKS: Perhaps I should have started with that, because this is what my picture is depicting.

If you do have excess nutrients that end up in the waterways, you can have this harmful algal blooms, such as what's in the picture here. If you do end up having too much of this algal growth in the waterways it can result in a lower dissolved oxygen, fishkills.

There's an aesthetic component but there's also a health component in terms of damaging the aquatic environment but also a human health component, because some of these harmful algal blooms can be toxic to the shellfish that we eat or even cause some people respiratory issues.

And I think some of the others in the audience who will speak will also highlight some of the negative human aspects. But it's not something that we want to have in our backyards and our canals and our beaches.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: Just following up on Mr. Murray's response.

In the UF report it's highlighted that the research demonstrates that the most important time to fertilize is during the warm season and that there's less runoff during the summer months.

What is The Conservancy's response?

MS. CROOKS: That's again related to the opposition's argument about we need to continue to fertilize during the summer, that way the turf remains healthy.

Again I would say that it's an interesting idea. And like the Florida Department of Environmental Protection says, it's something that's inconclusive. I think to have more information on this would be something that we would like to see. But right now the preponderance of the information that we have in terms of these more stringent measures shows us that they've improved water quality in our area and that they haven't resulted in the damaged turf that these documents report.

Thank you.

CHAIRMAN STRAIN: Anybody else? And by the way, for the benefit of the panel, when we finish with public speakers, we will be walking through the actual ordinance that was given to us, all 13 pages, one page at a time, for any comments or questions that we have.

And Amber, before you step down, I've got just a couple quick questions.

You mentioned that the state ordinance allows local municipalities to effect more stringent rules. Do you have that somewhere handy where we could see that on the overhead before --

MS. CROOKS: The state statute language?

CHAIRMAN STRAIN: No, the language that you just said. The one that says that --

MS. CROOKS: Both the state statute and the state model allow for that. And I can see if I can find that.

CHAIRMAN STRAIN: I'd just like to see the language to make sure that we're on solid ground if we look at anything more stringent.

Second of all, you mentioned that there were some municipalities who are already seeing a positive effect as a result of their ordinances somewhere else. How long does that positive effect take to show up?

MS. CROOKS: Sarasota and Venice, they reported it -- I mean, I can go look. Right now I have some information for you, Mark, if you wanted me to come back with that. I do have some information that shows that the Venice -- City of Venice, their water quality sampling. And I can see when they did start to see those reductions in the loading.

CHAIRMAN STRAIN: Before we finish with the public speakers, I'll ask that you come back up and --

MS. CROOKS: Okay.

CHAIRMAN STRAIN: -- give me these results.

How often is the water sampling done to check these kind of things?

MS. CROOKS: It varies by different municipality.

CHAIRMAN STRAIN: How often do we do it; do you know?

MR. HATCHER: The routine water quality monitoring that's performed by the Pollution Control Department is monthly for surface water.

COMMISSIONER MURRAY: I can hardly hear you.

MR. HATCHER: Monthly for surface water.

CHAIRMAN STRAIN: So all the impaired waters in Collier County for their different elements, including the nitrogen and phosphorus, you test monthly?

MR. HATCHER: No.

CHAIRMAN STRAIN: Let's go back and --

MR. HATCHER: The monitoring station program that currently exists samples monthly. They do not sample all of the water bodies in Collier County. But the routine stations are sampled monthly.

CHAIRMAN STRAIN: I feel like I'm talking to Richard Yovanovich here with you, because it's got to be so precise.

Okay, all of the waters that are impaired, how often do we test those waters for their impairments for nitrogen and phosphorus?

MR. HATCHER: First off, most of the impaired waters, the impairment is for dissolved oxygen. It's assumed that the causative pollutant is nutrients, but that's only been determined for Gordon River extension and Lake Trafford. We don't have any sampling program currently in place to sample for all of the impaired waters. We have a monitoring program that has set stations, and they're sampled monthly.

CHAIRMAN STRAIN: Then how do we get from the impaired waters being impaired to the causation being

nitrogen and phosphorus?

MR. HATCHER: It's an assumption by DEP.

CHAIRMAN STRAIN: Okay, so if you have an impaired water because of dissolved oxygen, the assumption is that some of the dissolved oxygen problems occurred because we had too much nitrogen and too much phosphorus; is that --

MR. HATCHER: Correct. That's the current assumption.

CHAIRMAN STRAIN: Okay, then I'm -- just so I'm clear, how often do we monitor those impaired water bodies for the dissolved oxygen?

MR. HATCHER: Monthly. And we also sample for chlorophyll a, which is a measure of phytoplankton. And the chlorophyll a values do not reflect impairment by nutrient. The chlorophyll a values are below the state recommended or identified target levels for impairment.

CHAIRMAN STRAIN: I'm having a hard time understanding everything. You guys have lived it more than I have. The amount of literature we received is so difficult because it talks in parables and ambiguous language. I couldn't follow it all. So I'm trying to get you to help me understand this better.

So if we have -- if we restrict nitrogen and phosphorus in some manner, the resultant effect of that theoretically would be there would be a change in dissolved oxygen that we currently have modeled throughout the county, if that was the cause.

MR. HATCHER: If that was the cause, correct.

CHAIRMAN STRAIN: Okay. So six months, a year from now, if we go out -- if we put an ordinance -- this is just -- say we eliminated all nitrogen and all phosphorus, I'm not saying we're going to do that, but let's say we did that, just for argument's sake, a year from now if that was effective we would see a change in the dissolved oxygens is what some scientists are suggesting?

MR. HATCHER: Some scientists would certainly suggest that. A lot of the science would suggest that if we eliminated all of the nitrogen and phosphorus that we would have deterioration in the turf quality and landscape plants, that erosion and transport of sediments would outweigh any benefit that we got from the reduction in nitrogen and phosphorus from the fertilizer.

CHAIRMAN STRAIN: Okay, but that's a separate issue. I'm still trying to focus on a standard of measure. If we're going to do something and we want to do it either minimal or more stringent, I'd sure like to know that we're on the right track, and I'd like to know how long we would be able to determine that and what the determining measurement standard is. And basically it's a scientific debate on whether or not the oxygen in the water is reflective of phosphorus and nitrogen.

MR. HATCHER: I'd agree with that statement at this point in time, yeah.

CHAIRMAN STRAIN: Okay. Then my next question of Amber -- thank you, Mac.

Next question of Amber is going to be, in your looking at my request previously about those adjoining municipalities that had a positive reaction, is there going to be some way that you're going to know if that reaction was attributed to the reduction in nitrogen and phosphorus in those communities?

MS. CROOKS: Not 100 percent. I don't think that we're able to show that at this time. It's a correlation. So they're -- just like nutrient impairment, it may be many different causes. So addressing one issue like fertilizer may -- you may see a reduction overall. But there may be other factors also.

CHAIRMAN STRAIN: Okay. And I'm getting to an issue, but it's going to come up later today.

The content issue that you brought up, 50 percent slow release nitrogen and zero phosphorus, what are we -- what's the current -- if I go down to Home Depot and I were to buy a bag of fertilizer, what would I be buying? Normally. Not concerning your issue, but just say what would I be expecting to find today?

MS. CROOKS: You have a wide range of choices when you go to a place like that. But the urban turf rule, which is something that's related to the state model --

CHAIRMAN STRAIN: Scott's Bonus Plus S?

MS. CROOKS: Well, Scott's right now is working to remove all of their phosphorus from their products.

CHAIRMAN STRAIN: I just walked into Home Depot yesterday to get a light bulb, tried to buy one of those energy efficient ones and they didn't have the size. But I walked by a rack, and it made me think of today's meeting. There was Scott's on one side and some other brand on the other. One was $14 and the other was $16.

Now, if I were to buy one of those bags, am I consistent with your percentages here or I am inconsistent with

those?

MS. CROOKS: There are products out there that, because the City of Naples and many of these other municipalities already have their ordinance in place, they have the product now more widely available than say three, four years ago.

I know that the urban turf rule, which is part of the state -- it's related to the state model, does ask for a 30 percent slow release. So they are asking for some component. But there is a big difference between 30 and the 50 that we're looking for. And there is also a big difference between the phosphorus content that they would allow up to and what we're looking for, which is that zero phosphorus content, unless you have a soil deficiency.

CHAIRMAN STRAIN: Sorry to get to my simple question. Right up the street just a little ways is a Home Depot. When you go in that -- that's where I went yesterday. You go into the landscape side of it, the left side is Scott's Bonus S. Do you have any idea what the slow release nitrogen is in that?

MS. CROOKS: You would have to look at the label.

CHAIRMAN STRAIN: I know I would have to if I was there. Do you have any idea -- I don't know what it is --

MS. CROOKS: I don't offhand without looking at the actual product, because the label will explain how much of the product is slow release --

CHAIRMAN STRAIN: Amber, I know all that. I wish I brought the bag. I wish I'd spent the $16 and brought it here today. I am desperately trying to know what they sell versus what you're trying to say they should be allowed to sell. That's my issue.

And if they're already selling stuff below what you're suggesting, it may not be a big deal to go along with what you're suggesting, just help prove your point, but I don't know because I don't have the data, and nobody has it at this point.

MS. CROOKS: There are -- I don't know if this is helpful, Mark, but there are products that are out there on the shelves that would meet our recommendations. For many years a lot of the local businesses had to create their own mixture of fertilizers that would do some of these things, that are Florida-friendly. Now, because as a result of the ordinance that have been put into place in these other places, we do have these products readily available.

CHAIRMAN STRAIN: Just so you know, I'm not taking a position yet on the issue. I'm trying to find out how practical it is versus what we're doing today. I didn't even take the time to read all the labels, I just thought somebody would have done that as part of the presentation today, so maybe we will hear it, but I am -- or at lunchtime I could run over there.

Anybody else have any questions of Amber before we go to the next public speaker?

(No response.)

CHAIRMAN STRAIN: In fact, before we go to the next public speaker we will take our first 15-minute break for the smiling young lady who is hoping I'd say that right now. So let's break till 10:45 and we'll resume at that point. Thank you.

(A recess was taken.)

CHAIRMAN STRAIN: Okay, if everybody could resume their seats. We will be taking a break at about a little before 12:00 so that those of us that use that place downstairs can get in line early. We usually take an hour for lunch.

One thing that you should know, today is called a workshop for this issue. We do not vote. You cannot vote at workshops. You only can provide direction to staff or suggestions to staff. So by the -- throughout the day and by the time we finish today, we will recommend or suggest to staff direction we'd like to see them go in.

But it will not be voted on at this meeting. The voting will come after the final drafts are done and it goes through another process. So there will still be plenty of time to take a look at this.

And with that, Ray, you want to call the next public speaker?

MR. BELLOWS: Herbert Schuchman.

MR. SCHUCHMAN: Hi. My name is Herb Schuchman. I'm chair of the State of the Lakes Committee of Island Walk, a community consisting of 1,856 homes built around 30 stormwater retention ponds.

In the press when we see about polluted waters, we notice they always talk about large bodies of waters like the Gulf, Rookery Bay, Lake Trafford, Lake Okeechobee. But little discussion seems to be about where this contaminated rich in nutrient water comes from.

Anyone who has ever had a fish tank realizes that a smaller tank is much harder to maintain than a larger tank. The water goes bad very easily.

In Island Walk we've had a problem and we are coming to you with a plea. For the past three years we've noticed a dramatic increase in the amount of algae blooms. We've had a severe decrease in our fish population. We've had occasional odor.

As a result, we have an extremely proactive board. We were voted $25,000 just to do testing. We were determined to find out what the causes were and what we could do to correct it.

We found that the nitrate and phosphate levels in our ponds had increased 100 percent over the year before. We consulted with the South Florida Water Management District, and their expert estimated that we would have two to three inches of muck. We sent down a diver and we found 12 to 30 inches of muck, all in ponds that average probably between six and eight feet deep, most of it.

We have a very low oxygen saturation, particularly during the summer, which is below five parts per million, which is the minimum required for healthy water. We have an increase in pH.

We have a loss of depth throughout our system. Now, think about that for a minute. We have a loss of depth. That means that because the material is forming on the bottom, there is less water in those ponds every single year that it exists.

We found that the water entering our community tested 40 percent higher in nitrates than our water tested.

As a result, we spent over 700 hours researching what the problems were and what to do about it. We contacted communities, cities and municipalities throughout Florida and as far away as California, Colorado and Texas.

What we learned was frightening. Our problem isn't unique to Island Walk. It's found wherever these stormwater retention pond systems exist.

Florida has the largest number of stormwater retention pond systems of any state in the country. The average life of these systems is 20 to 25 years before dredging is necessary, unless strong proactive measures are taken. These include aeration. Island Walk as a result has just installed a complete aeration system of all of our ponds at a cost of $320,000. Our board, as I said, is extremely proactive.

The second thing you can do to help is control all fertilizers, insecticides, housecleaning chemicals, car wash chemicals, weedkillers, power washing chemicals, anything that has any chance of reaching our ponds or our stormwater sewers.

At this time a new committee at Island Walk has been established that is reaching out to experts to start evaluating all different types of chemicals to try to find safe chemicals to be able to advise our residents and therefore also our contractors who come into Island Walk.

We have learned that in spite of all of our efforts, we, as well as every other system similar to ours, is going to require dredging. Think about that. Think about the number of systems in Collier County that are built around stormwater retention systems.

The preliminary estimate for our community is over $10 million. By buying time, we can budget for this. By putting in the aeration system, we've added 20 years, roughly, to the life expectancy before we have to dredge. As a result, we have at least 30 years before we have to do that. We can at least budget for it.

But what about all of the other communities in Florida and in Collier? What about them? Most of them are totally unaware, or at least mildly unaware. They continue to throw chemicals at the problem, pouring more and more chemicals into the water, which contain copper as its basic control of the algae blooms. And copper settles to the bottom as copper carbonate, which is a known carcinogen, which is, needless to say, a major problem.

With that in mind, Island Walk has started an outreach program to other communities. We've been contacted by several, we've given information to several and we are continuing to meet with other communities to make them aware of the problem so that they can also understand and prepare for the future.

We have learned the fertilizers are a factor. Are they the only factor? Absolutely not. But every factor that we can control that's going to help protect our ponds is going to buy us time, number one, to prepare for the future, prepare for those astronomical numbers that await us all, and in addition is going to help clean the water that leaves our communities on the way to the Gulf.

We have contacted many communities -- I shouldn't say communities, but cities and counties in Florida. I personally have spoken to 10, speaking to the people who are heavily involved. There has not been one negative

comment that any one of them could make, not one of them reports having a negative comment from a resident that there was a decrease in the grass, color, or that there was any problem whatsoever with the grass when they had the restriction in place.

When I say restrictions in place, I mean no fertilizing during the rainy system with nitrate or phosphate, no fertilizing within -- varying amounts in each community ran anywhere from six feet to 40 feet. And they are all very pro -- positive about that.

See, you mentioned about science, Mr. Murray. Let me tell you the problem. In my previous life I was a dentist and I was a consultant to a pharmaceutical company involved in human testing with drugs, delivery of drugs. No one is going to put the money into research unless there's a monetary benefit at the end. No drug company is going to spend money to test a drug that they don't have a patent to, because there's no way they're going to get a benefit from it. Everybody gets that benefit.

The benefit comes from people who have something to gain and are willing to put the money up.

A university gets a good part of their money from grants. Grants come in by people who are interested in proving a point. And they come in with specific ideas in mind. Those are presented to a university. They pay for that. The university does studies. No university is putting all of their money on the line to start doing things unless somebody is funding it. Almost all of it is a result of grants.

I'd like you to remember that even though there is a rainy season prohibition potentially to be considered, and there's four months where there is no nitrates and phosphates putting in, in late May we as a community and many of these other areas are now putting that, as I said, the fertilizer in late May.

You will see that -- you have to bear in mind that 50 percent of that fertilizer is slow release. It's designed to be released over four months. So that you are getting fertilizer during the rainy season. Not as much as you would get if you fertilized right then and there, I grant you that, but you are getting some fertilizer.

The Island Walk board took the position that Mr. Hatcher's original proposal had, and which was based on the Southwest Florida Regional Planning Commission, which involved restriction of fertilizing within 10 foot of ponds -- or I should say, of water, no fertilizing during the rainy season and so on. And this is what we have adapted.

I'd like to remind you that no matter what you decide, this is reversible. If you find for some reason it doesn't work for our county, it can always be changed back, there is no risk.

Just remember, please, that all over Florida where stormwater retention ponds exist, chemicals are continuously being poured into these ponds in an effort to control the increasing algae blooms that increase every year.

Remember this, it also ends up in the Gulf. Because when it leaves our community, it goes into a ditch that takes it to the Gulf.

Remember, Island Walk is going to be okay, because we became aware and took strong proactive measures. We put up a lot of money to do it. We've done a lot of testing. We continue to do testing. We're doing soil samples. We're going to be -- we're testing water samples continuously. We are going to be testing before, after and during fertilizing in different areas, including the non-fertilized zones, and we will hopefully have that available at some time in the future. But we're just starting, so we don't have data.

I said before, what about the other communities? We're really concerned about that. Because first of all, being selfish, their water, everything north -- quite a bit of the communities east and north of us pour into us. They come over a weir into our ponds. And they are 40 percent higher in nitrates than our ponds are. The sheet flow comes across, also rich in nutrients.

We have in our community 30 plus years to deal with the problem of raising the money for dredging. But all of these other communities that are totally unaware, we are worried about. And that's why we have started this outreach program.

We strongly urge the commissioners to pass the stricter laws suggested by the proposals of the Southwest Florida Regional Planning Commission. It's silly to assume that no fertilizer gets into water. We really can't wait for the science, because it's not going to come, not during my lifetime.

We ask the County Commissioners to pass restrictive laws and help extend the time before the dredging becomes necessary. Give these other communities a chance to be educated and become aware of what the problems are and how they can help themselves prepare for the future.

I just want to mention one other fact. In our outreach I had a very interesting conservation with a gentleman

from Marin County, his name is name is Mr. Homlet (phonetic). And he said that in Marin County there is one contractor, which is the largest private landscape contractor in the county. They have 10,000 contracts in Marin County and the adjoining territories just outside their county. They have had the laws in effect for a couple of years. And he said that he had a conference with that contractor who told him that they have had not one negative problem, that the grass stays green.

No, we don't have the science. There is not the data behind us. But we do have observations to make about all these 40 some odd plus communities and areas, cities, municipalities and counties that do have these in effect. And we should be learning. We really should be learning.

I thank you for your time.

CHAIRMAN STRAIN: Thank you, sir.

Any questions?

(No response.)

CHAIRMAN STRAIN: I have one.

MR. SCHUCHMAN: Yes?

CHAIRMAN STRAIN: Your community is manicured or lawns cut and everything by a homeowners association?

MR. SCHUCHMAN: Yes. We have it done by one landscaper, that's correct.

CHAIRMAN STRAIN: In your contract with your landscaper, do you have the provisions that limit them to the amount of slow release nitrogen, phosphorus, how many pounds per year, the buffers and the blackout period? I know some of those you already addressed but --

MR. SCHUCHMAN: It's interesting you should ask, because we just passed those rules. We met with our contractor less than two weeks ago, and the contract is being amended right now.

CHAIRMAN STRAIN: Okay. And who is your contractor, if you don't mind?

MR. SCHUCHMAN: TruGreen.

Understand, we are not attacking the contractors or the landscaping industry. They've done a very good job taking care of the lawns and making them look green. If we didn't have bodies of water to be concerned about and we didn't have to deal with that, we wouldn't be here. But we do.

CHAIRMAN STRAIN: No, I understand. I'm not trying to attack anybody either, I'm trying to get to the points.

So you are currently using -- or you're going to be instituting a rule of no greater than 50 percent -- or a minimum of 50 percent slow release nitrogen?

MR. SCHUCHMAN: Correct.

CHAIRMAN STRAIN: And zero phosphates --

MR. SCHUCHMAN: Correct.

CHAIRMAN STRAIN: -- or phosphorus.

MR. SCHUCHMAN: Right.

CHAIRMAN STRAIN: You're going to have no more than four pounds per thousand a year?

MR. SCHUCHMAN: Correct.

CHAIRMAN STRAIN: Okay. And you're going to have that 10-foot buffer zone?

MR. SCHUCHMAN: Correct.

CHAIRMAN STRAIN: And you're going to have a summer blackout for four months?

MR. SCHUCHMAN: Correct.

CHAIRMAN STRAIN: When you approa --

MR. SCHUCHMAN: In addition to that, we've also raised our grass to be cut at four inches instead of three, so we have an active barrier that's increased by 33 percent to block things from entering the ponds.

CHAIRMAN STRAIN: When you approached TruGreen, what kind of objection did you get from them?

MR. SCHUCHMAN: We had meetings with TruGreen where we asked for input. We brought along our landscaping committee and our lake committee, and we asked them to attend, and their -- they kept going back to the fact that the science was behind them and that this is what they felt was best and they know it works.

CHAIRMAN STRAIN: When you said the science was behind them --

MR. SCHUCHMAN: Correct.

CHAIRMAN STRAIN: -- in regards to what you were asking them to do or in regards to what they wanted to do versus --

MR. SCHUCHMAN: What they want to do.

CHAIRMAN STRAIN: But you overrode them and you told them no --

MR. SCHUCHMAN: Yes, we did.

CHAIRMAN STRAIN: Okay, did they put any caveats in their contract for future problems that should arise as a result of following your standards?

MR. SCHUCHMAN: No. Except that if we choose to add anything or make any changes, we would pay for that additionally.

CHAIRMAN STRAIN: Okay. So in the meantime, though, they accepted your rules. The standards for which they were originally contacted for, which means the maintenance of the lawns and everything else to whatever degree you wanted are still intact?

MR. SCHUCHMAN: Right. Correct.

CHAIRMAN STRAIN: Thank you.

Mr. Murray?

COMMISSIONER MURRAY: You made a point of addressing me with regard to the matter. And I appreciate that. But are you suggesting that we should ignore the science that results from the universities and other institutions?

MR. SCHUCHMAN: I'm not suggesting that at all. I'm saying that they should be scrutinized a little better, perhaps. I'm not going to comment, in that I've read a lot of them, since that was my field in as far as research was, I should say. But it wouldn't hold up to -- a lot of that would not hold up to the standards required in medicine or dentistry, or to get into a journal, because of the way the tests are run. But that's not the point.

The point is that there is no opposing science because there's nobody that's put up the -- that's willing to put up that money. That's why we're starting to do our own testing, at least to protect ourselves.

COMMISSIONER MURRAY: Okay, well, I respect that, certainly. But as you well made the point, there are a lot of small bodies of water with communities that probably would find it challenging at the least to put up that kind of money to do what you're talking about.

So in the absence of -- I mean, I will tell you that I will try to find my way through whatever it is that purports to be science.

And you make the point, and I think it's valid, certainly, I agree with you that whoever is offering the grant, they have an interest, a stake in what they want to see achieved. Well, that is true of every side when you have opposition.

MR. SCHUCHMAN: Correct.

COMMISSIONER MURRAY: And so that's the problem for us, we have to find our way through it. I think what you have done is a wonderful thing. I'm sure it's quite expensive. I'm sure the people in the community thought oh, my. But, you know, it's a good start for you.

MR. SCHUCHMAN: I have to say that the community was 100 percent behind it. We even had a Town Hall meeting. We did not have one negative person speak on investing the $320,000 for the aeration system or anything else. And you know why? It's because we took time to educate the people properly about what the problems were. It's really that simple.

COMMISSIONER MURRAY: That is always the case, yes. Thank you.

CHAIRMAN STRAIN: Okay, next speaker, Ray.

MR. BELLOWS: Tim Hiers.

MR. HIERS: Good morning. I think there's one thing we can agree on, everybody wants clean water. I guess you can see from the discussions here, we have different attitudes on how to get there.

I want to just go through a little synopsis here. Can we put this on the overhead here?

CHAIRMAN STRAIN: Sure.

MR. HIERS: You can see a picture of where the root system is in the growing months, as opposed to the cooler months.

CHAIRMAN STRAIN: Tim, you need to state your name for the record.

MR. HIERS: I'm sorry, Tim Hiers.

CHAIRMAN STRAIN: Thank you.

MR. HIERS: If I start talking too fast, just wave me down, okay.

CHAIRMAN STRAIN: I think you're going to be pretty good. She's probably going to be relieved with you up there over me, so --

MR. HIERS: Okay. There had been a number of peer reviewed publications. And you really can't buy peer reviewed publication, that means that other scientists have looked at the data and said this is correct. For example, Dr. Petrovic at Cornell has done a peer reviewed study, and one of his quotes was, you don't fertilize grass as much when it's not actively growing, because if you do, that's when your potential for leaching and runoff is the greatest.

This is not science, but it's a U.S. Today article written on sustainable farming. And what these sustainable farmers do, and I'll read you the quote, they have turned some crop production land into pasture grass to prevent erosion and protect nearby streams from fertilizer runoff. Now, they're putting grass in to protect the water bodies.

If you fly across the Midwest in an airplane and you go across these big agricultural strips, you see large bodies of sod in between. The farmers put that grass in there to prevent erosion, to control flooding and to control pollution. They don't take that valuable land just to make themselves feel good. That's been done in the country here for 60 or 70 years now.

Can we put this picture on here?

There's a picture of a lawn where they don't fertilize that last eight or nine or 10 feet. I don't know how old the picture is. You can see it was taken in 2008. But you can see, number one, and this is what the number of peer reviewed studies show. And if you can use your imagination, I'm going to show you two sponges here. This sponge is going to hold more water than this sponge. This sponge is going to hold more nutrients.

Now, I didn't say overwatered or overfertilized. Most homeowners do overwater. There's no question about that. We see that in the community I live in. But if you've got a healthier sponge, and if you look at right that, right there, you can see that water is -- that fertilizer is not moving down that slope.

Now, if you can use your imagination, I don't know many things on this planet that lives that can't have food. What's going to happen to that slope if they don't fertilize that, it could be three years, it could be five years -- and let me tell you why the time could vary. Depending on how much organic you've built up in that soil, organic can release nitrogen, it's got microbes. So it might be three years, it might be five years, but what you're going to see on that slope right there is you're going to see erosion, you're going to see weeds.

And, for those of you who know hydrology, turbidity is one of the ways you measure pollution of the lake. In you're carrying soil and you're carrying sediments, that's what carries pollution. If I don't say one thing today that you remember, this is my probably my opinion, and the science backs us, and we have at least 15 peer reviewed publications, Penn State, Ohio State, Michigan State, University of Florida, Cornell. Most of the pollution, if you're getting it from a homeowner's community is from the hard surfaces, it's from the driveway, it's from the sidewalk, it's from the curbs, and a lot of it is from grass clippings.

If you think fertilizer moves in soil, I wouldn't want to hire this guy to do my lawn service. But you can see fertilizer put out with a drop spreader, you can see it's not moving. All the scientific studies demonstrate that.

Now, let me give you a caveat here. If you've got a brand new turf grass that hasn't built up organics, then that fertilizer can -- the studies have shown the fertilizer can move through that.

CHAIRMAN STRAIN: That picture said that he wasn't using quite enough fertilizer. I bet you that was meant to be facetious.

MR. HIERS: Well, it just also shows you that there's -- you don't use a drop spreader to fertilize a whole lawn.

When you're looking at studies, and when a peer reviewed study is given, be careful of people who would cherry pick one sentence out of 1,000 words to try to change the rudder on the course of that study.

One of the points that's been made about other municipalities, unscientific ordinances passed in other cities is not a reason to do it here for continuity. Better to be divided in truth than united in error. You want to stick to the science.

Healthy grass is going to retain more water, more nutrients, not one that's overmanaged.

The literatures and articles and opinions don't replace pure science. They're just -- they're not going to do that. That's not what you want to do if you want to make these water bodies healthier.

One of the problems that they mention here is those lakes were six to eight feet deep. If you talk to some of

the county people, you dig lakes 12 to 14 to 15 feet deep, you won't have near as much of a problem.

I've grown up in Florida. I lived in Palatka from '60 to '66, went fishing with my dad a lot. We went to lakes that were shallow. There was no development within 30 miles and they would have algae in the summer because your soil temperature warms up, sunlight's hitting in the bottom, and the algae's going to grow.

Now, everybody's concern is legitimate. But if they don't apply the science to this, then what's going to happen is eventually you're actually going to have more pollution.

So what's the take-home message on this? I think the biggest message is this: You want to keep the turf healthy. Dr. Jim Beard has said the best control for weeds is a good, dense, vigorous turf. He didn't say overwatered, he didn't say overfertilized.

Now, in our business, even if fertilizer was free, there's another problem if you overuse fertilizer, especially nitrogen. The plant's more susceptible to disease, it will take more water because the leaf is growing faster, and it's going to be more attractive to insects. So even if the fertilizer were free, which it isn't, anybody in the business has no incentive to use too much. It's just like us, you eat the right amount, you try to keep a balance. So if you keep that turf, you hit that turf healthy, not necessarily green, you want to have green turf because green turf is respiring properly. But if you keep it healthy, that's going to be your best filter for protecting the waterways.

Keep the fertilizer off the hard surfaces and the grass clippings. It's just -- don't just keep the fertilizer off, make sure -- and I know the ordinance says this, if somebody mows a lawn, don't wait, blow that right back onto the grass surface. Because that's one of your biggest sources of pollution.

By the way, your nutrient loading, no one's distinguished -- you know, we've seen some anecdotal evidence that some of these things have improved, but some of those cities have initiated in their BMPs street sweeping. They're sweeping the streets more often to get the leaves and animal debris and other stuff off the hard surfaces so it doesn't end up in the water body. Because there's nothing right now to show that the nutrient loading is nitrogen and phosphorus. Florida soils are replete with phosphorus. They mine it in the state.

So am I advocating that we're not judicious with what we do? Absolutely, we should be. Because we all drink the same water, we all live in the same neighborhoods. We're going to have to use the science to probably solve this problem and use experience, not just opinions.

Probably the biggest thing is use peer reviewed science and practical experience to make sound decisions on any new ordinance.

Now, I ask this to the people who oppose the state model ordinance. Not your articles, not your references, not your phone calls, where is your peer reviewed science that shows that fertilizer is running off, releasing off turf?

I haven't seen one study yet. Haven't seen one. No one's produced one. I've heard references, I've heard innuendos, but we haven't seen it yet.

And here's probably the biggest thing I'll leave you with. Repeating something over and over again in error doesn't make it a fact, no matter how emotional and no matter how sincere you are. Sincerity is no substitute for the truth.

So I just appeal to you, use the science. We would like to work with other organizations. We do have some ideas, but we don't have the authority to step out those ideas. We trust these organizations because we've seen the science. I know a lot of these professors, there's no amount of money -- I'll give you an example, University of Florida was accused of doctoring one of the studies. Less than two percent of the money in the study came from fertilizer companies. Most of the money came from state agencies.

So I hope that makes sense. And if you've got any questions, I'll be glad to answer them.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: Yeah, in the picture that you showed, I guess it was about five or six feet from the edge of the water body where they weren't fertilizing, how close to the water body do you recommend that you do fertilize?

MR. HIERS: Well, it depends. That's a study I think we need to do. But I think if you use a deflector seal or a drop spreader -- and let me just -- I don't want to bore you, let me give you one example. If you use a slow release fertilizer, a quick release fertilizer, it still breaks down to nitrate in the end. Doesn't matter if it's organic, synthetic or fast release, it's still going to break down and that's still going to be a pollutant.

If you use a slow release fertilizer or any fertilizer, almost the minute that fertilizer goes down you should water it in and get it into the turf canopy.

Here's the danger, and this is a rare anomaly. Here's the danger in a slow release fertilizer. And I'm not advocating you don't use it, I think you should. You can put a slow release fertilizer down today and you get an eight-inch rain tomorrow and it can float. It won't float three of four days later, but that next day it could float.

You put a quick release down, it goes immediately into solution. Now, I'm not advocating a quick release fertilizer. The problem is the science is here; the big issue I see is how do you implement scientific programs with homeowners who -- it's not a matter of intellect, okay. I've got doctors, attorneys, people who are very intelligent, very friendly, but they don't know the soil science. And homeowners typically, their attitude is if two is good, then four is better.

I don't know if that answers your question.

COMMISSIONER MIDNEY: No, it didn't.

MR. HIERS: Okay, I'm sorry.

COMMISSIONER MIDNEY: My question was how close to the edge do you recommend that you fertilize?

MR. HIERS: Well, if I were using a drop spreader I would go three feet, if I water it in. And here's why I say three feet. You're going to find out in three or four, five or six years, depending on the content of that soil, that grass is going to decline and thin out because you have to feed it, and the grass here you're fertilizing is not -- that fertilizer is not going to run onto that three feet. And you've got all kinds of pictures in the scientific literature to back it up.

But that's not scientific. You're asking me an opinion. I would go three feet. Now I think what would happen in four or five years, you're going to say this doesn't work because if it's against water it's going to erode because the turf is going to thin out.

COMMISSIONER MIDNEY: How far does fertilizer move laterally?

MR. HIERS: It depends on the soil and depends on how much organic you have. If you've got a brand new grass and it's really sandy and you use the wrong fertilizer -- let's say, for example, if you've got a new turf -- let's just take a golf course, for example. If you've got a new turf and it's really sandy, you should either be using a slow release fertilizer or doing light frequent applications of a quick release, so if something does happen you don't get much movement. Because a quick release fertilizer in a sandy soil will move; the research does show that.

COMMISSIONER MIDNEY: Don't you think it also depends on the slope? Like the area that you said there it was a steep slope, if you applied fertilizer there, don't you think a lot of it would end up in the water?

MR. HIERS: Well, actually, Dr. Watschke at Penn State did a peer reviewed study. He simulated a three-and-a-half, four-inch rain in one hour on a 13-and-a-half degree slope. He got no runoff, he got no leaching. And that was peer reviewed. But that was a healthy turf grass.

In fact, Dr. Wassell at Wisconsin, Dr. Cisar and Snyder at University of Florida have done studies and shows that when this --

CHAIRMAN STRAIN: You need to slow down a little bit. You are starting to get faster. She's kind of having a hard time here.

MR. HIERS: When that sponge does thin out, then you're going to get more runoff. And Dr. Wassell did that study at the University of Wisconsin.

And soil chemistry is soil chemistry, whether it's Wisconsin or Maine or University of Florida, the soils do different -- do vary. Obviously a heavier soil is going to hold more nutrients.

Now, one thing that could be looked at as the grass gets older and you build up that organic content, again, I'm not speaking scientifically, I'm surmising, that as that grass gets older and you build up your organic, I think you probably could use less fertilizer, and that's where the soil test and what we call wet lab analysis comes in.

You can do a soil test and that shows you what's in the soil. But you don't what the plant's actually taken up unless you do what they call a wet lab analysis. So if you do a wet lab analysis, this is not what your typical homeowner is going to do, but you could do it for study purposes. You could actually find out what the plant's taken up. So in my opinion, there's no science behind this, as grass ages and you build up the organic in the lawn, you could use less nitrogen. I don't have a lick of science to back that up.

COMMISSIONER MIDNEY: Do you think that nutrients that are -- fertilizer that's put on grass doesn't get into surface waters?

MR. HIERS: There may be exceptions, but if I look at the number of studies, and I know there's at least 15 peer reviewed studies from various universities that say that's not the case. That's why you see farmers putting in turf between their sustainable crops to prevent fertilizer runoff and erosion, that's why agricultural does it.

If you talk to any soil conservation on any one of the continents on this planet, they will tell you the number one control for soil erosion is grass.

COMMISSIONER MIDNEY: Yeah, I recognize that, you know, when you have like a threadbare grass that you will get runoff and you will get stuff going into the water body, and that a thick spongy grass is good to prevent erosion.

But it also seems very counterintuitive to think that if you're applying fertilizer three or four times a year that none of it is going to get into the water body.

MR. HIERS: When you say none, if you're talking about a part per billion, I would say some. But there's something else to remember, and I don't want to get too technical. But your microbial population, which are microbes which have to be seen by a microscope, that's where the science is. If you've got a healthy soil, those microbes actually digest that fertilizer. And there's tons of peer reviewed science to back that up.

That's why in a sandy soil that's new, you don't have a very good microbial population in addition to not having much matter thatched. That's why your newer grass is the grass that's most susceptible to having a problem. So there needs to be a different program for a new grass, versus established grass, versus the age of the grass, versus the amount of organic content in the soil.

CHAIRMAN STRAIN: Brad, do you have --

COMMISSIONER SCHIFFER: Question. If we did approve something like the City of Naples or The Conservancy, what's your downside prediction? Fast forward three years, five years, what's going on?

MR. HIERS: It depends on the soil. And we've seen some of those. We've seen some counties where they've already had some issues where they've cut the fertilizer back. And I go back to -- I hope I'm answering your question -- everything that lives has to be fed. If you start cutting the food back, you're eventually going to have a problem.

And when the turf loses its density, then it's more susceptible to nematodes, to insect damage, to disease damage. And once you open that canopy up a little bit -- and we experienced this in the golf world -- that sun directly heats that soil, which increases your evapotranspiration rate, which is significant.

And it's like if you put an umbrella on your head, you're going to knock some of the sun off. When you take that umbrella off that soil, that soil heats up a lot quicker and your evaporation rates increase a lot quicker. So I think you're going to see a detriment in three to four to five years.

I mean, the science that we've seen, the peer reviewed science shows this material isn't moving off. I still believe it's coming off your hard surfaces. And it's not just the fertilizer, it's the grass clippings.

And you shouldn't dig lakes that are six to eight to nine feet deep, you should probably have your lakes at least 12 to 14 feet deep if you're going to have a lake. Because what their lakes are going through is a process called --

CHAIRMAN STRAIN: Tim, you've really got to slow down. She's no way going to keep up with you, and if the record's not clear, it's going to hurt everybody.

MR. HIERS: Gotcha.

The problem with a shallow lake is it's going through the process called eutrophication right now. And the diffuser's a good thing. We use them on the golf course. What the diffusers do is they prevent what they call a thermal rise, is where you have that lack of dissolved oxygen on the bottom, and when you get a big wind, it will pull that lack of DO up to the top, and that's what actually kills the fish. So those diffusers, those aerators are very productive for lakes. They don't nearly work in lakes that aren't at least six feet deep.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Tim, I've got a couple questions. You're with the golf course superintendents --

MR. HIERS: I'm with the Florida Turf Grass Association.

CHAIRMAN STRAIN: Okay. Now first of all, you're exempt from this ordinance.

MR. HIERS: Yes, sir.

CHAIRMAN STRAIN: These questions hopefully are simple answers. The summer blackout, do you use -- under your BMPs, do you have any blackout periods?

MR. HIERS: No.

CHAIRMAN STRAIN: The -- Paul already asked about the buffer zone. Under your maximum application of nitrogen per 1,000 square feet per year, how much?

MR. HIERS: Well, Mark, we're a little unusual. We're a golf course that uses seashore paspalum because our water source is brackish water.

THE COURT REPORTER: Would you repeat that, please?

MR. HIERS: Paspalum. I'll spell that for you. P-A-S-P-A-L-U-M.

CHAIRMAN STRAIN: It's a grass that's kind of miraculous, it doesn't need much of anything, and you can put saltwater on it and it still grows.

MR. HIERS: We use on that grass about three pounds of total nitrogen a year.

CHAIRMAN STRAIN: On your say Tid-dwarf or some of the typical golf courses that use some of the other kind of grasses, what would they normally use for nitrogen?

MR. HIERS: I can't speak for them, but they might use five or six pounds. Well, on the fairways probably four to five pounds.

And I don't know if I answered this question, but around our lakes, when we fertilize we use a drop spreader for two passes, then we use a rotary spreader for another pass, then we go to the big spreader so we've got a 25-foot buffer, so there's no chance we'll throw any fertilizer into the body of the water.

CHAIRMAN STRAIN: Okay. The content that you use in your fertilizers, do you use any phosphates?

MR. HIERS: No.

CHAIRMAN STRAIN: How about slow release nitrogen, what's your minimum or maximum that you use there?

MR. HIERS: Well, again, you've got the worst guy up here because the grass we use is different. We use a liquid fertilizer. We spoonfeed. We don't use any granular nitrogen except on our greens, and we only do that twice a year.

CHAIRMAN STRAIN: Well, in your organization there are others that use other -- have other golf courses besides paspalum, so do you know what they would use?

MR. HIERS: Well, most of them use slow release nitrogen, because it's expensive and they don't want to -- you know, I don't want to technical again, but in the summertime they use a slow release that breaks down by microbial activity.

CHAIRMAN STRAIN: What percentage?

MR. HIERS: I don't know, but it's pretty heavy, because they don't want to be losing anything to the rainwater.

In the wintertime they use a fertilizer that breaks down by hydrolysis, which means water, because your microbial activity goes down in the wintertime because the soil temperature drops.

So in the summertime typical golf courses will use a slow release fertilizer that breaks down by microbes. In the wintertime they'll use a slow release fertilizer that breaks down by water.

CHAIRMAN STRAIN: You said pretty heavy. Do you have any percentage?

MR. HIERS: What was the question again?

CHAIRMAN STRAIN: You said that they use a pretty heavy percentage of slow release nitrogen. What do you mean by pretty heavy?

MR. HIERS: A lot of the guys, or some of the guys will use 100 percent. Most of the guys, I'm going to guess, would use at least 50 percent. I could be wrong, they can shake their head if I'm wrong back there.

CHAIRMAN STRAIN: Well, they can come up and speak too. So maybe we'll hear from them before the day's over.

Those were issues that were brought up as concerns over the ordinance to begin with. And I'm trying to match them up to reality. Which is kind of where I asked the questions about Scott's Bonus S, for whatever that's worth. Just trying to find out how practical some of these things are so -- thank you, Tim, you've been very helpful. Appreciate it.

MR. HIERS: Thank you very much.

CHAIRMAN STRAIN: Okay, next public speaker, Ray?

MR. BELLOWS: Bill Davidson.

MR. DAVIDSON: Bill Davidson.

Mr. Chairman, for the point of time expediency, I'm going to just make a couple quick points.

Ninety-nine percent of what Tim said, we completely support. There's just one point that you mentioned with

regard to the effect of golf communities and how the fertilizer ordinance would pertain to them.

Not only do we have golf courses within the communities, but it's also the residential section that many of us are responsible for as well, which would fall under the new fertilizer ordinance rules. So therein is our concern.

And long term when this fertilizer ordinance, if it comes to pass where there is a ban and all that sort of an issue and it doesn't play out as expected, we don't want the situation to arise and say well, it's got to be the golf courses, now we want the golf courses to be put into a summertime ban and all that sort of thing.

So we're really standing as a green industry, not segregating ourselves golf versus homeowners and all that sort of thing.

With respect to your question on slow release fertilizers and things of that nature, at my golf course we use 100 percent slow release granular fertilizer year round. But in addition to that, we also spray foliar fertilizers on the golf course. On the greens we do it weekly. On the tees and fairways we're doing it every two to three weeks.

And the effect of foliar fertilizing is this would be the equivalent to you putting lotion on your skin where it gets directly absorbed into the plant, it doesn't go through the root system, and you can bypass the effect of any rain application or anything like that.

That's all I'll have. I'll just say that we stand in support of everything that Mr. Hires just said.

CHAIRMAN STRAIN: You use 100 percent slow release on the golf course. What do you use -- since you do the residential homes, what do you use on those?

MR. DAVIDSON: We're using a product that is not 100 percent slow release, because we don't have the ability to go up there and spray on all those common ground areas. We're using a product that's a 50/50.

CHAIRMAN STRAIN: So it's 50 percent slow release and 50 percent quick release?

MR. DAVIDSON: Yes, sir.

CHAIRMAN STRAIN: Okay. What kind of grass you're putting on your -- what's on your course?

MR. DAVIDSON: My golf course is Bermuda grass.

CHAIRMAN STRAIN: Okay. And your greens, same thing?

MR. DAVIDSON: Yes, sir.

CHAIRMAN STRAIN: Thank you.

Melissa?

COMMISSIONER AHERN: Do you have any issues with your lakes?

MR. DAVIDSON: No, ma'am. My golf course was built in 1966, and we have no issues with our lakes.

CHAIRMAN STRAIN: But then you are consistent though with one of the recommendations we heard today about the content of the fertilizer, minimum 50 percent slow release and zero phosphates.

MR. DAVIDSON: Personally I don't have an issue with the phosphorus. If a soil test says that you need phosphorus, we're okay with that. You know, with 50 percent, that's debatable.

The problem that you get in when you have more slow release in a residential neighborhood, you don't get the initial effect. And there you get to the if two is good, we're going to put down four. That's where you're really going to run into an overapplication scenario. Because slow release is supposed to feed it very slowly over time, wherein if you have a little bit of quick release to give you that initial green up, and then you have the slow release to sustain it through the duration. And if you go to a large portion of slow release, they're not going to see it two to three days, and you're like, well, I must put down more.

Pfffft, so that's the scenario that you're into there.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: How often do you fertilize in the rainy season?

MR. DAVIDSON: My golf course?

COMMISSIONER MIDNEY: Yeah.

MR. DAVIDSON: We fertilized -- we just got done fertilizing our slow release granular, and that will take us through until September. But we are foliar feeding our golf course every two to three weeks.

COMMISSIONER MIDNEY: What about the residential parts, how often do you fertilize those in the summer?

MR. DAVIDSON: We typically do it June or July, and then we -- it'll get us two or three months, and then we'll do it again towards the end of the summer. So right at the beginning and right at the end of the blackout period is typically when we would do it.

COMMISSIONER MIDNEY: But you probably could do it the end of May and it would probably last you through the rainy season, wouldn't you say?

MR. DAVIDSON: Depending on soil conditions and what you put out, there is a potential. I'm not going to speculate as to say it would or would not work.

CHAIRMAN STRAIN: Okay, anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you very much. Appreciate it.

Next speaker, Ray?

MR. BELLOWS: Rich Yovanovich.

CHAIRMAN STRAIN: He's not a golf course superintendent.

MR. YOVANOVICH: He wants to be.

CHAIRMAN STRAIN: He's an operator of a public restroom now, but --

MR. YOVANOVICH: It's still morning. Good morning. Rich Yovanovich.

I feel like I need to blow Tim's horn a little bit. Tim is probably one of the top two golf course superintendents worldwide, so he knows of which he speaks when he's talking about taking care of grass and what's necessary.

And I think I need to point out that the golf courses are here, even though they're not regulated by this ordinance, because it's important to them that the right ordinance gets adopted for the taking care of grass.

And Commissioner Strain knows that, you know, I'm not a golf course superintendent, so I don't purport to offer any expert testimony regarding what is appropriate or what is not appropriate. But I do want to point out, as your county attorney pointed out, is that the model ordinance says that if you want to become more stringent, it has to be based on science. And the science out there today, and that science is many, many years old, and there's many, many peer reviewed studies, clearly shows that the blackout period is the wrong thing to do scientifically.

We're not opposed to the ordinance. There's several good things in this ordinance regarding the Best Management Practices and requiring commercial applicators to be trained in BMPs and certified in those BMPs. We support and endorse those requirements that are in the model ordinance, and I don't think anybody's going to object to that.

And I guess fortunately or unfortunately, however you want to look at it, in Naples I would say that the vast majority of individual property owners and probably all of the communities that have common areas use professionals to apply these fertilizer materials. So that aspect of the ordinance will probably take care of the large majority of the, quote, runoff problem if there is even in fact a runoff problem, which the research shows there's not a runoff problem related to fertilizer and healthy grass.

So I think the evidence and the scientific basis is there to follow what the model ordinance says and to follow what your staff is saying.

I think what has been pointed out in the question is that there is no scientific basis for the approach The Conservancy wants to take. I think their heart's in the right place, I'm not questioning their motives, but there's no science behind a full-out ban during the four most important months for the grass to grow.

I heard statements like she thinks this will work. She talked about anecdotal evidence. But there's no real scientific basis. And Tim said it much better than I can ever say: Just because other communities have adopted the wrong approach doesn't mean that Collier County needs to follow that.

In this particular case, I think intuition is wrong. People intuitively believe that fertilizer is causing the problem and it's running off during the summer. And I just think that the science shows that the intuition is not correct.

The model ordinance was adopted by the FDEP and it was reviewed by the University of Florida IFAS Center. It was reviewed by the Department of Agriculture, as Mac pointed out. They all looked at what The Conservancy is proposing and they've said that's not supported by the science.

This is the same FDEP who says we have impaired waters. So they're saying we have impaired waters, they've looked at a more stringent version of the model of the ordinance and they said don't do it.

So the science, it doesn't support going more stringent. We need to adopt the model ordinance as it's written.

I think what you've heard is we could probably agree to the recommendation to go to the 30 percent slow release. I don't think anybody has said that that additional requirement from -- and I forget which entity that was, they

may have been the IFAS Center, I can't remember which one -- but said go to a 30 percent slow release. I think that could probably be supported and maybe implemented and you can go.

The biggest fear that I've heard, and just from listening to people talk, is that if you go to the absolute ban, we believe it's going to have no effect. So just like the person who puts -- doesn't see the quick reaction from the fertilizer, they go and put more fertilizer on it. The fear is going to be you're going to have a blackout period, it's going to have no impact. And that no impact is going to force you to do something more restrictive. And maybe it's a blackout on everything, you know, you'll have a total blackout period. Because you don't know.

So you need to rely on the science. I sent all of you a five-minute link, you know, to summarize the scientific evidence. I'm not sure whether it ever got through, because I know earlier in the morning you talked about whether you had the ability to get to your e-mail addresses for that. So, but there's a -- since this is just a workshop, you'll have an opportunity to log in and look at that five-minute blurb from the University of Minnesota where the scientist takes you through the totally unfertilized grass, takes you through the properly fertilized grass and it takes you through kind of a blackout period. And the scientific evidence shows you that not fertilizing is the worst thing you can do. And then it talks further on.

But if you look at that five-minute blurb, I think you'll be able to see what Tim has already said and what the scientists have been saying all along, is that the runoff issue is not related to fertilizer running off. That's not what your problem is. And we would encourage you to follow staff's recommendation. Thank you.

CHAIRMAN STRAIN: Thanks, Rich.

Ray, how many more public speakers do we have?

MR. BELLOWS: About four.

CHAIRMAN STRAIN: Okay. We'll continue with the public speakers. And as we wind it up, we'll see if we want to finish those up before we go to lunch. It might help in case some people have to leave and can't wait for the hour.

Ms. Caron?

COMMISSIONER CARON: Yeah, Mr. Yovanovich brought up the link that he had sent us, this little video, which I don't know whether people saw it or not. But I would suggest, since this will be coming back, that Mr. Yovanovich should send the actual study and not just the short little video clip. And that way people can make a real determination about what that actually shows.

CHAIRMAN STRAIN: Okay, next speaker.

COMMISSIONER CARON: I have a copy of it, so you don't have to give it to me.

MR. BELLOWS: Brad Cornell.

MR. CORNELL: Good morning. I'm Brad Cornell and I'm here on before of Collier County Audubon Society.

I appreciate the opportunity to make a couple of comments about the fertilizer ordinance discussion you're having.

It clearly is apparent that one of the biggest issues is the degradation of banks and what might cause that relative to fertilizing or not fertilizing on a setback.

I think what we ought to be looking at is alternative ways to stabilize banks other than turf and fertilization. And that might include the use of littoral plantings in the lake, adjusting the slopes, as Mr. Midney was discussing about, alternative ground covers, perhaps the use of native ground covers. And even perhaps some structural adjustments to make banks more stable.

We have sandy soils here, that's our typical soil in south Florida. And I think that that's going to be an issue. So looking at alternative ways to stabilize banks without fertilizing right next to water makes a lot of sense.

I want to point out -- I'm sorry, I'm eating this microphone.

I want to point out a parallel that Audubon of Florida scientists have been looking into in Lake Okeechobee. And this has to do with phosphorus, but nevertheless, it is fertilizer, a heavy fertilizer issue. And that is that there are limits set for Lake Okeechobee. It's got a huge muck core now, it's supposed to be a sandy bottom lake. That muck core is a big problem. When storms come up, the lake gets churned up, water levels rise and they inevitably, during rainy seasons like back in 2004, 2005 when we had a lot of hurricanes crisscross the state, huge releases of very fertilizer and nutrient laden water came down the Caloosahatchee, caused horrible algae blooms, killed sea grasses, oysters, et cetera, all the way out to Ding Darling.

Well, that fertilizer problem has a solution. Limit the amount of fertilizer coming from the watershed, coming downstream. The problem is that if you limit it to the amount that the Institute of Food and Agricultural Science, IFAS, of the University of Florida says to limit it to for application for crops and turf, that's not enough. You still get heavy overages of those limits. And that's what's been observed in the water quality. Way more phosphorus and fertilizer going into Lake Okeechobee, even if you adhere to the IFAS recommendations. That's because IFAS studies on turf and crops have to do with agronomic rates of application; what do the plants need for healthy growth, not what the water quality result will be if you apply that amount of fertilizer for those plants.

So maybe your question is maybe we have the wrong plants in this environment. Maybe we're not using the correct crop. Maybe this is not the right species of grass that we've got.

So IFAS studies are biased. They're not the best use if your concern is water quality. So I have a heavy concern about that.

I do want to point out, which I think you all have agreed with, that monitoring water quality is essential, no matter what we do. Whatever kind of ordinance we adopt, whether we adopt one or if we don't adopt one, we've got to monitor our water bodies for water quality. And we have to do sufficient public and professional outreach and education, I think everybody agrees with that, that's absolutely essential.

I think in the end this public policy discussion boils down to whether Collier County and all of us want to err on the side of grass or on the side of water quality in deciding whether to adopt a stricter fertilizer ordinance. Collier County Audubon Society strongly urges you and all of us to base public policy on the science that supports stricter fertilizer ordinance, blackouts in the summertime, mandatory 10-foot buffers from water bodies, especially those water bodies that lead into the Gulf of Mexico and estuaries, no phosphorus, 50 percent slow release nitrogen. This seems reasonable.

And it seems if we need -- if we have dueling discussions or any doubt about science, and there's always some element of doubt, and I pointed out the bias that IFAS has, I think we ought to be looking at erring on the side of water quality in the public interest. Thanks.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: Tim Nance.

MR. NANCE: Yes. Good morning. Tim Nance.

I'm here because I'm an interested citizen and because I worked in the agribusiness industry for all of my adult life in a business that was located in Collier County.

My remarks that I would make to you today are that the decision you're making at this point in my view is not so much about whether you're making a decision that where you have to choose aesthetics over the environment, but rather how the fertilizer ordinance is going to be developed over time in Collier County.

I think everybody would agree that the science is incomplete at this time. So we can argue back and forth over different fertilizer aspects. I will tell you that I personally, in my position with the Gargiulo Company, formulated millions of pounds of fertilizers a year and directed their application, millions and millions of dollars and millions and millions of pounds. It's a very, very complicated science.

The nutrients, different forms of nutrients, different fertilizer formulations and the way they are released, including what is typically in this discussion has been termed quick release or slow release should more often be discussed as controlled release. There are many, many high tech products that exist today.

And I think as we move forward developing fertilizer ordinances over the next 10 years, I think that the ordinances you'll see 10 years from now will bear little resemblance to the one that you will begin with in the decision that is made today, simply because there are many, many high tech materials that are not within the purview of this discussion today but will be added into the quiver of things to control fertilizer release and the results that we want for water quality.

I think today the most important decision that you make is how you're going to move forward with decision making and the resolution of this problem. I would recommend to you that you adopt an approach that utilizes the resources of the University of Florida as the lead agency and the institution that is most likely to take us through the science to add the additional studies and to come to the conclusion and the result that everybody is looking for. And I think this is going to take time, it's going to take money.

I believe that that will happen because of the interest of the public and because of the interest in everybody that monitors water quality, that those things will indeed take place.

So I personally support beginning with the state model ordinance, only because I think it's a good point of beginning, and that it supports the University of Florida and DEP as a combination of our finest educational institution and the lead agency that are going to be responsible for solving this problem.

Furthermore, I think the University of Florida DEP model is very compelling for perhaps the most important part of our fertilizer ordinance, and something that hasn't been -- that has been little discussed today, and that is the practical application in the field.

Regardless of the ordinance that's adopted, we have to have a methodology to get it into use and practical application from the homeowners. I think you'll have very little problem from the industry, because the industry is going to be very responsive to it. But from the homeowners' point of view, there's going to be a huge public education component that we're going to have to have to be successful.

With the University of Florida, we have at our disposal the second largest extension system in the whole of the United States and perhaps the world, only to California, that will avail itself to helping with that public education.

In addition, the University of Florida also has professional training and certification component that will come to Collier County if we support the University of Florida recommendations.

If we go off and do things that Collier County has done many times and reinvent the wheel and come up with something that we have to administer ourselves, that we have to develop the information, the training, the outreach to the public, it's going to create a whole nother -- in my view it could create a whole nother agency in our local government, which I don't think anybody is going to want to do. It's neither going to be effective nor it's certainly not going to save us any money.

So I believe that many advancements are going to take place. I hope we adopt an ordinance that moves forward with the studies, with the University of Florida so we can be on the cutting edge of peer reviewed science. And I would hope that you would take that into consideration.

Is there any questions at all?

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: Yeah, as somebody who has worked with fertilizer before, do you agree with the statements that were made before that fertilizer does not move laterally into canals and water bodies?

MR. NANCE: I will tell -- this is what I will tell you about my experience with fertilizers. I am certainly not a turf grass expert. All of the fertilizers I have used have been on high value fruit, vegetable, agronomic crops, although I have done quite a bit of work with container ornamentals.

I will tell you this: The results that you get depend directly on the sorts of fertilizer materials that you utilize. And you have not gotten into that today. For example, there are sources of nitrogen that are released by microbial activity. There are fertilizer materials that are manufactured that release their nutrients based on the amount of water that they get. There are others that release their nutrients based on the temperature that they're exposed to. This is all very, very complicated. There are many forms of nitrogen and many fertilizer materials that the industry can produce that can give you all sorts of capabilities.

None of this has been addressed nor should it be at this point in our conversation. This is going to take combination studies to take the technology that we have, the exact circumstances that we have, the environmental conditions that south Florida has that are unique, and it's going to take an agency like the University of Florida to study those things and come up with the very best result.

I don't think any conclusion that we come to today is going to be a solution that we're going to have 10 years from now. I expect us, for example, to be using very highly controlled release forms of fertilizer that are polymer coated down the road that apply the fertilizer to the crops exactly during the time frame that we wish them to be applied, and we have all those capabilities. We're not there yet, but we will be.

That's why I say that your decision today is more important about the agencies that you support and the approach that you select to move us forward through the process. I think it's much more important.

But I do support the model ordinance as the place to begin, because I think it just makes the most sense to start there.

CHAIRMAN STRAIN: Thank you, Tim. Appreciate it.

We had previously discussed breaking around 11:45. We have two more public speakers registered, and then we'll have others, if they want to speak. But I think that we would try to finish up with the registered public speakers now, if that's okay with the panel.

Okay, so let's go finish up on our public speakers then we'll take a break.

MR. BELLOWS: Alberto Overdo (sic). I don't think I got the last name.

MR. QUEVEDO: Hi. Good morning. Alberto Quevedo, Q-U-E-V-E-D-O.

That was close.

I just want to waive my time in support of the state model ordinance. Thank you.

CHAIRMAN STRAIN: Thank you.

MR. BELLOWS: Brian Becknalls (sic). Oh-oh.

CHAIRMAN STRAIN: You have a name problem this morning, huh, Ray?

MR. BELLOWS: I do.

CHAIRMAN STRAIN: You might have to spell your name.

MR. BECKNER: It's Brian Beckner, B-E-C-K-N-E-R.

I waive my right and time in support of the state model ordinance and Tim Hier's extensive time in conversation earlier.

CHAIRMAN STRAIN: Thank you.

Now, we are going to take a break for lunch for one hour. If those speakers who are not registered want to come back when we come back from break and speak, you are going to be more than welcome to before we get into our further discussions on a page by page review of the ordinance.

So we'll take a break until 10 minutes of 1:00 and come back at 12:50.

(A luncheon recess was taken.)

CHAIRMAN STRAIN: Okay, welcome back from lunch, everyone. And before we resume, Mac, I'd like to run some ideas by you.

It's close to 1:00 and we still have barely scratched the surface of the fertilizer issue. And I know that because of the number of questions per page that we're probably going to have and debate the issues that were brought forward by the public and maybe bring members of the public that are still here back up and staff to answer questions we may have. I'm not sure we're going to get past the fertilizer ordinance today.

I want to ask you what you think of just saying let's just do that today so we know we can get that done, and do the watershed ordinance, resume it at our next regular meeting for whenever that is, and that way your consultants aren't sitting here wasting the rest of the afternoon.

MR. HATCHER: My reluctance to accept your proposal is that I really feel like the rest of the presentation is the meat of the issue. I would prefer to table the fertilizer ordinance for a separate day and move on with the watershed plan discussion, but obviously, I'm sure --

CHAIRMAN STRAIN: We're already far into the fertilizer ordinance, Mac, we need to finish it up. And that's what the public was here for today. I understand the watershed is probably a bigger -- in fact it is a bigger issue. But how -- we're here to respond to the public and the public's been here today, as you saw by the show of hands this morning, strictly for the fertilizer ordinance. And if we had gone into the watershed we may never have gotten to the fertilizer ordinance, or if we did, it would only be for a very small portion of it, based on the time frames that are now going swiftly fast.

MR. HATCHER: I'm not disagreeing with you.

CHAIRMAN STRAIN: Okay. No, I'm just trying to be practical, because your consultants here, and that gentleman's wife is going to be madder than the devil at him because it's their anniversary and he should be home taking care of his family, and I'm just trying to offer a solution. But, you know, we can continue -- we're going to continue on. But if we don't get past the fertilizer ordinance in the next two or three hours, I'm not sure how much time you're going to have left to do anything today, and therefore you've got these people sitting here almost the whole day for no reason.

It's your call. And I don't -- if you feel you've got to get this done as much as you can today, and even if you have a half hour or an hour left for the watershed management part of it, maybe we can get there. I just don't know.

And I know that we'd have better timing after our next meeting. But it's your call, it's your department. So you figure out how you want to move forward. We're trying just to work with you, so.

MR. HATCHER: Okay, well, I guess we'll finish up with the fertilizer ordinance today and agree to meet again on the watershed plans.

CHAIRMAN STRAIN: Okay. As far as the -- well, let's talk about the timing then. I know that I've got

small questions on most of the pages, and I have a lot of questions about the effective way this fertilizer ordinance can be controlled.

Then we've got to get into the various elements that are in debate. They range from the mix of the content, the application rate, to the buffer zones, to the summer blackouts, the golf course BMPs, things like that.

What does the rest of this board think as far as time goes?

How many members of the public would still like to speak to us on the fertilizer ordinance today? One, two, let's say two, three people. Okay. So let's say we get to our part of it by 1:30. You guys, how long do you think it will take us to get through the 13 pages?

COMMISSIONER MURRAY: Ten-and-a-half minutes.

COMMISSIONER SCHIFFER: I don't really have a lot. I do have some questions, but not a lot.

CHAIRMAN STRAIN: Mac?

COMMISSIONER SCHIFFER: Let's just get going.

CHAIRMAN STRAIN: Yeah, we can just -- we'll just wing it for a while, just hang in there, we'll see what happens. If we get through our discussions fast, then we may be able to get to your people today, so -- I was trying to make sure we covered all bases.

With that, Ray, we have several speakers. If they're registered, let's get those first, then we'll get anybody else that isn't.

MR. BELLOWS: Todd Josko.

MR. JOSKO: Hi, good afternoon. I'll be really, really brief. I just wanted to pick up on a point or two that some of the other speakers mentioned. My name is Todd Josko. I represent TruGreen. And I'm not going to get into the science, I think you've heard enough about that back and forth.

COMMISSIONER CARON: Slow down.

CHAIRMAN STRAIN: She means slow down. She's trying to type as fast as you talk.

MR. JOSKO: Okay. Regarding the different ordinances, I think it's important to remember, some folks talked about the need for consistency, and that the City of Naples was doing this and Lee County did that. You know, those ordinances were all passed before there was a procedure that we're going through today. There was no -- those folks did not have the advantage that you have of looking at the comments of experts from DEP and IFAS and DACS. There was no model ordinance to codify the best practices.

So those were really drawn out, out of, I don't want to say thin air, but there was no baseline when some of these early ordinances were put on the books. And it was because of those ordinances that folks at DEP and DACS and IFAS is said, you know, wait a minute, we have some concerns with these ordinances that are being passed on the local level, they don't reflect what is out there and representing the best science. In many cases, they go contrary to the principles of best science and bring up a lot of unintended consequences, such as the practices of the buffer zones or the 50 percent slow release requirements.

So I think out of some of the ordinances in this area came the model ordinance. There was a group called the Florida Consumer Task Force that comprised DEP and Department of Ag. and League of Cities, and counties, environmental groups, industry groups, and they all got together and looked at all of the science and looked at best practices. And out of that became the model ordinance that DEP put forth and that your staff is recommending and that subsequently in Florida statutes the legislature said, you know, municipalities going forward, if they are looking at doing a fertilizer ordinance, they have to solicit those comments from DEP, just so that you're armed with what is the science, what are the best practices.

So it's important to remember that -- I think some other speaker said it a little more eloquently, the important thing is getting it right. And I think, you know, had, I think, some of those other municipalities had the tools at their disposal that you all have, I'm not sure that they wouldn't have made those same decisions that they have going forward. That's all I wanted to address.

CHAIRMAN STRAIN: Do you work in the industry or what?

MR. JOSKO: I represent TruGreen in government affairs capacity.

CHAIRMAN STRAIN: Do you work in the City of Naples?

MR. JOSKO: I do not.

CHAIRMAN STRAIN: Does TruGreen as a company do any work in the City of Naples?

MR. JOSKO: I'm pretty sure they do. I have -- there is quite a few people from TruGreen here that can talk

specifically about what they do in the City of Naples.

CHAIRMAN STRAIN: Okay. Because I think if they're working in the City of Naples under an ordinance that's there and they're working in the county, as we've heard testimony in Island Walk, I'd sure like to understand how green the grass is in Naples compared to the county. We must have a lot greener grass that that poor town of Naples, because they're restricted and we're not.

So I don't know if one of your people can address that, but if one of them wouldn't mind since you're TruGreen, and --

MR. JOSKO: Sure. Is the question how is the ordinance --

CHAIRMAN STRAIN: I'd like to understand how you're working in the City of Naples with that ordinance there that's been suggested for Collier County, what differences do you see in the way you're working there that are detrimental to the way you would work in Collier County if the same procedures were here.

MR. JOSKO: Let me turn it over to one of our folks that actually works in the City to best answer that for you there.

MS. SANTELLA: You might have someone next.

CHAIRMAN STRAIN: No, that's okay, come on up.

MS. SANTELLA: My name is Santella, S-A-N-T-E-L-L-A. I've been in Florida since 1985. I live in Lake County, a little bit north of here, in a small town called Sorrento. North of Naples both in Italy and Florida. And I started my career at a horticulturist on the south side of Chicago, growing sunflowers, forsythias. So the early morning topic was very interesting to me, because it's how I got my start.

I do have a Bachelors and Master's Degree in Agronomy. I'm TruGreen's technical manager for all of our Florida branches. We have 18 locations throughout the state.

I've been involved in the BMP model ordinance issue with DACS, DEP and IFAS since the inception over a decade ago. And we do support the state model ordinance. And I've been involved from Naples to St. John's County, to on the coast with the Broward Everglades Working Group. In Orlando. And they're all grappling with these issues of water quality and how do we meet the TMDL issues and protect our precious water quality.

Most recently, as Todd alluded to, as counties and cities are getting some of the input, getting some of the science, Hendry County just last week, Brandon DePalma, our service manager, was there when they passed the model ordinance. St. Lucie County has passed the state model ordinance. The City of Port St. Lucie has passed the state model ordinance.

So as people are understanding what is involved in that, that it really is not business as usual, either for professionals or for the homeowner, that this really does involve making changes.

One of your questions was how do these places that have these blackouts and slow release requirements increased buffer zones, how do they look? We struggle in those markets. Sarasota is a very large market that we service. They've had a blackout period in force for, I think it's three years now.

And someone talked earlier about plants need nutrients, they need to be fed. And just like us, they need certain nutrients. When you say in the summer you cannot have nitrogen and a plant needs nitrogen, and you try and use iron and potassium and manganese, magnesium, you're just masking a problem.

So we do see those lawns struggling, whether it's in Sarasota, whether it's in Naples, whether it's in Pinellas County now. In fact, Brandon and I were planning on spending part of the afternoon discussing what we learned last year in Naples and what we're going to do differently this year. Because one thing these restrictive ordinances do is they take away from the professional our Best Management Practices.

The golf folks have been very generous in their time and their efforts in saying hey, you're accepting our Best Management Practices for the golf courses, agriculture, you're accepting the sugar cane Best Management Practices. You're saying those are really good, they're supported by DEP, IFAS and DACS. These are the only Best Management Practices that any city or county has decided to tinker with.

And so you're taking away from the professional, you have the pro and the Joe, as someone said earlier. You have the professionals. And by making restrictions such as this much slow release, this kind of buffer zone, you're not allowing us to write our agronomic program.

We have other companies here in the room today, Massey and -- I know most of the folks that are with our competitors. We may compete outside this room for customers, but inside this room we're all for the same thing, which is water quality and science.

And I would like to address a few things that some other folks had said earlier. I think there was a miscommunication, because I have worked where Herb, as have several of our people, with Island Walk. And he mentioned that Marion County has a blackout. And they don't. In fact, they're revising their ordinance. They're in the process of working through that because the City of Ocala did pass a model ordinance. And Marion County was one of those back in 2008 that didn't have to go through the process of talking to DACS, talking to DEP, talking to IFAS. So they made a decision that in their heart they felt was the best, but from a technical standpoint, probably, well, was not.

You've heard people talk about the peer reviewed studies. That's very important. And those peer reviewed studies have never been challenged. And peer reviewed work can be challenged. But over 10, 15, 20 years, that research has only been built upon and built upon. Whether it's in the sands of Fort Lauderdale or clays soils in Minnesota, it says that turf and landscape plants capture nutrients.

And I think we need to remember that the ordinance in Collier County also affects your royal palms, your hibiscus, your flowering plants. And those plants were developed for the urban landscape. And so it would not only be affecting turf grass if you have blackouts and some of those restrictions.

But these agronomic programs that we develop company by company, area by area, our program is different in Naples than it is in Fort Lauderdale or Tallahassee, depends on the grass type. These BMPs are not a one size fits all. We make a lot of decisions every year based on this manual. If you're not familiar with the Best Management Practices, there's also a training process that goes along with this.

CHAIRMAN STRAIN: Could you at some point give enough of those manuals to Ray or the county staff so they could distribute them to the Planning Commission. We're not going to vote on this issue today, but when we do, it would be nice to have read that as a background, and that looks like something that's more readable than the massive small print documents that everybody else has been sending us.

MS. SANTELLA: And my favorite picture in this manual is the first one. Well, okay, the first one is the Secretary of DEP. But the first really nice picture is let only rain go down the storm drain. And you heard people talk about don't get pellets on hard surfaces, don't get dog droppings on hard surfaces, don't get leaves on hard surfaces of any type. Dog droppings.

I was astonished to learn that my wonderful rescue dogs, we at one time had six of them, contribute to non-point source pollution, through both their droppings and their other type of matter. In Tampa bay they estimate up to eight percent from their nitrogen from a loading standpoint comes from our pets. That's depressing, because I love my dogs.

CHAIRMAN STRAIN: It doesn't mean you get rid of your dogs.

MS. SANTELLA: Right. But the other part of this manual is there's a training for professionals, it's a six-hour class. We have at least three trainers in the room. I'm a senior instructor, Brandon just became an instructor, as did Brad Holler (phonetic). I know Massey has -- okay, we have four instructors in the room that can help the county do this six-hour training required of every professional by 2014. It's a six-hour class. And fertilizer is one section.

And these ordinances always focus on fertilizer. And when you go through the BMP Manual, you'll see there's right plant, right place. Design. What plants to use. When to give up on turf, if there's too much shade or it just isn't appropriate. There's irrigation Best Practices. Pruning, mulching. Again, don't get leaf litter into storm drains. There's a lot of nice pictures in here. You saw the street ones where people applied fertilizer inappropriately.

That one picture that Tim showed earlier was one of our accounts in Melbourne where you saw the very straight line on the water's edge. That's science -- it may not be scientific, but we see it on lawn after lawn. And it's a great marketing tool too. Because you see a straight line of delineation between our properties and one that's not treated.

And to me that says this stuff doesn't move or you would not see this straight line of no weeds, weeds, green, not green, insects, no insects.

And there is science to show these materials don't move. And there is just -- you know, you talked earlier about what makes sense from a common sense standpoint. And I understand when people think oh, it rains and fertilizer moves. It just sort of seems intuitive that when it rains things are going to move. But what we found out is, is that turf and that landscape as a living sponge that captures those nutrients.

CHAIRMAN STRAIN: Okay, I had -- one of the questions I wanted to ask is the slow release nitrogen.

How long of a period is slow release nitrogen released?

MS. SANTELLA: And the reason I'm chuckling is that is a question that if you were to go to Gainesville and take a soils science class, you would probably spend several weeks discussing that because there are so many different formulations --

CHAIRMAN STRAIN: We don't have quite that much time here today.

MS. SANTELLA: I know. That's the scientist part of me wanting to come out.

But there are so many different types of slow release that it can be -- something can be called a 50 percent slow release and it can release this afternoon, if that's -- people talked about coatings, I like to say it's like an M&M coating. If that coating breaks and is fragile, you don't have a 50 percent slow release.

So Tim Nance talked about technology. Right now the technology isn't out there to have something that just sort of is like an IV in your arm to slowly feed you.

CHAIRMAN STRAIN: Well, someone earlier today said that a slow release put down in late May would carry for four months. Do you concur with that?

MS. SANTELLA: It's possible. However, as a both, if -- a do it yourselfer and the professional kind of has our hands tied in that we cannot use the rates of slow release that, say, a golf course or an agriculture can use. And so we have limits on how much of a slow release we can even apply. It's a pound of nitrogen. So if we were -- that's from a state level and that's from our Best Management Practice level. So we don't have access to some of those products.

CHAIRMAN STRAIN: Okay.

MS. SANTELLA: And we do use a lot of soluble or what they call fast release fertilizer at very, very low rates. I think someone referred earlier to --

CHAIRMAN STRAIN: Quick release.

MS. SANTELLA: -- foliar feeding, where during the summer you just give a small amount very frequently.

CHAIRMAN STRAIN: Donna?

COMMISSIONER CARON: Yeah, question. If you put a slow release fertilizer on, say, in late May and you anticipate that it's going to carry you through to September, is there a soil test that you can do or a turf test that you can do to, say, I'm sorry, it's just not working for us right now, we have problems?

MS. SANTELLA: For nitrogen there is not. And there's not a soil test you can do or a practical tissue test. And we've had Dr. Jerry Sartain with the University of Florida discuss this. And he said the way you tell if a turf needs nitrogen is through visual symptoms. And that is an accepted practice. He has a visual rating scale that they use to say it's chlorotic, it's yellow, or it's sufficiently green.

And so nitrogen does not, there's not a test that is practical in the field.

CHAIRMAN STRAIN: Bob?

COMMISSIONER MURRAY: Actually, I think Brad had wanted to talk first.

COMMISSIONER SCHIFFER: Okay, thank you.

My question is, with the retail stores, if we come up with requirements, is that something that can be protected by what products are on sale, or is that a free for all in these stores?

MS. SANTELLA: I don't do retail. Actually, that's our competition. We get some of our best customers from the average Joe that messes it up. But I'm familiar with the retail product line. And the majority of what's available now is a 30 percent slow release for the non-professional.

Professional always has the zero percent slow release available. Even in the areas where they have these blackouts of 50 percent slow release for requirements, if you go to the local Home Depot, you will have difficulty finding a product that relates to what their ordinance says you need to put out.

COMMISSIONER SCHIFFER: So the ordinance would have a difficult time restricting what's being sold in the county?

MS. SANTELLA: Well, I don't know -- you can mandate it. I mean, one county in particular has mandated a sales ban. Now, are those people just going to go to another county and buy fertilizer? Probably. So you can have that in a law. I don't think it would be against anything state statute. It just doesn't seem to have worked. Because again, if you go to Sarasota, if you go to Lee County and go in the Home Depots, the typical product you find is not a 50 percent as required by law.

CHAIRMAN STRAIN: Bob, then Paul.

COMMISSIONER MURRAY: Yes, now before, I know, he asked you, Mark asked you about the City of Naples. And only if you know. Have you seen a degradation as a result of the ban that they have in place?

MS. SANTELLA: I do cover the state, so I don't really see those particular properties. If you'd like Brandon or Brad or Matt Denny (phonetic) that are with our local branch can come and address that specifically.

COMMISSIONER MURRAY: I think it's a good question. I don't know that we have to pursue it much further. But it would be interesting to have that answer, because there is some question as to the prohibition and the result.

MS. SANTELLA: I can tell you I wouldn't expect it as an agronomist to be any different in Naples than what we're seeing in Sarasota. That's where I'm involved the most, because that is where this really started was in Sarasota County.

So a lot of us in the industry with Valley Crest, with Scott's, with Massey, there's a very large family owned company, Arrow, in that area. We've done some work with some tissue sampling, which is very expensive, to show that those turfs are deficient in nitrogen. So we kind of focused our time and energy as an industry on this one area. But there would be no reason that I can see, in talking to Brandon and Brad and Matt to expect Naples would be any different.

CHAIRMAN STRAIN: Paul, did you have something you wanted to follow up on?

COMMISSIONER MIDNEY: Well, yeah, that was just my question, were the lawns in Naples a lot browner than the ones in Golden Gate?

MS. SANTELLA: I would defer to these folks here to give that answer. And I can tell you, as far as brownness, there are things that we can do to make the color better. So, while it is not -- while you're not putting nitrogen in the chloroplast, you can use things like iron and manganese to give kind of almost a, I want to say a fake green, but you're not giving the plant what it needs.

So you're masking a problem. You may be keeping the turf green, but the density is starting to decrease. So these aren't quick problems to happen, they're not quick to return. But again, I can tell you in areas where we've monitored this closely, we are seeing the turf struggling, our employees are struggling, because they like to be able to provide our clients with a property they're proud of, and they can't.

And our people are, they're outdoor people, so they understand the water issue. These guys swim, they hunt, they snorkel, they scuba, and so they work around sensitive waters during the day and in the free time, we do give them some, they like to be outside doing fun stuff.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: We've heard several people make reference that we're choosing either grass or water quality or aesthetics. But it seems like some of the studies specifically address that when you're not feeding it and it starts to deteriorate is when you have more runoff?

Are you seeing any of that in Sarasota?

MS. SANTELLA: Well, we don't monitor water quality, but I would agree that this is what's happening, just from what we know on why these were developed. These Best Management Practices were not developed to grow grass. These Best Management Practices were developed for the protection of water resources in Florida. So whether it's a BMP for golf, whether it's one for sugar cane, citrus, cow cath operations -- by the way, in cow cath, they do recommend grass around their farm ponds to prevent manure from getting in there and the nutrients from that.

So yes, these BMPs were developed not to grow grass, they were developed to protect water quality and conserve water. So it's not an if or an and, they're not mutually exclusive.

CHAIRMAN STRAIN: I have one last question of you. Are you familiar with the golf course BMPs?

MS. SANTELLA: Very much so, yes.

CHAIRMAN STRAIN: How do they compare to the BMPs -- or to the program that this model ordinance is suggesting?

MS. SANTELLA: I'm sorry, could you repeat that?

CHAIRMAN STRAIN: The golf course BMPs. Golf courses are exempt from this ordinance. My assumption is they're exempt because they're doing a job equal to or better than the ordinance. Or everybody is scared the devil out of their organization. But let's not pretend that's the reason. Nobody around here golfs anymore anyway. So let's believe that it's because they're doing the right job.

So assuming their BMPs are correct, have you ever looked at this ordinance enough to know how it compares

to their BMPs?

MS. SANTELLA: Yes. And the golf course BMPs -- my biggest fear in any ordinance is that it dictates rates, sources and timings of fertilizer, which is what Sarasota does.

The golf course BMPs does not do any of those. They allow Tim Hiers to develop his program for his seashore paspalum. They allow Bill to develop one for his Bermuda grass. So there's nothing in there that says 30 percent slow release, or you shall not. It says under these conditions if you have turf that needs to be fertilized for recovery, here's what you should do.

So it's almost like a doctor's bedside reference to pharmaceuticals in that it allows you as a professional to do what is needed. So the golf course Best Management Practices, if you took and laid it against other ordinances, I don't think you can make that comparison, because it allows them to follow their Best Management Practices, which are going to vary.

CHAIRMAN STRAIN: Okay, thank you very much. I appreciate you getting up and responding, even though you weren't planning to, so -- thank you.

MS. SANTELLA: Feeding the audience here.

CHAIRMAN STRAIN: Ray, any other --

MR. BELLOWS: I don't have any registered.

CHAIRMAN STRAIN: Does anybody who has not spoken -- sir, come on up.

MR. TALBOT: Hi. For the record, I'm Fred Talbot. I live in Village Walk. And I've heard a lot of pros today, on a lot of people who make money on fertilizer. I'm a Joe, okay. And I'd like to -- I guess this mic. works -- share a few photographs with you first.

It's so negative today and argumentative. Let me flip on the switch. So negative and argumentative, let's start with something happy, okay. And I hope we can see this. There we go. And I hope it's a good little picture. And that's happy Easter, okay. I want everyone to have a happy Easter. That was Easter last year. That's my granddaughter Sidney, she was six. And that's the first bass she ever caught. And she caught it in our pond, our very clear pond at Village Walk.

It's a rain water -- stormwater retention pond. And she carefully pet it and counted to 20, because we always get them back in the water by 20, and then carefully released it unharmed. And hopefully the lesson stays with her. She was just plain fascinated with it.

During my stay at Village Walk, I moved in November, 2009, I've been amazed by the water there. And that's really why we moved to Florida. I had a history in Florida, I graduated from college up in -- from high school Virginia.

Went to Florida Southern, wanted to major in five sciences, including physics, biology. I was an active diver, surfer, whatever. Been a semi-professional bass fisherman since I was about 16. And instead I majored in journalism, so I could cover lots of sciences. And wound up working for the Orlando Sentinel and covered the very issues we're talking about today. Back in 1970, I covered the construction of Disney World, I covered NASA and the space program.

But I also covered the water there, and the fact that back then the science was pretty certain that nutrients from fertilizer were beginning to impede the lakes, including the Kissimmee River chain, Lake Tohopekaliga, east Tohopekaliga, all the way down to Lake Okeechobee. And I did a huge series of stories on that. And I had lots of science back then and kind of stayed with it.

Ended up getting a Master's Degree, coming back to Orlando, wrote some stories about real estate, about these same situations, and then wrote some stories about the law and how it impacted all of this. And did a pretty good job and wound up some of my series changed the law of Florida for real estate and development.

And I was encouraged to get a law degree, so I did. And I focused on forensic investigations, and scientific investigations, constitutional law and land use planning. And got out, did some good work in law and then decided to go back into investigative journalism and went to Virginia.

And there, ironically again, around 1977, '78, I covered this issue. Because Back Bay, one of the top bass fisheries in America, was being destroyed by nutrient fertilizer runoff, phosphorus and nutrients. Proven science, okay.

I've been surprised today to hear some of that science has been now kind of rejected, or I guess you'd call it watered down down here in Florida. I've heard that water doesn't run downhill, because if you really heard a couple of

the arguments today, that's sort of what they said, water doesn't run downhill. Put a particulate on a slope, let's say in my neighborhood 20 to 30 degrees, and then it rains really hard, that particulate will stay there. And that goes against all the physics I studied for so many years. I really am amazed. It's almost like a magic occurrence here in Collier County apparently. Water doesn't run downhill.

I've heard that fertilizer, when placed on grass immediately sticks to the grass and is immediately accepted and brought into that process without ever possibly running downhill or running into our lake.

Well, last June the 1st I caught 15 large mouth bass in two hours in our lake, and I thought I'd gone to heaven. And having been a journalist, I contacted a buddy at the New York Times and I proposed a story about the Paradise Coast. Because I'd read all the literature, but I'd also picked up shells down in Marco. I'd fallen in love with the place, the sunsets, everything about it. Everything about it. Amazing.

And then in mid-June, excuse me, the algae hit. And this is a harmful algae bloom. That's what the scientists call it, because harmful is correct. They see it as a harmful algae bloom because of three impacts. One, environmental, the second, economic, and the third, and to me the most frightening, health. The health impacts of these types of blooms.

That's the harmful algae bloom that erupted in our lake in Village Walk, one mile away, by the way, from Island Walk. And that erupted about June 15th and it lasted until mid-October. And that's when they dumped Radon, a really, really heavy copper source on it, and killed just about every living thing in that lake. Not the fish, but every living piece of vegetation.

So for one-third of a year this is what the people in Village Walk looked at when they woke up in the morning and when they went to bed at night. This is one of the beautiful bridges in Village Walk. And all that you see under it is a harmful algae bloom. This photograph was taken around August. I even sent, I think, all of you a copy of this. And that day Sidney was visiting, she visited us for two weeks. And we had to protect her from the lake, and we also had to protect her from the fact that not only does Village Walk have this problem, but they continue to irrigate, to spray this water that not only has the harmful algae bloom on it but has really, really dangerous harmful bacteria under it. They spray that, they aerate it several times a week throughout the neighborhood, and it puddles.

So we spent two weeks protecting a little child from getting near the lake she loved, near the fish she loved, and she couldn't even stomp on a puddle like kids do, because you could literally see the brown bacteria in it. One-third of a year that's what we had.

Now, I did what you would do, I went to our committees. I went to the lake committee, went to the landscape committee. I gave them all kind of research, and I've done more than probably 700 hits in terms of research. We talk about not -- there's not -- I think the term was science is incomplete. There's a heck of a lot of science out there that pinpoints that this is a problem and that it comes from fertilizer. Nutrients, okay. A lot of science. I can give you a DVD full of it, if you want it.

CHAIRMAN STRAIN: You did.

MR. TALBOT: I did. Well, I only gave you a sampling. I gave you about 10. I have about 800, okay, because I've been on this thing for 10 months now.

When Sidney got there, by the way, in August, this is the view from our great room, okay. That's the view.

So really, I came in here today to make a few requests. But after listening to so many comments and so many expert points, I thought I'd address a few of those with you, if you would. Because I want to know when I walk out of here today what to tell her.

Because I was with her last week when her little brother was born, and she wanted to come back down, wanted to know if she could come back down to go fishing. And I don't know whether she can or not, because I don't know after what I found in my research whether it's safe for her to come back down here or not.

If I seem a little distraught today, it's because the day before yesterday my favorite uncle died. He died of cancer. Twenty-six years ago prostate cancer hit. And lo and behold, the science was incomplete. That's where we started today, wasn't it, the science is incomplete. So don't do anything. But fortunately he met medical doctors who, despite the fact that science was incomplete, tried things. They addressed the problems. They recognized symptoms and addressed the problems. And he got 23 years out of it. He lived another 23 years, despite the fact that the science even to this day is incomplete.

Science on everything we're talking about is incomplete, and this is why. If you study science, if you study physics, if you study plate tectonics, whatever, science is never complete. But we started today on the foundation and

a recommendation from your staff that the science is incomplete.

We also heard comment today, one of you mentioned legal causation. And I guess one of my curses in life or one of my gifts has been predictions. And I think we're going about to see an eruption of legal causation here. Because if something isn't done to end -- let me just put one of these up again -- to end this, we've got a problem in Village Walk, and probably several other communities that I've spoken with. Some of your finest neighborhoods, some of your richest neighborhoods. And that's this.

If that erupts again this year, under the law of Florida we're going to probably have to put that in our real estate disclosure forms when we try to sell our homes. And that's going to really negatively impact the price of those homes, probably 10, 20, my friend Mr. Schuchman from Island Walk says 30 percent. And if that's the case, then we as homeowners have a legal cause of action against whoever caused that.

And whereas in here we can argue, we can argue professional, Joe, whatever, about what's causing this, we get into court, we're going to prove what caused it, and we're going to sue everybody and everything impacted by it because it makes it happen. And that's right around the corner. We're talking maybe two months from now if it erupts again. So legal causation, that may clear all this up for everybody and for every county.

I also want to ask you, if you would, to think about all that you've heard today and all that you've seen, and I want you to take a look at this and recognize that in lots of communities in Collier County we have this. In Village Walk we have hardly any input. Island Walk has input coming in, as he mentioned, from other parts of the county. We have none. We have two coming in from the road. And that would simply be the fertilizer in the median strip out there. But the only thing we have going in that lake is rainwater. Rainwater around that lake. That's all. So the only thing going in the lake would be what's on the lawn that's spread into the lake by rainwater.

Now, last year when this happened, everybody is kind of oh, don't worry about it, it just happens in Florida. You know, there are rattlesnakes in Florida, that's dangerous too, but hey. I said, yeah, but I don't breed 10,000 of them and turn them loose in the neighborhood, you know.

I took a look at this and I hired an outside environmental group to study our water quality. And they found almost three times more what they call the danger limit of phosphate, phosphorus. So I went to our HOA and told them that. And they said, yeah, but you've got to remember that's because the soil in Florida has so much phosphorus, okay.

Well, last September during the rainy season, they fertilized with phosphorus. They did it again this past February, fertilizer with phosphorus in it.

And I said, well, wait a minute now, if our soil has so much phosphorus in it, remember my study last summer, why on earth are you putting more down?

They said, oh, we did a study, there's not enough phosphorus in the soil here. So I'm getting it going this way. So it's very, very confusing.

But what's not confusing is this. Last but not least. They are applying what is being recommended to the county in my -- in Village Walk neighborhood now. Three feet from the water they spread fertilizer. They use the plate on the spreader, but three feet from the water. This is the result. This is the result.

So when you vote, please think about the fact that you may be voting for this. Okay? You may be voting for this. And I don't know any pro in here who can undo this when it happens, when it erupts. But I do know this. Word's spreading now about this. About this problem. And this problem in Collier County and in Orange County, because they haven't done a whole lot up there either and they've got a tremendous problem with their lakes. Spreading about the fact that who wants to live next to this. As one young home buying couple who came in said, it looked like raw sewage. Who wants to live next to that? We've got a big sludge mat under this now of where this was now, the whole bottom of the lake is sludge, deep sludge, dark sludge. Lord knows what's in it.

But last but not least, the health. On the DVD or CD I sent you, there was a link to a University of Miami study about something called cyanobacteria. And it's a neurotoxin. The Florida Department of Health, okay, environmental, the Centers for Disease Control, the postings that I sent you, the links I sent you point out that this stuff can cause tumors, liver problems, very toxic to the elderly and to children especially, and to pets.

But that University of Miami study and some related studies point out something else that really, really is somewhat terrifying to me. And that's that blue green algae can create cyanobacteria that possibly has links to Alzheimer's, ALS and other neuro conditions.

Now, I think about all that and I think about on my street, we've got about 40 homes on my street. And in the

last 18 months we've had a death, liver cancer, next door neighbor, pancreatic cancer, death across the street, stroke, that's neuro. A death from Alzheimer's and a new case of Alzheimer's. And they may be totally unrelated to this.

But someone much wiser than me earlier today said, when science is incomplete, we must err on the side of caution. That's a quote from one of my fine previous speakers. When science is incomplete, we must err on the side of caution.

So my specialty is, quite honestly, media relations, press relations, websites. And I wish someone had warned me about this before I bought anything in Collier County. Especially the health.

So what I believe we need to do is, please, if you would, strongly consider an effective fertilizer ordinance to prevent this. But also encourage your friends and colleagues in the county to really, really bring in some strong health research, and I don't just mean local health research, although that's a great start. And I don't just mean the University of Florida. But I mean the best and the brightest to determine whether there is a health danger being created or that has long existed from this. Because science is minimal on this right now. And I have done literally months of research on this side of it and they're just now scratching the surface. But increasingly neurotoxin, increasingly we're looking at Alzheimer's and we're looking at ALS. And I want to know if there is a problem here.

I also want to know if we should go ahead and start warning the public, warning retirees in the northeast and in the midwest that this is a possibility. We're looking into this, but you should know about this.

So forgive me for going on and on and on, but this has been 10 months of my life because I bought in Collier County and suddenly I'm presented with a harmful algae bloom. And everybody is turning their backs on me. I attend one session that your county holds and basically I'm the bad guy, simply because I want to protect my family. So anyway, any questions, please.

COMMISSIONER MURRAY: I don't have a question, I have a comment, sir.

Thank you for your presentation. I just would like to add to the fact that Collier County, as I understand it, is number two in the country for health. So while all of those menaces are out there, we're still doing good.

MR. TALBOT: Oh, it's a wonderful -- that's why we moved here.

COMMISSIONER MURRAY: And I don't want to, you know, add an additional set of commentaries but I recognize what you're using what your view of how to go about it.

You're also rather punitive with a $10,000 whack at every instance. I thought that was kind of strong. But I respect the fact that you have that privilege to make that.

MR. TALBOT: Well, in terms of that, everyone when they raise a point has to get your attention, okay. And recognize the fact there has to be teeth in a law. There has to be teeth. If it's only a smack on the finger, they're going to keep doing it.

COMMISSIONER MURRAY: I don't know how many friends you'll make out there with $10,000 a pop.

MR. TALBOT: I don't know. But I do know this. I think Churchill once said that courage is rightly esteemed the first of human qualities, for it has been said it is the quality that guarantees all others. And I think when you pass an ordinance like this, it takes some courage, but it also takes some courage to enforce it. Because as we can see, there's a lot of pressure to not have anything happen and to just keep doing what you're doing. That's what's been going on. That's the model ordinance right there. That's three feet from the water spread the fertilizer, and do it during the summer months. And that's exactly what the result has been in our neighborhood and lots of neighborhoods here.

Any questions, any suggestions, any research you want from me, you want a DVD full of stuff, you tell me.

CHAIRMAN STRAIN: Anybody else have any questions?

COMMISSIONER EBERT: I do have a question.

MR. TALBOT: Please, yes, ma'am.

COMMISSIONER EBERT: I was just reminded before lunch that we don't have lakes.

MR. TALBOT: No, we have ponds.

COMMISSIONER EBERT: We all live on retention ponds put off as lakes. So we think of them as lakes and it's a filtering system for retention ponds going in. And I know the -- you cannot get me near the ocean with red tide. I mean, I would die.

We have the same problem in our community. I think that the different communities should actually get together and go over this. It is, part of it's fertilizer, I understand. I was just told about from an irrigation person, even the golf course best management plans, a lot them put liquid fertilizer through it, and when it's sprayed, depending

upon the heads, it sprays right into the lake, which is not good.

So I have been looking into this. I came from a northern state that I was involved in this. My father was in the sod business, golf course business, so I understand more than people think I do of this. Different soils and everything. And it is different down here. But you're right, we always think of them as lakes.

MR. TALBOT: No, they're ponds.

COMMISSIONER EBERT: They are absolute ponds. And they are -- there are many things getting into them. And the sediment is growing terribly.

I understand in Lee County when you now dig a lake for a development you must put bubblers in.

MR. TALBOT: You have to have aerators.

COMMISSIONER EBERT: You have to have aerators is one of their new ordinances, so, which is helping.

MR. TALBOT: It's interesting, too, we talk about 10 feet here. I was at the airport day before yesterday and happened to meet a retired city manager from Vermont. And we just started talking and somehow we got into probably my favorite frightening topic, the harmful algae blooms --

COMMISSIONER MURRAY: You're going awful fast, sir.

CHAIRMAN STRAIN: No, he's not. He's not -- do you have a problem with --

MR. TALBOT: She seems like she's doing okay.

CHAIRMAN STRAIN: Yeah, she's doing fine.

MR. TALBOT: I'll slow down.

COMMISSIONER MURRAY: Seemed to me to be fast.

MR. TALBOT: I'll yank in a drawl, here, how about -- we'll just kind of slow it all down.

But I met this city -- a retired city manager from Vermont. Mentioned 10 feet here. We hope we get a 10-foot buffer. And he looked at me. You know what he said. He said we're trying to save Lake Champlain, it's 125 feet. I can't believe you're just doing 10 feet. So I'm only asking for 10.

Any other questions?

CHAIRMAN STRAIN: Anybody else have any questions?

Melissa.

MR. TALBOT: Didn't mean to keep speaking and speaking. Yes, ma'am.

COMMISSIONER AHERN: Why do you think the Florida Department of Environmental Protection is against this?

MR. TALBOT: The Florida Department of Environmental Protection is against it?

COMMISSIONER AHERN: Yes.

MR. TALBOT: I don't know. I haven't asked them that question, but I'd be happy to call them today, seriously, and get back to you.

COMMISSIONER AHERN: I guess my point is why do you think they would come out with a report that is contradictory to some of the references you made?

MR. TALBOT: I don't know, because I read their website, and their web page basically tells about the dangers of this. So that really is a great surprise. But I will, seriously, I'll call them this afternoon and find out who to speak with about why they would be against protecting us from this. I mean, really, that's a great question. That's a big question. That's a question that should be -- the media should cover. I see the media's in full bloom back there, they're covering this. But the media should be covering this.

CHAIRMAN STRAIN: We are televised. Generally they sit at the desks and they review it. We lost the ability a long time ago to have field reporters.

MR. TALBOT: Oh, man, that was a good time.

CHAIRMAN STRAIN: Anybody else have any questions of Mr. Talbot.

(No response.)

CHAIRMAN STRAIN: Okay, thank you very much.

Ray, do we have any -- you've read -- all the registered speakers have spoken. Anybody else in the public wish to speak?

(No response.)

CHAIRMAN STRAIN: Okay. Mac, what I'd like to do is take the ordinance page by page and roll on through it with any of our comments that we have now that we've had the benefit of a lot of input.

One global question I have before we start. Would there be any restriction based on what we come up with today in recommending a mandatory review after two years of implementation of this ordinance?

MR. HATCHER: I can't imagine any.

CHAIRMAN STRAIN: Okay. Thank you.

Okay, let's start on page -- well, actually, mine says three of 13, because you've got to go past the executive summary. So let's go through Pages 1, 2 and 3. The first page of the ordinance is actually Page 3.

Does anybody on the Planning Commission have any issues with that page, those pages?

(No response.)

CHAIRMAN STRAIN: Mac, on that Page 3, under Section 1, Findings, there's an italicized reference in the last sentence, and it says afterwards may be required by this ordinance. But if you read the ordinance on Page 9, it is required by the ordinance and in some cases it is mandatory.

So I'm wondering, wouldn't it be better to say it -- shall be required as stated within the ordinance?

MR. HATCHER: I agree.

CHAIRMAN STRAIN: Okay. At least it doesn't provide any confusion.

Anybody else?

(No response.)

CHAIRMAN STRAIN: If not, we'll move to Page 4. Anybody got any questions on Page 4?

COMMISSIONER SCHIFFER: I have a --

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Mine are kind of 4 and 5.

Mac, some of the players -- for example, we have applicator, commercial fertilizer applicator, specialized turf managers. What would the general public be? Are they -- they would be an applicator, they just wouldn't be a commercial applicator?

MR. HATCHER: Correct.

COMMISSIONER SCHIFFER: And are we going to have regulations for them?

MR. HATCHER: They are subject to the standards of the ordinance.

COMMISSIONER SCHIFFER: Because they were applicators?

MR. HATCHER: Correct.

COMMISSIONER SCHIFFER: And then the specialized turf manager, he's a subset of a commercial applicator?

MR. HATCHER: Not necessarily. Because a specialized turf manager may be working for an institution like the county. They typically are the ones that are managing park ball fields.

COMMISSIONER SCHIFFER: Then, you know, The Conservancy's version does have, I think, an institutionalized -- oh, we have it too.

Have you looked at the thing that was handed out today where they have a couple of definitions that -- for example, they have noncommercial applicator, stuff like that? Would that muddle it up if we added those, or --

MR. HATCHER: I have looked at it, but it has been a while since I've looked at it. I'd have to go back and compare those definitions.

COMMISSIONER SCHIFFER: Okay, I'm done, thank you.

CHAIRMAN STRAIN: Anybody else on pages -- Pages 4 and 5?

Mr. Murray?

COMMISSIONER MURRAY: Yeah, just in addition to that. When you think about it, you have to have an applicator has to -- if they belong to an organization they have to go and get a certification. But if applicator also means a homeowner, that would infer that they should be going and getting certified. I don't know if that's what you intend. Is that what you intend?

MR. HATCHER: No, we do not intend for the noncommercial, non-institutional applicators to have to be certified.

COMMISSIONER MURRAY: So probably you do need a modification of that little word there.

CHAIRMAN STRAIN: Pages 4 and 5.

Mr. Midney?

COMMISSIONER MIDNEY: Yeah, I would like to see a better definition of the term slow release,

controlled release, timed release. Because as we were getting in our testimony, they're pretty vague terms.

Not for today, but at some point.

CHAIRMAN STRAIN: Where does he get that? Do you know of any -- where did you get this? Is this a standard definition you got from a reliable periodical or something like that? Is there a better way to find it?

MR. HATCHER: I'm not sure that there's a better way. That is from the state model ordinance. It covers a lot of ground, and there's reason for it to be kind of vague, because it does cover a lot of ground. The intention is to get away from soluble fraction which is I guess, more easily described.

COMMISSIONER MIDNEY: I think that a description would be helpful.

MR. HATCHER: Okay.

CHAIRMAN STRAIN: Anybody else? Go ahead, Brad.

COMMISSIONER SCHIFFER: On that there is a different definition in The Conservancy's version that was much more detailed. You might want to look at incorporating that.

CHAIRMAN STRAIN: Okay, anybody else?

(No response.)

CHAIRMAN STRAIN: Mac, if you go to the Page 4, the sixth line down, there's a sentence that starts, says, collectively these water bodies. I would suggest that you drop the words collectively these and just use a capital W on the water bodies. I think all the water bodies are an asset critical to the environment, not collectively.

Two lines down from that it talks about an overgrowth of algae and vegetation hinder the effectiveness of flood attenuation.

I would suggest we want to say an excessive algae and vegetation growth. It says the same thing but a little differently, hinder the effectiveness of flood attenuation.

Page 5, the fertilizer definition on top, would that include, or does it hopefully not include compost?

MR. HATCHER: It includes commercial compost. It would not include, I guess, home grown compost.

CHAIRMAN STRAIN: Okay. Under your -- Mr. Murray?

COMMISSIONER MURRAY: Yeah, how would a code officer know the -- I mean, he could know the difference by looking at it, but would he make a decision that there should be a difference?

MR. HATCHER: I believe there's an allowance for compost somewhere in here. But the commercial would have a label and it would have the nitrogen and/or phosphorus content identified, and application of that material would be subject to the nitrogen and/or phosphorus restrictions.

COMMISSIONER MURRAY: I appreciate that, sir. What I'm thinking of is I recognize anybody who wants to use judgment can. But what I'm relating to you is that if the code officer were to come out and see -- let's say somebody bought a bag of, which did have all of the labeling, but had already begun composting and they wanted to accelerate the composting. You could take that bag, empty it out onto the new compost material and that would be there. So you'd have a combination of things.

Now, I'm stretching reality on purpose so that you can appreciate I'm trying to eliminate any kind of unnecessary burden. If compost that somebody like Mark would be at home, if he sets up a compost, he shouldn't be penalized for that, and there's nothing to let the code officer know, I didn't see it anyway, you say it's in there, but I read this, I didn't see it.

MR. HATCHER: I can certainly add a definition for compost.

COMMISSIONER MURRAY: I think that's probably desirable.

CHAIRMAN STRAIN: The low maintenance zone definition, Mac, it says it means an area minimum of 10 feet wide and it says adjacent to watercourses. What do you mean by the word adjacent in this particular case?

By watercourses, do you mean at the water's edge, do you mean at the edge of the 20-foot maintenance easement, do you mean at the sod line, do you mean at the erosion line? What are we talking about?

MR. HATCHER: Immediately adjacent, next to, contiguous with, abutting.

CHAIRMAN STRAIN: What?

MR. HATCHER: That would be the 10-foot buffer, primarily.

CHAIRMAN STRAIN: Okay. But if I were to want to measure the 10 feet wide adjacent to the watercourse, do I start at the water's edge, do I start at the water's edge during the water table's high season, which is the summertime, or do I start it now?

When you act (sic) about a 10 to one slope, you're talking for two feet -- 20 feet. Four to one you're talking

eight feet. So we've got a wide expanse of where that 10 foot can be measured from. All I'm trying to find out is to make sure no one gets confused on where the starting point is. So help me.

MR. HATCHER: I will come back with a definitive definition.

CHAIRMAN STRAIN: You might want to take a look at the 20-foot maintenance easement down or something like -- I don't know how to tell you where to go from. But I just -- if -- looking at that, I mean, if I was in the dry season I'd go out and see where the water is and make three steps up and say, okay, I can't do something in this area but I can everywhere else. And that's probably not what you intend.

MR. HATCHER: Well, the way the ordinance is written, obviously that's what a code officer would have to go by is 10 feet from the water. So we'll evaluate it and see if we could tighten it up.

CHAIRMAN STRAIN: That same definition, means an area minimum of 10 feet wide adjacent to watercourses which is planted and managed in order to minimize the need for fertilization, water, mowing, et cetera.

That's not why it's planted and managed. They do it for sod control because it's required by the engineering section of the county. But they don't do it for those purposes, it's just a -- you might want to look, since you're going to be working that ordinance anyway, maybe clean that up.

The saturated soil definition, it said, soils shall be considered saturated if standing water is present.

I don't know if this is the right term or not, but a lot of times after it hasn't rained for a while, when a water event occurs we have water standing on top of the soil because the soils are what I've heard sometimes called as parched.

Would that have any kind of impact on whether a soil is saturated or not in regards to standing water, it doesn't percolate fast enough into the soil?

MR. HATCHER: No, saturated condition is when the voids are full of water, which is different.

CHAIRMAN STRAIN: Okay. Pages 6 and 17 (sic), anybody have any questions?

COMMISSIONER MURRAY: I do.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Under section four, applicability, the last line where it says, or shall not impair -- I'm sorry, and shall not impair any existing contracts.

Many of the contracts will renew again and again and again, year after year. At some point I would think that we'd want to trigger a change.

MR. HATCHER: I will add a date.

COMMISSIONER MURRAY: Sometime in the future. And I understand the intent, so as not to create chaos, but I do agree that there needs to be some kind of time frame.

MR. HATCHER: Probably be a year out from the effective --

COMMISSIONER MURRAY: I think that's reasonable. I don't know that too many people would have more than one-year contracts or if they have one-year contracts. But many of them just go on forever.

CHAIRMAN STRAIN: Anybody else --

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: -- on Pages 6 and 7?

Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah. In applicability, don't you think we should put something in there about the sale of the fertilizer?

I mean, if we come up with a county-wide requirement, I think we should go out of our way to make sure that the stores aren't selling a product that doesn't meet that.

MR. HATCHER: I'll have to come back with you. I'm not sure that we have the authority to regulate the sale of fertilizer. I believe that that's restricted to the Department of Community -- I mean, to Agriculture and Consumer Services. But I'll have to look into that.

COMMISSIONER SCHIFFER: Okay. So -- all right. I mean, we should somehow try to keep noncompliant product off the shelf or people will buy it and they won't know.

MR. HATCHER: That's one of the problems with enforcing this ordinance, it's -- we can't control what fertilizers are produced. I don't believe we can control what fertilizers are sold. The only thing we control is what fertilizers are used and how they're used.

COMMISSIONER SCHIFFER: Okay.

And then on the next page my only comment was, you know, the maintenance -- this maintenance zone is just a recommended, a voluntary recommended dimension, right?

MR. HATCHER: Correct.

COMMISSIONER SCHIFFER: So that means a person doesn't have to follow it or --

MR. HATCHER: That would be my interpretation.

COMMISSIONER SCHIFFER: So let's make it bigger then. If you don't have to follow it, let's make it a number to be proud of.

Anyway, I mean, why is it there, though, just as a recommendation, just don't get any closer than 10 feet?

MR. HATCHER: Yes.

COMMISSIONER SCHIFFER: Okay. Well, then, why don't we make it 15?

MR. HATCHER: Well, we can do that. We can have educational programs. But I'm not sure that it's I guess a good idea to have an ordinance that has recommendations in it to begin with.

COMMISSIONER SCHIFFER: Yeah, there's the key. But since we're going -- these are always going to be access easements, probably, around lakes? I mean, why don't we just make it the whole access easement you're not allowed to fertilize.

MR. HATCHER: Well, as has been pointed out by a number of professionals today, turf is generally expected and will need fertilization from time to time.

COMMISSIONER SCHIFFER: All right, thank you.

COMMISSIONER MURRAY: I have something.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Page 7, under Section 7, low maintenance zones, the last sentence that begins with care should be taken to prevent. We like to use shall as opposed to may. Maybe care must. Do you think that would be helpful, care must be taken?

MR. HATCHER: I think it would be an improvement.

COMMISSIONER MURRAY: Thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah, back on Page 6, this is where we're talking about these fertilizer free zones. And is it this board's feeling that that should be three feet with the deflector shields? Because that's what this says. It says 10 feet but you can go within three feet if you have a deflector shield. Is that what everybody's comfortable with?

CHAIRMAN STRAIN: Well, I don't -- myself, I haven't even gotten to that point yet, Donna.

COMMISSIONER CARON: Yeah, me either, so -- but we're doing language here, so if we're not changing the language for him now, do we get to change the language with him next time if we've all done more research and we decide that there should be a change? Maybe everybody here thinks it should be eight feet.

CHAIRMAN STRAIN: I was doing language for the ordinance. But I had a list of policy issues that I thought we would want to talk about after we understood the detail of the ordinance. The policy issues would be the content, the application rate, the buffer zone and the blackout period as four of the biggest issues we heard today, and then the possibility of a mandatory two-year review.

Those are the issues --

COMMISSIONER CARON: Okay, I just didn't want to --

CHAIRMAN STRAIN: -- I was going to bring them in after we've chewed through the ordinance to fix whatever --

COMMISSIONER CARON: However --

CHAIRMAN STRAIN: Yeah. So if that's okay, we can still --

COMMISSIONER CARON: Yeah, that works for me.

CHAIRMAN STRAIN: On 6 and 7, anybody else?

(No response.)

CHAIRMAN STRAIN: Mac, Section 6, fertilizer free zones. The only fertilizer free zone you have on section six, as Donna pointed out, is just that three feet, right?

MR. HATCHER: Well, it's three feet if you have a deflector shield, it's 10 feet if you don't.

CHAIRMAN STRAIN: Or a drop spreader.

MR. HATCHER: Right.

CHAIRMAN STRAIN: Okay. So you can come in with -- or you want to do a liquid applicator, which is a nozzle on the end of your hose.

So you can have a garden house, you can have a drop spreader and you can have a rotary spreader with a deflector shield. But the free zone is really then three feet, 'cause if you're going to put something down you're almost going to have one of those anyway to put it down with.

And I think that's what -- that's the synopsis I'm getting out of this. So if we're in that top seven feet, you have three ways of applying fertilizer.

Then it says in that last sentence, newly planted -- this was an added sentence, newly planted turf and/or landscape plants may be fertilized in this zone only for a 60-day period beginning 30 days after planting, if needed.

The zone that you're talking about for the 60 days, is it the 10-feet zone or the three-feet zone?

MR. HATCHER: The 10-foot zone.

CHAIRMAN STRAIN: But you already can put fertilizer in the 10-foot zone, you just can't put it in the three-foot zone.

MR. HATCHER: Again, it all depends on how you're making your application. And not everybody has deflector shields.

CHAIRMAN STRAIN: But then they couldn't use the fertilizer in that area, right?

MR. HATCHER: Correct. But if they need to establish a new planting, this would allow them to do that.

CHAIRMAN STRAIN: So for 60 days, if they want to come in with a rotary spreader without a deflector shield and spray the water as well, that's okay?

MR. HATCHER: No, it's not acceptable to spray it in the water, but it would be acceptable to spray it in that zone.

CHAIRMAN STRAIN: I'm not sure why we need that added sentence, to be honest with you. I think if you've got the ability to put in these chemicals the way you have it here, I just don't see the need for it. I'm not suggesting drop it yet, but I'm trying to understand what the purpose might be.

On Page 7, your strongly recommended language, I have to agree with Brad, it doesn't really mean a lot because I don't know who's going to pay much attention to it. Unless our codes are mandatory, it doesn't work.

This would require a free zone of three to 10 feet, whatever the -- however you want to look at Section 6. But an additional 10 feet from there up to the -- which now would be the edge of the maintenance easement for the water body, in reality, because they're 20-foot around most water bodies. Is that right?

So it's a 20-foot wide combination of two zones.

MR. HATCHER: No, I believe it's 10 feet in both instances. So it's simply limited to 10 feet.

CHAIRMAN STRAIN: Okay, that's why I asked the question.

So this isn't a 10-foot suggested free zone and a 10-foot maintenance zone past that, this is a 10-foot zone that's going to be both a free zone and a low maintenance zone.

MR. HATCHER: Correct.

CHAIRMAN STRAIN: Well, that -- I'm trying to understand what that -- why even have number seven then?

MR. HATCHER: Well, I guess it could be combined.

CHAIRMAN STRAIN: Yeah, I would suggest so. It's all in the same 10-foot area. This leads you to believe there's two 10-foot areas, one after another. I would suggest writing them both together.

COMMISSIONER CARON: Except one is voluntary and the other one is supposedly not. I don't --

CHAIRMAN STRAIN: Well, the one that's voluntary is considering clippings and things like that, the cumulative organic matter. So what they're saying is you can fertilize it but you can't leave -- they're not recommending not to leave the organic matter there. I'm not sure if there's a -- well.

COMMISSIONER SCHIFFER: Mark, can I?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: And this could be to Bill, I think he's -- Bill Lorenz.

But since these always are access easements in most cases, the seawall may not be and everything, what do we have going on in there? Can we control that through that mechanism or -- we have to keep that clear, people can't, what, they can't have a fence that's not removable.

MR. LORENZ: Typically a structure in there that would prevent the utilization of the easement.

COMMISSIONER SCHIFFER: And any landscaping can they put in there? Can I plant a tree?

MR. LORENZ: I'm not exactly sure, to answer your question specifically, if it's low maintenance, there might be some permission to do it. But not a tree. You can't get around.

COMMISSIONER SCHIFFER: So essentially we're forcing them to keep this as turf then.

MR. LORENZ: Yes, typically.

CHAIRMAN STRAIN: That's the ring that you normally stabilize right after you dig a lake. And usually you -- yeah, couple different grasses.

Go ahead, Mr. Murray.

COMMISSIONER MURRAY: The way I interpreted this was, especially having read and seen the video that was sent to us, was that low maintenance, in order to preserve some grasses, in order to avoid the breaking down, the erosion and therefore an accelerated deposition of chemicals into the water that would in fact tend to gravitate toward the water, because it's on an angle. That was the way I interpreted it.

Now, if that's not what you interpreted, then I think Mark is correct, that we have to figure out what you're really saying here.

MR. HATCHER: Well, what I'm saying is this was the model ordinance, and you all are recommending changes to the model ordinance which most of which I agree with.

In this case I believe it could be clearer. It not only applies to water bodies that have access agreements, but it also applies to natural water bodies that don't have any access agree -- you know, requirements.

COMMISSIONER MURRAY: I apologize, you're the bearer of some strange news, you're not the cause of it, all right. All right.

MR. HATCHER: Well, to some extent I am the cause of it because I'm bringing it forward to you all for discussion.

COMMISSIONER MURRAY: Well, it looks to me like that does need to be somehow joined to be effective, because it does promote in somebody's mind that they should have two 10-foot areas, and another person's -- and then there's a three-foot. And it gets wildly confusing, potentially.

CHAIRMAN STRAIN: Let's go to Pages 8 and 9. Any questions on Pages 8 and 9?

COMMISSIONER SCHIFFER: Yeah, quick question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Does the state have any licensure program for applicators?

MR. HATCHER: The state does. It doesn't come into full effect until 2014. But in 2014 all the commercial fertilizer applicators will have to have a license from the Department of Agriculture and Consumer Services.

COMMISSIONER SCHIFFER: So why wouldn't we just latch into that then?

MR. HATCHER: We are in 2014. But up until that point we're requiring the --

COMMISSIONER SCHIFFER: The prior to -- okay.

MR. HATCHER: Yes.

And incidentally, the training requirement at this point in time is the same for both licenses.

COMMISSIONER SCHIFFER: Okay. And today we have no requirements whatsoever, right, everybody's at their own free will out there?

MR. HATCHER: Correct.

COMMISSIONER SCHIFFER: Except people follow a best practice by their organizations and things, right? You can't talk -- you have to go to the microphone if you're going to talk.

MS. SANTELLA: Several counties requires this Best Management Practice training already. Lee County is one of them one of them. Sarasota. And Pinellas County actually requires the DACS certificate that Mac was referring to. So that training is available. Many companies have gone ahead and trained all of their employees in it, just to be proactive.

CHAIRMAN STRAIN: Your name for the record again?

MS. SANTELLA: Erica Santella.

COMMISSIONER SCHIFFER: Thank you. I'm done.

CHAIRMAN STRAIN: Anything else on Pages 8 and 9?

(No response.)

CHAIRMAN STRAIN: If not, let's go to 10 and 11.

Anybody have any questions?

COMMISSIONER SCHIFFER: Yeah --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Are these requirements for the penalties from the model code? They're underlined and shaded here, is this --

MR. HATCHER: No, those are penalties that have been adopted from other county code.

COMMISSIONER SCHIFFER: This is us adding to the model code.

MR. HATCHER: Correct.

COMMISSIONER SCHIFFER: We do like penalties in first try-outs, don't we?

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: Thank you.

I know I brought this matter up again previously, and I'll bring it up again. Under C on Page 10 where we speak about certification, at least one employee has a Florida-friendly Best Management Practices for protection of water resources by green industries training certificate.

You know, some organizations are large enough that they send out groups of people. And one person who has that certification could be at the home office, at one location. Why do we -- I know you've said at least one.

And I guess it's premised on the idea of burden, cost burden, perhaps. But I cannot see it as a burden -- if the cost is reasonable for the training, I cannot see it as a burden, but instead I see it as a tremendous advantage to have a number of their people who are certified.

MR. HATCHER: I see it as an advantage also. It's in here as one because practically I'm not -- we've got over 2,000 licensed lawn mowing operations in the county, and I do not believe that we can license all of the applicators before they are required to be licensed in 2014.

So I thought as an initial shot it would be -- the best thing to do would be to require at least one licensee with each company. And as I pointed out, all applicators have to be licensed by 2014.

COMMISSIONER MURRAY: Well, there's no direct correlation there, but perhaps -- where did you have that licensing statement?

MR. HATCHER: Well, the requirement to be licensed by 2014 is in Florida Administrative Code.

COMMISSIONER MURRAY: Okay. But the people who are going to read this, they're not going to see that. Wouldn't you think there might be an advantage to all applicators within your employ must be prior to 2014 certified?

MR. HATCHER: Yes.

COMMISSIONER MURRAY: Thank you.

CHAIRMAN STRAIN: Anybody else on Pages 10 and 11?

(No response.)

CHAIRMAN STRAIN: Mac, your Section 14, enforcement was -- the way it was written in the standard state language, what did the state envision based on leaving Section 14 as they had as the enforcement procedure?

MR. HATCHER: I don't know what they envisioned. There isn't any guidance.

CHAIRMAN STRAIN: Okay. Is there another alternative to what you've written up here?

MR. HATCHER: I believe that we have alternatives.

CHAIRMAN STRAIN: Okay. Can you tell me what you think some of those might be?

MR. HATCHER: I believe the money could go to the general fund.

CHAIRMAN STRAIN: I don't mean the money, I mean who enforces it?

MR. HATCHER: Oh, I see what you're saying. It's left blank here. That needs to be corrected. It's going to be enforced by the code enforcement officers.

CHAIRMAN STRAIN: Is there any alternative to that?

MR. HATCHER: Steve, have you got any suggestions?

MR. WILLIAMS: It's going to be a county ordinance. I don't really don't foresee the Sheriff coming out to go after applicators, so our enforcement provisions -- I know earlier in the meeting you had mentioned creating a whole new division. I don't think that would be anyone --

CHAIRMAN STRAIN: Not me.

MR. WILLIAMS: I believe someone did.

CHAIRMAN STRAIN: Not me.

MR. WILLIAMS: Not wanting, not that it would be a good idea, you said that you would --

CHAIRMAN STRAIN: I don't think I even spoke to you about it. About this issue?

MR. WILLIAMS: When we were talking about the earlier on -- just on the fertilizer ordinance, not on the general -- someone at the meeting raised the issue of creating an entire new county division. That was an unwanted course of action. And I apologize if it was not you.

CHAIRMAN STRAIN: It's probably Brad, he likes --

MR. WILLIAMS: Maybe it was Brad. It's Brad's fault.

CHAIRMAN STRAIN: Wasn't me. The last thing I want to see is more government. So, uh-uh, I say less. That's why I'm questioning this.

MR. WILLIAMS: It was used in the negative, not that is was to be a good thing.

But if we're to go forward, the most logical step for a county ordinance violation is code enforcement.

COMMISSIONER SCHIFFER: We went through this on the flood, remember, you were afraid of somebody from Collier sitting next to a murderer when they ask each other what they're --

CHAIRMAN STRAIN: Well, I'm now looking at the guy in the cell saying, what are you in for? I robbed a bank. Well, I put too much fertilizer on my lawn.

I don't want to see that happening.

COMMISSIONER SCHIFFER: You actually left clippings in the driveway.

CHAIRMAN STRAIN: Yeah, well, that's kind of where I'm going. How severe do you want to be?

COMMISSIONER SCHIFFER: Like I said, the first draft, we always spend a lot of time on the penalty.

Can't code enforcement just handle this with their regular code enforcement penalties and liens and all the other goodies?

I mean, why do we have to have special penalties for every new ordinance?

We got rid of the flood. We mocked that one away. Let's try here.

CHAIRMAN STRAIN: Yeah, Mac, that might be the way to approach it. Why do we have to have a special set of penalties for every ordinance that we come out with? And I think -- I've got a whole pile of questions about the way this is laid out. And I don't know why we even have to go there to rewrite the whole penalty ordinance every time we adopt an ordinance in Collier County. If we've already got an ordinance that deals with penalties for code enforcement violations, why are we changing it here?

COMMISSIONER CARON: It would be nice if we heard from code enforcement.

COMMISSIONER SCHIFFER: It must be fun.

MR. HATCHER: This recommendation came from code enforcement, so not to beg off, but --

CHAIRMAN STRAIN: Okay.

COMMISSIONER CARON: Eventually we draw it out.

CHAIRMAN STRAIN: Doesn't mean we still don't have concerns.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: Inasmuch as they made the suggestion, are they going to have certification requirement?

MR. HATCHER: The code enforcement officers?

COMMISSIONER MURRAY: Yeah. Are they going to be trained so that they can do their job efficiently and effectively for that particular thing?

MR. HATCHER: They will be trained for this section of the ordinance, yes.

COMMISSIONER MURRAY: And will they receive some -- no certification, no document, nothing saying that they're competent to do it.

MR. HATCHER: Well, that hasn't been determined yet, but I don't see any reason why they couldn't go through the class too.

COMMISSIONER MURRAY: I would think that would be desirable, because that would certainly -- they could educate as well as perform punitive activities when required. And I think the contact from the contact from the County should be educational as much as possible.

And in their duties, if they have to perform what is construed as a punitive act, then that's fine, but they should also know to be able to explain what it is, not simply I see you've got a bag over here with the wrong numbers on it.

So I would be a strong advocate for having them receive that training, especially inasmuch as this is a new activity.

MR. HATCHER: Well, I would not object to having the environmental officers trained for the Best Management Practices, but I would want any of the officers to be able to enforce the ordinance. It's going to be difficult to have, you know, a couple of trained staff to address all of the complaints that might come in throughout the county.

COMMISSIONER MURRAY: I was under the impression, obviously erroneously, that our standard, if we have such, standard code enforcement officer would be -- additional duties would be this. But I think you just inferred that there might only be a couple of officers who are going to be charged with that responsibility. Is that correct?

MR. HATCHER: Well, we have a couple of officers who are trained to deal with environmental issues. We have a lot of code enforcement officers that cover the county and can still issue violations, you know, and interpret code to make citations. I'm not sure it's practical to train all of them for every area.

COMMISSIONER MURRAY: Well, perhaps supervision alone. I don't know. But I do know, for instance, public utilities, they have code officers, don't they?

MR. HATCHER: I don't know.

COMMISSIONER MURRAY: I think they do. And if they're out there, you'd want to think that -- I'd want to think that they're as concerned with that as our everyday variety code officer. I don't how else to put it because I don't know what segmentation we have.

I think all code officers, if we're going to make this thing useful, should have an opportunity at least -- may not call it a deep training but it's certainly something to familiarize them so that they're sufficiently aware and can also, as I said, educate besides cite.

MR. HATCHER: I don't disagree with that. I don't believe that certification is entirely appropriate. But education -- and most of the violations here are going to be fairly straightforward. Somebody has applied material inappropriately into a water body onto impervious surface.

COMMISSIONER MURRAY: That is for the first seven months of the activity. After that people get shrewd. I'm teasing. All right, I understand you.

CHAIRMAN STRAIN: Hi, Mac. Let's get back to Pages 10 and 11.

About the parenthetical one on Page 11, four lines up from the bottom starts with a sentence or a line that says, the applicable civil penalty if a person elects not to contest a citation, and the applicable civil penalty if the person elects to contest a citation.

So that means if someone exercises their right to defend themselves, they have to pay more than if they don't?

MR. HATCHER: That's the way I would read it.

CHAIRMAN STRAIN: Well, I'm certainly not in favor of that particular line. I don't know how it is even fair. You either have a fine or don't have a fine. And if it -- you have a right to appeal and you shouldn't be penalized because you want to speak before and defend yourself. I don't see how that's possible.

Steve?

MR. WILLIAMS: If you want to put it in a speeding ticket analysis, if you show up to contest the speeding ticket the judge assesses you the court costs and the extra --

CHAIRMAN STRAIN: Well, yeah, I understand that.

MR. WILLIAMS: I think that's what Mac --

CHAIRMAN STRAIN: Then why don't we say that?

Then it says also -- it says also, a conspicuous statement of the effect of failure to promptly pay the fine or appear before the enforcement board.

What does the word -- which is what? What is that -- what is the failure if you don't appear? What is the end result?

You going to put a guy in jail for putting lawn clippings on his driveway, or how far do we take it?

MR. HATCHER: Well, I think that's up to the magistrate.

MR. WILLIAMS: He's not putting anyone in jail for grass clippings. Grass police is bad enough, grass jail is worse.

CHAIRMAN STRAIN: This is just getting a little absurd. That's why I can't understand why we can't fall back on the regular code enforcement language that we have already.

Every time we recreate new code enforcement language for an ordinance we recreate problems that we didn't anticipate.

MR. WILLIAMS: I don't disagree with you at all.

CHAIRMAN STRAIN: Code enforcement's been doing fine with their existing ordinance language. Why don't we see how that compares and leave it like that and try to not amend every ordinance we have with new code enforcement findings.

I don't know why that group itself wouldn't like that, just out of simplicity on how to proceed.

Now, another alternative, I notice you've got a series of fines up to $500, and each day the violation continues it gets higher. Does that mean each day the slow release doesn't release?

So how do you weigh these things, Mac?

I mean, I'm just concerned that someone will take it to an absurd level. And I don't want to see us put ourselves in that position. So I do think this is written very -- in a wrong way. I think we need to focus on standardizing it to what the current code enforcement's abilities are and not try to tailor each code enforcement penalty to a particular ordinance but to its standards.

It talks about separate offenses. I'd sure like to know what a separate offense is. Every granular of fertilizer or each day is it a separate offense?

Penalties we'll get into, those are a whole nother issue. But if we've got a standard ordinance for penalties, I'd like to see that first.

That's all I've got on 10 and 11.

Twelve and 13? Anybody?

COMMISSIONER SCHIFFER: They're just a continuation of a fun with penalties part.

CHAIRMAN STRAIN: That's where I was going. In the aggravated violations section, we don't even need to go there. If someone's not responding after the third or fourth citation, maybe they ought to have their license suspended for a period of time until they can come around or -- but why even go to this whole new section on aggravated violations? Drop it. Go straight to the source of the problem. And then I bet you that young lady there who speaks so thoroughly on the issues would -- her company would come around real quick if they had numerous violations and it threatened their license.

MR. HATCHER: This not only applies to the licensed applicators but it applies to Joe Blow also.

CHAIRMAN STRAIN: Well, I'd like to see how you're going to prosecute Joe Blow on running his rotary. I mean, it just isn't going to happen.

That's the issues. Anybody else have any on the language of the document before we get into specific policy discussions on the main issues?

(No response.)

CHAIRMAN STRAIN: Okay, well, before we do that little jump, let's take a break for 15 minutes and we'll come back at 2:35 and resume.

(Recess.)

CHAIRMAN STRAIN: Okay, everybody, let's try to resume our exciting issue here today. And Mac is reconsidering our time frame here a little bit. So let's start out with that.

From the -- this panel's perspective, I don't know how many of you intend to stay later or would like to stay later or you have an idea what time. Does anybody have a cut-off time that they prefer?

COMMISSIONER MURRAY: I'll sport for 3:00.

CHAIRMAN STRAIN: I've got to leave at 4:00. I don't have a choice in that matter. So at 4:00 I've got to leave. But Donna can take over if you guys want to go later.

COMMISSIONER CARON: Yeah, I can do that. But I see no reason for us to --

COMMISSIONER MURRAY: Why we would.

COMMISSIONER CARON: -- be here after 4:00, so --

CHAIRMAN STRAIN: I think by 4:00 we'll be as worn down as we could possibly get if we stay that long.

So that means we're going to start debating the general policy issues that have been brought here.

We're going to need Amber to come up and answer a few questions that I'd asked her she had before. And then we're going to get into discussing how to lay out some of these -- the four major issues.

Mac, I can't tell you how long that will take. I'll leave it up to you to decide if you want to keep your experts and squeeze them in for 30 minutes or an hour in the last, or we'll just leave early and come back refreshed when they want to come back for the Watershed Management Plan. It's up to you.

COMMISSIONER CARON: Maybe you could put them first on the agenda next time around.

CHAIRMAN STRAIN: Yeah, we could do that so we have a time positive. Ray, does that work?

MR. BELLOWS: What are you saying?

CHAIRMAN STRAIN: If they come back, if they want to come back to another meeting, maybe we give them a time certain. That way we're not having them sit here all day.

MR. BELLOWS: Yeah, I believe the May 5th meeting, there's one or two items. I can verify that, though.

CHAIRMAN STRAIN: Okay. What I'd like to do is you and I get the agenda and we'll talk about it, and then we'll set a time certain up for them so that they're not coming here and sitting here all day. If that's what Mac wants to do. If he doesn't, he can hang in here and --

MR. HATCHER: No, I think that would be preferable.

CHAIRMAN STRAIN: Okay. Then that's what we'll do, we'll finish up the fertilizer ordinance today and that's the end of today.

And sir, I'm sorry we took you away from your wife for all this fun adventure while you're going -- at least you're going to have a hopefully happy evening and happy anniversary to you.

Thank you for at least coming here today.

COMMISSIONER MURRAY: Second one, isn't it?

CHAIRMAN STRAIN: Second time they've come and tried to -- the last time he told us today was his anniversary.

COMMISSIONER MURRAY: Oh, I misunderstood. I thought he had two wives. What do I know?

MR. HATCHER: Not Utah.

CHAIRMAN STRAIN: Okay, earlier this morning, holy cow, it's been a long time, Amber, when she was up, there was a couple of questions from her presentation that I had asked her to follow up on.

Amber, can you come up and let us know if you might need the overhead for that statute language and then the graph on the TDLs and the other issues that we asked you to address.

MS. CROOKS: All right. Amber Crooks from The Conservancy of Southwest Florida.

Hopefully I have everything that you're looking for.

One of your questions was some hard data from the City of Venice, who has a more stringent protective ordinance in place, to try and take a look at what results they've had.

And this is something that I previously sent to the commission members, but --

CHAIRMAN STRAIN: Amber, we've received so much stuff, I couldn't even carry it all in here today.

COMMISSIONER MURRAY: I remember those lines.

MS. CROOKS: There's a couple of things I want to show you from this report. And this was helped put together by Charlotte Harbor Natural Estuaries program in conjunction with the City of Venice.

There should be a line that shows the date of adoption of their fertilizer ordinance, which again is more stringent than the 2009 state model. And it just shows a general declining trend, this case, in phosphorus.

CHAIRMAN STRAIN: How did they measure the phosphorus in this case, by actual -- by that element itself, or did they look at total dissolved solid, TDS or TDLs, or whatever they call it?

MS. CROOKS: I think it's just in the total phosphorus in their water sampling.

And then this one would be in the total nitrogen. Again, just to show a general decline trend.

And actually, this report kind of goes over several of their bays, and they found very similar results. I don't know if you want me to show each -- they did it for Roberts Bay and also for their intercoastal waterway.

CHAIRMAN STRAIN: Do you have any of that address total dissolved oxygen?

MS. CROOKS: Yes.

COMMISSIONER MURRAY: Before she does that, if I may?

CHAIRMAN STRAIN: Sure.

COMMISSIONER MURRAY: In both of the sheets that you've shown, there are serious spikes. What are they attributable to?

MS. CROOKS: I believe you still see some spikes. And I would probably refer to the Charlotte Harbor Natural Estuaries program to be sure, but I believe that's still some spikes from the summer rainy season. That's my reading. But I can get back with you guys for sure as to what those spikes are attributable to.

COMMISSIONER MURRAY: Looks it they could be if you start trying to line them up.

MS. CROOKS: Yeah.

COMMISSIONER MURRAY: Okay.

MS. CROOKS: Let's see here. I do have also the dissolved oxygen. And we did talk a little bit about this today. In this case you do see an increase in the amount of dissolved oxygen in the water, which correlates to the date of their adopted ordinance. And you would perhaps see that increase in the availability of dissolved oxygen with the improved water quality.

CHAIRMAN STRAIN: And the last thing was the ordinance that we can apply more stringent rules as written into the standard language of the Florida statute?

MS. CROOKS: Right. It is in the Florida statute. It's also in the state model language itself, which I brought with me. And it's kind of my version that I've been highlighting and making notes on. But if you care to see it.

CHAIRMAN STRAIN: That looks like the same brochure that the lady from TruGreen had.

MS. CROOKS: This is the language that you wanted to see about -- actually, if you could expand it a little bit -- where it talks about the conditions where it would be most appropriate for a local municipality to adopt more stringent regulations.

Let me see here.

CHAIRMAN STRAIN: I'm trying to find the language. This isn't the exact -- this is an interpretation of the statute.

Mac, do you agree with the statement that the state ordinance does allow more local stringent standards?

MR. HATCHER: Yes.

CHAIRMAN STRAIN: Okay.

MR. HATCHER: There are caveats in the statutory language, but it certainly does allow for more stringent provisions.

CHAIRMAN STRAIN: Are you familiar enough with those caveats so that if we get into a discussion that violates one of those, you can tell us?

MR. HATCHER: Yes.

CHAIRMAN STRAIN: Okay. That was my concern. I wanted to see the language if it's --

COMMISSIONER AHERN: Mark, I actually printed it --

CHAIRMAN STRAIN: Oh, good.

COMMISSIONER AHERN: -- if you want to put that on the overhead.

CHAIRMAN STRAIN: You've got the -- well, then you can be the teller. No, she's going to dump that on me.

COMMISSIONER MURRAY: And Amber, I have a question --

CHAIRMAN STRAIN: You going to put that on the overhead --

COMMISSIONER MURRAY: -- could you go back to that dissolved oxygen thing?

MS. CROOKS: Sure. Just one final thing on this I thought from our discussion previously you wanted to see. But the three bullet points in the top right, those are the conditions that the state model language shows that it could be appropriate to do the more stringent --

CHAIRMAN STRAIN: Ray, could you let her -- yeah, let's just finish.

MS. CROOKS: And that's if you have verified impaired water bodies, which we do.

CHAIRMAN STRAIN: Is it all of these or just one of these?

MS. CROOKS: Any of these.

CHAIRMAN STRAIN: Any of them.

MS. CROOKS: And I think we would meet each of them.

CHAIRMAN STRAIN: Well, the first one for sure.

MS. CROOKS: Human health, I know we had some testimony to that today. It's definitely a concern. Or

the aquatic health.

And the other one would be to proactively work to try and limit any kind of adverse impacts in the future.

And you had a question about dissolved oxygen?

COMMISSIONER MURRAY: Yeah, I need to see that again, if you wouldn't mind, please.

I may be misinterpreting that chart. Maybe that's why. Oh, no. Okay.

If you pull that out, Ray? Dissolved oxygen is a good thing or a bad thing?

MS. CROOKS: You would have higher levels available of dissolved oxygen the better your water quality is. So seeing an increasing trend here shows that the water quality has been improved in relation to a dissolved oxygen.

COMMISSIONER MURRAY: That sometimes has confused me, because people have correlated dissolved oxygen with an anemic or a spoiled pond or whatever. And I was under the impression that dissolved oxygen was a negative. So you're saying that the more dissolved oxygen we have the better off we are in a pond?

MS. CROOKS: If you have too low oxygen availability, that's when you start seeing the fishkills. It creates an imbalance.

COMMISSIONER MURRAY: There's insufficient oxygen for them to take out of the water. So you're increasing the oxygenation.

MS. CROOKS: Availability.

COMMISSIONER MURRAY: And there's a level where it becomes a poison as well, presumably, when you're up too high?

MS. CROOKS: That's possible, yeah.

COMMISSIONER MURRAY: Okay. But it's not probable.

MS. CROOKS: That I'm not as familiar with.

COMMISSIONER MURRAY: I'm getting a nod, I think.

MR. LORENZ: The -- you have a diurnal cycle, night and day, where if you have a lot of biological organisms, typically algae, that during the night they can respire, they will take out the oxygen, the oxygen levels will plummet. But during the day they also will put oxygen into the water and you'll see very high spikes. So if you see very low and very high, that's a possibility that you have that condition.

COMMISSIONER MURRAY: But this is a one line showing --

MS. CROOKS: This is over time. This is over -- there are three years there.

COMMISSIONER MURRAY: Are you suggesting that this is the combination of those two conditions or a statement of an average or something?

MS. CROOKS: This would be their -- from their water quality sampling that they've conducted over the past three years. At the very minimum, it looks like they've collected information about the oxygen, the --

COMMISSIONER MURRAY: I'm not trying to put you on the spot, but he just gave me a piece of education that I thought was pretty important. If you take --

MS. CROOKS: This would reflect highs or lows. This would be the --

COMMISSIONER MURRAY: I'm sorry, one of us has to talk at the time because of the stenographer.

If the sample is taken at a certain time of the day, you'll see a lower rate of dissolved oxygen, and another time of the day you'll see a higher rate. So what are we really looking at when we see this incline up?

MS. CROOKS: Well, for the water sampling purposes it would of course depend on what time they took the sample. But this is depicting a trend over the last three years of the dissolved oxygen that they've tested for.

So again, it would depend on how they conducted their sampling. But to me this is a positive in terms of they've seen improved water quality since the date of their ordinance.

Now, there again are other factors that influence these things, but I think this is a very positive indication.

COMMISSIONER MURRAY: And this is a published document. This is published for the benefit of the public.

MS. CROOKS: I don't think it's a published document. I think this is information, hard data that the city and the Charlotte Harbor Natural Estuaries program have collected and is available.

COMMISSIONER MURRAY: All right, I'll accept it on that basis. Thank you.

CHAIRMAN STRAIN: Thank you, Amber.

That first picture you put up this morning with the green bay. Which bay is that you dumped the coloring into? I mean --

MS. CROOKS: I wish it was that.

CHAIRMAN STRAIN: Which -- where was it?

MS. CROOKS: I think that was St. Lucie -- or St. John's, rather. But we also saw that just the same in Lee County. We could have picked a picture from there also.

CHAIRMAN STRAIN: I was just curious. It was real bright. It just stuck with me. Thank you. Appreciate it.

COMMISSIONER SCHIFFER: Mark, the day was March 17th, if you noticed.

CHAIRMAN STRAIN: Oh, that's a good point.

Okay. Well, Mac, we've come full circle with all of our questions. Now we're simply going to boil down to -- and I'll read off the notes that I have from most of the intense part of the conversation today on the issues.

There seem to be four of them. The content, the maximum application rate, the width of the buffer zone and the blackout period.

Why don't we start with the content. There were two issues that seem to be in dispute, and that is the nitrogen and the phosphorus. I didn't find anybody objecting to the zero phosphorus. That seem -- with the caveat that it could be used when soil tests show it was needed.

Does anybody seem to be concerned over that kind of a statement?

COMMISSIONER MURRAY: That's a good statement.

CHAIRMAN STRAIN: Okay. So as far as phosphorus goes, from what I can tell from all the discussions we heard, everybody was kind of okay with the zero idea, but if a soil test proves it is needed, then it can be used at that point. Is that --

MR. HATCHER: I took that as well. There are IFAS recommendations for landscape plants that do include phosphorus, but a soil test can address that.

CHAIRMAN STRAIN: Okay. Well, then let's try to weave that into some of our language.

Then the other issue is the nitrogen. There were a couple variables with the nitrogen. Basically the idea of slow release nitrogen seems to be acceptable, but it's a percentage. And I've heard 30 percent and 50 percent is minimum, with the exception that for the first 60 days there could be a quick release for new planted areas.

I don't know if that meets with everybody's intent here. Ms. Caron?

COMMISSIONER CARON: Yeah, I was just going to say, DEP recommends 50 percent, you know. Other ordinances surrounding us have 50 percent. I don't see what the big issue with 50 percent is. And you've given yourself 30 days or 60 days, whatever it is.

CHAIRMAN STRAIN: Anybody else have any comments?

Paul?

COMMISSIONER MIDNEY: I would agree with that.

CHAIRMAN STRAIN: So two board members are at 50 percent slow release with the first 60 days of new planting with quick release would be acceptable.

Now, how about the rest of us? You're okay? Everybody seem --

COMMISSIONER MURRAY: Makes sense.

COMMISSIONER HOMIAK: Is that something that's available for people to buy?

CHAIRMAN STRAIN: That was going to be my next question.

Mac, when you come back to us with this revised language, could someone have by then gone and checked out the availability of that slow release nitrogen product?

MR. HATCHER: Yes, that's possible.

CHAIRMAN STRAIN: I don't care if you use just Bonus S, you can look at the other brands too. I don't use any myself, so either way.

But with that information, I think we then can feel comfortable that it's available and it's good. So that seems to be the consensus of the board?

COMMISSIONER SCHIFFER: Yes.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Mark, could you go back one second. The phosphorus, are we going -- we're going to be zero or two percent?

CHAIRMAN STRAIN: Zero.

COMMISSIONER SCHIFFER: How come?

CHAIRMAN STRAIN: I hadn't heard anybody object to it, with the exception that it can be applied when soil tests justify it, so --

COMMISSIONER SCHIFFER: Right. I mean --

CHAIRMAN STRAIN: That puts it back into the management techniques of the applicators, which they basically -- hopefully that meets with their ability.

COMMISSIONER SCHIFFER: Right. The only advantage to meet it too is that it's compatible with Naples and we can start making a point that we don't sell products in Collier County. Now we essentially have to leave that option.

CHAIRMAN STRAIN: You mean the City of Naples only does two percent?

COMMISSIONER SCHIFFER: I've got a sheet from The Conservancy that says that, that they have --

CHAIRMAN STRAIN: That's a good point, the consistency between municipalities. I just was going because no one seemed to care about it.

Go ahead, Donna.

COMMISSIONER CARON: But the consistency is that you need to have that soil test. And we're saying that you have to have that soil test.

COMMISSIONER SCHIFFER: I agree with the soil test. It's just that it would be nice if the products were consistent totally within the county so that we could control it at the only place you can control it, and that's the store.

MR. HATCHER: The State of Florida has adopted a new turf rule since the City of Naples adopted their -- the two percent phosphorus is no longer a recommended option. I don't believe it's available.

COMMISSIONER SCHIFFER: So you feel Naples might drop to zero?

MR. HATCHER: My guess is is they won't bother, but --

COMMISSIONER SCHIFFER: Can't buy it. Okay, let's go to zero then. Thank you.

CHAIRMAN STRAIN: Okay. So we've resolved the first one.

Second one is the maximum application rate. We've heard everything from two, three, four, up to I don't know how many pounds per thousand square feet. The golf course superintendents I think when they were up here suggested that some of the non-paspalum varieties use four to five percent. IFAS recommended -- I mean, four to five pounds. IFAS recommended five. I think The Conservancy recommended four.

What's the feeling of this board?

COMMISSIONER MIDNEY: Four.

COMMISSIONER MURRAY: Four.

COMMISSIONER EBERT: Four.

CHAIRMAN STRAIN: Okay. Paul?

COMMISSIONER MIDNEY: Four.

CHAIRMAN STRAIN: Everybody? Generally -- well, is anybody against four?

(No response.)

CHAIRMAN STRAIN: Okay, it looks like it will be four pounds.

You know, the overall odd thing about this, who is ever going to be able to figure out if they put that much on their lawn per year? But, I mean, that's -- you guys wrote it, we'll try to live with it.

The next item was a 10-foot buffer zone. That's probably going to be one of the more concerning ones.

There's been -- the language that we have here is really not -- has a three-foot free zone with the remaining seven feet being okay if you use a broadcast spreader or a deflector. The three-foot free zone has the exception of first time plantings can have 60 days worth of fertilizing still using a deflector or a broadcast spreader or an applicator. Is that a fair statement, Mac?

Or is it not -- it's not restricted in the three-foot for the first 60 days?

MR. HATCHER: No, it would still be restricted, I mean, with the deflector shields and so forth. But it would be allowed within that 10-foot buffer for 60 days.

CHAIRMAN STRAIN: So what's the feeling of the board?

COMMISSIONER MIDNEY: I think three feet is too close to water --

COMMISSIONER EBERT: Yeah, 10 feet.

COMMISSIONER MIDNEY: -- it's almost nothing.

CHAIRMAN STRAIN: Now are we talking three feet or 10 feet with -- are you saying no application of fertilizer at all in that 10-foot area, is that what you're --

COMMISSIONER MIDNEY: No, in the three-foot area.

CHAIRMAN STRAIN: That what it reads now. Oh, none at all, even for growing?

COMMISSIONER MIDNEY: I think applying fertilizer within three feet of a water body is just very close. You're going to get some runoff into the water body.

COMMISSIONER MURRAY: On the other hand --

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: -- if I may, some of the information contained in this set of documents suggests that if you don't maintain the grass in the proper form and it starts to break down, you'll get erosion and that accelerates the materials you don't want, what chemistry you don't want to go into the water.

So I think there's got to be a happy medium there. I don't know what it is exactly. I'm not trying to counter an argument as much as I think there's validity to that statement. You want to have as much turf as you can have. Given that it's going to be nutrient poor, but I don't know that you want to make it nutrient absent -- that's not a good phrase -- but nutrient whatever, absent any nutrient.

MR. HATCHER: The model ordinance is calling for a minimum of a three-foot buffer.

COMMISSIONER MURRAY: But make it clear, in that three-foot area -- and we focused on new plantings. But after the new plantings have taken hold, what do we treat that three feet with? Do we never give it fertilizer?

MR. HATCHER: That's what the ordinance is going to put in place.

COMMISSIONER MURRAY: And yet the science, or purported science says that you do not want to create a condition where the turf starts to break up and you get open patches, and that's when it will accelerate the negatives.

MR. HATCHER: Correct.

CHAIRMAN STRAIN: But isn't the three-foot in the model ordinance the base? The three-foot you put in this ordinance in front of us today, is that part of the model ordinance?

MR. HATCHER: Yes.

CHAIRMAN STRAIN: So it's not something that we can change to a lesser degree.

COMMISSIONER SCHIFFER: You mean two feet?

COMMISSIONER MIDNEY: No.

CHAIRMAN STRAIN: We couldn't say two feet.

COMMISSIONER SCHIFFER: It's got to be more restrictive.

MR. HATCHER: Yeah, I don't believe that that would be --

CHAIRMAN STRAIN: So, I mean, to get to Mr. Murray's point, it's three feet or greater is the issue, not three feet or less.

COMMISSIONER SCHIFFER: Correct.

MR. HATCHER: Yes.

COMMISSIONER MURRAY: Why don't we make it 13 feet?

COMMISSIONER SCHIFFER: Mark, I have a --

CHAIRMAN STRAIN: Go ahead. Oh, I think Ms. Caron had her hand up first, then Brad.

COMMISSIONER CARON: Well, I'm just reading some things. And somebody can correct me if I'm wrong, but I'm reading here that green industry Best Management Practices suggest buffer zones of 10 feet to protect water resources. So, you know, I'm thinking we should be going with 10, but --

COMMISSIONER EBERT: Yes, I agree.

CHAIRMAN STRAIN: Well, Brad?

COMMISSIONER SCHIFFER: Mac, the three feet, that's a statewide number, correct?

MR. HATCHER: Yes.

COMMISSIONER SCHIFFER: And I think most of our water bodies are going to be dug out of the ground, they're the ponds, they're the retention ponds. So they have a slope greater than 10 feet leading into them.

MR. HATCHER: We have the full gamut of water bodies. We have wetlands, we have swales.

COMMISSIONER SCHIFFER: But my point is that all of them, maybe some of the canals don't, maybe the seawalls don't, but all of them have a slope going into the water greater than 10 feet.

MR. HATCHER: I would say the preponderance of situations, yeah.

COMMISSIONER SCHIFFER: So what we're discussing is how far would the chemicals leach through the grass such that they don't hit the water? And I think coming from a slope down into a slope, I think 10 feet is a good number. It's not like it's not going to have any nutrients. The nutrients are going to be leached from the upper part of the property down through that area, correct?

MR. HATCHER: That's not what the science indicates, but --

COMMISSIONER SCHIFFER: So it's going to be totally devoid of fertilizer in that area? It's not going to come from above?

MR. HATCHER: It's not going to be totally devoid of nutrients, but it's going to be devoid of fertilizer-derived nutrients.

COMMISSIONER SCHIFFER: So what you're saying is that no fertilizer will come from above into that 10-foot zone.

MR. HATCHER: Only -- the science indicates that only if the fertilizer is misapplied, too much, too close to a storm event, something like that, will you get leaching. Or runoff is the more appropriate term for that situation.

COMMISSIONER SCHIFFER: So then there's no fear of runoff from the 10-foot closest to the water then. They're both essentially in the same slope.

CHAIRMAN STRAIN: That's architectural logic.

COMMISSIONER SCHIFFER: What you're saying, the upper part won't bleed into the lower part. Thus why are we worried about the lower part bleeding into the water? But anyway, I think it would get some stuff, so don't worry that.

COMMISSIONER MURRAY: Aren't we worried --

CHAIRMAN STRAIN: Paul was next.

COMMISSIONER MIDNEY: I just had a thought as we were discussing it. You know, when there's a big rain event the water level in the ponds raises and you're likely to get a lot of it going so that the part within 10 feet of the water body is actually covered by water.

CHAIRMAN STRAIN: Well, that goes back to the definition of where we measure from. And that's what (sic) Mac's got to come back. Because if the water level changes, the measurement theoretically would change.

Mr. Murray?

COMMISSIONER MURRAY: Yeah, I'm just thinking that this business about the three foot is really an exception. And it's only applicable as I understand it to the event of new planting. Otherwise it's a non-issue. Am I correct, Mac?

MR. HATCHER: Well, the three foot applies to applicators that have drop spreaders and deflector shields. They can apply that close to the water body.

If you don't have those -- that type of equipment, you're just stuck with a rotary or something else, then the 10-foot buffer applies.

COMMISSIONER MURRAY: Okay, I'd lost sight of that part of it. That does create an inequity between the homeowner, say, who doesn't have that kind of a device and somebody else. I don't know if we're splitting hairs or what we're doing.

But what that tells me is that we're willing to go -- that 10 feet, we're willing to give nutrients to seven feet of that.

MR. HATCHER: Yes.

COMMISSIONER MURRAY: Well, then why are we establishing 10 feet? It seems contradictory, maybe only because of the way we're talking about it, but it seems contradictory to me.

CHAIRMAN STRAIN: Within the 10 feet, if you want to put any fertilizer down, you can do it within seven of those 10 feet, but only if you use a special piece of equipment. That's the difference why you have a 10-foot zone. Outside that zone you don't have to have any special equipment at all.

COMMISSIONER MURRAY: Maybe I'm being affected by what Mr. Yovanovich sent me yesterday or the day before. I played that video. And they made the point that the grass on the slope, that 10 feet, it looks very different from the rest of it. And I think we saw a picture of that today.

And my interpretation was we're trying to avoid getting 10 feet -- any closer than 10 feet with any fertilizer. But if I'm wrong in that, then I think that we have to at least help me understand it better.

MR. HATCHER: I guess that -- I'm not sure I can help you understand it better. I believe that the agencies

have proposed a minimum standard that's probably best judgment. The science is saying that the material doesn't move, but they're saying three feet anyway, you know, like on top.

COMMISSIONER MURRAY: I give up.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: Again, if professionals who are going to have the tools can go up to three feet, regulating the balance of it is going to be impossible.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: I still believe the 10 feet. Because it's pretty much 10 feet anywhere else with the -- you have a 20-foot lake maintenance, and that they have to get around. And within 10 feet, I just think that's a nice safe amount for everyone.

CHAIRMAN STRAIN: Okay, the excavation of lakes. And I have dug millions of yards of lakes, and I know that the first thing we do is stabilize the lake banks. And I can tell you, from the time you stabilize a lake bank until time a homeowner comes in and properly irrigates it and properly fertilizes it, that sod ring doesn't stay in place if it's not taken care of.

As the sod ring comes apart, so does the soils underneath it. To fix it under that stage after a home is in place is huge. Because you don't just come in with a piece of sod at that point, you got to replace all the washouts. And the washouts go out into the lake, which means you need a long arm backhoe or some piece of equipment to bring the material back in. Then you've got to place the sod and some kind of stabilization on top of that, especially if you're on the leeward side of a lake.

That's important not to lose that erosion control. That erosion control will do more damage to the lake than I think the fertilizers would if you left them three feet back.

I'm strongly in favor of saying that we keep with the model ordinance for that one. We've done some really good things for the first two. We've looked at conservation issues that are really so much better than what was even proposed in the minimum model. To wait and require a two-year mandatory review of this will allow us to look and see what kind of effect we're having. And if we're having a negative effect on those lake banks, then we'll know it.

So I'd rather not go in and try to change it too radically now and have those lake banks have to be fixed because we made a mistake, but rather look at it in two years and see if we need to do any more.

COMMISSIONER EBERT: But once they are established, Mark, it changes?

CHAIRMAN STRAIN: Once they were established are the ones that I lost. I can tell you, it cost a lot of money to fix them. I've hired a subcontractor with a machine to come in and fix them, and it was an established lawn with the houses built, and it was Bermuda grass that was put in. And they were -- I mean, it was fine except when the rain started hitting and that area close to the water started washing out. The fix was horrendous. And it's not anything that your community would want to experience, or any community would.

So my suggestion is let's be a little cautious with that one right now. It's probably -- compared to some of the other things that we're fixing here, it may not be the worst one to have to be more cautious with than the others, so -- I don't know.

COMMISSIONER MURRAY: Makes sense what you're saying.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: A question.

Mac, is this dimension -- I mean, I'm thinking this and I may be wrong, that it's kind of a tolerance for bleeding in. But you say it's a tolerance for application only?

In other words, when I put the fertilizer, it stays where I put it? It's not going to, because it's on a slope, bleed down into the water?

MR. HATCHER: If you irrigate appropriately, it will stay where you put it.

COMMISSIONER SCHIFFER: Okay. So this dimension we're talking about is purely an application tolerance.

MR. HATCHER: Yes.

COMMISSIONER SCHIFFER: Not an ability for something to bleed a little bit and not go into the lake.

MR. HATCHER: Well, I guess that I would interpret the three-foot free zone as being insurance.

COMMISSIONER SCHIFFER: Insurance from the applicator or insurance from --

MR. HATCHER: From the applicator.

COMMISSIONER SCHIFFER: -- weather and water moving the material into the --

MR. HATCHER: From the applicator.

COMMISSIONER SCHIFFER: Oh. Well, hell, you could put tape down and get closer than that, you know.

CHAIRMAN STRAIN: Okay. Well, I think the choice is we either stay with the model ordinance or we modify the model ordinance. So let's take a straw raise of hands on that.

How many people wish to stay with the model ordinance as it's written with the three foot?

COMMISSIONER MURRAY: Which is what you described --

CHAIRMAN STRAIN: What I described, yes.

COMMISSIONER SCHIFFER: With the belief that it's for the tolerance of application, I will do it.

COMMISSIONER CARON: (Raises hand.)

COMMISSIONER SCHIFFER: (Raises hand.)

COMMISSIONER MURRAY: (Raises hand.)

COMMISSIONER KLEIN: (Raises hand.)

COMMISSIONER HOMIAK: (Raises hand.)

COMMISSIONER AHERN: (Raises hand.)

CHAIRMAN STRAIN: (Raises hand.)

One, two, three, four, five, six, seven.

Of those who wouldn't go along with that?

COMMISSIONER MIDNEY: For 10.

CHAIRMAN STRAIN: Okay, that would be two.

Okay, so the straw -- just our recommendation would be 7-2 to go with the model language you have in here right now, temporarily, or at least until we talk about the mandatory review.

The fourth item is the summer blackout. Heard all kinds of things on that today. The recommendation is June, July, August and September. Does anybody have any comments?

Go ahead, Ms. Caron.

COMMISSIONER CARON: Well, I will just comment that when the golf course people were up here, they pretty much follow a blackout period, even though they're the ones opposing it. When Mr. Hier got up here, he said he pretty much does -- puts his fertilizer on in the end of May and it carries him through to September.

The neighboring municipalities are -- you know, have a blackout period. Your Regional Planning Council asked for one.

Again, if we're going to talk about a monitoring after the fact, you know, maybe we can monitor to see if there are any issues or problems with it for sure. You know, I'm not married to anything for life if there's an issue.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: Could we get clarification on that? Because the way I understood it was the application times for the golf course is different than for the --

COMMISSIONER MURRAY: And they use the liquid.

COMMISSIONER AHERN: Right.

COMMISSIONER MURRAY: He's right here --

CHAIRMAN STRAIN: Mr. Murray, that's fine, I'll handle it.

Tim, would you mind briefly addressing the question. I say the word brief, because we can have some very long discussions with a lot of people in the room today, so --

MR. HIERS: Tim Hiers.

We use liquid fertigation in the summer. I don't use a lot of granular on paspalum anyway unless it's calcium or the minor elements. So we do put nitrogen out in the summer, but it's a minute amount through the fertigation system. We do it 12 months a year.

CHAIRMAN STRAIN: Okay. Do you know if the people who -- of the other forms of grass do the same thing?

MR. HIERS: Pretty much the same thing. A lot of us almost always use fertigation, which we put it through the irrigation system. And we do keep our heads out of the lakes. We adjust those all the time.

CHAIRMAN STRAIN: Okay, thank you.

Mr. Talbot, out of fairness, if you can keep it brief. No pictures.

MR. TALBOT: One picture?

CHAIRMAN STRAIN: No. Well, okay, as long as -- something to the point, though, okay?

MR. TALBOT: Just wanted to -- if you would revisit one point. This is three feet with a deflector shield. This is what you support, right there.

CHAIRMAN STRAIN: Thank you.

Do you know, does TruGreen do Island Walk?

MS. SANTELLA: Yes.

CHAIRMAN STRAIN: Could one of you who do Island Walk stand up here and talk to us.

UNIDENTIFIED SPEAKER: I'm Village Walk.

COMMISSIONER CARON: He's Village --

CHAIRMAN STRAIN: Village Walk. I'm sorry. Do you guys do -- you don't do Village Walk?

COMMISSIONER CARON: Nobody would admit it if they did.

UNIDENTIFIED SPEAKER: No, we don't.

CHAIRMAN STRAIN: Okay. Sorry, I thought -- those communities are a lot alike, so I'm -- okay.

Back to, I think -- Melissa, you asked the question of Tim. Did you have any more to follow up on that?

COMMISSIONER AHERN: Well, again, based on what we've received from University of Florida and I believe FDEP, it says that the summer blackouts is more detrimental than -- I totally lost my train of thought.

CHAIRMAN STRAIN: That's okay. The summer blackouts, from what your perspective is, are more detrimental --

COMMISSIONER AHERN: Creating more of an issue, yes.

CHAIRMAN STRAIN: -- than if you don't do it.

COMMISSIONER AHERN: Correct.

CHAIRMAN STRAIN: Brad, did you want to add to that?

COMMISSIONER SCHIFFER: Well, I'm just -- you know, what is the problem with doing it during those rainy periods? You've told me it's not because there's runoff and the material's going to move towards the lake. So why is there a blackout period?

MR. HATCHER: We did not -- staff did not propose the blackout period.

COMMISSIONER SCHIFFER: Okay. So you agree that there will not be runoff in the heavy rain or in all the other stuff, or -- because it's going to rain in the summer. We're going to get downpours in the summer.

MR. HATCHER: Yes.

COMMISSIONER SCHIFFER: So the concern has to be, isn't it, that we'll have the material flow into the water body?

MR. HATCHER: Yes.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Well, the only problem on the state model is, is during floods, hurricanes and two inches of rain. We do not know when we get two -- I mean, it can pour and you get two inches of rain like that. So this -- they're taking a guess at that.

COMMISSIONER SCHIFFER: Yeah.

CHAIRMAN STRAIN: Okay. The one thing that I've heard is the four months. And we've heard that some of the slow release nitrogen can dissolve quickly or it can take longer, depending on what its coatings are. And I'm always trying to find a compromise.

I do know that I've lived in this state for 33 years in the same location right here in Collier County, and for many of those years June is not a wet month, it's a dry month. In fact, we've had restrictions on July 4th because it's so dry we can't have fireworks. And that's occurring quite frequently, if not more frequently.

I don't see the threat in June and July as great as August and September. And with the idea of coming back for a two-year mandatory review, if we look at just two months to do the restriction, the blackout period, as a trial period in which to see how it works, I think that would be a good start and may just be a compromise so that if you have the slow release nitrogen, someone said today it's good for four months. Well, you know what, if they're wrong, maybe even two months is more practical.

So I'm certainly suggesting we go that route and split the baby and say let's look at two months for a blackout period as a trial period.

Brad?

COMMISSIONER SCHIFFER: I mean, the thing I would hate to see us cause is where people come out the months before and really juice the fertilizer up and hope it will flow and spread out through the rains. I mean, that would be the worst case.

MR. HATCHER: Well, actually, I believe the worst case would be if they come and pile it on at the end of the season when the grass is not growing, and then I can pretty much guarantee the science says that it will end up in the water.

COMMISSIONER SCHIFFER: So wouldn't the smart thing to be doing is putting small amounts of a liquid or something during those months, something that a rain wouldn't move around as much?

MR. HATCHER: I wouldn't disagree with that.

COMMISSIONER SCHIFFER: You would disagree?

MR. HATCHER: No, I would not disagree with that.

COMMISSIONER SCHIFFER: In other words, stay away from timed stuff, stuff that could be floated around and do something. I mean, I don't know the material enough. The applicators may do it. But if they're coming out at periodic times during those months, wouldn't it be smarter for them to be putting little amounts of something that's not going to flow?

MR. HATCHER: I mean, you've had the professionals testify that that's what they do. I don't think you're going to get a better opinion from me.

CHAIRMAN STRAIN: Tim, is there a possibility you have a -- during that two months -- I know you're a golf course, but could you kind of let us know if there's a big problem giving it a trial for two months to see how it would work out?

MR. HIERS: The better answer I think -- and I can't advocate this. The better answer would be the right type of slow release fertilizer, one that doesn't release quickly.

And if I can just say one thing that will maybe make a little sense. If you've got an air conditioner filter at your house, that filter is meant to catch dirt. You have to clean it once in a while because it does catch dirt, but the air still gets through. You have to follow the water. The water is what's going to carry any pollutant. It's going to carry the fertilizer, it's going to carry the nutrients. If you've got a healthy turf grass properly maintained, it's like that filter, it's going to catch the nutrients.

This is what I don't have the authority to say, because I don't know if the fertilizer companies can do it. In my opinion, and I don't represent anybody when I tell you this, if you went to the right slow release fertilizer in the summer and you put it down properly and you don't get it on a hard surface and you don't throw it in the water and you water it in as soon as you put down, you're going to get one percent. The studies do show you get one-half of one percent. I mean, it's minimum. You're not going to get 10 percent or five percent. But that's a tough nut to -- I don't think they make them right now.

We can buy them. I don't think the homeowner can. Now, they could maybe change the formulations.

CHAIRMAN STRAIN: Thank you again.

Okay, we're back to the summer blackout.

Donna?

COMMISSIONER CARON: I just think that that is one of the problems here. We're trying to balance. It's easier for Mr. Hiers to control his golf course and how he handles that than it is for us to try to balance an ordinance that takes care of individual homeowners plus associations and all that. So we have a different balancing act here, so --

COMMISSIONER EBERT: I agree with you.

CHAIRMAN STRAIN: Richard?

MR. YOVANOVICH: Just briefly.

CHAIRMAN STRAIN: Okay. Well, we're looking for input. We're not trying to stifle people from talking. So if anybody can help us, we're not -- we're struggling through this too.

MR. YOVANOVICH: One of the things you're asking, and we obviously have access to the scientists. When do you think you'll be coming back for further discussion on this ordinance? Because between now and then

we can ask them what they think about what you're proposing is a two-month blackout. Give us June or -- allow us fertilizing in June and July, and we can ask the scientists what does that do, so you can have additional information.

CHAIRMAN STRAIN: According to my schedule, we have an opening in January of 2015.

MR. YOVANOVICH: Perfect.

CHAIRMAN STRAIN: So that will work out good for anybody here, Rich.

MR. YOVANOVICH: No, seriously --

CHAIRMAN STRAIN: I imagine -- Mac, when would you come back with a rewrite or reproposal of some of these things to this board?

MR. HATCHER: I suppose it will be May the 5th, unless I need to advertise more than that.

CHAIRMAN STRAIN: Okay, so -- well, from today you were going to draft up a final document for us to then make a vote on? And you think you could do that by May 5th? Because you're not going to have -- we're not going to have the watershed part of it done.

MR. HATCHER: Well, fortunately for me the consultants are doing most of the watershed work. My primary interest here is the fertilizer ordinance.

I'm not positive that I can get back the first of May, that 5th, but that's the next opportunity we have.

CHAIRMAN STRAIN: Well, why don't we look at the last meeting in May instead of the first, and that way you can come back -- as far as your watershed people, they can come back on the first meeting in May. We can blow through that. But let's get their fertilizer ordinance back towards the end of May.

COMMISSIONER KLEIN: That's the 19th.

COMMISSIONER EBERT: 19th.

CHAIRMAN STRAIN: Okay?

MR. YOVANOVICH: That should give us enough time to run it up with the scientists to talk about your proposed compromise.

MR. TALBOT: Science from everyone, right? In other words we can provide --

CHAIRMAN STRAIN: Yeah, everybody, yeah. Whoever wants to -- our meetings are always open to the public. And then you always can provide us with information. And as you've learned today, we'll listen to everybody's position.

So on the 19th of May, if you feel you have a counter position or you've brought -- you have data, you want to get it to us ahead of time, give it to Ray, he'll dispense it to us and come to the meeting on the 19th.

So with that, have we exhausted the discussion on the blackout period, and we're looking at a what, does anybody have a preference on what they'd like to see? I've suggested a compromise. Does that --

COMMISSIONER EBERT: I like your compromise.

CHAIRMAN STRAIN: Okay, anybody?

COMMISSIONER AHERN: I would be open to the compromise if the science supports it.

CHAIRMAN STRAIN: Okay. Well, let's work towards the compromise, Mac, depending on how the science comes back with it.

And then that's the four big issues. I think we've kind of gotten through them. The last issue is the idea of a two-year mandatory review, and that's something that I started discussing earlier today.

The only reason I want that is I really don't want us to make a mistake on this. I've been trying to be very cautious in moving forward too fast. We've actually jumped further ahead than the model in many instances. So I think a two-year review to make sure we didn't go in a wrong direction will catch it as quickly as we can, based on the studies that Amber showed us of the reaction time of nitrogen, phosphate and total dissolved oxygens. If you notice on those charts, every one of them showed a reaction after two years.

So I'd like to see us take a look at that. And Mac's already doing the chemical monitoring for at least total dissolved oxygen, so we can see if that has an impact.

MR. HATCHER: They do total nitrogen and total phosphorus, too. And I'll add that the Charlotte Harbor program has also removed their point source discharges from their waters as well as implemented a fertilizer ordinance.

CHAIRMAN STRAIN: And what's our watershed management attempting to do in that regard?

MR. HATCHER: We don't have any point source discharges currently. We'll be looking at reducing runoff.

CHAIRMAN STRAIN: Good. Okay.

Is that okay?

COMMISSIONER SCHIFFER: You know, Amber showed those charts. Is there any community that did something similar to the State's proposal and we could look at what data they have?

MR. HATCHER: The Charlotte Harbor data that she presented is the only thing I've seen that's been proposed or in any way alluded to as an effective fertilizer ordinance.

COMMISSIONER SCHIFFER: And does it go after -- does it have blackout periods? Does it have 10 feet?

MR. HATCHER: Yes. And again, that surface water monitoring, that's not directed at fertilizer monitoring.

COMMISSIONER SCHIFFER: Because it also -- you know, the time frame is when essentially could be proving that oxygen is inversely proportional to the construction industry too. Because, you know, 2008 there's a lot of activity stopped. Maybe a --

CHAIRMAN STRAIN: So you're saying all those contractors are the pollutants?

COMMISSIONER SCHIFFER: Who knows? I mean, with a freakonomics mentality, that may be what it's proving, that --

CHAIRMAN STRAIN: Melissa, did you have something?

COMMISSIONER AHERN: Mac, you said that was the only study that you were aware of that showed those results. Are there other studies that show differently, or that's the only one you're aware of that's being done?

MR. HATCHER: It's the only one I'm aware of.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Mac, is there any stone we left unturned for now?

MR. HATCHER: Not that I can think of.

CHAIRMAN STRAIN: Okay. With that, I guess we'll wrap up on the fertilizer ordinance for today. I want to thank everybody in the audience that participated. It's been educational for us, and we certainly need the education. So I encourage you to come back on the 19th and try to make sure we finish it right, because we will try to.

With that, let's see, I think that's the last thing on the agenda. Nothing new that I can see.

Ray, anybody else?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to adjourn?

COMMISSIONER SCHIFFER: So moved.

COMMISSIONER HOMIAK: Seconded by Ms. Homiak.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MURRAY: Aye.

CHAIRMAN STRAIN: Aye.

We're done.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 3:22 pm.

COLLIER COUNTY PLANNING COMMISSION

Donna Reed Caron

MARK P. STRAIN, Chairman FOR THE CHAIRMAN

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 5/19/2011, as presented ✓ or as corrected _____.

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BY CHERIE' NOTTINGHAM