

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, May 5, 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:

CHAIRMAN: Mark P. Strain  
Melissa Ahern  
Brad Schiffer  
Paul Midney (Absent for roll call)  
Donna Reed Caron  
Karen Homiak  
Bob Murray  
Diane Ebert  
Barry Klein

ALSO PRESENT:

Nick Casalanguida, Growth Management Division  
Raymond V. Bellows, Planning Manager  
Steve Williams, County Attorney's Office  
Tom Eastman, School Board Member

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the May 5th meeting of the Collier County Planning Commission.

If you'll please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. Can the secretary do the roll call, 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? He's not here, oh.

Ms. Caron?

COMMISSIONER CARON: Here.

COMMISSIONER HOMIAK: Mr. Strain? I thought I saw him.

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Mr. Murray?

COMMISSIONER MURRAY: He's here.

COMMISSIONER HOMIAK: Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: And Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN STRAIN: You see that window in the back, the first one? When those blinds are open, Paul's here. That's the sign.

Okay. Addenda to the agenda. Before we get into that, I need to know -- there's got to be something of a surprise scheduled today, because Nick's here. Is anything changing on the agenda we don't know about?

MR. CASALANGUIDA: I just come because I miss you so much, and I want to spend some time with you.

CHAIRMAN STRAIN: This is a rare occasion. Thanks for showing up today.

MR. CASALANGUIDA: Appreciate it.

CHAIRMAN STRAIN: Our next meeting is the 19th of the month, and that will be the meeting in which the fertilizer ordinance will come back to us.

There's been a lot of discussion about how to, I guess, further decipher the fertilizer ordinance, and it's been suggested that some experts may want to attend our meeting that day. I need to get this board's opinion on if they want to hear from experts and possibly moving the fertilizer ordinance up to the beginning of the meeting, depending on what else is scheduled for that day.

Nick, do you know, or Ray? I'm not sure who's in charge of our agenda for the 19th. Do you know what we have tentatively scheduled for the 19th?

MR. BELLOWS: I'm pulling it up right now. On the 19th we have the Heritage Bay DRI extension, and we have a sign variance for Walmart and a boat-dock petition in Vanderbilt Beach area.

CHAIRMAN STRAIN: Okay. The extension of a DRI is pretty routine, so -- that sounds like a big thing, but usually it's not.

MR. BELLOWS: Yeah.

CHAIRMAN STRAIN: So maybe we could put the fertilizer ordinance in the beginning of the meeting and hear the experts. And anybody that wants to come in and attend -- and I think most of the public will be here for that event. Unless this board has a problem with that. Is that okay with everybody?

COMMISSIONER MURRAY: That's fine.

CHAIRMAN STRAIN: Okay. Ray, would you make sure that Judy knows to put that in the beginning.

And the other thing is, Mac, do you have a moment where you could come up and answer a question or two?

There is a gentleman with the state -- I forgot the acronym. We have so many acronyms. You know it better than I do.

MR. HATCHER: Mac Hatcher, Land Development Services. I believe you're talking about Terril Nell. He works at University of Florida IFAS.

CHAIRMAN STRAIN: Yes, IFAS, that's it. I guess there's an opportunity for him to come here, depending on his time frames. And I don't know if he'll come more than once. I know that there was a concern on maybe having him for the BCC meeting.

As far as the board goes, he's the gentleman that, I guess, wrote the letter in response to the ordinance as it was written; is that --

MR. HATCHER: Correct.

CHAIRMAN STRAIN: Okay. So apparently he's got quite a bit of background on it. He does represent, I believe, the position that many of the landscape companies and/or their representatives had taken at our last meeting. And so I asked the Conservancy if they had somebody that they would like as an expert just to be fair so we could present them both today for this board's consideration.

At that point they didn't have one that they knew of, although there may be some out there. And so I kind of wanted to ask this board, do you want to hear from one side of the equation and then leave the door open for the second to come in at that date, or would you rather not hear from any and just continue with the presentation by the people we have on staff?

Does anybody have any opinions on it?

COMMISSIONER AHERN: I would rather hear from professionals.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: But both sides.

COMMISSIONER MURRAY: I'd like to hear from as many people as have the skills to tell us something.

CHAIRMAN STRAIN: Okay. Mac, could you express to the gentleman that if he can come down on the 19th, we'd sure like to welcome his presence to tell us what he thinks, and at the same time, would you extend the opportunity to the Conservancy to provide, if they wanted to, for the same amount of time someone of the same knowledge level that could speak to us as well.

MR. HATCHER: I'll make those arrangements as soon as I can.

CHAIRMAN STRAIN: Thank you very much. Appreciate it, Mac.

Okay. Planning Commission absences. Does anybody know if they're not going to be here on the 19th?

(No response.)

CHAIRMAN STRAIN: Okay. Approval of minutes. April 7, 2011, they're all emailed to us. Anybody have any changes or corrections?

If not, is there a motion to approve?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Ms. Homiak.

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: Seconded by Mr. Klein.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Raises hand.)

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: And by the way, Paul raised his hand, so he approved, too, and he's here now.

Welcome, Paul.

COMMISSIONER MIDNEY: Thank you, Mark.

CHAIRMAN STRAIN: BCC report and recaps, Ray?

MR. BELLOWS: Yes. The Board of County Commissioners at their April 26th meeting heard the PUD amendment for the Olde Cypress PUD and DRI and the companion item for the HD Development. The BCC heard that -- or approved it 5-0 subject to the CCPC conditions of approval. And on the HD Development, they provided some clarification on the construction-access issue.

CHAIRMAN STRAIN: Okay. Do you know what that clarification to the construction access was?

MR. BELLOWS: Kay Deselem's here, and she'll provide that.

CHAIRMAN STRAIN: Just curious of what we missed.

MS. DESELEM: Excuse me. For the record, Kay Deselem. I missed your question, I'm sorry.

CHAIRMAN STRAIN: Ray said the BCC approved the stipulations from the CCPC for the Olde Cypress, but they made an additional clarification on the construction access. Do you happen to know what that was?

MS. DESELEM: Okay, yes, thank you. There was a lot of discussion at the Planning Commission level as to the fact that their ingress and egress for construction would be at different places, one would come through the maintenance facility existing access, and then the other one would go out of the main entrance into the HD Development. So they put that into a condition. And they also added an addressed -- and they also added a stipulation to that to address what was in the agreement between the developer and the parties involved, whereas, they said that that was only to be in place until the 100th -- I'm trying to figure out -- they called it by building pod or something like that -- was in place.

Now, they can continue to do it after that, but they're only required to do that up to that time pursuant to the agreement that the parties entered into.

And then they also addressed the fact that in their agreement they were saying that they would pay money toward their road improvements, put in a bond, security bond for the road improvements, and pay it to Collier County. And Collier County staff made it clear that it's not a county road, so we didn't want it paid to us.

So just to make it clear that even though that was in their agreement, that we didn't want their bond.

Basically the stipulation was to address ingress/egress and the 100th unit that was referenced in the agreement between the parties.

CHAIRMAN STRAIN: Okay. I just wanted to know to make sure that -- if we can make it even cleaner next time we send something forward, we'll know the -- some of the points to look at.

Thank you. Appreciate it.

Chairman's report. There's nothing to report. Pretty quiet out there.

\*\*\*Consent agenda items. We have two of them today. The first one is PUDZ-2007-AR-12292, Cope Reserve RPUD. This came to us at the last meeting.

I would like some clarification from staff. I think we had asked for a status report on how Cope Lane was going to be finished off as it goes further eastward. I know that in the document they added details pursuant to our request about how the road was to be constructed. I just want to make sure that any issues that were on the table going eastward were at least looked at and staff's comfortable with them.

MR. PODCZERWINSKY: For the record, John Podczerwinsky, Transportation Planning.

To my knowledge, yes, they've been looked at, any issues to the east of this. It doesn't seem as though we have -- well, let me rephrase this -- anything from Falling Waters, is that what you're asking about?

CHAIRMAN STRAIN: Yeah. The issue I believe was that Falling Waters was supposed to make some improvements, and apparently they didn't or the improvements they made weren't consistent with what the standards were that were needed for the road system.

MR. PODCZERWINSKY: Specifically what I've been told -- and the situation, as I understand it, is that by the Falling Waters ordinance, and the PUD monitoring that we've done on that, they are up to speed, they are complete on all of their PUD commitments to the county.

Apparently there is an agreement between Falling Waters and the residents of Cope Lane, and it was a court ruling between the two parties, and it's something that county is not involved in.

CHAIRMAN STRAIN: Okay. And that's specifically what we asked to look into, so that's fine.

MR. PODCZERWINSKY: Yeah. My understanding is that we're just simply not involved in it, and it would

be kind of overreaching what I'm able to get involved in.

CHAIRMAN STRAIN: No, you're right. Just -- that's what we wanted to make sure.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: Does anybody have any clarifications, questions on that one? If not, is there a motion to recommend approval?

COMMISSIONER CARON: Motion to approve.

CHAIRMAN STRAIN: Motion to approve, okay, made by Ms. Caron. Second?

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Ms. Ahern.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: All those opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

\*\*\*Second consent item is PUDZ-PL2009-2496, the Emmanuel Evangelical Lutheran Church on the south side of Oil Well Road.

Is there any discussion on that item?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to approve?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Ms. Homiak, seconded by Mr. Murray.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

\*\*\*That takes us to our first advertised -- first and only advertised public hearing. The item after this will be the old business under the Watershed Management Plan, and then after that we have an overview of the proposed Administrative Code.

So first up is the first advertised public hearing, 9A, CU-PL-2010-1949, the Hitching Post Plaza.

All those wishing to participate in this item, please rise to be sworn in by the court reporter.

(The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN STRAIN: Disclosures from the Planning Commission? Brad?

COMMISSIONER SCHIFFER: Yeah. I think it was Chris Shucart gave me a call. He asked me if I had any questions, and at the time I didn't.

CHAIRMAN STRAIN: Okay. Bob?

COMMISSIONER MURRAY: I had a similar discussion with Mr. Shucart.

CHAIRMAN STRAIN: Barry?

COMMISSIONER KLEIN: I met with Mr. Shucart on Tuesday at the shopping center, took a little tour and saw the game room and that type of thing.

CHAIRMAN STRAIN: Play any games while you were there?

COMMISSIONER KLEIN: Nope. There were some people doing it, though.

CHAIRMAN STRAIN: Okay. Ms. Homiak?

COMMISSIONER HOMIAK: I just received an email from Mr. Shucart.

COMMISSIONER EBERT: Same here.

CHAIRMAN STRAIN: Okay. Ms. Caron.

COMMISSIONER CARON: I had an email exchange with Mr. Shucart.

COMMISSIONER AHERN: Also email exchange.

COMMISSIONER EBERT: Email.

CHAIRMAN STRAIN: Okay. And I spoke to Mr. Shucart on the phone, maybe an email, but I'm not sure. Bob, I don't think you and I spoke about it.

MR. MULHERE: No.

CHAIRMAN STRAIN: We met on one of the other projects.

MR. MULHERE: Actually, I've done quite a bit of work for Ms. Shucart over the last couple of years, and he actually contacted me and asked me to represent him on this matter just recently, so --

CHAIRMAN STRAIN: Okay.

MR. MULHERE: For the record, Bob Mulhere. Good morning.

The subject property is located at 11536 Tamiami Trail East. I'm very familiar with the site because I drive by it probably five or six times every day because I live down towards Marco on -- off of Collier Boulevard. And I have traveled past it for as long as I've lived here, 27 years.

And I guess that brings me to the first point that I'd like to make is that my client has invested substantial -- and his partners -- have invested substantially in improving this site.

The shopping center, I think, was built in 1985, so it's been around for a long time, and it's experienced significant improvements, several hundred thousand dollars worth of improvements over the last several years since my client has been the managing partner of it.

The request here is a conditional use to allow a coin-operated amusement device -- that's SIC Code No. 7993 -- within the subject property, and it's located just almost in the center of the property.

This is a little bit unique in terms of conditional uses because, really, it's not any more intensive use, it's not a big traffic generator or any of those kinds of things; however -- and it also is entirely enclosed within the existing building.

The actual operator was located elsewhere, and I think the lease expired and he was unable to renew the lease, but he was in close proximity to this location and then moved in here.

When he moved in here and after he began operating, it came to light that that was not a permitted use, that it required a conditional use. And so my client was cited and given six months to obtain the conditional use, and he immediately began that process.

I think the staff report is self-explanatory. There really are no issues. I do have -- I have the aerial showing the location, and then we have some photographs that I think, you know, show the kinds of users of this facility. These are licensed by the state. You buy -- you play the games and you can win gift certificates and things like that.

It's mainly a senior citizen crowd.

CHAIRMAN STRAIN: They look pretty dangerous to me.

MR. MULHERE: Here's a happy one. Upside-down. I'll get this one right, Ray. Okay.

I mean, it's not exactly my cup of tea, but there is a market out there, and it's mainly senior citizens, and they do seem to very much enjoy it. And, you know, my client will continue to invest in that property and improve that property.

In fact, I think -- I don't know if you're aware, but there will be a light -- a traffic light installed, and that's directly across -- the access where the traffic light will be installed is directly across from the Eagle Lakes Park, community park, which is heavily used, and it will be a great safety improvement when that light is installed, and my client is a significant contributor to the cost of installing that light.

I guess if you have any questions, Christopher Shucart is here, and if I can't answer them, perhaps he can, and really it's a relatively minor issue.

CHAIRMAN STRAIN: Anybody have any questions? Brad?

COMMISSIONER SCHIFFER: Yeah. Bob, the intent is if this passes that the conditional use would be applicable to the whole building or just this operation?

MR. MULHERE: No, to the whole building. If they wanted to move or move within the building, the use would be permissible in another unit, you know. You never can tell; you've got to have that flexibility. But within -- within the building.

COMMISSIONER SCHIFFER: Or the whole building could be gaming.

MR. MULHERE: Yeah, I don't -- I doubt that that's likely, I mean, but, yes, it's like the whole building could be a retail -- any one of the allowable uses, yes.

COMMISSIONER SCHIFFER: Okay. And the parking for this is probably pretty intensive. I mean, it's an assembly use, probably has a high occupancy. So the limit as to how much could happen there would probably be the parking?

MR. MULHERE: It would probably be driven by parking, yeah.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah. Could you put up that site plan again.

MR. MULHERE: Sure.

COMMISSIONER CARON: Well, the senior mobile home park to the rear.

MR. MULHERE: Yes.

COMMISSIONER CARON: I know that there's an obvious alleyway behind here. Is there a wall against the mobile homes?

MR. MULHERE: No. There's a land -- there's some landscaping on their side, there's an alley here that runs through, and then there's parking directly off the alley. It's kind of an old -- you know, an old design.

COMMISSIONER CARON: Yeah.

MR. MULHERE: The perspective from the front has been improved significantly, but that condition has existed, you know, since it was built.

COMMISSIONER CARON: Yeah. I guess my only concern is the hours of operation, because one of the things we're charged at looking at are noise and glare, and you're operating seven days a week, 365 days a year until one o'clock in the morning.

Is there any way to regulate who and what parking happens up against that senior housing to the rear?

COMMISSIONER MURRAY: There's no parking in the rear.

COMMISSIONER CARON: There is parking in the rear.

COMMISSIONER MURRAY: Not for -- people don't go there.

MR. MULHERE: I guess what -- generally speaking, the employees are also parking in the front because the use -- the heavier usage hours of this, you're correct, offset from the typical usage hours of the rest of the businesses. And I think probably from a perspective of it being better lit and safer, they park out front, especially the elder, you know, citizens who use this site. They don't park in the back.

I guess if we have a problem, we would certainly be willing to address it, but I don't think one exists and I really don't think one will arise.

COMMISSIONER CARON: Okay. So they're not -- when this closes at one a.m., they're not hauling trash out the back door and --

MR. MULHERE: No. Everything is self-contained; there's none of that activity going on, and most of the

activity is out front.

COMMISSIONER CARON: Okay.

MR. MULHERE: Really, at that point, all of the activity is out front.

CHAIRMAN STRAIN: Bob, then Ms. Homiak.

COMMISSIONER MURRAY: I'll more make a statement than anything else. I'm very familiar with this area in particular, and I would -- first I would like to say that I think the Shucarts have done a wonderful job of changing that landscape. Not only is it busy in the day, which one might expect, but very often as I pass it in the evening the lights are on, people are there. There's an ice cream store and the whole business.

And I had occasion to go inside the place where they have these amusements, and the parking is effectively constrained by the number of units that they have available to play. There's not that many in there.

But it also is a fact that senior citizens tend to go to bed early, and I know from people that I've talked with that they don't -- I don't know that they stay open till one o'clock even on a Saturday night, as it were. That they're allowed to is fine, that they choose, that's fine, but it's all inside. There's nothing to be seen.

And I would just -- I'm not trying to testify here, but I will tell anybody about the parking in the back. That's not used very often for, I guess, some employees, but the predominance is outside (sic), and there's a great deal of parking.

So when the amusement need comes up in the evening, most of the other stores are closed or closing, and parking becomes available. But once again, it's constrained.

Now my only question -- now these are dollar-a-shot type of machines that are used? Give us an idea of the kind of money that people are playing so that any issue regarding gambling is dealt with right now.

MR. MULHERE: Yeah. I don't know the answer to that, and I'm not sure what, statutorily, is -- if there's limitation, but it's -- you know, there's no -- it's not considered to be, you know, gambling like a casino.

COMMISSIONER MURRAY: It's amusement.

MR. MULHERE: It's amusement, yeah.

COMMISSIONER MURRAY: And I understand that, but I want -- there are some people who might have had some thought that it's gambling.

MR. MULHERE: I think it's relatively low by comparison to other real gambling outlets.

COMMISSIONER MURRAY: To my understanding, having looked at the machines, they're a penny a machine.

MR. MULHERE: Yeah, yeah. I'm not sure. Whatever the statute allows.

COMMISSIONER MURRAY: They're a penny machine.

MR. MULHERE: I did -- I neglected to mention, and I think it's worth saying, that this shopping center, not too long ago, was barely occupied.

COMMISSIONER MURRAY: I know.

MR. MULHERE: And presently it's occupied more than 80 percent, probably close to 90 percent. So I think that's testimony to the improvements that were being made, and there's a desire to continue to improve that location and other locations close by that my client is also in the ownership group with, so --

CHAIRMAN STRAIN: Ms. Homiak?

COMMISSIONER HOMIAK: Yeah. On the website it advertises this as a Vegas-type atmosphere, casino-type atmosphere, and serving free food, beverages and adult beverages.

MR. MULHERE: That I don't know.

COMMISSIONER HOMIAK: And that is how many feet away from the public park?

MR. MULHERE: It's -- well, it's across a six-lane roadway. It's quite a bit. And the -- you know, I don't know. I'll look into that. I'm -- there is a restriction, but I think it's only 500 feet.

COMMISSIONER HOMIAK: It's 500 feet.

MR. MULHERE: Yeah. I think just the right-of-way alone probably -- because it's from the edge of the establishment. It's measured from the edge of the establishment.

COMMISSIONER HOMIAK: Right.

MR. MULHERE: So you've got another couple hundred feet.

COMMISSIONER HOMIAK: So you don't know. They serve alcohol, so -- so if it's free it's okay?

MR. MULHERE: Well, no. I think it's okay because it -- I believe there's more than 500 feet from the



parking.

COMMISSIONER HOMIAK: But you don't know.

MR. MULHERE: No, I don't know for sure. I certainly could look into it.

CHAIRMAN STRAIN: Well, John Pod -- John's here. Maybe he knows the standard -- Tamiami Trail's right-of-way width. No. Never mind. Shaking his said no.

Nancy?

MS. GUNDLACH: Good morning. I'm Nancy Gundlach, principal planning with the Land Development Services Department, and I think I can answer some of the questions that have been posed this morning.

CHAIRMAN STRAIN: Sure.

MS. GUNDLACH: I did do a site visit, and I observed what was going on in this particular operation, and there is no alcohol served on premises. I did not see any alcohol there.

And it is subject to the state statute, 849. That's how these operations are allowed to exist. And there is no cash coming in. You purchase -- you have the option of purchasing a gaming card, or you can insert a credit card into the game machines.

The games -- the particular game that I observed being played was 25 cents, but the costs do vary. I've seen some for 35 cents. A player accrues points and they trade them in for gift cards to Out- -- like \$25 gift cards to Outback Steakhouse, Bonefish Grill. I observed a gift card opportunity to American Express for \$100, a gas card for \$50.

So I hope that helps answer some questions this morning.

CHAIRMAN STRAIN: Good, thank you.

MR. MULHERE: And I just scaled -- and this is rough. I mean, I certainly -- we can certainly look into it. But I just scaled this off, and it looks more than 500 feet. There's a canal over there on the other side, and so that's part of the right-of-way, and then you've got the parking area in the front and the aisleway in front. And there are several other establishments in there that do serve alcohol in there as well for on-premise consumption.

So, of course, the shopping center was there before the park was there.

COMMISSIONER HOMIAK: But that's not how the story goes, though, is it?

CHAIRMAN STRAIN: No, I think --

MR. MULHERE: No, I think the use -- I think it's the use, you're right. I mean, I think that when the use comes --

CHAIRMAN STRAIN: It's new.

MR. MULHERE: -- it's within 500 feet.

COMMISSIONER HOMIAK: It's a new use, right.

MR. MULHERE: -- for on-premises consumption.

COMMISSIONER HOMIAK: Plus you're asking for a change in the zoning here.

MR. MULHERE: Yeah. I think --

COMMISSIONER HOMIAK: I mean, this is supposedly supposed to have been a shopping center for the neighborhoods to -- for services, and now you want entertainment and recreation.

MR. MULHERE: Yeah.

COMMISSIONER HOMIAK: Because there's no other places in Collier County empty for commercial that this could go in.

MR. MULHERE: I think in the area, probably there's not. I mean, if you're concerned about the alcohol consumption on site as it relates to this in the county requirement --

COMMISSIONER HOMIAK: Well, what happens after this is is they move out.

MR. MULHERE: Then we look for another tenant. Not necessarily the same tenant, but any tenant that's interested in marketing in that location.

CHAIRMAN STRAIN: And the tenant that you'd have to put in there would have to then be a C3 unless they were of this use.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Right. Okay. If they were to serve alcohol here, they would need an alcohol and beverage license, wouldn't they?

MR. MULHERE: They'd need some sort of state approval, yes.

CHAIRMAN STRAIN: Right. And that's checked out through staff with an application?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: So we're then somewhat assured that the distances are looked at because that's part of our code?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Okay. Any other questions? Barry?

COMMISSIONER KLEIN: Not a question; a comment.

CHAIRMAN STRAIN: Yeah, go ahead.

COMMISSIONER KLEIN: I hate to admit how many years I am in the shopping business, so I'm not going to tell you, but it's been spanning over four decades.

I was there for about 45 minutes Tuesday. I met with Chris. I walked back and forth twice the shopping center. I observed the tenant mix. I think that they do a very good job managing the property. I looked at the game arcade in question. I thought it was quite benign.

There were probably no more than eight or nine people, you know, in there at the time. It was about 11 o'clock in the morning.

They have two restaurants there. They have good tenant mixes. They have tenants that have been there for a long time. And my -- my take on it all is that I don't think they would be doing anything to jeopardize the -- their shopping center by putting this use in. And, you know, I don't see any problems with it.

CHAIRMAN STRAIN: Okay. Anybody else?

Bob, could you put that aerial back on?

MR. MULHERE: Sure.

CHAIRMAN STRAIN: When you started your discussion -- and it wasn't an issue I read in the document. It's just something you said.

MR. MULHERE: Uh-oh.

CHAIRMAN STRAIN: The arcade's in kind of the center of the building you said, right?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: You said the traffic light is going to line up directly so that -- with the arcade.

MR. MULHERE: No, no, with the park.

CHAIRMAN STRAIN: That's what I wanted to make sure.

MR. MULHERE: With the park, yeah. I may have said that --

CHAIRMAN STRAIN: So the traffic light's going to go down to that intersection, which seems -- I wanted to make sure that that's where --

MR. MULHERE: Yeah, that's where the traffic -- the traffic issue is.

CHAIRMAN STRAIN: Okay. When they got the arcade there, did they come in for a business license?

MR. MULHERE: I'm not sure what exactly transpired. I know that there was -- the tenant felt that they could open up the business and then apply for the conditional use at their own risk, but that's really not the way it works.

CHAIRMAN STRAIN: That wasn't my question. A business license. When you come in and ask for a business license, they're supposed to check your zoning out.

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: Was that done at the time? And if so, and it was checked out, is this an after-the-fact

--

MR. MULHERE: It's after the fact.

CHAIRMAN STRAIN: I know it's after the fact on the part of the owner, but he may not have known because he may have gotten his business license legitimately when he went in and was asked for one.

MR. MULHERE: I don't know. I don't think that there was a business-license issue.

CHAIRMAN STRAIN: Nancy, do you know?

MS. GUNDLACH: My understanding is is that there have been building permits issued, inspections are -- are currently going on. There is no Certificate of Occupancy, and there is no zoning certificate that has been issued.

CHAIRMAN STRAIN: Okay. But let's go back to my question. Did they come in for a business license, Nancy? Do you know if they have a business license for an arcade at that location?

MR. MULHERE: The occupational license.

MS. GUNDLACH: Ray, could you answer that question? Thank you.

MR. BELLOWS: Yes. For the record, Ray Bellows, zoning manager. The occupational license would not be issued unless the zoning certificate was issued. Nancy just said the zoning certificate was not issued so, therefore, there was not an issuance of an occupational license.

CHAIRMAN STRAIN: So when someone comes in for an occupational license, they have to -- and I've done this -- you have to take the application to the various departments to get it signed off.

MR. BELLOWS: That's right.

CHAIRMAN STRAIN: This was an existing building already built, CO'ed, built since '85.

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: So someone then coming in for a business license for an arcade would have simply had to go to a planner in the backroom, get it signed off, take it back up, pay for the license, and receive the license. All I'm asking, did anybody check to see if that was done? Because if it was, the business owner's got a legitimate concern that he was more or less approved to be there and finding out after the fact that he now needs a conditional use may not be all his fault, and I'm just trying to verify that. That's all.

MR. BELLOWS: I don't think he has one if the zoning certificate wasn't issued. We would not have issued an occupational license without the zoning certificate.

MR. MULHERE: I agree with that. My understanding was that there was discussions, and somehow the business owner came away with the idea that he could begin to operate and apply for the conditional use and -- at his own risk and then, you know, if it wasn't approved, then he -- whatever he risked, he lost.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: But that's not the way that it works. The way that it works is that you get your approval up front, and this is definitely after the fact.

CHAIRMAN STRAIN: Do you know, Bob, if there had been any noise complaints about the facility?

MR. MULHERE: I know that there have not.

CHAIRMAN STRAIN: Okay. The issue on the dead hedges. I don't know what that has to do with the conditional use for zoning, but I notice it's an issue here. Has there been any -- is that something, I'm assuming, everybody's in agreement with?

MR. MULHERE: Yeah, yeah. We're working on landscaping -- improving the landscaping out there anyway, so --

CHAIRMAN STRAIN: Okay. That's the only questions I have. Then we'll hear from staff.

MS. GUNDLACH: Staff is recommending approval of this conditional-use petition, and it is subjected -- subject to two conditions of approval. The first one being the replacement of the dead hedge material and the second one being the hours of operation, and those hours are from nine a.m. in the morning until, past midnight, to one a.m. in the morning.

CHAIRMAN STRAIN: Okay. Anybody have any questions of staff?

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Nancy, do you have any concern -- since we're going to give this for the whole building, the whole building could essentially go to this use. And, you know, while we're showing pictures of old people, there are arcades that are not old people.

But would the parking kind of limit as to how much -- what is the parking requirement for this; do you know?

MS. GUNDLACH: The parking requirement for the shopping center is one parking space per 250 square feet of building area.

COMMISSIONER SCHIFFER: Okay.

MS. GUNDLACH: I think the other issue that's going to come into play here is how many people really want to come and play a casino game such as this. We've had some other locations throughout the county that have closed. So I think a lot of it has do with, you know, how much interest there is out there among the public to come and participate in an activity such as this.

COMMISSIONER SCHIFFER: Right. But the approval we're giving them is not just for casino games. It's for coin-operated entertainment, which is a bigger spectrum than casino games.

So, you know -- and one of the problems with getting old is you conflict with the younger version of you who used to have a game room.

But anyway, so you don't have any concerns or -- in other words, this thing could become 100 percent video games, arcade, correct? And it may not be as compatible with the neighborhood.

CHAIRMAN STRAIN: Why don't we just put a cap on the square footage. I'm sure --

MS. GUNDLACH: We could do that.

CHAIRMAN STRAIN: -- that the owner doesn't intend to make a 10,000 -- or 100,000-square-foot video-game place. So what square footage do you need, and let's just put a cap on it.

MR. MULHERE: Ten thousand, I think, would be -- we're not excepting even that. So this is, I think, 4,600 square feet, but that gives us flexibility. The total shopping center's fourteen- -- so what I'm saying is to put a cap as 10,000 square feet.

CHAIRMAN STRAIN: Yeah. Does that work, Brad?

COMMISSIONER SCHIFFER: Well, that's a nice-sized game room.

CHAIRMAN STRAIN: Well, I mean, I think Nancy's point about -- I don't know anybody that goes to -- even though I'm probably in that age group somewhat, I don't know anybody that goes to those -- when Sony comes back up, I'm sure no one's going to want to go to an arcade. Right now they're just waiting for the Sony PlayStation to come back online.

MS. GUNDLACH: Yeah. And I think it's sort of like, if you have children, they work out of their home computers now. It's kind of like what happened to Blockbuster; nobody goes to the store anymore because everything comes into our homes.

CHAIRMAN STRAIN: Ms. Homiak?

COMMISSIONER HOMIAK: Well, then why are we changing the zoning just to accommodate a code-enforcement violation for one person?

CHAIRMAN STRAIN: We're not. We're changing -- we're changing the conditional use on one location to accommodate an owner who wants to try it. And if he's got --

COMMISSIONER HOMIAK: Code-enforcement issues.

MR. MULHERE: There's a market out there --

CHAIRMAN STRAIN: How do you get around it? How do you fix it if you don't change it? What are they supposed to do?

COMMISSIONER HOMIAK: Move to a location that -- a C4 zoning so they can have it.

CHAIRMAN STRAIN: But if this is not --

COMMISSIONER HOMIAK: It's a tenant.

CHAIRMAN STRAIN: If this is acceptable -- well, anyway. There's a different --

MR. MULHERE: There is a market out there, and the market is primarily senior citizens, and it is a social activity for them. They probably don't have a lot of social activities. They seem to enjoy this. There is a market. It doesn't hurt anybody. There's no noise generation. There's sufficient parking. I mean, there's really no reason.

COMMISSIONER HOMIAK: But in the future it could be something else. I mean, they could move out next year if it's not that popular, and most places go out of business that do this type of thing, so --

MR. MULHERE: It could be anything else that's allowed in C3 or a coin-operated amusement still entirely located within the building and restricted as to the square footage.

CHAIRMAN STRAIN: Okay. Anybody else have any questions of staff or the applicant before we go to public speakers? Ms. Ahern?

COMMISSIONER AHERN: Bob, wasn't there some information in here saying that this is generating more traffic for the other businesses?

MR. MULHERE: Sure. I mean, obviously, the more foot traffic that you can get in the shopping center -- maybe they go down to the ice cream store or they go down to Nana Vetta's or whatever, you know, which is a restaurant in the shopping center. It's been there a long, long time.

You know, having traffic in a shopping center is really important, particularly traffic that gets out of their car, you know, and doesn't just go through a drive-through but actually walks around the shopping center and not just traffic that goes to one point of purchase, like a shopping -- like a grocery store.

So this is helpful. I mean -- and just having activity there -- having activity there reduces the likelihood of

crime, vandalism, unnecessary loitering, all those kinds of things. I also failed to mention my client has a leasing office and he's there, you know, all the time. His office -- he physically put his office in that location. So I think --

COMMISSIONER AHERN: Just seems like it --

MR. MULHERE: He's a very responsible -- I think a very responsible owner.

COMMISSIONER AHERN: Right. To be able to generate business, especially right now, is very important.

MR. MULHERE: Yeah. It's tough -- it's tough out there. You know, you have a client that's willing to pay the rent, and there's really no downside to this.

CHAIRMAN STRAIN: Okay. Well, Ray, do we have any registered public speakers?

MR. BELLOWS: Yes. We have one speaker. Richard Eskridge.

CHAIRMAN STRAIN: Sir, do you want to come up and use one of the microphones.

MR. ESKRIDGE: Over here?

CHAIRMAN STRAIN: Yes, sir.

MR. ESKRIDGE: Good morning. I'm Richard Eskridge, president of Hitching Post Mobile Home Park. I'm president of the Hitching Post Mobile Home Park, which is located directly, as you know -- as you've seen in your diagram here, behind the Hitching Post Shopping Center.

We have 363 units there with 360 occupied. Since the Shucarts took over the shopping center, the quality of the center has greatly increased and is much better than it was with the previous owners. The shopping center is also safer and more welcoming to the area residents.

The majority of the residents in the Hitching Post appreciate the renovations and the new tenants that are now in the shopping center, and we will continue to support the Shucarts and their tenants. That's all I have to say, and I thank you.

CHAIRMAN STRAIN: Thank you, sir. I appreciate it.

Is there -- anybody else wish to speak on this matter?

Bob, anything you want in final closing comment?

MR. MULHERE: No. We accept the conditions that the staff -- and I guess the condition on the square-footage limitation.

CHAIRMAN STRAIN: Okay. That will close the public hearing, and entertain a motion from the Planning Commission.

COMMISSIONER MURRAY: I'll make a motion.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I'd like to recommend approval of CU-PL2010-1949, Hitching Post Plaza, based on the recommendations of the staff, move to approve.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Seconded by Mr. Klein.

Discussion? I will be supporting the motion. It's one of the most benign uses I could see at this location.

With that, we'll call for the vote. All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Thank you all very much for attending today. I appreciate it.

\*\*\*And we will move on to our next item, old business. It's kind of like that piece of Scotch tape that can't

get shook off your finger.

Mac. Welcome back, Mac. We don't see enough of you.

MR. CASALANGUIDA: How does that feel, Mac?

CHAIRMAN STRAIN: This is old business, Watershed Management Plan update workshop. And I think we attempted to do this about a month ago. We realized it was going to be much lengthier and more intense than we had anticipated at that time. We continued it until late last month, and then we found out that we had a fertilizer piece of it that took up a whole day, and now we're coming back to the watershed plan before we go back to the fertilizer portion of it, which won't be till the end of this month.

So, Mac, it's all yours.

MR. HATCHER: Thank you, Mac Hatcher with Land Development Services. I'm here this morning with our consultants to resume the presentation that was, I guess, stopped on March the 17th.

We would like to get input from you-all today and answer questions. We'll come back for recommendations.

The consultants are going to present in a slightly different presentation than you-all were provided. It's been updated slightly since the 17th. And they've got eight sections to go through and would like to, you know, get questions and resolve each section before they move on to the next.

And with that, I'll turn it over to Moris Cabezas with Atkins.

MR. CABEZAS: Good morning. My name is Moris Cabezas. I'm with Atkins Global, former PBS&J.

Last time we went through the description of the proposed capital projects and our ranking procedure. I don't think it's necessary to go through that now. And what I will do is start on our recommendations regarding the regulatory review.

And I'm going to start by just indicating -- or showing something that I'm sure all of you are aware of, and that is the impacts of new development.

I will not go into any detail on this, but as you well know, new development increases the volume of stormwater runoff, and in the case of Collier County, there is a big increase in base flow which is nothing but groundwater contributions to the surface water system because of the construction of the canals.

You well know that the county is likely to grow significantly over the next years. There is a slowdown at this time, but things will get better, and there will be significant new development, significant construction of new infrastructure.

And in our analysis of existing conditions, you know, we have found that -- or it's been related that pollutant loads are significant. Large portions of the county do not have any stormwater treatment facilities, and there are several water bodies in the county that are impaired for various parameters, particularly nutrients and dissolved oxygen.

Also we have done an assessment of the canal capacity, and the -- there is limited conveyance capacity in the new canals.

So it's unlikely that the system will be able to support any new additional either pollution loads or volume of stormwater runoff because of increased impervious areas.

So what we are trying to recommend here or -- we are recommending, but our goal is to develop a countywide sustainable stormwater management program. And you see there some of the objectives of this program. Now, when I say countywide, I refer to an integrated system or an integrated program of stormwater management for the county as opposed to -- or maybe we should -- or considering that the Growth Management Plan and the Land Development Code stipulates that an individual Watershed Management Plan should be developed throughout the county, we have found -- and, you know, I think it's well known that the system is totally integrated.

The division of watersheds is generally arbitrary. Land -- water goes from watershed to watershed. In the larger storms, water is pumped from watershed to watershed in order to mitigate the impacts of deficit or surplus of water. So what we need is an integrated plan that considers the entire county.

So we have come up with eight initiatives that we call or -- as we call them, and I will go through each one of these, or at least those that we have not presented to you before, and I would appreciate your input on each one of these independently.

So let's start with the first one, which is -- relates to water quality and low-impact development.

The main issue with implementing any type of water-quality treatment beyond that stipulated by the state is how to provide water-quality credits for new development, which is not feasible in the current stormwater regulations.

It would be under the new proposed regulations, but as you well know, it's unlikely that those new stormwater rules would be approved any time soon.

So in order to protect or provide further protection for the water bodies in the county, there is in the Growth Management Plan the requirement to meet 150 percent of the state requirements of the environmental resource permit requirements which in Collier County mostly means making the detention ponds bigger.

Now, as you can see in the graph there, there's a problem with making the ponds bigger because after a certain detention time, the curve flattens out. And it doesn't matter how big you make it; it doesn't make any difference.

In addition to that, you know --

CHAIRMAN STRAIN: Could you -- and I don't mean -- I'm sorry to interrupt you.

MR. CABEZAS: No, no, go ahead.

CHAIRMAN STRAIN: But I'm not sure how far to let you go before I get lost in what you're trying to say.

MR. CABEZAS: Okay.

COMMISSIONER MIDNEY: I'm lost.

CHAIRMAN STRAIN: Okay. Well, then I'm going to --

MR. CABEZAS: Okay. Please interrupt.

CHAIRMAN STRAIN: I'll just have to step in periodically and suggest you clarify.

Your chart makes a lot of sense to you, but I can't see on that chart where it says if it's a bigger water body it loses more water quality. So can you explain the connection between size of a water body over time, why it loses the ability to quali- -- to give you better water quality.

MR. CABEZAS: I'm sorry. It doesn't -- it doesn't lose. The efficiency doesn't improve if you -- if you design a system by current standards, you may be removing 40 percent of the phosphorus. If you make it twice as large, you may be removing 45 percent of the phosphorus. So you may increase the size of the detention facility by 100 percent; you get only a 5 percent increase in the efficiency.

CHAIRMAN STRAIN: Okay. So the size of the pond then may not be a good element to remove phosphorus beyond the 40 or 45 percent that you can do no matter what you do?

MR. CABEZAS: Exactly.

CHAIRMAN STRAIN: Okay. So we need to look for an alternative, then, for the removal of phosphorus --

MR. CABEZAS: Right.

CHAIRMAN STRAIN: -- but in the meantime a larger water body does give you the increase in volume that you can get at least 45 percent of the phosphorus out of, correct?

MR. CABEZAS: It gives you a little bit more storage.

CHAIRMAN STRAIN: Well, no. Say you have a one-acre water body and you move to a two-acre water body, you can use more -- you can use that larger water body for more runoff storage, and that storage still, though, only --

MR. CABEZAS: I'm sorry. That's not the case --

CHAIRMAN STRAIN: Well, that's what I'm trying to understand.

MR. CABEZAS: -- because -- yeah. The treatment in the detention ponds occurs primarily in what's called the permanent pool. So in the permanent pool, you have the water there at the same elevation as the groundwater, so you don't have any additional storage. What you do is you simply increase the detention time.

CHAIRMAN STRAIN: Okay. So you're saying if you put a road system in and some impervious areas in your property, house pads or whatever, and the calculation of those requires a water body of one acre, and then you turn around and you want to double the number of homes and roads you put in, the one-acre water body is all you still need?

MR. CABEZAS: No, no.

CHAIRMAN STRAIN: Okay. Well, that's what I'm --

MR. CABEZAS: That's not what I mean.

CHAIRMAN STRAIN: Well, I think that's why we're not communicating. I think you still -- you still need a larger water body.

MR. CABEZAS: Right, right.

CHAIRMAN STRAIN: The storage capability's required by the code, but the larger water body, from what

you're saying, does not give you any more cleansing of the phosphorus.

MR. CABEZAS: No. Let me -- let me follow up on your example. If you have a -- an area that requires a one-acre pond for treatment and it's designed per the RPs, you know, per the state requirements.

CHAIRMAN STRAIN: Right.

MR. CABEZAS: That's one acre. The county has this requirement that says, don't make it one acre. Make it an acre and a half.

CHAIRMAN STRAIN: Right, 150 percent.

MR. CABEZAS: A hundred and fifty percent.

CHAIRMAN STRAIN: I understand.

MR. CABEZAS: What I am saying is, for that same storage needed for that area, you make it 150 percent larger, you're not getting any better treatment.

CHAIRMAN STRAIN: Right. That's what I wanted.

MR. CABEZAS: So --

CHAIRMAN STRAIN: But the requirement to make it larger isn't dictated by the need for the treatment. It's dictated for the capacity needed to -- based on a calculation of the impervious area.

MR. CABEZAS: Yes, yes.

CHAIRMAN STRAIN: That's all I'm trying to say. So even if we don't want to treat phosphorus, we've still got to have the water body go to whatever size our code requires.

MR. CABEZAS: Right.

CHAIRMAN STRAIN: We just aren't getting the bang for the buck for the phosphorus issue.

MR. CABEZAS: For the phosphorus or for the nitrogen.

CHAIRMAN STRAIN: Right.

MR. CABEZAS: For nutrients.

CHAIRMAN STRAIN: And so that's why we have to address those through another set of rules that affect those better than the water body does.

MR. CABEZAS: Absolutely.

CHAIRMAN STRAIN: Okay. That's it. Thank you. That helps. I hope that -- Paul?

COMMISSIONER MIDNEY: Well, just to expand on that a little bit. What are we trying to cleanse from the water besides phosphorus and nitrogen?

MR. CABEZAS: Well, the main contributors to pollution are nitrogen and phosphorus. Now, other pollutants are heavy metals or even total suspended solids. You are making -- these ponds are very effective for removing total suspended solids. But, unfortunately, the impairments in water bodies in Florida are mostly related to nitrogen and phosphorus.

COMMISSIONER MIDNEY: So most of this excess nitrogen and phosphorus just accumulates at the bottom of the ponds?

MR. CABEZAS: Well, the nitrogen and phosphorus come from the runoff, from the fertilizers, from all of that, and, yeah, they are removed by several chemical processes in these ponds, but only up to 45 percent in terms of phosphorus or 60 percent in terms of nitrogen; whereas, state water policy requires that at least 80 percent removal be achieved for all water bodies.

COMMISSIONER MIDNEY: Isn't there action, like, of the sun and the aeration and the bacteria to remove some of this stuff, too, when it's in an open pond?

MR. CABEZAS: Well, there are numerous processes within these ponds that are present in order to remove the pollutants. It's sedimentation. It's chemical activity. It's biological activity.

CHAIRMAN STRAIN: Thank you.

MR. CABEZAS: Okay.

CHAIRMAN STRAIN: Bob?

COMMISSIONER MURRAY: I hate to do this, but you started out and you went really fast, in my point of view. I've made a couple of notes.

The first slide, please. There.

Taking a look at -- from my perspective, on the right it says "base flow" and there's an arrow, and the arrow is perceived, by me, to be coming from the top, whereas on the left side the base flow is on the bottom. I don't think the



base flow is changed. Is the arrow in the wrong position?

MR. CABEZAS: Yeah. You caught my massaging of this figure, which comes from a book.

COMMISSIONER MURRAY: I wasn't trying to catch anything. I was trying to be sure I understood it. So that base flow -- and you made a comment that the surface runoff is going to be greater. That makes sense.

MR. CABEZAS: Right.

COMMISSIONER MURRAY: All right. You also said the term "likely" -- you used the term "likely," and I question how -- you know, what is likely? Is that 2 percent more, 100 percent more, 200 percent more?

MR. CABEZAS: Likely, excuse me.

COMMISSIONER MURRAY: Well, it's the context -- see, the problem is, you're going very rapidly, and while I have no problem following it in general, it kills the opportunity to really get to the questions that we need to.

MR. CABEZAS: Yeah, I appreciate that.

COMMISSIONER MURRAY: Let me pass on that one. You said there's an integrated -- you want to have an integrated plan for the canal system.

MR. CABEZAS: Right.

COMMISSIONER MURRAY: For what period are you projecting, for what period in time?

MR. CABEZAS: Well, it's -- it's an integrated approach to management of the stormwater, not only the canal system.

COMMISSIONER MURRAY: I understand. That's fine. For what period? For what year have you picked?

MR. CABEZAS: It is from now on.

COMMISSIONER MURRAY: 2712?

MR. CABEZAS: You know, the point here is that we cannot keep on doing things the way that we've been doing so far in terms of managing of stormwater.

COMMISSIONER MURRAY: I appreciate that.

MR. CABEZAS: So from here on we are recommending these initiatives that we think you should put in place.

COMMISSIONER MURRAY: This initiative -- I don't want to argue with you, but this initiative has a certain cash value, in other words, the cost to do it, and that cost has to be -- has to be substantiated by a product, the product being the system, and that system has to have a useful life. What is the estimated useful life you're planning for that system?

MR. CABEZAS: These are -- these are regulatory recommendations, what we're going to go through. So you -- the useful life doesn't -- the useful-life concept, I don't think, applies.

COMMISSIONER MURRAY: Well, I'm trying to understand the integrated -- the integrated plan. I'm trying to understand where you're really going -- all right. That's fine.

MR. CABEZAS: If you bear with me --

COMMISSIONER MURRAY: I'm trying -- water-quality credits; is that money?

MR. CABEZAS: No. That is -- according to the current stormwater rules and in general, developers have to treat the one inch of runoff over the drainage area.

Now, if somebody was to do something extra in the watershed like using -- and I'll go through this in more detail -- low impact development techniques, you know, pervious pavement, rain guard, whatever it may be. If people -- if developers want to implement that, they would expect to receive some credit so as to -- not to have to treat the one inch of runoff over the drainage area but perhaps a little bit less --

COMMISSIONER MURRAY: No, I understand.

MR. CABEZAS: -- and have the ability to make their designs consistent with whatever -- whatever their goal is.

COMMISSIONER MURRAY: So this is a means --

MR. CABEZAS: That's not possible with the current regulations.

COMMISSIONER MURRAY: This is a means of motivation is what you're indicating?

MR. CABEZAS: Right, exactly.

COMMISSIONER MURRAY: All right. Thank you very much. Those are my questions for the moment.

MR. CABEZAS: Okay. I appreciate your input. Just interrupt me any time, because there's a lot --

COMMISSIONER MURRAY: I don't want to do that.

MR. CABEZAS: Okay. So let's discuss the first initiative, which is the management of water quality and the implementation of low-impact development -- of low-impact development program.

We went through this. And you are probably familiar with low-impact development. It's a concept that's been around for quite some time now, but it hasn't caught on yet and, you know -- nationwide. But, you know, we are making substantial progress or municipalities are making substantial progress towards adopting these approaches.

And here we have listed some of the benefits and basis of design for low-impact development techniques.

And you're probably familiar with all of this. You know, there are some educational programs related to low-impact development, but it's based on applying these techniques on site such that you can reduce the volume of runoff that goes out to the water bodies, to the receiving water bodies, and also treats the runoff on site in order to reduce your pollutant loads.

So, like I said before, you have this requirement of the 150 percent, which is not working for you. So the recommendation is to require treatment by LID of that 50 percent of the ERP requirement.

So what we're saying is, we should provide the regulatory framework to allow retention of the pollutant load associated with that additional treated runoff volume. We understand that that means changing the way development is done in a way.

So we think that can be done by -- that can be motivated by creating incentives of various types, particularly incentives by modifying the Land Development Code.

CHAIRMAN STRAIN: Before you leave that --

MR. CABEZAS: Yes.

CHAIRMAN STRAIN: -- slide, could you go back to it, because that's actually where I think you're looking for response to recommendations. And I think in the beginning you said as you go through each one of these you want our input on each one.

MR. CABEZAS: Yes.

CHAIRMAN STRAIN: If these are your recommendations and you want our input, I think the first one -- I need to know on -- I need to understand what it means when you said it -- modify development. Does that mean -- because if you take the 50 percent of the 150 currently under the ERP --

MR. CABEZAS: Right.

CHAIRMAN STRAIN: -- and you drop the -- drop it back to one, so we're doing on water bodies at 100 percent instead of 150 percent, and then for that 50 percent we're looking at an alternative to the removal of phosphorus and nitrogen, what are those alternatives proposed to be so we know what kind of costs we're looking at for the typical homeowner who has to live in this county and, likewise, what the county's costs would be for facilities that they would have to -- I mean, that's where this whole thing in today's world's going to boil down to.

If you're producing a plan with recommendations that are going to increase our taxes and increase properties -- a property owner's costs without offsetting it by something, maybe incentives for impact fees or permit fees or whatever, we've got issues, because we don't have money anymore, and these things have got to be thought out.

So before a recommendation, I would think, could come from any political body or board, we're going to want to know those answers. That's kind of where I'm going for this.

So what is that 50 percent? How do you meet the 50 percent?

MR. CABEZAS: Okay. This applies to new development.

CHAIRMAN STRAIN: I understand.

MR. CABEZAS: Okay. So it would not apply, at least in terms of this requirement, to existing developments. What we're saying is, from now on change your requirement for new development such that instead of treating that additional -- and I'm going back to the half an inch of runoff. Instead of making the pond 50 percent larger, apply those low-impact development techniques on site, you know, at the parking facilities constructing swales instead of -- for local roads instead of curb and gutter, install rain gardens to individual properties, minimize your directly connected impervious area, whatever you need to do in order to eliminate the pollutant load associated with that half an inch of runoff before it gets to the pond.

CHAIRMAN STRAIN: Okay.

MR. CABEZAS: That's the idea.

CHAIRMAN STRAIN: Okay. Understand. So we produce a list of land development regulations that

provide options for less impervious area basically?

MR. CABEZAS: You would require that the developer, the designer, comes up with a design that will incorporate all these -- all these techniques --

CHAIRMAN STRAIN: Okay.

MR. CABEZAS: -- instead of the traditional -- instead of the traditional design.

Now, if that is done, you will also provide them to some -- with some incentives, which I will go through that in a minute.

CHAIRMAN STRAIN: Okay, thank you.

Ms. Caron?

COMMISSIONER CARON: How long have we had the 150 percent requirement in place in this county?

MR. CABEZAS: Since 2007, I believe.

COMMISSIONER CARON: In effect?

MR. CABEZAS: It's in your --

COMMISSIONER CARON: Since 2007? \*

MR. CABEZAS: Right.

CHAIRMAN STRAIN: But see the --

MR. CABEZAS: I can give you the exact -- it's in your Growth Management Plan, the Coastal --

COMMISSIONER CARON: Right.

MR. CABEZAS: Yeah, Conservation Coastal Element.

CHAIRMAN STRAIN: But many of your projects, the 150 percent is almost irrelevant because you need the fill from the lake, and so the bigger lakes you dig, the more fill you get, the less your costs are. So your intention is to dig a big lake. So the 150 percent really never hurt the development industry. And it did maybe in your real tight high-density communities with narrow lakes, but for most of us, we would go out and dig larger lakes just to get the fill to save the project overall development costs --

MR. CABEZAS: I understand.

CHAIRMAN STRAIN: So, I mean, there wasn't a downside to the 150 percent when it was instituted. I think that's probably why it came into play so easy.

MR. CABEZAS: Yeah, except that you were not meeting your --

CHAIRMAN STRAIN: Phosphorus and nitrogen.

MR. CABEZAS: -- intent --

CHAIRMAN STRAIN: Yes.

MR. CABEZAS: -- of, you know, providing better treatment. Nobody opposed it.

COMMISSIONER CARON: You are giving us -- you want to take the 50 percent that you say is not working. How do we know that the LID requirements are going to meet that?

MR. CABEZAS: Because --

COMMISSIONER CARON: And how many do you have to do in any given project in order to make it work?

MR. CABEZAS: You would have to do it enough to take care of the pollutant load associated with that half an inch of runoff. You know, you can -- you can calculate the pollutant load with, you know, any area by multiplying your volume, your expected additional volume, times what's called an event mean concentration. That's the concentration of pollutants in the runoff.

I know it's confusing, but --

COMMISSIONER CARON: No, it's not --

COMMISSIONER MURRAY: It's not confusing.

CHAIRMAN STRAIN: Mr. Murray?

MR. CABEZAS: I can explain it better.

COMMISSIONER MIDNEY: It's good.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I don't find it's confusing, but I see an awful lot of make work.

You said you were an advocate of getting rid of curbs and putting in swales. Did I hear you correctly?

MR. CABEZAS: It is an option. It is an option open --

COMMISSIONER MURRAY: But it's one you offered.

MR. CABEZAS: -- to developers.

COMMISSIONER MURRAY: It's one you offered? One you recommended? It says recommendation. That's what you're talking about.

MR. CABEZAS: The recommendation is the goal to eliminate the pollutant load 150 percent --

COMMISSIONER MURRAY: And no matter how you achieve it.

MR. CABEZAS: No matter -- I don't think we should tell the engineers and designers what to do. We can provide some guidance, but I don't think it -- I think it's up to them to achieve that goal.

COMMISSIONER MURRAY: That's good. Okay. I appreciate that. My ears perked up when I heard the swales, because that's been a problem, I'm sure, in every county where they -- people fill in the swales or there's a natural condition where they're filled in, and that's probably -- I'm just wondering why you would advocate that over the idea of curbing storm sewers and a collection point. Why -- because it's less -- there's pervious soil; is that right?

MR. CABEZAS: It's pervious. We actually recently completed a study in Sarasota and measured the pollution load from areas with swales versus areas with curb and gutter, and the difference is very significant.

COMMISSIONER MURRAY: Well, I have a question then. If you -- let's just take -- let me finish.

MR. CABEZAS: Yeah, yeah, sure.

COMMISSIONER MURRAY: You have a situation -- I'm going to give you a situation. You have curb and you have storm and you have this 100 percent or 150 percent lake, right, this whatever, and you have all that water that's being directed into the storm surge and out into that lake, so you have a nitrogen and phosphorus load in that lake.

Now, let's take the opposite and say you had swales. Wouldn't you also have a nitrogen and phosphorus load in the swales?

MR. CABEZAS: Actually, the swales capture some of that -- some of that load.

COMMISSIONER MURRAY: They have to capture some of it. They, perhaps, capture a great deal of it.

MR. CABEZAS: They infiltrate the volume.

COMMISSIONER MURRAY: What I'm trying to understand is what happens to that nitrogen and phosphorus in the swales. Does it not remain in the swale?

COMMISSIONER MIDNEY: It's probably taken up by the grass.

MR. CABEZAS: Well, it is incorporated to the bottom of that swale, and then it's --

COMMISSIONER MURRAY: It's captured by this --

MR. CABEZAS: -- taken up -- yeah, it's taken up --

COMMISSIONER MURRAY: By the soil.

MR. CABEZAS: -- the vegetation and the soil.

COMMISSIONER MURRAY: Right. So now what -- you've captured that in there. Now, what do we do with that? Do we just not worry about that?

MR. CABEZAS: You don't need to do anything. It's -- you know, it becomes part of the soil.

COMMISSIONER MURRAY: Okay. So you're saying --

MR. CABEZAS: It's captured.

COMMISSIONER MURRAY: You're saying it's all right -- so in a lake if it becomes part of the sediment it's all right?

MR. CABEZAS: That's what those systems are designed for, to capture --

COMMISSIONER MURRAY: But I think it's important -- I don't know that everybody on this board -- and certainly I don't know anybody in the public necessarily that understands the rudiments of this dynamic. This is a dynamic.

MR. CABEZAS: Right.

COMMISSIONER MURRAY: And it's a very significant dynamic, and I think it's important that we get a more clear picture of what it is before we ever try to make a judgment about its appropriateness. And I just -- for me, I don't want to appear argumentative, but I'm frustrated by the fact that you're offering things that I can see have some offshoots that I'm not inclined to appreciate. So, okay, I'll listen and try to appreciate.

MR. CABEZAS: Well, you know, those are just general approaches that could be taken. I know that swales have a downside, particularly where -- when they're not designed correctly, you know, when they become roadside

ditches as opposed to shallow swales.

So, yes, there's a problem with that, but it's an option. There are areas, you know, where your swales are shallow, the homeowner maintains them, and, you know --

COMMISSIONER MURRAY: The problem is, the homeowners don't maintain them.

MR. CABEZAS: Yes. There's a downside for those as well, but, you know --

COMMISSIONER MURRAY: Okay, sir.

CHAIRMAN STRAIN: Okay. Before we go on, I hate for another interruption, but we've got a huge amount of people in the audience who may want to speak out on this, so what I'd like to do is, as Nicole has a question or so, let her participate too, simply by raising her hand.

And then, Nicole, if you've got something, come on up and say it, because your input is always welcome.

Your sidekick back there's not going to say anything today? Notice she's sitting away from you. I don't know if that's because you changed your last name or what.

MS. JOHNSON: That's right. She may jump up on another issue, but I will take this one. And I appreciate your accommodating our input as it comes up.

For the record, Nicole Ryan -- Nicole Johnson here on behalf of the Conservancy of Southwest Florida. It's going to take some time with that.

There are going to be two memos that I'm going to reference, the PBS&J memorandum on this topic and also a state Water Management District memo, the Brown memo. So I'm going to hand that out not for you to read as I'm commenting, but just so that you have assurance of what it is that I am referencing. So I'll go ahead and hand that out.

CHAIRMAN STRAIN: Make sure our court reporter has one too, okay. Thank you.

MS. JOHNSON: From the Conservancy's perspective, one of the really important statements in the PBS&J memo is the fact that the county wants to go above and beyond state water-quality standards and do a better job than the state, and that's something that the Conservancy has advocated for and we very much agree with, but I think if we're taking that perspective, we really have to understand from the beginning what the state water-quality standards are.

In the PBS&J memo on Page 3 it discuss the fact that the district standard is 100 percent treatment except if you're discharging to an Outstanding Florida Waters, and in that case it's 150 percent. And that is based on what is called the Terry Bates memo. It's technical guidance from 2004 that the district used to acknowledge that 100 percent treatment doesn't really mean it treats 100 percent, so it was bumped up to 150 for OFWs.

But the county's memo doesn't take into account subsequent state guidance, which is the Brown memo, which is what I just distributed to you. That was released in 2009. That is the most up-to-date state-guidance document, and it expands upon the Terry Bates memo.

And I want to point out a few things from the Brown memo, because this is really what the state Water Management District, what the South Florida Water Management District uses when it's looking at development projects, ERP applications for our area. And in the Brown memo it says that applications -- or projects that will discharge either directly or connect downstream to water bodies that do not meet state water-quality standards are going to have a higher degree of water-quality treatment.

This goes beyond OFWs. It includes impaired waters and other water bodies that do not meet state water-quality standards.

And you've seen in presentations before about all of the watersheds in Collier County that are impaired for different causative pollutants. It's just about everything. We have a lot of OFWs in Collier County. So I would hazard a guess that a lot of projects in Collier County would fall under this Brown memo guidance.

And what the Brown memo states on Page 3 is that historically the standard approach taken by applicants to provide such reasonable assurances for discharges to OFWs has been provided by an additional 50 percent water-quality treatment. In light of the anti-degradation requirements for OFWs and impaired waters, applicants are encouraged to incorporate additional source controls, best management practices, and other protective measures in order to assist in providing reasonable assurances that the proposed activity will not contribute to an existing violation of water-quality standards.

So what the district is saying is you do 150 percent, and then on top of that, you use best management practices, low-impact development standards such as what Moris has been discussing today. And then the memo goes on to state some of these BMPs and LIDs.

So the state standard for all of these water bodies is 150 percent plus LIDs, and that is really where we need to start our conversation, and that's why the Conservancy is so concerned about the recommendation for the county to go back to 100 percent and assume that LIDs are going to get us an additional 50 percent of the water-quality treatment.

That is what is being suggested in the PBS&J memo. And I think that in looking at this idea of 100 percent treatment, 150 percent treatment, I noticed in the graph that Moris showed that dealt with nitrogen. And, yes, you do plateau at a certain point. You don't get 100 percent treatment from that.

But if you look on Page 4 of the memo, the top graph looks at total phosphorus, and where on that graph 100 percent, 150 percent, the one versus one-and-a-half inches of treatment falls I'm not sure, but it does show, you do get some additional benefit through that additional 50 percent, and that additional benefit is quantifiable, which is what is so important to the Water Management District. It's an additional treatment component that can be quantified.

The concern with low-impact development -- and the Conservancy supports LIDs -- pervious pavement. We've been up here grousing about that many times. We like these ideas, but the problem is that oftentimes they're not quantified. We don't really know how much additional benefit you get from these LIDs, which is why in the Brown memo the district says that that is kind of the cherry on top of the ice cream sundae; it's the gravy. But it should not be part of the meat of it, because we just don't know how efficient and effective it's going to be.

Both the Sarasota and the DEP draft stormwater regulations BMPs were recommended as being further investigated for Collier County's LIDs. And I think it's a great starting point. But in looking at what the DEP has for their BMPs, they acknowledge that a lot of these things really haven't been truly tested.

One of the BMPs is underdrained filtration system design, and it says it's an interim BMP since no data currently is available on the nutrient-removal effectiveness of this BMP.

So if the state, if the district hasn't figured out how you quantify this, I really don't believe that having an engineer come in with a menu of LIDs on a case-by-case project basis, the county is going to be able to truly quantify how effective that's going to be.

COMMISSIONER MURRAY: Oh, yeah.

MS. JOHNSON: So the Conservancy's recommendation is, we really need to start with what the state has, 150 percent plus LIDs for those impaired waters, water bodies that don't meet state water-quality standards, OFWs, and go from there.

Right now in Collier County we do have the 150 percent requirement. And I agree with you, Commissioner Strain, I think that that got through because you don't have to make bigger ponds sizewise to get 150 percent treatment. You dig it deeper but you're going to dig it deeper because you need the fill, so you stage the weir a little bit higher, you get that inch-and-a-half treatment.

We know that we still need more than that, so let's start looking at some LIDs, BMPs that we research, study, quantify, and at some point in the future, if we have been able to quantify those efficiencies, then we can take a look at rolling things back.

But the Conservancy isn't comfortable with lowering that 150 percent. It hasn't been a problem in Collier County. And we see no need to roll that back. Let's put some incentives in there so we get those LIDs and we can start measuring them and testing them, but start off and keep the 150 percent.

CHAIRMAN STRAIN: Thank you. I have one question. The Brown memo, does it -- it addresses phosphorus and nitrogen loading?

MS. JOHNSON: Yes.

CHAIRMAN STRAIN: Okay. And that was issued by --

MS. JOHNSON: And suspended solids. I mean, that's one of the things that really shakes out.

CHAIRMAN STRAIN: But that's a memo with -- from South Florida Water Management District?

MS. JOHNSON: Yes.

CHAIRMAN STRAIN: Okay. Why then are they not abiding by their memo when they issue surface-water permits?

MS. JOHNSON: That one I don't know.

CHAIRMAN STRAIN: Well, but I mean --

MS. JOHNSON: I don't review their surface-water permits, so I don't know if they are or not.

CHAIRMAN STRAIN: But we rely on them for review of all the surface-water permits. And if they've

already got a memo that requires what you're asking for, why are they still issuing permits? I mean, that doesn't make any sense. Otherwise, why do they waste their time writing a memo for? Well, I mean, it's government.

MS. JOHNSON: Well, this is how they review applications when it comes in, so this is --

CHAIRMAN STRAIN: But they're not reviewing them that way if they're not meeting the standards, from what you're telling us here.

MS. JOHNSON: Well, they -- the projects are meeting the standards of what 100 or 150 percent is.

CHAIRMAN STRAIN: But if the memo says the LIDs need to be in place as well and they're not reviewing for the LIDs --

MS. JOHNSON: They're encouraging the LIDs. They're not requiring. They're encouraging LIDs as additional gravy on top.

CHAIRMAN STRAIN: Okay. Now, if we rely on them to review surface-water permits and we put in our regulations "LIDs," but because we don't review the surface water and thus the calculations and how what is provided is going to have an impact, they're not doing it because it's only encouraged, not required. How do we know any of it's getting accomplished? No agen- -- we've got one agency requiring something that the other agency won't review.

MS. JOHNSON: I don't believe that they won't review that. I think that that is a good question to look at when Collier County is trying to do more in additional things, how that is going to mesh with the district. But the district has, in many cases, taken a look and reviewed permits for these additional LIDs. I don't know if there have been any in Collier County. But certainly in our discussions with district staff, they have taken a look and given credits for certain LIDs to have those monitored to figure out what the efficiency rates are.

CHAIRMAN STRAIN: Okay.

MS. JOHNSON: But that wasn't in --

CHAIRMAN STRAIN: What kind of credit did they issue, Nicole?

MS. JOHNSON: I'm not sure.

CHAIRMAN STRAIN: I mean, credit for what? They don't charge impact fees.

MS. JOHNSON: No, I'm not sure. That was the term that the district staff used, that some credits would be issued.

CHAIRMAN STRAIN: Okay. And if they submitted something that is -- meets the 150 percent but didn't have any LID applications in it, they could not turn it down. They'd --

MS. JOHNSON: Correct.

CHAIRMAN STRAIN: -- still have to be --

MS. JOHNSON: Correct.

CHAIRMAN STRAIN: Okay.

MS. JOHNSON: So what we're looking at is going above and beyond what the state standards are. That's what the county's memo says they want to do. So if that's what we want to do, then --

CHAIRMAN STRAIN: Okay.

MS. JOHNSON: -- let's start doing that.

CHAIRMAN STRAIN: Thank you.

MS. JOHNSON: Thanks.

CHAIRMAN STRAIN: Okay. Sir? We got off on a nice tangent, didn't we?

MR. CABEZAS: What we are saying is simply your additional 50 percent on top of what state requirement is should be accomplished by LID.

CHAIRMAN STRAIN: But the suggestion is, leave it at 150 percent for the volume calculation and sizes, but do the LIDs on top of that. And if the 150 percent is already going to be met anyway, we aren't really -- we may not be gaining anything by taking it away and then putting LIDs in that will give an equivalent to what we originally had.

MR. CABEZAS: We're simply going -- our recommendations is simply to say, do 50 percent extra above whatever the state will require.

CHAIRMAN STRAIN: Okay. State's not requiring anything in regards to LID, though.

MR. CABEZAS: No, no. I mean, in -- above whatever the state requires the volume of runoff treatment should be.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: But we're already at -- going to be required to be at 150 percent, because most of our waterways are either OFW or already impaired. So they're requiring 150 percent to begin with, the state is.

So why wouldn't we add, on top of that, the LID requirements and try to get even better? I mean, our goal is to be better than the state and better than average.

MR. CABEZIS: That's exactly the goal. We're just saying, whatever the state requires you to do, put an extra 50 percent in LID.

COMMISSIONER CARON: Okay. So you're not saying, necessarily, get rid of 150 percent that were already in there?

MR. CABEZAS: Yeah.

COMMISSIONER CARON: All right. Well, that's not where you started out this morning.

MR. CABEZAS: If it's 100 percent, do whatever the state requires. Now, who knows where the impairment analysis is going to go? Some of them will stay and some of them may go away, you know. Some of the requirements may go back to 100 percent; some of them may not.

CHAIRMAN STRAIN: But there is no ERP requirements for LIDs, right?

MR. CABEZAS: They won't give you any credit, no.

CHAIRMAN STRAIN: Okay. Then where it says requirement and treatment by LID of 50 percent of ERP requirement, there isn't any in here.

MR. CABEZAS: That's what you will do. That's what the county will require, treatment of that 50 percent by LID. That's what we're asking you to give us your input for, a recommendation to say 50 percent of that will be treated by LID.

CHAIRMAN STRAIN: So if we leave 150 percent in for the state standard and then do 50 percent on top of that, we're looking at 200 percent, 150 percent of which could be made up by volumetric issues involving lakes and the other 50 percent by LID procedures. Gotcha, thank you.

COMMISSIONER MIDNEY: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER MIDNEY: Yeah. I have a question. There's a lot of terminology that I'm not that familiar with, and I don't understand the regulations. There's one term "Outstanding Florida Waters," and then you have "impaired waterways." So you have the Outstanding Waters which are supposedly more or less pristine and pure, and then you have the impaired waterways that are polluted. Is there anything in the middle, and what are the different requirements for these three different categories?

MR. CABEZAS: The Outstanding Florida Waters program was instituted in -- back in the '80s, and there's a list developed by the state of which waters have been declared an Outstanding Florida Waters. For those particular water bodies, two things apply. First, the anti-degradation rule which is, no further degradation is allowed from additional discharges, and also there is this requirement of whatever treatment -- ERP treatment requirements are, you multiply that times 1.5.

Those are -- now the majority of the waters in the state, those which are not on the list, are, you know, your regular water bodies, not Outstanding Florida Waters. Those waters have been analyzed by the state as part of the TMDL program for compliance with the state water-quality standards, and many have failed.

Those water bodies that failed the TMDL test have been put on a list that is called a 303(d) list, and they have been declared impaired.

COMMISSIONER MIDNEY: So you have three categories: Outstanding, impaired, and the ones that are not impaired. Are there any regulatory differences on those three different types of water bodies?

MR. CABEZAS: Yes. In that -- I think I mentioned that in terms of the environmental resource permitting, the difference between OFWs and not OFWs, and it's this additional 50 percent.

The state -- I'm sorry.

COMMISSIONER MIDNEY: So it's stricter for the Outstanding Florida Waters than for any other category?

MR. CABEZAS: Well, let me --

COMMISSIONER MIDNEY: I'm sorry.

MR. CABEZAS: That's fine. It is a little complicated.

The rule also indicates that water bodies -- and remember, this was created before the TMDL program. The rule also indicates that water bodies that do not meet standards should be subject to the anti-degradation rule. So the



state is taking that to say, okay, if they are subject to the anti-degradation rule, those water bodies, when talking about ERPs, should also meet the 150 percent.

COMMISSIONER MIDNEY: So that includes most water bodies?

MR. CABEZAS: Those water bodies that may be declared impaired, you know. In Collier County the program is going on. We still don't know, you know, for which -- which of these will be declared actually impaired and will have TMDLs developed for it.

COMMISSIONER MIDNEY: Thank you.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: Coming into the county -- water coming into the county from, say, Lee County, some of it will be impaired, some of it will be dirty. And the areas that it first touches in Collier County, whatever development is there or whatever, is there any chance that whoever is responsible for those bodies of water, that they could ever keep up with or effectively treat that water coming in constantly?

MR. CABEZAS: If that water body is impaired, Lee County will have the responsibility to solve the problem.

COMMISSIONER MURRAY: This is a regional activity, then, that we're doing?

MR. CABEZAS: It's a statewide activity. The various water bodies have been actually divided in segments.

COMMISSIONER MURRAY: Yeah, I understand that.

MR. CABEZAS: And so if that segment doesn't meet water-quality standards, the segment in Lee County, Lee County would be responsible or the Lee County stakeholders would be responsible to solve the problem.

COMMISSIONER MURRAY: So I want to be sure, though, reasonably sure, that whatever we ultimately decide is recommended, that those same recommendations or something near that will also be effective in Lee and other counties.

MR. CABEZAS: Well, you cannot enforce your development standards in Lee County, unfortunately.

COMMISSIONER MURRAY: I understand; that's why I asked the question.

MR. CABEZAS: So you can do just --

COMMISSIONER MURRAY: I just wanted -- it seems to me that there's not -- maybe not overwhelming, but it seems to me that it's something we must consider in this thing. Okay.

CHAIRMAN STRAIN: Sir, we've got to give the court reporter, that poor girl, a break. She's listening to all this. I don't know how she puts up with it.

But Melissa, before we do, you were, at one point, in charge of governmental affairs for CBIA?

COMMISSIONER AHERN: Yes.

CHAIRMAN STRAIN: Do you know if they've reviewed any of this? I mean, it's going to have an impact on the builders, and I just don't know if they've looked at it all.

COMMISSIONER AHERN: No.

CHAIRMAN STRAIN: No, they haven't, or you don't know?

COMMISSIONER AHERN: No, they haven't, not to this point that I'm aware of.

CHAIRMAN STRAIN: Okay. Let's just take a break. We'll come back at 10:45.

Yes, sir?

MR. CABEZAS: Can I make a suggestion?

CHAIRMAN STRAIN: About our break?

MR. CABEZAS: No. I'm just two slides away from finishing this -- the description of this initiative. Maybe you would want to consider --

CHAIRMAN STRAIN: No. It could take an hour to get through those two slides. So let's come back at 10:45.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. We're back. And you had two more slides, and we'll move into those right now, if that's okay with you.

MR. CABEZAS: To finish the first initiative, yes.

CHAIRMAN STRAIN: Yes, sir. Well, I was -- I know I couldn't be that hopeful it would be for the whole day, but that's okay.

MR. CABEZAS: Anyway, I think our position is, regardless of what state requires of new development, the county should require 50 percent of the basic ERP be done by way of low-impact development.

Now, in terms of costs, we believe that for the most part the costs of changing to an LID design are neutral. You know, you have additional costs due to construction of these LID facilities. On the other hand, you're -- the size of your stormwater conveyance system, because you're reducing the volume of runoff, is going to be smaller.

So in general I think it's going to be neutral. We were talking with the chairman a little bit and, you know, there's a big cost associated with solids that are being deposited in the treatment facilities now. Eventually those would have to be dredged. That's a big cost. If you do LID, you reduce the amount of solids going into those facilities, you know, and those are significant savings.

There is a cost of maintenance, of course, associated with LID, and that is more -- larger, obviously, than the traditional design.

But whatever the situation, you know, I think the approach should be to create incentives for the development community to implement LID techniques, and those incentives could be done by modifying sections of the Land Development Code.

Now, I'll go into that in a minute but, you know, obviously the easiest way to reduce that pollutant load is to increase the amount of -- or decrease the amount of directly conducted impervious areas, provide more opportunities for the water to sink into the ground.

Now, here, these are just some examples that we think should be considered as incentives, you know. And you see they're allowing a narrower road section for strictly local roads, neighborhood roads where the average daily trip is -- number of daily trips is less or equal to 400. That's about 36 single-family homes.

Like I was saying, you know, the design of swales could be considered. It's just one tool in the toolbox.

There are a lot of opportunities to provide incentives in terms of parking, you know, reducing the aisles by -- the width of the aisles by two feet. I think it makes sense. It reduces the amount of parking area for the developers. I don't think it's a problem. You know, these standards, for the most part, were set many years ago when the cars were bigger and more difficult to maneuver. Now that's not the case.

You know, allowing grass-swale dividers and count them as part of the vegetated area is something that I think should be considered, and there are several of those listed here. You know, I -- I'm not sure we need to go through each one of them independently, but there are, you know, a number of things that you -- that could be implemented to change the development code.

The LID standards, those techniques, you know, I -- again, I feel like it should be left to the designer and the engineer to do those. Guidance is available for many of those in the draft proposed from stormwater rule. It is true that some of those techniques need more site-specific design criteria. We're not talking about adopting these right now. We understand that the -- it's going to take some time to just make these changes to the Land Development Code. In the process, the county could also be engaged in establishing those design standards for the LID techniques.

Sarasota County has an LID manual. It could be used as a reference for something that could be done here in Collier County.

So there's a program implementation, and I don't see -- oh, there's Bob. And, you know, I'd like for him to talk about this a little bit.

MR. MULHERE: Good morning. For the record, Bob Mulhere. I'm working with the consultants as it relates to potential GMP and LDC amendments.

And before -- when I was here before and we talked about potential TDR program, I provided a schedule as well, which was quite a bit longer than this one.

Actually, at the Development Services Advisory Committee yesterday, they felt like I probably needed to double that time frame. So -- and based on today's hearing, that's probably good advice.

But really -- I guess it doesn't really matter. The idea is to look at the code and to engage the development community to determine what incentives would be most attractive and then determine which ones are appropriate, and then to implement those incentives and thereby change the design.

Now, I think there's two ways. There's new development and there's redevelopment. And if you think about it, there would probably be different incentives for both. And redevelopment probably provides a big opportunity for significant improvement, because these are the older developments that were maybe not designed as -- efficiently for stormwater treatment and stormwater management.

So those are the things that we want to look through. We don't -- you know, that's going to -- you're going to see those as a whole separate process, assuming this moves forward and there's a recommendation to go forward and do that.

One of the things that we hope to do is to quantify the time that would -- that it would take to accomplish these things and a cost factor associated with that for you the next time we come back to you. That will not be specifically, you know, how much does a rain barrel cost? That will be, how much time to look at the LDRs and the GMP amendments, and how much will that cost to accomplish, understanding that most of that will likely be done by existing staff. So we understand that that's the kind of information that you're going to want.

CHAIRMAN STRAIN: Okay. Anybody else have any questions? Okay.

MR. CABEZIS: So --

COMMISSIONER MURRAY: I got a question.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: I note here -- Bob, I note here you have DCA review, 70, and there's a move afoot to effectively eliminate DCA.

MR. MULHERE: Yeah.

COMMISSIONER MURRAY: What does that do for us?

MR. MULHERE: Well, you know, hopefully that --

CHAIRMAN STRAIN: Takes 120 days off your --

MR. MULHERE: Yeah. Hopefully that shortens the process is what I was going to say. But there will still

--

COMMISSIONER MURRAY: Now, that's a simplistic thought, but I don't know. What is reality?

MR. MULHERE: Nobody really knows. There's still going to be some regulatory oversight. Just eliminating staff and reducing the size without changing the statutory requirements and the rule requirements means that there's fewer people to do the review; that means longer time.

COMMISSIONER MURRAY: Well, here's what I remember, and I may be wrong. It could easily have changed. I thought I remember that the DCA effectively would be -- become the DEP.

MR. MULHERE: Would be incorporated. Some of -- some of the roles currently undertaken by DCA would be shifted over to the DEP.

COMMISSIONER MURRAY: One would assume, clearly, that this would be one of them.

MR. MULHERE: Yeah, this oversight. But there are -- there are statutory requirements and time frames in statute, and then there's rules, and those rules need to be changed or the statutes need to be changed, you know, before you can really effect, I think, greater efficiencies.

COMMISSIONER MURRAY: Those are not our rules or statutes.

MR. MULHERE: No, they're state.

COMMISSIONER MURRAY: Those are the state.

MR. MULHERE: State, exactly.

COMMISSIONER MURRAY: And so -- well, that --

MR. MULHERE: So what I'm saying is --

COMMISSIONER MURRAY: Throw a penny in the pond. I'm sorry; that's copper. No.

MR. MULHERE: I'm just saying, we don't -- we really don't know what the impact is.

COMMISSIONER MURRAY: All right. Well, it's something to take into consideration. You might want to

--

MR. MULHERE: Yeah. But this is based on the current statutory requirements. That's where I came up with it.

COMMISSIONER MURRAY: All right, thank you.

CHAIRMAN STRAIN: Okay. Where do we go from here?

MR. CABEZAS: Any more questions?

CHAIRMAN STRAIN: We're still on the very first one of the eight or seven or whatever number there is. But before we leave water quality and low-impact development, you need our reaction to what you proposed now so we can get it done, or do you want to wait till the end and try to get us to remember?

Nick? Nick's waving his hand.

MR. CABEZAS: I think the purpose of this meeting is to get your input. So if you have any input regarding what we have discussed so far, I think that statute is the way to go.

CHAIRMAN STRAIN: Nick, did you want to --

MR. CASALANGUIDA: Sure. One comment. I think in talking to staff at the back and Nicole, we're going to look at keeping that 150 percent rule in place if it's not disruptive to the development community and focus our LIDs being cost neutral. Some of the things they're showing you --

CHAIRMAN STRAIN: That's where I think we probably were thinking of going, from what I can tell.

MR. CASALANGUIDA: Very good.

CHAIRMAN STRAIN: So that's where we're headed. That takes care of No. 1. We've only got seven to go.

MR. CABEZAS: Okay. Is this working? Okay.

The second initiative or recommendation that we have is for the county to establish a stormwater retrofit program and dedicate funds to do retrofit projects identifying locations where retrofit's possible, for example, in public facilities, parking lots, government buildings, schools. You know, this is just an example of a school parking lot. Obviously a lot could be done to retrofit that parking lot for -- to include some LID techniques and LID approach to the design.

It's necessary, of course, to come up with a list. Criteria's got to be -- you should go in first to those facilities that need repavement or, you know, things like that, whatever is easier, and identify the project that could be done.

We're thinking that a -- a fund of, perhaps, \$250,000 a year could be dedicated to retrofitting projects.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Would you go back to that slide, please. You jumped rather quickly.

We have an awful lot of sidewalks, and they're all concrete. I know that they use a certain type of paver block that's pervious that allows -- you know, people can drive up on them. Churches have those a lot and so forth. Is it feasible, reasonably feasible, to consider future sidewalks being of another type other than the impervious concrete?

MR. CABEZAS: Definitely. You know --

COMMISSIONER MURRAY: No. As an advocacy. You're the scientist. I'm asking you if that's something --

MR. CABEZAS: Yeah. Definitely, I think, you know, pervious pavement has come a long way from where it was a few years ago. Maintenance right now, at least the manufacturers claim that it's much less. The FDEP is advocating the use of pervious, not only for sidewalks, but also for parking facilities.

Another thing is how you design those facilities. You know, if they drain into pervious areas, then you're not providing much of a problem (sic). If you direct the drainage directly to the stormwater system, well, that's -- that is a problem.

So I think a lot could be done by changing the design and also changing the materials.

COMMISSIONER MURRAY: Okay. I thank you.

MR. CABEZAS: Sorry if I didn't address your question.

COMMISSIONER MURRAY: I think you've offered me a menu, and I'll decide whether I'm going to have clams today. Thank you.

MR. CABEZAS: Okay. There are other types of retrofits that the county should consider. You know, in the Golden Gate Estates many of those roadside swales and canals or many -- discharge in -- I mean, many of the swales discharge into the -- into the canals directly without any treatment.

You know, in that area, sites -- the area that's shown here or also the area where we're recommending the TDR program, locations could be identified where small treatment facilities could be constructed prior to the -- or upstream of the discharge point. That's just -- and by way of these localized treatment systems, address many of the problems of not having any runoff treatment prior to those stormwater discharges.

There's also an issue of program implementation here. You know, the allocated funds, that obviously could be managed by the county's stormwater staff. Now, there are other ways to do retrofits, you know, that could be used to encourage LID predevelopment through -- of LID redevelopment through MSTUs. That's another way that the funds could be used.

So that's the end of No. 2. It was a little shorter.

CHAIRMAN STRAIN: Well, No. 2 basically talks about retrofitting, a lot of it government elements to

retrofit, and I don't see government having 10 cents to spare, not even 50,000. And until our tax assessor tells us we have a significant increase in assessed values and we know our revenue comes in, I'd be certainly personally reluctant to recommend any changes to expenditures for this until that happens. We just don't have it. We've got necessities to deal with.

MR. CABEZAS: I understand. I think we should take a long-term look at approaches, even for this. It may take some time. You have a stormwater utility with a certain revenue. Maybe you can take a portion of those revenues and dedicate it to this. You know, there are many ways to do it. Or you may want to wait until the economy improves and then create the fund. You know, we're trying to provide here recommendations that could be implemented, you know, over the next several years.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I recall a few years ago when we had a lot of rain, and I recall -- I don't recall the person who first espoused it, but it was suggested that some of the vacant lots could be acquired by the county and be used as stormwater accumulation points and treatment, I guess.

But my question then becomes, what would happen from -- that water -- there is no -- there's no effective means of moving that water. So are we talking about creating half-acre, acre, five-acre ponds?

MR. CABEZAS: If you buy a five-acre lot, for example, or if you acquired that lot through the TDR, that lot could be converted partially, for example, into a retention pond, which would benefit recharge to the groundwater. Part of that lot, and depending on its location, could be converted into a created wetland, that then would -- would be tied to the natural wetland system, and that way you would have the benefits of treating the -- whatever runoff comes into that point by infiltrating it into the ground or by the filtration capability or what --

COMMISSIONER MURRAY: So LIDs would not be really effective? There may be some that might be appropriate, but effectively, that land is all pervious already essentially. So all you're really talking about is capturing stormwater, and whatever -- whatever particular pollutants are in there, you're going to treat it as a sedimentary pond?

MR. CABEZAS: Yes.

COMMISSIONER MURRAY: And that is effective?

MR. CABEZAS: I believe it is, yeah, especially if it's a retention facility, you know, you're eliminating all that runoff from discharging into the canals.

COMMISSIONER MURRAY: All right. Well, I appreciate that we don't have the money to do it, but, yeah, that might be something as a policy that sometime in the future could be initiated.

Okay. Thank you.

MR. CABEZAS: This brings us to the No. 3 initiative, and it is about stormwater utility.

As you well know, you have a stormwater utility that expanded through ad valorem taxes. Now, the problem with what you have right now is that you are unable to provide incentives to the users because it's just a general tax. If instead of having that ad valorem tax you change that to a fee-based structure based on the amount of runoff that is discharged from each site, I think you can develop an incentive program.

For example, those utility fees are certainly going to provide an incentive to retrofit private property, a big parking lot over there, you know, somewhere, and people are paying a significant amount of money on a monthly basis to the stormwater utility. I think they should consider rather changing or redesigning, redeveloping that site in order to reduce the fee contribution to the stormwater utility.

The developers can also market areas, because if they develop a -- you know, the property with an LID concept, their volume of discharge is going to be less and, therefore, the assessment to the individual properties are going to be less, and that could -- certainly could be attractive for whoever's trying to acquire those properties.

COMMISSIONER MURRAY: Yes. So what I understand you to say is that the .15 mills is insufficient to really take care of this program as you see it?

MR. CABEZAS: I'm sorry. I'm not saying that. I'm saying instead of the .15 mills, change that to a fee-base structure of --

COMMISSIONER MURRAY: But why? If the .15 mills were adequate, why would you need to change it to a fee? A fee is a tax unless it -- unless it covers the actual cost. And how does one measure the cost associated with that?

MR. CABEZAS: Well, because when you have a tax structure, you are not considering the characteristics of each individual property. So if you charge -- instead of charging an ad valorem value of 15 (sic) mills based on the

value of the property, you charge based on the amount of runoff that's being discharged from that specific property. Some people would have to pay more; some people who discharge little would have to pay less. In the -- the amount would be the same. The amount collected would be the same regardless --

COMMISSIONER MURRAY: Maybe.

MR. CABEZAS: -- but the fee structure would change.

COMMISSIONER MURRAY: I think I understand the mechanics involved. What I'm driving at here is that once you get into charging fees, fees now -- in order to be effective in charging a fee, you have to verify, right? Somebody from county would have to verify.

MR. CABEZAS: There is -- yeah, there is --

COMMISSIONER MURRAY: So that's a cost.

MR. CABEZAS: There's --

COMMISSIONER MURRAY: And the fee is supposed to be representative of the cost, not supposed to be representative of more than that.

MR. CABEZAS: Well, there's a -- there's a cost of implementing the program. You know, somebody would have to conduct a financial analysis, establish how -- what the fees are going to be that, in the end, would match the ad valorem tax system.

And -- but, yeah, there's going to be effort associated with doing that, and we will provide an estimated cost for that.

COMMISSIONER MURRAY: Well -- okay. But I will tell you that one of the major problems that we have here and has hurt the community and split it have been impact fees, which there is a great dissension as to who appreciates them as being realistic and so forth.

And before we start putting fees in, I -- I understand the motivation that we should put before people to help them do their proper job, but I have to tell you, I'm concerned with the implementation of additional fees.

MR. CABEZAS: It is -- it is a problem, and it's a problem that -- you know, that's been going on throughout Florida. Some municipalities just are reluctant to establish the stormwater fee --

COMMISSIONER MURRAY: Here's my point. Here's my point. We do -- we do this. We tell people you have to do your due diligence, and what I'm concerned about is we're making this bag so heavy that for them to carry it, they won't be able to achieve their due diligence. Okay.

CHAIRMAN STRAIN: Is the intention of this fee structure to generate funds to implement some of the programs you're introducing to us today?

MR. CABEZAS: Yes, or at least just collect the same amount of funds that you --

CHAIRMAN STRAIN: To do what with those same amount of funds?

MR. CABEZAS: Whatever you're doing to fund stormwater programs.

CHAIRMAN STRAIN: Okay. And the stormwater program that is handled by transportation basically is the program benefitting from this ad valorem existing tax?

MR. CASALANGUIDA: It's been reduced to .1 mills, and with board authorization, it's going to pay other things right now. So we're funded through LASIP through 2014/2015, but after that there is no stormwater utility fee that's going to come back to us, or ad valorem assessment. And that's one of the things we're working with OMB to correct in the future.

CHAIRMAN STRAIN: So that ordinance that instituted the current program ends as a sunseting?

MR. CASALANGUIDA: It's not that it sunsets. It's been brought to the board and been redirected to pay -- to pay for outstanding debt at this point in time.

CHAIRMAN STRAIN: So the stormwater utilities fee doesn't pay for stormwater management? It pays for debt?

MR. CASALANGUIDA: It's still funded, so it's coming back in, but it's paying for the stormwater debt portion of the capital -- of general fund that's in there. So it is paying for it, but it's going to the debt side of the house right now, like everything else is in Collier County.

CHAIRMAN STRAIN: So this is just another one of those bullets that is going to take a long time before it gets to see sunlight, I mean, basically.

MR. CASALANGUIDA: I think what he's proposing has merit. If you were going to replace an ad valorem debt and base it on a stormwater utility fee and it's assessed properly, then you have an incentive-based program,

people who don't want to pay as much of the fee. But you have to be clear, as Commissioner Murray pointed out, not to say it's a new fee. It's a replacement of an existing payment you're making right now.

CHAIRMAN STRAIN: Well, I don't know why we wouldn't want to look at it further, but I certainly think we've got to see how it balances out before we buy into it.

MR. CASALANGUIDA: Absolutely.

COMMISSIONER MURRAY: And there's not enough information here for us to do that. I just -- that's important.

CHAIRMAN STRAIN: I'd like to know the -- Ray, well, what was that ordinance in a couple pages prior you had that implemented the current stormwater fee, 2008-80?

MR. CABEZAS: Yes.

CHAIRMAN STRAIN: It would be interesting to see if we're currently meeting the intent of that ordinance by the way we're spending the money. But then again, we'd then have to see if we're meeting the intent of the fee structure you're proposing on how we spend that money as well, how it's restricted; otherwise, it goes to things that maybe we didn't anticipate. So -- interesting. Okay.

MR. CABEZAS: Absolutely.

The next item, water quantity and flood protection. Actually we have three parts to this recommendation: Volume control, some assessment flood risk, and we've taken a look at the flood protection levels of service and are providing recommendations about that.

In terms of volume control, the requirement currently is that to -- and it's here. The current regulations focus on control of a peak discharge for that 25-year/72-hour storm event.

So a new development comes in, runs internally a computer model, and then it verifies that the peak stage for the 25-year/72-hour storm event doesn't exceed predevelopment conditions, and that is accepted by the state and the county.

Now, the problem is that when you design exclusively for that, you're not accounting for the additional volume that is created when you have -- or at least partially for the additional volume that results for the additional impervious areas. So although you may be discharging a peak equal to predevelopment from a particular site, there may be an impact farther downstream.

COMMISSIONER MURRAY: Sure, there will be.

MR. CABEZAS: So what we're saying is, at least to start, let's control the volume and work on -- we have gone below the 25-year/72-hour. We're saying, okay, for now, the 25-year/24-hour event -- and see, you know, I'm controlled for that amount.

Now, that is going to have a cost implication in the sense that some additional land would have to be dedicated to controlling -- to storing that additional volume.

At the same time, that also provides an incentive to reduce your direct-connected impervious areas through LID techniques. And here are some examples of, based on your directly connected impervious area, what would be the additional land area -- and this is considering just the built portion of a development -- that should be dedicated to this storage volume control.

And what this means is, if you have a 15 percent DCIA, about 7 percent of your developed area is going to require -- is going to be required for storing the runoff.

Now, if your built area is only 40 percent of your total development area, obviously in terms of the total impact of the development, it would be, you know, 40 percent of that number. I'm not sure if I'm making myself clear.

CHAIRMAN STRAIN: No. I think we need some clarification. If you have a lot 150 by 50 feet and you've got setbacks of 10 feet on each side, 25 in the front and rear -- you had an example of a lot here a little while ago.

MR. CABEZAS: Yeah.

CHAIRMAN STRAIN: Wow, it's way back. Whoa, there we go. Okay. You have a lot like that. The 40 percent number you're referring to is which area on that page?

MR. CABEZAS: Okay. Let's assume for now that this area has 50.

CHAIRMAN STRAIN: When you say "this area," what area; the whole lot or just the lot -- just the footprint?

MR. CABEZAS: Yeah, the lot.

CHAIRMAN STRAIN: The whole lot?

MR. CABEZAS: The whole lot has a 15-percent DCIA. Let's assume for now somehow --

CHAIRMAN STRAIN: I hate to ask you this again -- okay, directly connected impervious area. Okay.

MR. CABEZAS: Impervious area, yeah. Let's assume for now that, you know, that directly connected impervious area in that lot is --

CHAIRMAN STRAIN: I'm going to ask you to back up one more time. To find the directly connected impervious area on that lot, show us what would qualify as a DCIA on that lot.

MR. CABEZAS: Well --

CHAIRMAN STRAIN: Nothing, right?

MR. CABEZAS: You know --

CHAIRMAN STRAIN: We're really in trouble.

MR. CABEZAS: All the back of the lot --

CHAIRMAN STRAIN: How about the side setbacks?

MR. CABEZAS: A portion -- a portion of the front yard would be DCIA.

CHAIRMAN STRAIN: Now, you're saying directly connected because they are basically sloped or either to swales that take the runoff to another body of water for quality?

MR. CABEZAS: Right. If you exclude the backyard and a portion of the front yard, the rest is basically directly connected, or the part of the roof, the discharge to the backyard; that's not directly connected.

CHAIRMAN STRAIN: It's not directly connected why?

MR. CABEZAS: Because it goes to a land area where it has opportunities to infiltrate as opposed to directly to a swale and out to the conveyance system.

CHAIRMAN STRAIN: Well, but that's dependent on the storm event, because not all of it can percolate. It may reach a level where it overflows the swale and then --

MR. CABEZAS: Yes, certainly, yes.

CHAIRMAN STRAIN: Under normal storm events, that's --

MR. CABEZAS: For normal storm events.

CHAIRMAN STRAIN: Okay. Thank you.

MR. CABEZAS: Now, going back to this 15 percent, 6 percent, if the DCIA here is such that it's just 15 percent, let's assume for now, then 6 percent of this lot would have to be set apart for storing that additional volume.

Now, think about this in an overall development. You know, you're going to have to dedicate somewhere an area equal to about 7 percent -- 7 percent of the lot area times the number of lots to dedicate for storage.

CHAIRMAN STRAIN: Okay. But then -- that's what we do now. That storage is the lakes.

MR. CABEZAS: Well, now you would have to do more.

CHAIRMAN STRAIN: So we have to have a lake that feeds into another lake?

MR. CABEZAS: You would have to have some kind of retention area.

CHAIRMAN STRAIN: Okay. Is it sort of dry retention?

MR. CABEZAS: Correct.

CHAIRMAN STRAIN: Okay. So you're saying that all these lots would have to then have a connection for their runoff to a dry retention area for water-quality treatment before it then runs off into a lake.

MR. CABEZAS: For volume control. Remember you're --

CHAIRMAN STRAIN: By the way, you're missing the mike. You're missing the mike, so you've got to stay close to the mike.

COMMISSIONER MURRAY: Tap the mike.

CHAIRMAN STRAIN: Oh, no. I just think he's moving back and forth.

MR. CABEZAS: I don't think it's working.

CHAIRMAN STRAIN: There you go. Ray, can you turn that one mike up; is that possible?

MR. CABEZAS: Can you hear me?

CHAIRMAN STRAIN: Yep.

MR. CABEZAS: Okay.

MR. BELLOWS: Bad connection.

CHAIRMAN STRAIN: Okay. So this DCIA, the 6 percent that would -- or 7 percent that would be required



on the example in front of us, let's say, you could either put a dry retention in the front yard, or you could hold it for -- to whatever discharge point you're required to?

MR. CABEZAS: Right.

CHAIRMAN STRAIN: Then it goes into a swale or into a gutter and is taken to the standard lake within the property for water quality, and then that lake discharges into whatever water body it goes to?

MR. CABEZAS: Correct.

CHAIRMAN STRAIN: Or you could take 20 of these lots, total volume area needed, move it into a dry retention on a lot dedicated for that, let's say, and then that particular area has overflow for discharge into a lake?

MR. CABEZAS: Correct.

CHAIRMAN STRAIN: Okay. So you're really creating -- now, does that have to be dry detention, or can it be wet detention?

MR. CABEZAS: We're talking about retention. We're talking about not discharging.

CHAIRMAN STRAIN: I know, but if -- could the 6 percent be made -- is it a dry detention area or can it be dry or -- could it be another water body? Do you get the --

MR. CABEZAS: Unless you have a wet -- a pond that doesn't discharge, it could be wet, but then you would have -- how do you recover that volume? That's the problem.

CHAIRMAN STRAIN: Yeah, I don't know.

Go ahead. Brad?

COMMISSIONER SCHIFFER: In using this example, the water you're capturing is an inch and a half per square foot, is that right, or an inch and a half of rainwater?

MR. CABEZAS: Remember, we're talking about a totally different subject right now. We're talking about large storms, you know, like the 25-year/24-hour. You have a difference -- for those large storms, you have a difference in total volume of water that is discharged out of any site.

COMMISSIONER SCHIFFER: Do you know what that number would be then? How many inches? I mean, all the codes have inches in it.

MR. CABEZAS: Oh, the 25-year/24-hour storm, I believe, is 8 inches or something like that.

COMMISSIONER SCHIFFER: Okay. So you calculate the area here, and the people have to hold that volume on their site; is that right?

MR. CABEZAS: The difference between pre- and post-development. So if you calculate how much runoff you are discharging for predevelopment conditions and then you calculate how much runoff you're discharging for post-development conditions, that difference between the two is what should be held in place.

COMMISSIONER SCHIFFER: How do you calculate pre? I mean, if the site is sloping towards the road, all of it would go into the road, so a 100 percent of it would be pre, is that right, plus maybe absorbing?

MR. CABEZAS: Well, plus whatever is lost, yeah, through infiltration, and that's what those hydrologic computer models -- hydrologic hydraulic computer models do for you.

COMMISSIONER SCHIFFER: But is -- in a situation like this, is the volume so great that you would not be able to rain harvest it? Is it --

MR. CABEZAS: Well, like I say, the difference between the two is not that large, because the -- you know, imagine during the 25-year storm event this soil is -- quickly become saturated. It's not that large, but if there's a difference, that difference could result in increasing flood stages down the stream. And we're saying, just hold that difference.

COMMISSIONER SCHIFFER: Thank you, Mark.

CHAIRMAN STRAIN: Okay. We can go back to the --

MR. CABEZAS: Now, one of the -- you know, what I was referring to -- okay, 7 percent, you know, you perfectly understand that.

Now, if the built area is only 60 percent of your entire development site or 40 percent, whatever the number is depending on the zoning, you have to either leave 60 or 30 percent as an open area. So assuming that it's 60 percent, then we're talking about this built area being only 40 percent of the total development area. That's the point I was trying to make.

CHAIRMAN STRAIN: Thank you.

MR. CABEZAS: Now, you know, there's the potential of an impact. If you keep this regulation of

controlling the runoff or the peak flow for the 25-year/72-hour event, there's the potential that properties downstream would be impacted for larger storms, like the 100-year/72-hour event, which then becomes the basis for your floodplain mapping.

So a single development could affect the extent of the floodplain downstream. And we're not at this point advocating that additional runoff be stored in a development, but we're saying at least a regional computer model that -- the Manche model that was done as part of this project or the model that was used for floodplain mapping should be used to check that there are no impacts downstream.

Lastly, on this point we are recommending changes in your levels of service. Right now the levels of service is based strictly on the 25-year event. And you have these four categories from A to D from excellent to substandards -- to the substandard service.

And -- now, what -- the analysis that was done for your levels of service indicates that all the -- what you're providing right now in terms of flood protection is substandard. It's really C or D, mostly D. And you've probably seen the portion of the Growth Management Plan where the levels of service are defined for each of the -- for each of the watersheds and basins in the county.

Now, when you're failing everything, to me it's not an indication of -- it is an indication that the way to measure it is probably inappropriate.

COMMISSIONER MURRAY: I got to ask a question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Sir, you're now -- you're really throwing something into the pot here. I've always understood that the levels of service A through D or F were associated with the number of vehicles that could be on the road at a given time before it failed. You're now introducing flood into that and relating it to levels of service. Are there two different function?

MR. CABEZAS: Those are -- those are two different things. One is transportation --

COMMISSIONER MURRAY: And you're referring now only to flood?

MR. CABEZAS: Only to flood. The levels of service is the allowable depth of flooding in a given storm.

COMMISSIONER MURRAY: I see that from the graphic. I had no idea that we had two levels of service using the same alpha designation.

MR. CABEZAS: One is the transportation levels of service; the other one is the flood protection levels of service.

COMMISSIONER MURRAY: Because I know that most of our -- perhaps all of our six-lane highways have been designed for a Level D because they're not going to build any more lanes. And you're saying that by virtue of this, they -- either by coincidence or by design, they also have -- you're telling me that we're basically -- we're failed already in these roads. That's what you're telling me.

CHAIRMAN STRAIN: Well, no. I think what you might be -- and I don't know if you know all of our Capital A/B elements in our Growth Management Plan. But we have levels of service for all our capital elements, and stormwater is one that we just initiated a level of service with not too long ago, and that's the level of service he's referring to here.

COMMISSIONER MURRAY: That I got, but I didn't know that existed, actually, all right. I really didn't realize that. I thought it was levels of service for vehicles.

But you said it's -- we're very close to failure, and that disturbs me because I would have thought that we would have built the roads with the potential to take care of flood a lot more. All right. That's just a total shock.

MR. CABEZAS: Well, again, it may not be a problem with the design of the road. It may be a problem with the way you're measuring.

So we are proposing to change the way you measure those levels of service. And if you allow me, I can go --

COMMISSIONER MURRAY: Sure, absolutely.

MR. CABEZAS: -- ahead. Like I said, you know, right now you have your road depth analyzed in terms of a single event regardless of the type of road.

And what we're saying is, instead of doing that, change your Growth Management Plan to reflect something that takes into account the type of road and the return event -- or the return period of a -- of a storm event.

For example, you know, evacuation routes should not be even compared only to the 24 -- 25-year event. You know, evacuation routes have to be possible even for the 100-year event; whereas, for local roads, you know, if you

have, once in a 100 year, 12 inches of depth in a local road, as long as your structures are safe and as long as the emergency vehicles can pass, well, that's okay, too.

COMMISSIONER MURRAY: Okay.

MR. CABEZAS: So our recommendation is simply to change the way you are measuring acceptable levels of service. That way -- and this is an example of the analysis -- the results of the analysis we've done. We know that you have evacuation routes that do not pass even the 25-year event. You know, you need to design a drainage system that would allow them to pass the 100-year event. On the other hand, why put the effort on providing adequate levels of service according to the old system on a local road when allowing certain depth is acceptable?

And from what you see here on your right, most of your local roads pass the 100-year criteria. So let's don't worry about it. Let's design those local roads or the drainage for those local roads for a 10-year event, not a 25-year event.

CHAIRMAN STRAIN: Ray, stormwater management, is that a Capital A or Capital B element? Do you remember?

MR. BELLOWS: I'll have to check.

CHAIRMAN STRAIN: Bill's shaking his head. Do you know, Bill?

MR. LORENZ: No.

CHAIRMAN STRAIN: And the reason I'm asking is, if I'm not mistaken, Capital A elements are mandatory in the sense that we have to have a -- have to meet the levels of service or we have to either impose moratoriums or do something so the level of service is always maintained.

I think that's correct. But that's where I would be worried here. If we change the measurement technique and automatically produce some evacuation routes that are failed, what have we triggered in response to our obligations to meet the level of service standards that have to be met as a minimum? Are we going to cause any ripple effect from any other aspect that doesn't necessarily involve the issues you looked at?

MR. CABEZAS: Well, anyway, those are the three items --

COMMISSIONER SCHIFFER: I have a question then, too.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Could we go back to that slide just to make sure I understand it. I mean, you know, the -- this report is, like, 11 years late. So what you're telling us now is that our roads would flood even in a 10-year storm?

I mean, I know we're in the recommendation phase, but the discovery part of this is, oh my God.

So that's not 75, is it, going across mid level horizontal failing in 10 years?

MR. CABEZAS: No, no.

COMMISSIONER SCHIFFER: What is that road?

MR. deGOLIAN: I'm going to step back -- step -- Peter deGolian. I'm going to just jump up a couple of slides here.

If you look at this slide here, this is your existing level of service map. If you look at the center figure here, what this is showing you -- I-75 is the blue line that goes across in the center in the bottom, and it passes in the 25 in the existing condition and under the 100-year storm proposed conditions.

Now, you do have some failures on Everglades Boulevard north of I-75 there. On Golden Gate Boulevard they're near 75, and then some of the roads that are coming out from the City of Naples connecting into U.S. 41, and there's some parts of U.S. 41 where Airport-Pulling Boulevard (sic), right here actually, would be failing under the existing condition. And it -- it holds in these same places with flood -- or failed in the proposed conditions also for the 10-, 25-, and 100-year storm in the same locations.

COMMISSIONER SCHIFFER: And 41 has a break in it so, in other words, you could not use that for evacuation?

MR. deGOLIAN: That's just saying that there's water above the surface there. I didn't measure the -- I don't have the information in front of me of what that depth of the water is. You might be able to pass a vehicle through there, but it does have water above the surface of the road.

COMMISSIONER SCHIFFER: And go back to the other slide.

MR. deGOLIAN: Sure. And this is showing all roads in the county. So this is the evacuation arterial, collector roads, and neighborhood roads. So it's kind of a -- in our report we'll have each of the individual road

segments broken out separately.

COMMISSIONER SCHIFFER: Oddly, doesn't it appear that more roads pass in the 100-year than the 25-year?

MR. deGOLIAN: Yes, and that's a direct result of -- if we go back and look at this, this allowable depth of water allowed on the road for different storm events. So roads that fail in the 25-year event are -- meaning they have more than 9 inches of water in them for a neighborhood road, they have less than 12 inches of water in the 100-year storm, so now they pass.

COMMISSIONER SCHIFFER: The tolerance increases?

MR. deGOLIAN: Yeah, the tolerance increases of what's a failure and a pass. And it's kind of -- it's pretty useful in helping us prioritize the roads that need to be taken care of first.

COMMISSIONER SCHIFFER: Well, even the speed of vehicle in 9 inches of water can't go too fast.

MR. deGOLIAN: That's correct.

COMMISSIONER SCHIFFER: All right. Thank you, Mark.

CHAIRMAN STRAIN: Okay. Ray?

MR. BELLOWS: We checked with Jerry Kurtz, and stormwater is Category A.

CHAIRMAN STRAIN: Okay, thank you.

That makes it a higher level of priority, that's all. Appreciate it.

COMMISSIONER MURRAY: And I have --

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: In your graphic here and your statement, you're suggesting that -- and it seems reasonable your point of reference -- that we -- it's okay, let the neighborhood road flood. Have you given any consideration to the numbers, perhaps vast numbers of homes and businesses that are impacted by such an event if we were to allow that?

MR. CABEZAS: No.

COMMISSIONER MURRAY: I'm trying to understand. These are all future roads you're suggesting, or are you talking about retrofitting or what? I'm --

MR. CABEZAS: No. We analyze the local roads.

COMMISSIONER MURRAY: Right.

MR. CABEZAS: You know, we -- all we did was compared the projected water elevations, peak water elevations during a given storm event with a ground elevation of -- the elevation of the surface of the road. Obviously, you know, we're taking a regional look at things.

COMMISSIONER MURRAY: Yes, you are.

MR. CABEZAS: You know, much more detail would have to go in in order to determine whether you have structures below or above the roads, you know, that would be impacted.

COMMISSIONER MURRAY: I guess what piqued my interests is that you made a statement that suggested, okay, let them flood, okay. And I appreciate from a point of handling water and that, okay, let them flood. But a concomitant responsibility, I would think, would also be to evaluate what that potential is to letting them flood. Was that taken into consideration?

MR. CABEZAS: You know, it is something that needs to be done. It's a recommendation from our study that -- individual road segments would have to be analyzed, and much more detail is needed.

COMMISSIONER MURRAY: To say this is a massive project is truly an understatement.

CHAIRMAN STRAIN: Sir, just to let you know, about 11:45 we normally break for lunch. So I know you last time had some questions as we broke, but we will break at 11:45, because you won't be able to finish up.

MR. CABEZAS: I think -- I think we're done.

CHAIRMAN STRAIN: Done?

MR. CABEZAS: The TDR mitigation -- TDR recommendations for Golden Gate were presented to you before. We can give you a summary, if you would like, of that. The last time we were here we also talked about the recommendations about the water-control structures.

I think we talked about that we're proposing a monitoring plan and expanded monitoring plan just to keep the better -- to better track water-quality conditions in the watersheds and the estuaries and in the groundwater. And I think we touched into, you know, some additional protection programs.

So, really, the other four items were discussed in the previous presentation to you.

CHAIRMAN STRAIN: Now that -- the TDR, the mitigation area for Golden Gate Estates, best I can recall, you were suggesting putting together a form of TDR mitigation area, but you didn't at that point know where or how those TDRs would be used. But the creation of them was something that was being suggested.

MR. CABEZAS: Bob, do you want to address that?

MR. MULHERE: Sure. The idea is to utilize a TDR program but in conjunction, perhaps, with some other tools. For example, one tool might be just incentivizing aggregation of existing nonconforming parcels in the Estates, because as you know, there's thousands of acre-and-a-quarter parcels.

CHAIRMAN STRAIN: Right.

MR. MULHERE: Many of them are far out east, undeveloped, and you might be able to incentivize the aggregation of those parcels and reduce impacts in that way.

But the TDR program, the geography, the location is generally described. That could be expanded based on a discussion of whether or not to include other parcels.

CHAIRMAN STRAIN: No. I recall the discussion. I just wanted to make sure that --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- we didn't solidify where and how they would be used at this point. Because one thing I would ask that you don't do, do not listen to Nick Casalanguida when it comes to this issue. He's not here, I wish he was, but I want to put that on the record. He shouldn't be listened to when it comes to this issue, so let's just not move on.

MR. MULHERE: Well, I just would add, you know, the recommendation is to create an oversight committee and spend the time to try to do it right, because it's very, very complicated. We've learned that from other TDR programs that we've developed. And, you know, it has to be done right. You've got to spend the time to do it.

CHAIRMAN STRAIN: I understand. Okay. So that takes us back to the summation on where you were. You're basically done with your presentation, the one that we had started a month ago; we finished up today.

Mac, as far as direction goes on the various elements, are you -- where do you feel you're at with that from us? How much do you need?

MR. HATCHER: We would like to answer any outstanding questions that you have. We would like some input on where you stand on what we've presented. We'll come back to you with an implementation strategy and --

CHAIRMAN STRAIN: Get closer to the mike. We can hardly hear you.

COMMISSIONER MURRAY: That mike is bad.

CHAIRMAN STRAIN: Okay. Well, Mac, I think -- we commented on some of these as we went along, but I think the overall position or concern is cost, and where some of these -- where you're exchanging a fee structure for an existing ad valorem basis, well, that doesn't seem to cost anymore. If that's what, I think, the indication was, maybe how that happens and the verbiage to get there were what -- something we'd like to see, but that may be one that would be more acceptable.

When you get into a water quality -- or the flood risk on the roads, hey, we ought to be looking at better ways to protect our evacuation routes and things. But if you change that standard to a point where you affect a Category A element of the GMP and level of services go from -- go to failing, what does that mean for obligations then for the taxpayers to make that -- to bring that back up?

And if you start doing something that triggers costly obligations, we may want to suggest you hold off on doing that until we are better well-funded in this county, which isn't going to happen right away.

But I would think as -- from what the board's questions seemed to be as we went forward, a lot of the ideas are good. It's all going to be subject on how much cost it's going to have. And if you can balance it to -- that it's equitable, both ways, it's almost even. And, you know, what the cost is is offset by savings at the same time frame, I think we're probably looking to say that's a good thing to do. But if we're looking at new costs right now, this county hasn't got any money for new costs right now, so --

MR. HATCHER: We recognize that situation.

CHAIRMAN STRAIN: Well, Mr. Murray?

COMMISSIONER MURRAY: Yeah. I have a -- do we own this slide projection, this -- do we own this program?

MR. HATCHER: Yes.

COMMISSIONER MURRAY: Good. The last time I requested it be sent to me in electronic form. It was sent to me in paper form. I really would appreciate it be sent to me in electronic form. I can do a much more effective valuation --

CHAIRMAN STRAIN: Will you send to all -- yeah. Make sure you send -- anything you send to one, send to all, so --

COMMISSIONER MIDNEY: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER MIDNEY: Yeah. I think that if it can be revenue neutral, like we were saying, instead of, like, a tax that taxes everybody the same, that it can be directed to incentivize less pollution of our waterways, it's better.

And you were also talking about the technology for impervious surfaces getting better, and, you know, the idea is good. We want to keep our waterways less polluted in the future than they are now, and any ways that we can do that, it sounds like a good idea.

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes, sir -- or ma'am. I'm sorry.

COMMISSIONER EBERT: When we were discussing before different things to -- the retention ponds holding stuff, mainly during the fertilization hearing, it came to mind to me -- and county staff is looking into this -- but Lee County requires bubblers in retention ponds so many feet deep. So at this point staff is looking into that, if this will help.

And to me, listening to the two developments that talked that day, one just spent 320,000 putting in bubblers in all their lakes or aeration, because dredging was going to cost, like, \$3 million, is what they said.

And of all the PUDs and all the monitoring, I can tell you that homeowners' associations are not prepared for that amount of money. So this is something that, if -- and staff is looking into this. So I just want to let you know.

CHAIRMAN STRAIN: Okay. Well, I think it just resonates, we don't have a lot of money right now.

And, Mac, as these -- with your eight or how many issues we have here, those that can be done under, I think Paul's term, revenue neutral, I would suggest we go further with them. If -- those that can't be, if your purpose is right now to mention them to get them on record for implementation in the future when money's available, I think that's fine, too, but recognizing that when this comes up to final vote, if you put language in here that is going to increase costs to the private sector or to the government sector that isn't balanced out somehow, personally I will be one voting against it, so --

MR. HATCHER: Well, the prioritization that you mentioned would be part of the -- and, yes, we recognize the cost issues.

CHAIRMAN STRAIN: Okay. Anybody else have any comments? Brad?

COMMISSIONER SCHIFFER: I have one question, and it's an LID kind of question, and you can ask (sic). One thing I've always wondered is our retention lakes we have grass up to the edge, and we have a 20-foot maintenance easement around it. And I'm starting to wonder whether the maintenance easement's there just to keep the maintenance easement clear.

I mean, shouldn't that be an edge that we're discouraging? Why do we encourage the grass edge to the lake? First of all, it looks kind of sad. It makes every development look the same. Nothing in nature resembles that.

So why is that there? Just out of curiosity. And maybe we should give the land back to the people and let the littoral zone become a natural littoral zone.

COMMISSIONER MIDNEY: Yes.

COMMISSIONER SCHIFFER: In other words, why do we have a 20-foot maintenance easement other than to keep the 20-foot maintenance easement open?

MR. HATCHER: The littoral-zone requirement is a minimum. You can put as much littoral zone -- I mean, you can go well above the minimum if you choose to do so.

And in terms of grass, a natural vegetated buffer would be preferable from an environmental standpoint. Most developments prefer grass, but you want a vegetated buffer to prevent erosion into the stormwater pond.

COMMISSIONER SCHIFFER: But today's presentation started off with a picture of a lake, man-made lake, with grass up to the edge. I mean, why does everything have that? There must be a regulatory reason, because, I mean, people would love to have little docks and, you know, play with that edge a lot better. But is there a reason it's,

you know, grass to water everywhere?

CHAIRMAN STRAIN: Yes.

COMMISSIONER SCHIFFER: What is it?

CHAIRMAN STRAIN: And it's because of cost. The 20-foot maintenance easement's required by South Florida. Developments are required to do littorals by Collier County, a certain percentage, I think it's 10 percent or something like that.

The reason the 20-foot maintenance easement is needed is too many of these water-management lakes become choked with cattails and other algae or other items that have got to be cleared. And if the project doesn't take it on to do it itself through their HOA, South Florida wants to always have the right and the ability to come in and make sure they can treat the lake so that the water-management function still functions. That's the reason for the 20 foot.

Now, as far as how the 20 foot's treated, it's primarily for erosion, and on a development on which you're putting landscaping around buildings to sell, very few people are going to put a lot of nice landscaping up against the lake when they can put 45 cents a square foot for sod or 35 cents a square foot for sod down.

COMMISSIONER SCHIFFER: But, why couldn't we access the lake -- obviously you have a boat access -- and let them do the maintenance from the water side?

CHAIRMAN STRAIN: South Florida deal. I think they travel or they -- I think it's supposed to be -- that's why the slope's four-to-one, so they can drive around the perimeter of the lake and actually spray the cattails and other vegetation that's choking the lake. But, I mean, that's something that's more of their issue, unless Mac's got some input on it.

MR. HATCHER: Nope.

COMMISSIONER SCHIFFER: So we're stuck with that. And then as we discuss fertilizer, we obviously -- that's not a good thing to have because people are spraying up to the water. But anyway.

COMMISSIONER MIDNEY: If you had a more natural littoral zone with cattails, you'd be picking up a lot more of the nutrients and you'd be minimizing the runoff. So I'm kind of not in agreement with South Florida Water Management since that seems to be their policy.

CHAIRMAN STRAIN: Well, I think their policy is to make sure the water-management facility can take the volume that it's supposed to and manage it. And I'm not sure if you get it choked up with vegetation the water's going to be flowing rather than being backed up. In fact, on one particular development it was required that one of the natural areas be sprayed for cattails because they were blocking the sheet flow coming from the north. And as long as the cattails were there, it would slow the water sheet flow down.

So -- but I'm not sure how cattails fit your example, but I mean, I know that for a fact because I had to do it, so anyway.

COMMISSIONER SCHIFFER: Okay. I mean, to me it just doesn't look good.

CHAIRMAN STRAIN: Oh, I don't disagree with you.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Plus they -- generally if you get a leeward side of a lake with a lot of wind, you'll see some of that sod still having erosion, and then it has to go back in and be treated later, which is very costly.

So -- anything else before we cut Mac loose? Mac, you satisfied enough today to go forward?

MR. HATCHER: Yes.

CHAIRMAN STRAIN: Okay. Thank you very much. We appreciate it, and thank you for your time, sir. You're very -- your detailing is really good, and we appreciate that.

MR. CABEZAS: Thank you.

CHAIRMAN STRAIN: \*\*\*We have one other item on today's agenda, which if you-all don't mind, we can try to finish up with Fred here, and then we can adjourn for the day instead of having to come back after lunch.

So -- and, Terri, we had a break about an hour ago. Are you still good to go?

THE COURT REPORTER: (Nods head.)

CHAIRMAN STRAIN: Okay. Fred?

MR. REISCHL: Thank you, Mr. Chairman. Fred Reischl with Growth Management Division. And I have a low-tech, hopefully quick presentation on the draft administrative code.

The administrative code for Collier County was originally directed by the Board of County Commissioners,

and the last direction was at the June 22, 2010, board meeting, and they directed county staff to continue with the process of the administrative code. Due to staffing issues, the process did not resume from that point until January of this year.

So currently we are reviewing the draft administrative code which our consultant White & Smith wrote, and we're comparing their draft with the existing Land Development Code to ensure that nothing was left out, added, or any changes in substantive issues.

Currently the -- as you read in the staff report, the LDC contains both processes and regulations which control development. The draft administrative code removes the processes and translates them into plain English and organizes them into a user's manual format.

The remaining LDC will contain only the regulations governing land development, and the resulting administrative code will contain the instructions for an applicant, the public, and county staff to apply those regulations to various situations.

The principal advantage of administrative code is ease of use. It will be written in plain English, and it will be organized by the steps leading to a permit, the goal.

Users will not have to cross-reference LDC sections to find out how to get a permit. They won't have to look in the stormwater section, the Site Development Plan section, and the transportation section. It will be listed step by step.

In addition, the administrative code will be adopted by resolution after advertisement and public hearing, and that's a shorter process than the ordinance that the LDC is today.

And we're scheduling an overview presentation to the Board of County Commissioners next month. This, as I said, in my staff report, is a brief overview to let you know what you're going to be seeing. You will also see this in at least one workshop and then the public hearing for the actual vote to recommend or deny to the Board of County Commissioners.

So I hope I gave you an overview. Feel free to ask any questions that you'd like.

CHAIRMAN STRAIN: Will the composition of the administrative code reduce the volume size of the Land Development Code?

MR. REISCHL: That's a good question. Right now --

CHAIRMAN STRAIN: Or are we just going to have another thousand pages of another code?

MR. REISCHL: I brought a prop. But this is single-sided with sidebars for comments, so it will be smaller than this. So we're hop- -- we haven't done that yet, but we're hoping that it will be a smaller volume than what we have here.

CHAIRMAN STRAIN: Okay. But back to my question, will it reduce the size of the Land Development Code?

MR. REISCHL: Of the code, yes.

CHAIRMAN STRAIN: Of the current code.

MR. REISCHL: Well --

CHAIRMAN STRAIN: If all that -- all that great stuff -- and I almost said "garbage" -- but all that great stuff is in the Land Development Code and you're now pulling it out to put it in an admin. code and you're going to have a little more detail in there, does that mean we're going to reduce the volume of the Land Development Code?

MR. REISCHL: Yes.

CHAIRMAN STRAIN: Okay.

MR. CASALANGUIDA: That's a yes.

MR. BELLOWS: That's an easy answer, yes.

COMMISSIONER MURRAY: Take a look at the county attorney.

CHAIRMAN STRAIN: All you need is a little faith.

MR. REISCHL: The administrative code is going to be adopted into the LDC, so it will be incorporated by reference into the LDC.

CHAIRMAN STRAIN: You going to put it on MUNI code?

MR. REISCHL: And we plan to put it on MUNI code, yes.

CHAIRMAN STRAIN: Okay. Well, that's good. Then we can search it properly there.

MR. REISCHL: Yes.



CHAIRMAN STRAIN: Okay. And before the workshop -- can you give it to us, say, a month in advance in hard copy?

MR. REISCHL: We had discussed that, and yes, we plan to -- we see how long it is, and any of the comments in there. It's going to take -- it's taking us a long time to get through with multiple readers, so we understand it will take you a long time.

CHAIRMAN STRAIN: Are you highlighting the changes -- you're going to pull excerpts from the current code into that book so that we have some current language, language that may not be as questionable if we know it's current. So are you going to differentiate between the types of language where you've pulled it and where you've added it, or is it all going to be jumbled together in one color?

MR. REISCHL: We have what the consultant has called a concordance which references LDC sections and what section that is in the administrative code; however, we don't plan to change anything. We've come across some -- as our reviewers are looking at it, we've come across some instances where we said, that's wrong, that shouldn't be that way. We're not going to change anything that's wrong because we want this to be a strict translation.

We're going to -- any of the things that we're finding now that are wrong, we're going to put them in the LDC amendment cycle.

CHAIRMAN STRAIN: Okay. But I really don't think you're going to be able to move the administrative code out of the LDC into its own separate code without adding a substantial amount of language to clarify it. And all I'm just suggesting is, the language that you're using to clarify, will it be noted that it's new language so we focus on studying the new language more than the old? Because the old we've already accepted. It's been in the code for a long time.

MR. REISCHL: It's all new.

CHAIRMAN STRAIN: Okay.

MR. REISCHL: I can just read a section of it to you. It's not written as the LDC is. And you'll see this before we have the workshop.

For example, this is language from the administrative code. "This document tells you how to obtain permits to develop your property. It describes how to put an application together, how to file the application, and where to present your project for approval." That's the plain English, so it's going to be hard to --

CHAIRMAN STRAIN: I understand.

MR. REISCHL: -- take that out of the three paragraphs that say that in the current LDC.

CHAIRMAN STRAIN: No, I understand. I just was -- you know, I can just anticipate now for a lot of us, including myself -- and I do read the code a lot -- but there will be sections in that code that you'll come up with in this new administrative code that will seem new because they're not used that often. I just want to -- I didn't want to focus on those, but it looks like we'll just see those equally as everything else.

MR. REISCHL: We are -- as we are continuing this review, we're finding that out right now, yes.

CHAIRMAN STRAIN: Okay.

MR. CASALANGUIDA: One thing I've done is I've read it, and as you read it, you kind of get a feel that it is an administrative code and you start to get comfortable with the fact that it's not -- it's procedural more than, you know, definitive in terms of code.

So you get a comfort level after reading it. So I'd recommend maybe one time just going through the thick book and just reading it and then flagging anything where you say, wait a minute, this seems to give me discomfort. Because as you read it, you get comfortable reading it and start understanding it's really a procedural document.

CHAIRMAN STRAIN: Okay. Anybody else have any comments? Fred, go ahead. Ms. Caron?

COMMISSIONER CARON: Yeah. Under the list of the elements of the new admin. code, there are several here that are yes-no questions. But I'm assuming that -- for example, are fees required? Well, the answer to that is either yes or no, but if the answer is yes, then you're going to be listing the fees there or --

MR. REISCHL: No, that will still be in the fee schedule.

COMMISSIONER CARON: That will still -- okay.

MR. REISCHL: Right. And maybe I wasn't clear in how I wrote this, but this won't say, when is the procedure required and answer the question and things like that. Let me give you an example here. As the -- it will describe it in a more narrative format rather than the questions I have. The questions here I just got from reading through the code, and that's what is answered among other things, too.

But it will say -- for example, it will say, go into Horseshoe Drive located at, their website is this, their telephone number is this. I mean, it's a real user's manual. It's not just saying, the planning director is required to do this.

COMMISSIONER CARON: Okay.

MR. REISCHL: It will tell you step by step what to do, and for most processes it will answer that question. If the process doesn't apply, it won't be in that section. For example, say, how to get a conditional-use permit, and it will go through that step by step.

COMMISSIONER CARON: Right. And so if, for example, on the fee one, it will tell you, go to the fee structure book --

MR. REISCHL: Exactly.

COMMISSIONER CARON: -- and look it up? Okay.

MR. REISCHL: It will tell you where it's located online and things like that.

COMMISSIONER CARON: Any of the changes that are going to be in this code are supposed to be procedural and non-substantive.

MR. REISCHL: Correct, yes.

COMMISSIONER CARON: But if I'm in the middle of the process and the Board of County Commissioners decides to make a change to the admin. code, how do I find out about that, or do I have to have watched that particular meeting? How are you going to let people know if something changes? Because even while it's not substantive to the final product, it can be in the process of getting through to the final product.

MR. REISCHL: For example, that -- the example I gave in the staff report about electronic submittals and what media you can use? And -- well, it's going to be advertised as a BCC item, so if you -- if you see Board of County Commissioners advertisements, you'll see that.

MR. CASALANGUIDA: Yeah. We use our county building blocks. We advertise it internally. We use our email lists. We do a good job, I think, of contacting people. And in times we haven't, we've given people extra time to accommodate a change.

COMMISSIONER MURRAY: I thought -- I thought you could also, on your website, recent changes to the administrative code. I mean, it's as simple as that.

MR. REISCHL: Just like we do with the LDC now, right.

COMMISSIONER CARON: Yeah, that would be good. Okay.

CHAIRMAN STRAIN: Okay. Anybody else have anything?

Fred, thanks.

MR. REISCHL: Thank you.

CHAIRMAN STRAIN: It's good to have you back again.

MR. REISCHL: Thanks.

CHAIRMAN STRAIN: And I'm sure you're enjoying all this; a lot of fun.

MR. REISCHL: And we'll try to get that to you in plenty of time to at least get you started on the first part of it.

CHAIRMAN STRAIN: Remember what I said earlier, don't listen to Nick.

Okay. With that, I think that --

COMMISSIONER CARON: You noticed he came back.

CHAIRMAN STRAIN: Yeah, after he was talked about. That wraps up our meeting for today.

Is there a motion to adjourn?

COMMISSIONER EBERT: Make a motion to adjourn.

CHAIRMAN STRAIN: Made by Ms. Ebert.

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: Second by Mr. Klein.

All in favor? We're adjourned.

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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 12:03 p.m.

COLLIER COUNTY PLANNING COMMISSION

  
MARK STRAIN, CHAIRMAN

ATTEST  
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 5-2-11, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT REPORTING SERVICE, INC.,  
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.