TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, May 19, 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: Donna Reed Caron
Melissa Ahern
Brad Schiffer
Paul Midney
Karen Homiak
Bob Murray
Diane Ebert
Barry Klein
ABSENT: Mark P. Strain

ALSO PRESENT:

Nick Casalanguida, Growth Management Division
Raymond V. Bellows, Planning Manager, Zoning
Jeff Klatzkow, County Attorney's Office
Tom Eastman, School District

CHAIRMAN CARON: Good morning, everyone, and welcome to the May 19th meeting of the Collier County Planning Commission.

If everyone will rise for the pledge.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN CARON: Good morning. Our chairman is off today on family business, and so we will muddle through without.

Karen, if you'll do the roll call, please.

COMMISSIONER HOMIAK: Sure.

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?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Caron?

CHAIRMAN CARON: Here.

COMMISSIONER HOMIAK: Mark is absent.

Ms. Homiak is here.

Mr. Murray?

COMMISSIONER MURRAY: Here.

COMMISSIONER HOMIAK: Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: And, Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN CARON: I guess we should have given you a chance to catch your breath.

COMMISSIONER HOMIAK: It's okay.

CHAIRMAN CARON: Sorry. Addenda to the agenda; any changes or -- from anyone?

The only thing that I'm aware of is that the Heritage Bay DRI has been continued. So if anybody is here for that besides Mr. Anderson, it's been continued to July 7th; is that what I read?

MR. BELLOWS: That's correct.

COMMISSIONER CARON: Okay, all right.

Anybody have anything else that -- Ray, anything else?

MR. BELLOWS: I have no changes.

CHAIRMAN CARON: -- you're aware of?

Okay. Planning Commission absences. Our next meeting will be June the 2nd; is that correct?

COMMISSIONER SCHIFFER: Donna?

CHAIRMAN CARON: Yes.

COMMISSIONER SCHIFFER: I'd like to request -- I won't be able to make it. If I'm excused, that would be great.

CHAIRMAN CARON: Okay. Anybody else --

COMMISSIONER HOMIAK: No.

CHAIRMAN CARON: -- know that they are not going to be here?

(No response.)

CHAIRMAN CARON: Okay. Thank you.

Approval of minutes for April 21st.

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN CARON: Motion to approve by Ms. Homiak. A second?

COMMISSIONER EBERT: Second.

CHAIRMAN CARON: Second by Ms. Ebert. All in favor?
COMMISSIONER AHERN: Aye.
COMMISSIONER SCHIFFER: Aye.
COMMISSIONER MIDNEY: Aye.
CHAIRMAN CARON: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER MURRAY: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER KLEIN: Aye.
CHAIRMAN CARON: Opposed?
(No response.)
CHAIRMAN CARON: I don't think anybody was opposed.
BCC recaps, Ray?
MR. BELLOWS: The Board of County Commissioners met on May 10th, but there were no land-use items presented at that petition -- or that meeting.
CHAIRMAN CARON: Okay. Was there anything else of import to the Planning Commission, though, that might have been discussed?
MR. CASALANGUIDA: Not that I'm aware of.
CHAIRMAN CARON: Okay, great. Our chairman is absent, so there'll be no chairman's report.
The consent agenda for CU-PL2010-1949, Hitching Post Plaza. Do I have a motion to approve?
COMMISSIONER MURRAY: Motion to approve.
COMMISSIONER KLEIN: Second.
COMMISSIONER SCHIFFER: Second.
CHAIRMAN CARON: Thank you. All in favor?
COMMISSIONER AHERN: Aye.
COMMISSIONER SCHIFFER: Aye.
COMMISSIONER MIDNEY: Aye.
CHAIRMAN CARON: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER MURRAY: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER KLEIN: Aye.
CHAIRMAN CARON: I just had one question on that. It came to us in the form of a memo, which I've never seen before, and then the actual exhibit was on the back. Any particular reason?
MR. BELLOWS: I don't think it was any particular reason other than I believe Nancy just wanted to make it more clear what the changes were.
CHAIRMAN CARON: Okay, good. Thank you.
***All right. Now we are into our regular items. And, Mac, you get to be up first today. It's a continuation of the discussion on our fertilizer ordinance, so take it away.
MR. HATCHER: Thank you. Mac Hatcher, Land Development Services.
I have a very brief presentation to take you through what I provided in the staff report and a few additions that were left out of the staff report due to oversight and issues that have been brought up since then.
On the 4/21 meeting you all requested to consider some alternate standards for the fertilizer ordinance and you wanted an annual limit of four pounds of nitrogen per thousand square feet, at least 50 percent slow-release nitrogen. And one of the issues that FDEP brought to my attention was, in addition to those two standards, one of the things that's currently required that should be included would be a one-time -- or an application limit of one pound of nitrogen so that you don't apply more than one pound of nitrogen at any one time during the year.
You wanted the zero-percent phosphorus unless the soil test warrants addition, a minimum 10-foot buffer with no fertilizer around water bodies except for new plantings, and a prohibited application period from July 1st through September 30th.

You wanted to combine the buffer sections, and that's been done in the version of the ordinance that was provided to you-all in the new Standard 6, and you wanted a standardized penalty section, and that's been provided in the revised ordinance that was included with the staff report.

The revised penalty section brings out the fact that there are provisions in the standard code enforcement that allow for corrections to be made, and a lot of the application of the fertilizer ordinance wouldn't allow somebody to make a correction. If you deposit fertilizer into the water, there's no way you're going to have the -- have the applicator remove it. So there's provisions that that portion of the code-enforcement methodology wouldn't have to apply.

And you asked for a review after two years. That's not adopted in the ordinance, but it would be something that we would do.

I failed to make the text changes that we discussed at the meeting, but I have those text changes and can incorporate them into any revised ordinance.

CHAIRMAN CARON: Mac, why wouldn't you incorporate the review after two years?

MR. HATCHER: In the ordinance?

CHAIRMAN CARON: Yeah.

MR. HATCHER: It just doesn't need to be in the ordinance.

CHAIRMAN CARON: You'll be here and you'll remember?

MR. HATCHER: Right. And if I'm not, it's on the record and someone else will remember.

CHAIRMAN CARON: Thank you.

MR. HATCHER: You asked for additional information on some things, a slow-release definition, and I provided you-all with the text that's in the Florida Statutes that deals with slow releases for fertilizers and, in addition to that, provided you with a copy of an example label to illustrate how the different analyses of nitrogen is presented on a typical fertilizer label.

And you'll notice that there's no direct linkage between slow release on the label and what you typically think of in terms of what the percentage of slow release is. The slow release is most commonly identified as water-insoluble nitrogen. It's on the label as the percent nutrient within the bag of fertilizer. To convert that into the percent of slow release, you have to do additional calculations.

You asked about compost. And in the -- I provided, with the Florida Statutes, the definition of fertilizer, and it includes a little section that basically says that if you've got compost that's not being advertised as being -- or having nitrogen or phosphorus content in it, then it's not considered a fertilizer. So a homemade compost wouldn't be considered a fertilizer, wouldn't be specifically addressed. It could be used throughout the summer as, you know, you need to.

You asked about a definition of a water and wetland buffer starting point. I didn't give you this diagram in the staff report, but what we're recommending would be what is considered to be the normal water level, which is basically, in a wet detention system, the water level at the bottom of the bleed-down.

So this is usually the most common demarcation point on a wet detention stormwater system. It's usually fairly obvious, and it's also actually surveyed in and can be tied back to a water level, and then if the water level is above that normal water level, then that water level would be the starting point for the demarcation of the buffer.

For natural water bodies, we're recommending that you use basically the edge of state waters, the definition that's in the Florida Administrative Code for natural water bodies. And, again, if the water is above that level, then use that -- that level to do the buffer demarcation.

The composition of fertilizer --

CHAIRMAN CARON: Mac?

MR. HATCHER: Yes.

COMMISSIONER MIDNEY: Could you go back?

CHAIRMAN CARON: Mr. Midney has a question.

COMMISSIONER MIDNEY: The seasonal high groundwater table minus six inches, would that be six inches vertically or six inches horizontally?

MR. HATCHER: Vertically.

COMMISSIONER MIDNEY: And how would you determine that?

MR. HATCHER: It's determined by either wetland plant indicators or soil indicators. It's a technical process that is part of the environmental resource permit process to set the water table -- I mean, to set the elevations for the stormwater systems.

COMMISSIONER MIDNEY: Thank you.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN CARON: Thank you.

Go ahead, Mr. Murray.

COMMISSIONER MURRAY: That being the case, we spoke about the code-enforcement officers having to do that job. Will they receive some kind of base training to allow them to understand these variables that are possible?

MR. HATCHER: The environmental-code officers already have that training.

COMMISSIONER MURRAY: Good. Thank you.

MR. HATCHER: Okay. You asked for an example of the composition of fertilizers currently available. I surveyed a couple of large box stores and the hardware store and provided you-all with a table of the breakdown of nitrogen/phosphorus/potassium that is -- that was on the label, the percent insoluble nitrogen, and then I calculated the percent slow-release nitrogen.

You asked for information about the regulation of sale of fertilizers. I indicated in the staff report that it was in House Bill 457 that the sale would be limited, or regulation of the sale would be limited to the Department of Agriculture. That's incorrect. It's in House Bill 7215. And the bill is passed but it's not been signed yet, but I don't believe there's a whole lot of reason to think that it won't be signed. And that will apply to any ordinances that are adopted after July the 1st of this year.

And, finally, you requested that we invite some experts on the model ordinance. Terril Nell from the University of Florida Institute for Food and Agricultural Sciences is here and would like to make a brief presentation, will be available for answers.

And Thomas Frick and Michael Thomas from FDEP are on the phone and can answer any questions you-all have for them about the ordinance.

CHAIRMAN CARON: Thank you. And obviously there are lots of people here to speak on this issue. So what's the pleasure of the board? Shall we hear all the speakers first and then discuss, or -- and, obviously, if anybody has any questions along the way, rather than forget them and forget to ask them, I think we can -- just know that we may be breaking into any one of the presentations. So, thanks.

So that will be -- make your first speaker here, Mac?

MR. HATCHER: Terril Nell with the University of Florida, IFAS.

CHAIRMAN CARON: Thank you.

DR. NELL: Thank you very much, Mac, and board of planning. Appreciate the opportunity to be here to talk about this entire issue.

The University of Florida has taken this entire issue very, very seriously. It is an issue that, as we look at water quality, we recognize the significance of it to the state, to the counties and the cities.

We're fortunate at the University of Florida that our background in this actually goes back nearly 25 years, with the first work being done at our research center in Fort Lauderdale in the mid '80s. There was additional work done there in the '90s, looking at runoff and leaching from a standard lawn and a planted landscape, and then the serious work, if you want to call it that, began in the early 2000s when we started talking with the Department of Environmental Protection.

It was clear that while we had a great deal of vegetable information, a great deal of citrus and fruit production information, we needed a lot more information, good science. That was the agreement we had with them, we want sound science that can be used in understanding what's really happening in the landscape. And in the early '90s, the Florida Department of Environmental Protection started funding the University of Florida to do research on turfgrass and -- very expensive project -- done at three locations, almost replicates, starting in Fort Lauderdale, Gainesville, and Milton. They had one common turfgrass in all those locations, and then they each had one that was separate just for their location. It was totally about leaching. I'll give you an example of that.

But we have begun to publish that information, and it is with all due statistics, it is with the very demanding

criteria that FDEP puts on it, which are EPA standards, that there are certain collection processes that must be taken for the leachate, there are certain procedures for analysis, and we have to even have the samples analyzed in a Florida Department of Environmental Protection qualified laboratory or the results are not valid.

Now, I will admit, it came close to driving my faculty crazy. It may still almost drive them crazy, and I'm glad they're doing the work and not me. So I think there's been a great deal of progress.

Many of you probably know -- there we go -- that the -- you may or may not know that the University of Florida, IFAS -- and it's within my department, environmental horticulture -- maintains a statewide program called Florida Friendly Landscaping Program that is now trademarked; it is established in Florida Statute as the landscape program for the State of Florida. We have multiple programs within Florida Friendly Landscaping, which is within the Center for Landscape Conservation and Ecology, which was also established in 2005 by the legislature to deal with issues like this.

We have a homeowners' section, which is represented by the Florida Yards and Neighborhoods. We do have a homeowner association program, and we have the Green Industries Program dealing with water quality, and with that program -- we now have a training program, and these are all joint with FDEP -- a training program mandated by Florida law last year that every professional applying fertilizer in this state must go through the six-hour training that we provide by early 2014. They must be certified, or they may not apply.

So we're -- we're doing that throughout the state through our joint county extension offices, within -- with IFAS and the counties, and we have also some professional trainers who are assisting us, and DEP has some training.

So I've given you the handbooks that we have. I know you already had the BMP manual. There's a couple of things that I would like to point out. One is this is the most recent version. There are times when people want to go back and pull out something from our 1993 version or our 1996 version and say, they said that.

You know, if we don't change with the research that comes out, all of you would say, why are you there? Why are you investigating research? Why are you doing research?

So we have invested research time and now extension time in formulating the information that's in this, and we constantly change -- I'll give you an example of that -- sometimes because we write something, we find out maybe it's not understood as easily as it should be. So that's what these documents are, but it supersedes everything else.

We also gave you two additional publications, one dealing with the fertilizer toolbox that deals with iron and nitrogen, and I'll talk about that, and also one that was just published in early 2011, urban water quality and fertilizer ordinances. It is probably the most comprehensive document available right now other than the two books that were published in 2008 on urban water quality and landscape management.

There's over a hundred references. And much of what I will talk about will come from that. Everything that I will talk about comes from scientific references.

The president of the University of Florida, my boss, the senior vice-president, we're all in agreement, we're going to talk science, okay. We're going to talk published science, peer review, which means we have collected the information, we've written the documents. It goes to a scientific journal. The scientific journal has what we call blind reviewers. We do not know who they are, which gives them the freedom to be, sometimes, bluntly honest. And they say, maybe you analyzed the data wrong.

Why does that have a meaning? Because if we say something is different, it is statistically different based on the variation or lack of variation that exists, okay. So that's what I'm going to be talking about in this.

This entire issue is very, very complicated. I think all of you know that. It's very confusing at times. Unfortunately, I think it's misunderstood and misinterpreted at times, because -- I think because the science is so relatively new in the last five to ten years.

This is simply the nitrogen cycle. This is not even the phosphorus cycle. So you show phosphorus going in through various ways, whether it's fertilization or plant residue, which could be turfgrass clipping or compost out of a yard. We then see that going through. We have denitrification. We have volatilization, which means it goes into the air. It is converted from one form of nitrogen to another form of nitrogen, and we can talk about how much of that nitrogen is absorbed.

We can have leaching through, depending upon the quality and health of the turfgrass or other ground

covers, and we can have runoff, okay.

What is not shown here -- it mentions leaching to groundwater. This is all about the nitrogen cycle from plant material or fertilizers. We also can have the same nitrogen coming from septic tanks into the groundwater moving laterally into our water bodies. And there are examples where that does happen.

So I don't -- I think this issue is more about what we can do than necessarily what it is. Immediately it always goes to the application of fertilizer. I think it goes to the management of a landscape and looking at the landscape as a community of landscape, not one yard at a time.

When I talk about the quality, this is an example. On your left is poor-quality turfgrass. You can see the turf -- you can see the soil there. On the right would be a more healthy or dense turfgrass, and I'll explain why that's important. But it's important that you see at the outset why I think of it as a healthy turfgrass issue or a density of the turfgrass issue rather than a very sparse turfgrass, as you see on the left.

Why is it important? It's well established. You can go to agriculture in the Midwest where they try to have ground crops so they don't get erosion. We have the same issue in our landscapes. If we have a healthy turfgrass, we reduce erosion, we reduce runoff, and we reduce leaching.

Why do we reduce runoff? If we think about the flow of water, if we have a slick surface, a smooth surface, the water runs off rapidly and takes whatever is there with it. If we have a thick, dense, healthy turfgrass, there are scientific publications showing the reduction in flow that that turfgrass provides, and by reducing the flow, it allows for a greater penetration and less runoff. So that is reducing runoff.

There's even research that shows that simply doubling the number of turfgrass shoots -- again, think about that picture of dense versus not dense. Doubling the number reduces runoff by 67 percent. That's very significant.

As we look at any plant, what we see is the top. Plant growth, turfgrass growth -- we hate it when turfgrass grows too fast because we have to mow it, but that's the top growth. And what happens is that top growth is providing the energy through sunlight, photosynthesis, that is developing a root system below, and that root system is absorbing nutrients.

So that's very important, because the greater the aboveground growth -- biomass. We hear a lot about biomass. The greater that biomass, the greater the root mass that, in turn, increases the nitrogen uptake by the plant or the turfgrass.

So if we can get a healthy root system -- it's more than just fertilization -- then we get greater uptake; we get reduced runoff.

In one study that I found, there was actually greater phosphorus runoff in the unfertilized lots than there was in the fertilized lots. Why? Where's it coming from? It's coming from a breakdown within the turfgrass as that turfgrass declines over time because of lack of the fertilizer to promote growth.

And then the management practices that lead to a better root development also reduces fertilizer leaching.

So we want deeper roots through fertilizer and watering, through plant selection or turfgrass selection, and more fibrous roots, if we can get them.

And here's an example. Warm season turfgrass growth -- and this is out of a turfgrass book that was published in 2002, and this is just for warm-season turfgrasses. And what's interesting here is you look from the left to the right on the bottom axis. It's winter, spring, summer, fall. When do we have maximum growth?

On a warm-season turfgrass, we have maximum growth from late spring to early fall. That's when we get our density, that's when we have photosynthesis, because they're a totally different photosynthetic system than northern grasses.

So if we look at, very quickly, the FDEP study, which we're doing, here's how we did it in each of the three locations. The plastic container you see on the right is actually buried three feet deep in the plots where you see that arrow, the black arrow. It has gravel in the bottom. The water tube that you see right there is hooked aboveground to a suction pump, and we can pull samples out at any time. We collect that according to the EPA standards. We analyze it for nitrogen and phosphorus, okay.

And we can tell them we know what we're applying. From that we can tell what is not being absorbed by the turfgrass. And you can see from this turfgrass it is dense; it's healthy. And I'll show you the treatments.

This is some of the data. Now, this is 2006. The statistics are not on here, but I can tell you this work has now been accepted for publication due to the statistics. The green line, these plots were fertilized at the black

markers. The green was 1.75 pounds of nitrogen in every application; the yellow line was one pound of fertilizer at every application.

So from April 4th of 2006 to October 15th of 2006 that turfgrass received four pounds of nitrogen, if you look at the yellow line, or it received 1.75 pounds of nitrogen for the green line.

Now, even this is in total violation of the Florida Department of Agriculture fertilizer rule, because what's important here, you're talking about slow-release fertilizer. We recommend slow-release fertilizer. This study was done with 100 percent water-soluble fertilizer, okay, which you'd look at and say it's totally water soluble so it must be leaching.

When you look, when do we -- when are we getting the leaching? Two times. We're getting it almost only -- we're getting some leaching with the low rate, but we're getting leaching with a higher rate, 1.75, but we're also getting it in the early spring and late fall or early fall. We are not seeing -- even with the red lines which are rain events. You can see those pointing down. And we see a couple blips when we're overfertilizing, so not proper application.

But when we are overfertilizing, we can see leaching. I don't want to present it that we're not getting any leaching with the one pound. But under Florida Statute, Florida fertilizer rule, we would have to lower that soluble from one pound to .7 with then 30 percent slow release to get to the one pound.

But I think it's significant here, in terms of talking about a restricted period, that you see that during the summer months, with proper application, the leaching is insignificant.

We have fertilizer rates. These are University of Florida IFAS rates. These are in the FYN handbook, they're in the BMP manual, and you can see the ranges. You're suggesting four pounds, as Mac mentioned. I've talked to DEP about this as well. The way it is currently written, you're saying four pounds without any restriction on what can be applied at any given time. So somebody could go out and put on four pounds at one time, which would double what that green line was right there. So imagine if somebody went out and just applied four pounds. We would see probably quite some release rate.

Now, I want to pass these around because --

CHAIRMAN CARON: I think Mac's corrected that for the record anyway, that it should be only one pound of nitrogen at a time. So that's been corrected for the record.

DR. NELL: Well, sometimes I think it's easier with a graph just to demonstrate that.

What I'm passing around -- I'm going to get to this -- is two types of fertilizers. One is 100 percent soluble and one is slow release, and you really can't tell the difference in them.

But when we look at this, I think we have to start saying, what is the real issue. And one thing that has been said -- and I will tell you we had it in earlier documents, and this is one where we realized that what we thought we were saying is not what people were thinking they were reading, and so that's the reason you have the publication "Fertilizer Toolbox," because some people were reading that we were saying you don't need nitrogen in the summer, you can just apply it in iron.

Well, for some of the water-quality issues that you're talking about, iron could be just as bad. We won't get into that. But the important thing is that iron will correct iron deficiency and nitrogen will correct nitrogen deficiency, but the application of iron will not correct nitrogen, okay.

And the other important part of it is -- and it's in that document -- is the reason -- not to concentrate just on iron but the need for nitrogen -- is nitrogen provides the protein that builds the amino acids, builds the cell structure, and builds the root system that increases the absorption. Iron does not. So it has a very different metabolic activity than iron.

And so this is our most recent statement that is in that document. It's going into the revision of the Florida Yards and Neighborhoods Handbook, and we will make sure that it's better understood.

CHAIRMAN CARON: But it is not in this most current one?

DR. NELL: It is not in that most current one.

CHAIRMAN CARON: That's right.

DR. NELL: It is being revised, and that will be -- well, I mean, it's 2009 --

CHAIRMAN CARON: Yeah.

DR. NELL: -- and, you know, it's great when we have discussions because, truly, we find out that

sometimes we don't write at the level we should, and I don't have a problem with that.

But Mike Thomas at DEP has agreed, you know, the website's going to be changed. It's going to be changed in the handbook as well next time we print the handbook, but we can't just go print more handbooks.

So what do the scientific research results show about restricted fertilizer periods? That basically any management practice that reduces the health of turfgrass leads to increased leaching, greater runoff, and more erosion. The primary factors can be any of these: Failure to fertilize, overfertilization, over- or underwatering.

I have to mention there that overwatering can be as bad as anything else. Overwatering will create major deficiencies. It will cause diseases. It will make the turfgrass thinner, just as underwatering will.

So unless we educate the consumer for proper fertilization practices and proper watering, we can run into problems either way.

Mowing too short. Why is that an issue? We want as much green as we can, because that green builds our root system. That's where the photosynthesis happens.

So the loss of turfgrass density increases leaching and runoff. You know, this is an extreme program, I recognize that, but over the time of years of withholding fertilizer, improperly watering, we can get something like this, and you can imagine, as you see here, leaching was three times greater in dead turfgrass compared to healthy turfgrass. And as I mentioned, that one study, the leaching of phosphorus was much greater in nonfertilized plots than the fertilizer plots.

So the science is very strong on this issue.

CHAIRMAN CARON: But in this picture, that's not something you had control over, right? You don't know what caused that die-off, whether it was overwatering or --

DR. NELL: I do not.

CHAIRMAN CARON: -- cutting the grass too short, or whether it was fertilizer.

DR. NELL: I think it was a disease issue. I got it from one of my faculty members. I'm not trying to portray it as fertilizer. I'm trying to portray it, that this is a management issue overall, and fertilizer's one component of it, a very important component.

Fertilizer-free buffer zones. Mike and Tom are on the phone, and they're going to discuss that as well.

But I do have a concern that I'll talk about where to the left is the house with the planted landscape, then a grass area, and then down near the lake is basically bare ground. And based on what you've already seen, bare ground or landscape plants that are not going to provide a flow restriction to the runoff may easily end up causing more erosion. So we have to look at that.

And then one of the pictures that is in -- I think it's the BMP handbook is this one. The ring of responsibility where you can see here with a fertilizer spreader with a guard, fertilizer's been applied to within three feet of this water body, and it is not moving any further than that. So we're not seeing movement down.

And you can see -- and this one also. And I'm glad that's not my yard, although I will admit as a kid I think my mother told me I did that one time. And I'm a Florida native, so I'm familiar with this. But you can see that where we apply it it's staying.

My point in passing the fertilizer samples around is when we are applying slow release or quick release, it doesn't matter if we have this. It also doesn't matter if we have this. Look at the amount of fertilizer that's going down the storm drains just because of improper management of turfgrass clippings, an area 200 linear feet by five feet wide, a thousand square feet, is putting .15 pounds of nitrogen into the stormwater.

Now, that is reading -- when anybody does water analysis, that is reading as lawn fertilizer. It's not the lawn fertilizer. It's the mismanagement.

There's a study that was done in Boca Raton showing leaf litter. There's one in Wisconsin that was even worse. Leaf litter by the street allowed to stay there for more than two days is leaching untold amounts of nitrogen and phosphorus. Two days. It's pretty darn significant.

Here's where the slow release and quick release probably doesn't matter at all. You see that this turfgrass strip was about two feet wide, and the company came in with a spreader. This was several years ago before all the training. But the application was onto both the turfgrass and the sidewalk. We don't need it on the impervious surfaces. We don't need concrete to grow. But when we have rain, it washes it off. And you can see the prills of fertilizer here.

So, again, it's part of an education process. But if we're using slow release and we don't have an educational program to go with it, a public education program, and it goes onto the sidewalk, driveway, road, it washes down. It's still going to read as fertilizer, but it's not -- it's not our landscape.

The other part of that, I mentioned, is irrigation. But as we have sloppy irrigation, improperly maintained irrigation, and if it has been dry right after we've applied for a period of time and we have this, guess where the fertilizer's going to go? And slow release will, in those cases -- none of those prills have glue on them, so it doesn't matter what we apply. With improper management, it's going to go down. If we're using slow release improperly handled we're going to have that slow release within our stormwater for a long, long time.

So what does all this mean? Just to wrap it up, the research nationwide, it's very consistent. It plays an important role in reducing fertilizer runoff and leaching leading to improved water quality. Turfgrass must be properly managed, including fertilization, and that includes during the summer.

Proper fertilization is key to minimizing (sic) the environmental benefit of turf. Potential for harm is greater during periods of reduced growth; in other words, during the period where we see reduced root activity, October to maybe March, depends on where we are.

I will tell you, I'm always humored by some of the northern studies that they say don't apply fertilizer when the ground's frozen. To me I think that would be obvious, but it's in the scientific literature. And the potential for harm is greater during periods of low growth.

I tried to jump the rope.

Scientific research -- and I've chosen not to give you table after table after table, although I could -- does not support the reduction of fertilizer during active growing periods. And I think what I've summarized and shown you pictures, you can see that. It shows that a blackout may, in fact, lead to increased runoff and leaching, and that is well documented. And the proper fertilizer and management is a year-round activity and can best be accomplished with science-based BMPs combined with strong education. And the communities and the states that have done that have been very successful.

And with that, I'll be happy to --

COMMISSIONER MURRAY: Question.

DR. NELL: -- entertain questions.

CHAIRMAN CARON: Mr. Murray, you can start.

COMMISSIONER MURRAY: I want to thank you. This was a -- very, very informative, very well done. And clearly the emphasis here is being made, in my mind anyway, to take it as an entire management practice.

DR. NELL: Absolutely.

COMMISSIONER MURRAY: And that's excellent. But given that not everybody will be given the opportunity or have the opportunity or care to have the opportunity for education, we are focusing on fertilizer as the issue.

I don't know if you've had a chance to review the model fertilizer ordinance. Is there anything that you might contribute within that ordinance that would help to work toward better management practices educationally, or whatever form you might offer?

DR. NELL: Well, obviously the change from just four pounds to one pound.

COMMISSIONER MURRAY: Yes, clearly.

DR. NELL: That's clear. The second is, I -- with the scientific background, I have trouble seeing how, over time, withholding fertilizer for four months every summer is going to be a benefit. Again, that's science, is not my observation.

But if we want healthy growth, then let's limit the application amount. Let's look at slow release, which we support. Let's eliminate the phosphorus, which you're supporting. But let's have healthy turfgrass, because when we go outside of that range -- and people do that. I mean, we know that, not from scientific studies but, you know, it's there. And if we apply it too early, we're going to get more leaching. The data are solid.

COMMISSIONER MURRAY: The problem, as I see it -- and it's -- for purposes of -- I'm thinking of everyday Joe and Josephine, they won't know these things -- so that in our effort to try to help, is there a better combination of chemical fertilizers that can make it less error prone for Joe and Josephine? I don't think so, thinking thinking in the manner of which you related, but --

DR. NELL: I can tell you that right now there are no scientific publications saying that 15 percent slow release is different from 30 is different from 50, okay. So I have trouble going there and jumping through something that right now is in my imagination.

COMMISSIONER MURRAY: Sure.

DR. NELL: I will tell you we've got it underway, okay. And I think we'll have much more information. I know we'll have much more information when that's done.

And I hope at that point we're able to come back and say, okay, statewide let's do something different. And with the activity that we have now through the Florida Friendly Landscaping Program, again with DEP support, you know, I think through Collier County extension, Doug Caldwell and others, you know, we simply need to boost this up and say, hey, folks -- and let's get something on TVs locally.

In Gainesville, our regional utility has some things on the air. Maybe combined county and IFAS, we could get the local TV shows to put something on the air. If we figure out how to do it, I'll produce it, okay. I've got the staff to produce it.

COMMISSIONER MURRAY: If I took away one thing from your presentation, my sense of it is that rather than what we might be including in our ordinance, which would be a prohibition or a marked reduction in fertilization during the growing period, you're an advocate for appropriate application?

DR. NELL: Absolutely.

COMMISSIONER MURRAY: Okay. Thank you very much, sir.

CHAIRMAN CARON: Mr. Midney?

COMMISSIONER MIDNEY: Yeah. I have a question. If we decide to pass or suggest no fertilization from July 1st to September 30th, how long does the fertilizer persist in the soil? Would it last for three months?

DR. NELL: Right now we're recommending almost what I showed you, four applications. I don't think anybody does four, but we're recommending four, and we're saying every two months.

I do not have the data to say there's a fertilizer there that will go three months or four months. And I'll tell you why. I think they're there, and it will be increased slow release, so it's released over time. But we do not know what happens when you apply those slow-release fertilizers in terms of leaching and runoff.

Now, the concept in most people's minds is that if you say you've got a three-month release, that that fertilizer, those prills are magically formulated to release one-ninetieth every day. They don't do that. I've actually seen some slow-release fertilizer release curves in real time on real turfgrass where at about 35 days out -- and I think it varies by formulation, because it's not just one formulation technique -- where there was a spike at 35 days greater than what you saw in those graphs. So 90 days, maybe not. Two months, maybe. I mean, that's what we're recommending now, and it can work.

COMMISSIONER MIDNEY: Well, but according to the graph, April would not be a good time to do it because that's the dead dry season, so --

DR. NELL: My turfgrass specialist in Pensacola who's on the DEP project, his recommendation is one that I had never heard. Pay your taxes on April 15th first and then fertilize. You know, maybe people could read it that way, understand it that way.

COMMISSIONER MIDNEY: That's what he thinks. My other question is about Xeriscape. Would you say that where you have natural areas or xeriscape that you'd have more runoff than where you had turfgrass?

DR. NELL: Totally depends on the plant material. It worries me when we say just have a plant buffer, because if we go back to the 1995 study done in Fort Lauderdale, what they did was go almost to xeriscape. I don't like Xeriscape because it's almost zero scape, and that's the reason the legislature put it in Florida Friendly Landscaping, get rid of --

COMMISSIONER MIDNEY: Well, it depends. You know, natural Florida landscaping is very attractive, too, and it doesn't need fertilizer or water.

DR. NELL: And we accept that within Florida Friendly Landscaping. You know, it's "right plant, right place." We don't have a problem with that.

If you have a native grass that has a dense lower -- I guess I'd call it canopy -- that is going to reduce the water flow, you know, I think that's fine. If you have -- talking to the Sally, and we're talking about confederate jasmine or some ground covers. You know, I can see water trying to get through a thick canopy of confederate

jasmine. It's going to have a tough time.

But if you looked in that one photo I had with palm trees, that wasn't dense, you know. Those plants were planted that far apart. There were -- you know, the roots might be out that far. Water's just going straight under, and it's not being slowed down to be absorbed.

COMMISSIONER MIDNEY: Well, I can see if you had fertilized turfgrass and then you had a sparse ground cover where you're putting fertilizer next to it, it can filter through, but if you just had a natural cover -- before, you know, human settlement, what was the nitrogen runoff before that? It was obviously a lot lower than it is now.

DR. NELL: Right. I think -- I think a lot of that is simply impervious surfaces. There are data to show the greater the amount of impervious surfaces, the greater the runoff, probably the greater the contamination, including from automobiles and other sources.

CHAIRMAN CARON: Go ahead, Brad. I'm sorry. I think -- Mr. Eastman?

MR. EASTMAN: You had mentioned at the conclusion of your presentation that certain communities that had followed your recommendations were successful.

DR. NELL: Not -- I mean, it's out of state. It's not happened in Florida yet.

MR. EASTMAN: So the components -- were they concerned with the runoff into their important waters, or how is that measured? What were the components of success? Even though it was out of state, are the components of that success transferable and applicable here?

DR. NELL: Some of it -- yes.

MR. EASTMAN: And what are the percentages? I mean, can you tell us, you know, if you do this then you can drop the level by that, and so on and so forth, and use the science that you mentioned to convince us?

DR. NELL: I'd have to go look. I'm willing to do that. You know, the difficulty we've had as we have implemented more and more extension training and education about Florida Friendly Landscaping, we've also continued a massive population explosion. So you see more houses, more impervious surface. That's kind of ceased for right now. But this may be a time to take a deep breath and really recharge this whole idea. But I'd have to look.

But the BMPs, not ordinances, BMPs with education seem to have really worked. And it's only two or three communities. It's really very small.

MR. EASTMAN: Where are these communities?

DR. NELL: I think one is in Wisconsin.

MR. EASTMAN: Is that a coastal community along --

DR. NELL: It's a lake, a lake community.

MR. EASTMAN: -- a lake?

DR. NELL: Not the big lake, not the Great Lakes. But as, you know --

MR. EASTMAN: So then some components of the measure of success could be transferable to here because you could measure how much is going into that water, but we don't have that data?

DR. NELL: No, we do not have that data, no. We'd like to.

MR. EASTMAN: How do you know it's successful then?

DR. NELL: It's published in the scientific literature, and I'm accepting that they have gone through the scrutiny.

MR. EASTMAN: They just say it's a success and they don't back it up? What are the -- what's the metric for success?

DR. NELL: I don't remember the numbers is what I'm saying.

MR. EASTMAN: So there was less runoff and less into the water, but you don't know the percentages?

DR. NELL: I don't remember the numbers.

CHAIRMAN CARON: Brad?

COMMISSIONER SCHIFFER: My question is, on dense grass, dense turf cover, going through a blackout period, what happens to that turf? Does it really thin out much or --

DR. NELL: With time it's going to thin out. We've got a study in Fort Lauderdale right now that I think we've just ended two years, and we'll have some of that information. But I do not have it. It hasn't been published

yet.

COMMISSIONER SCHIFFER: That's it. Thanks.

CHAIRMAN CARON: With time, even with fertilizer, things are going to thin out over time. Everything has a lifespan. I mean, I think that lifespan will be longer, but --

DR. NELL: You know, I think if we're overfertilizing and overwatering, yes, but I think our fertilizer rates and our irrigation recommendations are such that we're not promoting overgrowth.

Now, I'll admit, if you go back 30 years -- because we've lowered our fertilizer recommendations significantly since the '70s and early's '80s. In those days I would totally agree with you.

I remember as a child I did it. On centipede grass in Pensacola, I wanted it to look really good, so I fertilized the heck out of it.

CHAIRMAN CARON: It's your fault.

DR. NELL: It's my fault. Hey, my mother even used to say, it's about to rain. Go put the fertilizer out. I now know differently, you know. It's good news. But those grasses won't take that. No plant will take a continued overfertilization and a continued overwatering, because we're going to end up with root damage, whether it is from the water, from the fertilizer, or from disease. It is going to give reduced growth.

But I really don't think with the recommended fertilizer levels, combined with recommended irrigation levels, we're going to see that.

CHAIRMAN CARON: Anybody else?

COMMISSIONER EBERT: Yes.

CHAIRMAN CARON: Go ahead, Diane.

COMMISSIONER EBERT: So what you're really speaking about is management on the fertilizer, the irrigation, so it's not just applying it; it is the whole management of everything?

DR. NELL: That's correct.

COMMISSIONER EBERT: Yep.

DR. NELL: And the reason being is really simple. I think as we look at this, it's often, you know, misunderstood. We're trying to find that silver bullet. And I think unless we broaden the conversation that it's a more complete system than just one component --

COMMISSIONER MURRAY: Absolutely.

DR. NELL: -- then we're not going to win, okay. That's the only thing I'm trying to do. And coming up this morning, I was in the elevator and somebody said, well, we might be on opposite sides. I'm not on a side. I don't represent a side here. But I do see that it's a total conversation about the management, with fertilizer being one component.

We take one component out and people keep watering the same way, what are we going to do? We're going to leach the heck out of what available fertilizer's there, with weaker roots, and we're going to have more leaching and more runoff. That's the system. It's a basic plant system. So --

COMMISSIONER EBERT: Okay, thank you.

CHAIRMAN CARON: Thank you.

You said, Mac, that you have people on the phone. We probably shouldn't keep those people waiting any longer. If they have -- want to weigh in, let's let them do that, and we can ask our questions of them and let them go.

MR. HATCHER: Thomas Frick and Mike Thomas, I believe, are on the phone. Do you have anything you'd like to add?

MR. FRICK: Yes, Mac. This is Tom Frick of DEP, Bureau of Watershed Restoration. I've got Mike Thomas here as well who was the main author on the model ordinance. And we appreciate the opportunity this morning to speak with you-all.

You know, from our perspective we are here to answer questions that the commission may have regarding the model ordinance itself.

The legislature adopted the model ordinance in Florida Statute back in '09, and that model ordinance was written by DEP ourselves, but we weren't writing it in a vacuum. It was based on a model ordinance by legislative task force back in 2007 which included Department of Agriculture and Consumer Services, IFAS, DEP, and then representatives from the industry, environmental interests, and also city and county -- counties as well. So that was

the model ordinance that was written back in 2009.

We revived that this year back in 2010, this prior year, I should say, back in 2010. We held public workshops for that revision. And the model ordinance, we recognize, is an ordinance for statewide. We recognize in the ordinance itself and then also in Florida Statutes that there may be local conditions that would prescribe something different than the model ordinance.

And what our purview is when we're reviewing these model ordinances is to make sure that ord- -- local ordinances are up to and meet all the minimum requirements that are in the model ordinance, and then to outline what is in excess of that model ordinance, and then basically it's up to the local county or local cities and such to make a decision if they feel comfortable going beyond the model ordinance based on whatever scientific information that they have.

So sort of with that, we're here certainly available to answer any questions that the commission or anybody has on the model ordinance itself or our comments or recommendations on the Collier County ordinance.

CHAIRMAN CARON: Go ahead, Mr. Murray. You may begin.

COMMISSIONER MURRAY: Good morning, Mr. Frick. Can you hear me?

MR. FRICK: Yes. Good morning.

COMMISSIONER MURRAY: There are not a whole lot of questions I can ask you that -- this is so complex really, but -- and I'm trying to get a sense of it for DEP when you consider the ordinance here. To the extent of education of applicators, to what extent have you contemplated giving them a great deal more of education regarding the total management of the process as opposed to simply having to hone their skills in application? Did you understand my question, sir?

MR. FRICK: Yes, yes, I did, and I'm going to turn that to -- over to Mike Thomas who -- Dr. Nell had mentioned the Green Industry BMP program that cooperatively IFAS and DEP administers, and Dr. Thomas here, with DEP, is actually the -- sort of the project manager about that and is -- helps with the teaching and can talk at length of what holistic practices we look at and that we try and incorporate in that program.

I will tell you it's a very comprehensive program, and so we do look at holistic management.

COMMISSIONER MURRAY: When the rubber meets the road and we start teaching, initially anyway, the commercial applicators, you're saying that's holistic and that will give them a sense of the comprehensiveness that they need to appreciate?

DR. THOMAS: Yes. This is Mike Thomas. The Green Industry's Best Management Practices grew out of the original BMP manual back in 2002. Until roughly 2007, it was a totally voluntary program.

At that time City of Naples began requiring the program for people doing fertilizer application in the City of Naples. And with that, several other communities began doing it also. And we stiffened the program up also based on the recommendations of the legislative task force.

The program has an hour of what I would call overview. And I say an hour; it's actually 50 contact minutes. You can get up and stretch. But the first hour is an overview of what is a unimportant (sic) source of pollution, why are nutrients a problem, what are their effects on storm -- on water bodies, what are the economic effects and the recreational effects and the biological effects?

We get into federal law, the Clean Water Act, and also state laws, and we get into stormwater management in general and the -- the economic benefits of using BMPs in a business.

And we've recently had a water hold (sic) video produced by the Rookery Bay group that has one of your local business owners talking about how many hundreds of thousands of dollars she has saved since she began using that program back in the early 2000s.

The second module is about an hour and a half. That runs into the cultural practices, including plant selection, turfgrass selection, oil types that are in favor, shape, tolerance, things like this, mowing heights, fertilizer and water needs of the individual plants, and it also gets into landscaping, proper pruning, the watering and fertilization of landscape plants as opposed to the turfgrass, use of mulch, we touch on mangrove issues, a number of things like that.

Then the third hour is on irrigation systems. We teach a little bit about the mechanics, because many of the people do not normally maintain irrigation systems. They may not -- that may not be their function in the world. They may not be irrigation contractors, but we make sure they understand how the systems work and the

components, we make sure they understand the effects of irrigation on plant life, and both over- and underirrigation and how that can harm the plants, cause runoff, cause leaching, how too little water can, you know, cause the roots to die and then when the rains come they wash away and you get heavy erosion in the area.

On the other hand, too much water can also kill the plants because they don't get enough oxygen, and the roots are pruned. It makes them very susceptible to disease and to fungus. So it's very important to keep those right.

We talk about the importance of proper spacing and that type of thing, and getting into general irrigation scheduling and things like that.

Then we have an hour on fertilizers themselves, the actual fertilizer product, in which we address slow release and quick release and extended slow-release issues. We talk about liquid and solid fertilizers. And it should be noted that liquid fertilizers can be slow release. Some liquid fertilizers are long-chain polymers containing nitrogen, which have to be slowly broken down by soil microbial action before the nitrogen is actually available. So there are liquid slow-release products. A lot of people don't realize that.

The -- this goes into also the handling of the fertilizers, the calculating of the proper application rates. First -- that Section 2 talked about what individual types of plants needed. This gets into how you calculate the proper application rates, when you should use certain types of fertilizers, what their effects on pH and salinity of the soil is and things like that.

And then we finish up with an hour on pesticide issues, the laws concerning pesticide application. Many people do not realize that they must have a license to apply Roundup or Weed-and-Feed products commercially. A homeowner can do that without a license, but anyone who applies it and is paid to do so must have a license from the Department of Agriculture, the appropriate license with the Department of Agriculture and Consumer Services.

And we get into pesticide labels, pesticide safety, environmental hazards, spray drift, leaching, runoff, spills, safe handling and proper disposal.

We then do a wrap-up and a written examination, which they must pass with 75 percent.

Any questions?

COMMISSIONER MURRAY: Yes, sir. Doctor, thank you. That was very comprehensive.

Is it the same course that Josephine and Joe Average would be asked to take? I'm talking about your homeowner.

DR. THOMAS: Homeowners are not required to -- by the law, to take any courses. The model ordinance calls for, of course, commercial applicators, which are required by state law to take them -- take that course.

And along with that, a photo ID and an application form, they can then get their certification -- certificate from the state Department of Agriculture for commercial fertilizer application.

The model ordinance also calls for institutional applicators, which is basically anyone who is applying as an employee for someone else, whether it be a government employee or a, you know, parks and rec or a condo association's maintenance man or anything like that where you're working for your employer. It's not state law that those people be trained, but it is in the model ordinance that they be trained.

MR. FRICK: But the training is open to homeowners.

DR. THOMAS: The training is open to anyone who wants to take it.

COMMISSIONER MURRAY: That's really where I want to go with this, and my next question would have been, had you said no, are we not concerned with homeowners and their misapplication potential, their knowledge base? But now you're saying that's available.

So the next logical question is, do we have an adequate budget and facility and educators available to the public to be able to really set this in motion?

DR. THOMAS: We have set it in motion. And the last -- since 2006, we've trained over 15,000. We have -- we have, yeah, trained over 15,000 people. And our target is to train up to 100,000 by January 1, 2014, when state law mandates it for commercial applicators.

COMMISSIONER MURRAY: Thank you. Those are my questions. I appreciate your responses.

CHAIRMAN CARON: It sounds like it was actually a good thing the City of Naples put in a stricter ordinance, because it made you step up and get that program off the ground of making sure that people were getting the training that they need to have.

I'm wondering, gentlemen, if you're done with the comments that you have to make and the board it -- has nothing else right now, if you can hang on the line during public comments. One of our board has asked if you guys could hang in. If you need to go, though, we will understand.

MR. FRICK: We can -- we will hang around. We can hang until about 11 o'clock.

CHAIRMAN CARON: Good, great. Thank you. We appreciate it.

COMMISSIONER EBERT: I have a question.

CHAIRMAN CARON: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: Today we are just dealing with the fertilization ordinance, and complete management is quite different than what we're doing today. We all know that in communities that we live in down here people will turn on their irrigation system when they shouldn't be because they think their lawn is a little different.

There is many, many things that go into this ordinance, but today we are only dealing with one component of this whole thing, and that can be confusing to people. They -- they really should know the whole picture, but you will not -- you're not going to get that on this.

What do you feel the City of Naples -- have they been happy with their stricter ordinance? Do you know?

DR. THOMAS: I believe that they are, I would say, reasonably happy. I do know that their Project Greenscape that they're operating there has received tremendous local support, and that teaches both the Green Industries Program, and it also has many other outreach components, including the Florida Yards and Neighborhoods Program, which is really designed for homeowners. And it's largely -- the differences between the program are largely audience based, in that, Florida Yards and Neighborhoods is directed toward the average homeowner who does not have a lot of professional training, as opposed to the professional landscape person who should. Maybe doesn't, but should.

COMMISSIONER EBERT: Okay. Then my other question is, I would like to see what we do approve be pretty much like the City of Naples, because then all of Collier County would be treated the same. The landscaping companies that work in both areas wouldn't have a problem with that.

So what would -- I would prefer to see something that is complete for the whole county of Naples (sic).

We had talked about reviewing this in two years, and I'm sure different scientific things might come up in two years too, but -- on the fertilizer ordinance.

Also, the manufacturers of the fertilizers, can they put on their bags a more friendly, more understandable way of doing it without being a professional? Have you spoke with any of them?

MR. FRICK: Well, just one thing I would like to point out, and I'll turn it over to Mike Thomas to talk about some of the specifics.

The city's model ordinance or ordinance, I should say, was passed in 2007 prior to the legislation in '08, and so that ordinance does not meet the minimum requirements.

And I'm not sure, Mike, what the deficiencies are as far as meeting the minimum for the model ordinance. Do you recall that offhand?

DR. THOMAS: I don't recall all of them. I know one is that they do not require all their commercial applicators to be certified. They only require a small percentage of company employees to be certified. We -- the model ordinance requires all commercial and institutional applicators to be trained. And, of course, the commercial applicators to get a DACS license after 2014.

The other ones, I think they have a requirement that the urban turf rule be met, but I am not sure, because they may have passed that before the urban turf rule was passed. My memory's a little hazy on that one. And that's something I meant to bring up earlier.

We talked about the one pound total nitrogen limit per application. Under the urban turf rule, the water-soluble nitrogen is limited to .7 pounds, and that is under state rule and that is the -- required on all the -- the labeling on all fertilizer bags sold in the State of Florida are based on that number, and that's why we asked in the urban turf -- in the model ordinance, rather, that the urban turf rule be cited, because that basically means that you need to follow -- at a minimum you need to follow the instructions on the label.

CHAIRMAN CARON: Ms. Ahern?

COMMISSIONER AHERN: Actually, my question is for Dr. Nell, if you don't mind.

Part of our discussions at our last meeting in looking at the blackout period was looking at just doing a blackout period of August, September, going with two months as opposed to four. What are your thoughts and/or recommendations on that?

DR. NELL: I actually talked to my turfgrass specialist about that yesterday, or one of them. And if you look at our recommendations right now, spreading the four applications out over the summer, one of them's in late July, mid to late July, and then two months later. And recognizing that, you know, we have been saying every two months, that probably would fit.

COMMISSIONER AHERN: Okay.

DR. NELL: At first when I heard about it, I wasn't sure, so I went to the experts.

COMMISSIONER AHERN: All right. Great. Thank you.

CHAIRMAN CARON: Go ahead, Brad.

COMMISSIONER SCHIFFER: Could you put that slide up that shows the application.

DR. NELL: Which one?

COMMISSIONER SCHIFFER: The one -- and I guess it showed the leaching in the rainfall.

DR. NELL: Sure.

CHAIRMAN CARON: The graph?

COMMISSIONER SCHIFFER: Yeah.

DR. NELL: That one?

COMMISSIONER SCHIFFER: That one there, yeah. When you say every two months, do you mean every three months?

DR. NELL: No. April to June is two months. June to August is two months.

COMMISSIONER SCHIFFER: Okay.

DR. NELL: It's the black arrows. So this is April 10th, this is June 10th, this is August 10th, and that's October 10th.

COMMISSIONER SCHIFFER: And then over the winter nothing then.

DR. NELL: Nothing.

COMMISSIONER SCHIFFER: Okay. That's -- so there's a big gap from --

DR. NELL: We're not actively growing. I mean, in South Florida maybe, and in South Florida we may say, another one in two months. That's the reason you look at the range. In South Florida it goes to six pounds.

COMMISSIONER SCHIFFER: Okay. So during the winter we're not growing; is fertilizer being applied? And wouldn't that be a time in which most of it would run off?

DR. NELL: In most cases.

COMMISSIONER SCHIFFER: So that seems like a dangerous period, too.

DR. NELL: Yeah. That's the reason we're showing this.

COMMISSIONER SCHIFFER: Okay.

DR. NELL: And if you look at northern states, what they've done is actually banned fertilizer in some states from December 1 to March 1.

COMMISSIONER SCHIFFER: Okay. So while you're not against -- you are against the blackout in the summer, you are in favor of a blackout during the winter?

DR. NELL: Well, I'm not -- let me get away from the blackout. Let me talk about science, okay, so I don't get in trouble here.

COMMISSIONER SCHIFFER: Blackout's more fun, but go ahead.

DR. NELL: I understand, but I know where the landmines are, too.

The facts, if you look at the root growth on a warm-season turfgrass, the root growth is not in December, January.

COMMISSIONER SCHIFFER: No.

DR. NELL: Okay. It would be wrong to apply the fertilizer at that time.

COMMISSIONER SCHIFFER: Okay.

DR. NELL: Now, I'm going to say that. I'm going to have to go back. I don't think my turfgrass specialist will slap me but, you know, everything that I've seen would go against that.

COMMISSIONER SCHIFFER: So shouldn't we be addressing that in the ordinance? It's silent on that.

DR. NELL: Very possible. I mean, I'll tell you the reason I don't think we've addressed it. And, Mike or Tom, you may have a comment on this. I haven't looked at fertilizer sales -- I usually don't -- you know, to see what's happening.

But I -- I don't know of anybody who's fertilizing in December and January anyway.

Mike, do you have any information?

DR. THOMAS: I'm not aware of -- maybe in the very -- in South Florida on very high-end lawns, there may be some people doing it, but I don't think that is a recommended practice.

DR. NELL: No.

COMMISSIONER SCHIFFER: But there is a --

DR. THOMAS: And because as he's saying, it's not going to be taken up in any great appreciable quantity, and you're going to lose far more of it probably than you will take up.

COMMISSIONER SCHIFFER: So --

DR. THOMAS: So, again, I'm with you. I would surrender to Dr. Sizar (phonetic) or somebody that studies turfgrass down in Fort Lauderdale on that. Because, you know, my experience is northern, but --

DR. NELL: And I think -- I think we have those data. If you want it, I can find out what it is.

COMMISSIONER SCHIFFER: Because that seems dangerous to me. If somebody was applying it every two months, they would -- a lot of runoff would be occurring when the plants can't take it up.

DR. NELL: Well, if you go with what's in these four arrows, you have met our fertilizer recommendation of four pounds.

COMMISSIONER SCHIFFER: But we should state in the ordinance, starting in April, apply it every two months and stop it in, you know, October.

DR. NELL: Well, you're going to have to go in a little bit in October if you're doing late July or something.

COMMISSIONER SCHIFFER: Yeah. But November -- in other words, you are recommending kind of a winter ceasing of, not using the "blackout" word. Okay. Thank you.

CHAIRMAN CARON: Thank you, gentlemen. You're going to hang in with us, correct?

MR. FRICK: Yes, we will.

CHAIRMAN CARON: Okay. And, Ray, I guess, now you can start calling the rest of the speakers.

MR. BELLOWS: Yes. The first speaker is Amber Crooks, to be followed by Gina Downs.

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

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

We -- with the addition of the cap of the one pound nitrogen per application and with the exception of the shortened blackout period, we're in support of the ordinance as proposed today.

Since our last meeting, the legislative session has ended and legislature reaffirmed, by unanimous vote, that local municipalities can have local fertilizer ordinances more stringent than the state model to deal with their local conditions and impairments.

The legislature retained the following language; you see on the visualizer, and I'll just quickly read it. "Local conditions, including variations in the types and quality of water bodies, site-specific soils and geology, and urban or rural densities and characteristics may necessitate the implementation of additional or more stringent fertilizer management practices at the local government level."

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

One such case is the Gordon River. This area has been identified as not meeting state water-quality standards for dissolved oxygen, and the cause was determined to be from excess nutrients.

The Florida Department of Environmental Protection has set a cap called a TMDL on the total nutrient loading for this water body which lies in a largely urban area. There is no wastewater component to the loading lying within this water body, so the 29-percent reduction in total nitrogen will need to be from stormwater

improvements.

The urban areas in the Gordon River watershed are estimated to contribute over 21,000 pounds of nitrogen per year or about four pounds per acre per year.

The county acknowledges that to meet state-administered TMDL reductions, the addition of any nitrogen from fertilizers is problematic. One of the most cost-effective ways to begin to tackle this FDEP target is with a strong protective local fertilizer ordinance.

Ultimately it is the local municipalities who will be footing the bill for the cleanup of this area; however, FDEP's letter to the county on the proposed more stringent ordinance was lackluster when they should be supporting these efforts.

Removal of nutrients from the environment can cost one hundred to a thousand dollars per pound. The smartest and cheapest thing for us as taxpayers and for those concerned about water quality is to limit the amount of nutrients entering the system from the source.

The more stringent measures recently instituted by Cape Coral -- and that includes a summer blackout period -- are estimated to save that municipality about five million dollars over 25 years, prolonging the life of their stormwater treatment areas that they've built.

Freedom Park, a stormwater treatment area here in the city of -- is it in the county?

CHAIRMAN CARON: City.

MS. CROOKS: County, in the county was -- a stormwater treatment area, costs about $30 million. With a fertilizer ordinance -- while a fertilizer ordinance may not get us all the way there to our target, without a strong fertilizer ordinance we're going to need to rely more readily on these expensive structural and engineering fixes to the pollution issue.

FDEP, as "the" agency tasked with water-quality protection, should be encouraging protective fertilizer ordinances, not asking us to fight our existing water-quality impairments with essentially one arm behind our back.

Now, one thing I will point out from the FDEP letter they submitted to the county is that they seem to be fully in support of the 10-foot buffer, citing that it's consistent with the Florida Yards and Neighborhoods Handbook; however, their letter fails to mention that the handbook also supports the other stringent measures and actually includes discouraging use of nitrogen during the summer, suggesting to apply instead in March and October.

And as we pointed out time and time again, there are numerous IFAS and FDEP articles that provide support for the more stringent measures. And I'm just going to kind of go through a couple of them.

This one is from IFAS. It's from 2007, so this is not from the '90s or the '80s. This is all very recent stuff, and this talks extensively about the phosphorus issue. It says, time and time again, don't add phosphorus when your soils have it. This talks about the 50 percent slow release. It says, in light of potential environmental concerns, it's now recommended that no more than one-half pound of the nitrogen in the application -- of application be in the soluble form. Again, reiterating, only apply phosphorus when needed. Use a 50 percent.

This is a -- the Florida Friendly Best Management Practices for protection of water resource by Green Industries. As you can see on the back, this is an FDEP and IFAS document. This is from 2008. This, again, talks about no more than half pound of water-soluble nitrogen per thousand square feet.

And, again, about phosphorus. Phosphorus application should be limited to soils that require additional phosphorus based on soil or tissue testing.

Here's the University of Florida. This is something that was referenced in your staff memo. I enjoyed reading it because it talks about low or zero phosphorus unless you have a soil test. Overapplication or misapplication can result in runoff, leaching, but not afraid to use the term "runoff."

It talks about use of fertilizers not recommended if heavy rain is forecast in the next 24 hours. And it talks about a 10-foot buffer. If you're fertilizing near any water bodies, leave an unfertilized strip.

We've got South Florida Water Management District, 10- to 30-foot no fertilizer buffer. This is from Southwest Florida Water Management District, and IFAS has got their logo on the back. This, again, talks about no phosphorus unless a soil test. Leave a 10-foot fertilizer-free zone. Florida Yards and Neighborhoods, this is from -- again, on the back, FDEP and IFAS. This is from 2009. Never fertilize within 10 feet of a water body.

Southwest Florida Water Management District. I just got this in the mail a couple of days ago. Heavy rain can wash fertilizer into water bodies. And here's a quote from one of the district staff. Says, "Lawns usually

accumulate decayed plant material during the dry season, which is a natural source of nutrients." If you add fertilizer and a heavy rain to the mix, all those nutrients can wash into water bodies, basically creating a buffet line for the algae.

So I wonder, with all this information, if there's no benefit to these recommendations, what are they doing in these documents?

One other thing I wanted to bring to light. This is from the World of Academia. This is just from February of this year. This is a recent study from University of Central Florida. In this study the soils are compacted, which is maybe different than some of the studies that are referenced by those who oppose more stringent measures, and may be more similar to what we see in the real world, and they also utilize a 4-1 slope, which is similar to what we have in some cases of developments here in Collier County adjacent to canals, or other water bodies.

Now, certainly this study, it was done by FDOT. It was for their highways, and that's certainly different than lawns, but it was done with the University of Florida Intended Consequences article in mind, it was reviewed by University of Florida and approved by FDEP, who helped them come up with the means to do their study, and it provides us another piece to the puzzle.

This study compared a slow-release zero-phosphorus product with a standard 10/10/10 product. This study showed that we do have to be concerned with runoff in some cases. It also showed that with the right product slow-release zero phosphorus, the amount of nitrogen lost to the environment can be reduced by 67 percent.

Now, I could go on more and more with the scientific and technical documents, but I know my time's limited, but I think you get the idea.

The more stringent recommendations are not just pulled from thin air. They have a scientific basis, and that meets the requirements of the state statute.

To suggest that ordinances and other municipalities that are more stringent than the state model are unscientific is really a disservice to the work of the Southwest Florida Regional Planning Council and to the staff members who worked on those ordinances and researched them.

We have the scientific information to proceed with the more stringent ordinance, and we encourage the county to do so.

Last time we heard a lot of testimony against the more protective measures. And I've always been a little confused as to why the golf courses keep coming. Not that I don't love to see you. And I've got to say, after the last time, we're still a little confused, more confused even.

I originally thought through this process, do we need golf course standards for our residential lawns? But now maybe it's not such a bad idea after hearing their testimony. Some of the testimony stated that they use three to four pounds of nitrogen per year, a 25-foot buffer, zero phosphorus, fertilizing twice a year with a high-percentage slow-release nitrogen product. That all sounds pretty good to me.

We commend them for instituting these BMPs; however, I'm left with a question: If we're already doing a lot of these things, then what's the concern? Narrowing it down, it appears to be the summer rainy season is the only thing left.

Now, my understanding from one testimony was that 100 percent slow-release product gets the golf course through six months from April to September. Would it be fair to assert that a 50-percent slow-release product in a residential area could satisfy the turf for at least three to four months?

Now, I know that they use the foliar application, but since that doesn't affect the root system, that seems to be icing on the cake.

At risk for being accused of cherrypicking, we should state that in our research we did see this unintended-consequences idea in recent documents; however, we have some unanswered questions about unintended consequences.

The white paper discusses that turfgrass absorb the most fertilizer nutrients during the active growing months of summer and that nutrient losses are greatest during other times of the year; however, we question, do we have the same months of dormancy in Southwest Florida that were utilized in formulating unintended consequences? Would Southwest Florida grasses be actively growing earlier or later than, say, grasses in the Panhandle?

Some of the FDEP and IFAS documents talk about the warmer -- and this is a quote, "Warmer parts of

Florida have year-round growing seasons." So these questions are unanswered in the article, yet the state model attempts to institute one ordinance for all -- for all areas of our greatly diverse state.

Furthermore, how do we know that nutrient inputs from the near daily rainstorms and grass clippings which can provide pounds of nitrogen to a lawn, with the addition of slow-release fertilizer, is insufficient to sustain a lawn through four months of a rainy season?

Unintended consequences is being treated as though it's conclusive; however, there's no scientific information that shows that under our local conditions that turfgrasses will die with the more stringent fertilizer ordinance measures.

Only a few more things. Our local conditions necessitate a rainy season ban. The majority of our rainfall events are less than two inches. Scientific studies tell us not to fertilize when rain is predicted within the next 24 hours. Our area historically has some of the driest dry periods and some of the wettest rainy seasons.

And from this chart, the typical amount -- the typical amount of time between rainfall events is about a day and a half during the rainy season. So that provides very little opportunity.

And one last bit of information -- and I thank you for giving me a lot of time here -- is I wanted to bring up one last thing that I got from Charlotte Harbor Natural Estuaries Program.

This you've seen before. This is from last time where -- that they had provided us information from water-quality sampling that showed after the date of their protective ordinance in place, that they showed an improved trend in dissolved oxygen. And what they were able to provide me is some information from a neighboring community, Charlotte County.

In this case they're not -- and let me just tell you that Charlotte County of our Southwest Florida communities has the weakest ordinance. It was sort of a mixed bag between the state model and the more stringent. It didn't have the summer rainy season and it didn't have a cap on the nitrogen and -- in terms of the total amount per year.

And here we see no trend, no decreasing trend, but no improving trend. So is that due to their fertilizer ordinance? We have -- you don't have the information to parcel it out, but I think it's important to note that their ordinance -- with their ordinance in place, they have not seen the type of improvements 10 miles away in Sarasota County with the more stringent measures have seen.

They don't have TN or TP available -- information available for Charlotte County. The dissolved oxygen is all the information I was able to get from Charlotte Harbor. But one thing I can tell you is that Charlotte County commissioners, upon seeing the success of their neighboring communities, have decided to improve their fertilizer ordinance, and they just recently decided that they'd like to now go back and add in a summer rainy season and add in the four-pounds cap.

So, in closing, I just wanted to tell you that there's no harm in going stringent now. The ordinance can always be modified if needed. And so we encourage the CCPC to err on the side of caution, on the side of the environment, which is to adopt the more stringent, more protective measures, including a rainy season ban.

Thank you.

COMMISSIONER MURRAY: I have a question.

MS. CROOKS: Yes.

CHAIRMAN CARON: Go ahead.

COMMISSIONER MURRAY: I recognize your position and I understand. I just want to be absolutely clear in my mind. You are advocating a ban through the summer when it's the rainy season, and you're advocating fertilization during the nongrowing period on the presumption that perhaps here in Southwest Florida and Collier County there really is some kind of a growing season; am I correct in that assumption?

MS. CROOKS: That's correct, but I want to note, too, that the discussion that just occurred about is there -- would there, you know, be any benefit to doing something in the winter, we've not explored that. So -- and I don't have any --

COMMISSIONER MURRAY: Who are "we"?

MS. CROOKS: The Conservancy. And I don't know that there's information out there, as they were discussing, but I think -- certainly think that's an interesting thought. But given the information that we do have, we're going to go -- we're proposing the four-month summer rainy season ban.

COMMISSIONER MURRAY: Okay. Well, that's fine. But the gentleman who spoke, Mr. Nell or Dr. Nell, whatever his title is, I think is representing science, and DEP is on the line in case there's any question.

CHAIRMAN CARON: Mr. Murray?

MS. CROOKS: Well, then maybe you should --

COMMISSIONER MURRAY: Yes.

CHAIRMAN CARON: I'm sorry to interrupt you, but we really need to give the court reporter a break. Can you hold your question until after --

COMMISSIONER MURRAY: Yeah.

CHAIRMAN CARON: Let's give her --

COMMISSIONER MURRAY: I can do that, certainly.

CHAIRMAN CARON: Thanks. I was not watching the clock and --

COMMISSIONER MURRAY: I know, and -- okay. Well, I would have said something at 10:20 -- 30, but I figured, well, we'd cover this.

I just want to -- I'm not going to make any -- much further. I just will tell you that you mention it, and perhaps not intending to say it in this way, "to err on the side of." And I have a real concern for the fact that the economic impact and the aesthetic impact on peoples and their lawn and so forth based on "erring on the side of caution" is a question that I have, and I don't wish to engage any further.

Thank you.

CHAIRMAN CARON: We'll probably call you back, Amber. I think there are other people who have questions, but we do need to give --

MS. CROOKS: You'll hear from others who will comment to that effect who have experience, so --

CHAIRMAN CARON: Let's give Terri a chance to take a break.

COMMISSIONER MURRAY: I think that's a good idea.

CHAIRMAN CARON: Thank you. Fifteen, ten? Ten minutes. Is that good enough for you, Terri?

THE COURT REPORTER: Yes.

(A brief recess was had.)

CHAIRMAN CARON: Thank you, Ray.

Could I ask everybody to sit back down, and we'll get on with this meeting.

Now, before we go to the next speaker, I think somebody had a question for Amber. So, Amber, if you could just come up to this podium.

COMMISSIONER AHERN: I think the guys are still on the phone. We'll see if we can get a response before -- I'm looking at the time.

MS. CROOKS: Did you want me?

COMMISSIONER AHERN: Did we lose the guys on the phone?

CHAIRMAN CARON: I don't know. Do we still have our --

MR. FRICK: DEP's still here, but we're going to need to get off the phone here relatively soon. So if there's -- last few questions, we'd like to take those now, if we could.

COMMISSIONER AHERN: I just wanted to see, before you guys go, if you had any response to the previous statements regarding your literature.

DR. THOMAS: Just that much of our literature is voluntary recommendations, particularly BMPs and such. And as you know, there is a difference between a recommendation and a law as far as recommendations on fine homebuilding versus minimum building code, and that it is true that many of our publications that we use as teaching devices of voluntary -- for voluntary use are more stringent than the model ordinance, but the ordinance is mandatory, and the others are not.

CHAIRMAN CARON: And the ordinance is a minimum ordinance?

MR. FRICK: That's correct.

DR. THOMAS: That's correct.

CHAIRMAN CARON: Correct. Okay, good. Thanks, guys. We really appreciate you hanging on and being available to us. That's really, really terrific, and we really appreciate it. And thanks. I know it's very difficult to hang on to a phone conversation this long. So we do appreciate it.

MR. FRICK: Well, we appreciate the opportunity. And if any questions come up over the rest of the discussion, feel free to forward those on to us. We'd be happy to respond to those in writing or clarification if needed.

CHAIRMAN CARON: Thank you so much.

MR. FRICK: Thank you all.

COMMISSIONER AHERN: Amber?

CHAIRMAN CARON: Okay. Now we can go on to --

COMMISSIONER AHERN: Couple of questions. Sorry.

MS. CROOKS: That's okay.

COMMISSIONER AHERN: You showed some information as far as what is being dumped into the Gordon River. Where does the City of Naples wastewater go?

MS. CROOKS: Well, the information I presented is from the Watershed Management Plan and from the TMDL document. I talked about the loading. It's -- the wastewater facilities in the area are not within that particular water body. So in terms of meeting that goal, it would be needed to be -- come from the stormwater reductions.

COMMISSIONER AHERN: So do you know where the wastewater goes?

MS. CROOKS: They're -- are they downstream of that WBIDs? Yes, they're downstream of that particular water body segment.

COMMISSIONER AHERN: Okay. And do you have any information that shows how you determine the amount that -- that the fertilizer is the only thing running off? I mean, how do you know that the runoff of fertilizer is causing --

MS. CROOKS: It would be -- well, we're saying that it's a component of that. There's no way to really parcel out exactly -- maybe through modeling can provide us that information, but we don't have that currently. The stormwater component could be from different things like, you know, pet waste, for example, leaf litter. But a component also would be fertilizers. So that's a -- that's part of the equation.

COMMISSIONER AHERN: It's just a portion of.

MS. CROOKS: A portion.

COMMISSIONER AHERN: And my --

MS. CROOKS: A portion of -- a portion of the impairment and also a portion of the solution would be the fertilizer aspect.

COMMISSIONER AHERN: Okay. And my last question, does the Conservancy offer any type of education for homeowners currently, or do they plan on?

MS. CROOKS: We do have some information that we'd be happy to share with the county regardless of the ordinance that -- of course, if it's less stringent, we'll have to modify it. But we've prepared some brochures and things with the other municipalities.

Lee County, also, we've been able to communicate with them in terms of using some of their market materials to try and get the word out about a fertilizer ordinance, and they've told us that they'd be happy to provide that to other municipalities.

Of course, if the -- if your ordinance is different, it would have to be modified because theirs is more stringent.

COMMISSIONER AHERN: Right.

MS. CROOKS: And then also we do have a stormwater outreach component at the Conservancy where we're out there discussing these issues, not just fertilizer, but many different issues about stormwater with interested parties, including residential communities.

COMMISSIONER AHERN: Okay, great. Thanks.

And, Donna --

CHAIRMAN CARON: Go ahead.

COMMISSIONER AHERN: No. I was going to say, my last questions, I wanted to see if Dr. Nell could respond as well.

CHAIRMAN CARON: Sure.

COMMISSIONER SCHIFFER: But while he's coming up, I have an -- Amber, you can do this one quick.

Do you see any difference between water bodies? We're talking about 10 feet. But would it be different with a tidal body versus -- essentially a borrow pit or retention pond?

MS. CROOKS: They did not make the distinction. They've -- in all of the literature it says water body, and then if you go to the definition, it can be, you know, a canal, it could be a wetland. So they just speak generally about water bodies.

COMMISSIONER SCHIFFER: But the effect of fertilizer getting into the water body, is it identical, or there's some bodies it does not matter?

MS. CROOKS: I don't think that it's -- that that information is distinct --

COMMISSIONER SCHIFFER: Okay.

MS. CROOKS: -- in what I've reviewed.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN CARON: Thanks. Go ahead, Doctor.

DR. NELL: So what is the question?

COMMISSIONER AHERN: I wanted to see if you could respond to some of the statements, and I believe there was some references to some IFAS material previously provided.

DR. NELL: And I think in most of those where there was a mention of a 10-foot buffer, the references were our references, and that's what we're recommending and we stick by it. So I have no problems with that.

I think any time you start pulling a combination of publications and saying, "This says this and this says this," it's difficult to say whether it's real or not real. And so that's the reason I made the point with the 2009 FYN handbook.

The BMP manual and this type of conversation is how we get the real understanding of the issues and the causes and the potential solutions.

You know, I've been at this too long. One of the things I come to realize is that there are facts and there's emotion. And while I'm a scientist, I have a practical side to me that says what we should be doing is truly coming together and where the county and IFAS and the Conservancy and DEP and others could find the resources, let's team up and do the right thing here and simply make it happen.

But to say, you know, something isn't there or it's misstated, show me the proper wording, show me another publication that demonstrates that this is real or not real.

I was talking to a gentleman -- had a great conversation -- that you're going to hear from. And, you know, when the recession hit, we know what happened in this part of the state, but I will tell you what happened to research money. It evaporated very quickly. Had that not happened, much of the -- what we're talking about, we'd be well on our way to having the answers.

And we're continuing with the DEP project. But I think we would have seen more funding coming from national sources. I think we would have seen more funding coming from Florida Department of Agriculture and Consumer Services. They withdrew all their money, all of it, for BMP training in 2007. So it puts a major stop on everything you're doing. Now, that's not an excuse; it's just fact.

So, you know, it's easy to pick out a sentence here and a sentence there. I'm about the whole package. And we -- we're trying to update it through websites, electronic newsletters, because we realize the 2009 document, DEP's paying for that document. We're delivering the information. I can't change it every day. We printed 25,000 copies, maybe more -- no, we printed 34,000 copies. I can't just go throw away, you know, 15,000 copies because one segment on iron and nitrogen needs to be revised.

We've agreed it will be changed. We have agreed to the wording. We've agreed we're going to go in and change it on the website. I think that's the best we can do.

COMMISSIONER AHERN: Okay.

CHAIRMAN CARON: Thank you.

COMMISSIONER AHERN: I think you make a good point about, you know, fact versus emotion, and I think that's part of the issue is that, you know, we're charged with looking at the scientific evidence, and it doesn't necessarily reflect a lot of opinion.

But to adopt something because it makes us feel warm and fuzzy, if it doesn't -- if we don't get the direct end result isn't going to help. So thank you.

DR. NELL: And we've got to make sure that the correct end result, that the sampling is correct. That concerns me a little bit, too.

CHAIRMAN CARON: Thank you. Go ahead, Ms. Ebert. I'm sorry.

COMMISSIONER EBERT: I have a question for you.

On the state model that we kind of have in front of us, when they are talking -- where it talks about the nitrogen and you have only a 30 percent, is this an older thing that we're looking at? Because you said you agree with the 10-foot buffer. That's not what it says according to the state model.

DR. NELL: The state model has three feet, I think. Florida Yards and Neighborhoods Handbook has ten.

COMMISSIONER EBERT: Okay.

DR. NELL: I'll explain to you why. You know, Mike says that the three foot was to accommodate the commercial applicators who could do it correctly. FYN is 10 feet with some recognition of the homeowner situation of maybe not having the right spreaders, okay.

I can tell you I've found some publications that say even two feet is adequate. Would I rather have five? Probably. You know, we could say a hundred would be better, you know.

COMMISSIONER EBERT: Yeah.

DR. NELL: So it's tough to say.

COMMISSIONER EBERT: Well, I was looking -- I just happened to have this. Are you looking more at the protective provision in this or the state model? Because there are differences. I believe that everyone, except the protective revision (sic), is certification down at the bottom, which is good for everyone.

Which model are you kind of looking at? You're talking about phosphorus, and there is -- they don't have a problem with it, and I'm going -- and as I said before, this is only one component of the huge picture.

DR. NELL: Phosphorus, if you look at the University of Florida recommendations and you look at the Florida Department of Agriculture fertilizer rule, urban fertilizer rule, they are consistent, that once the turfgrass is established, test -- and you've got that in your draft -- test before you apply more. We mine phosphate in the state.

More than likely you do not need phosphate, and we've said that time and again. And many of the fertilizer companies are now removing phosphorus, and that's a positive thing.

So I think by 2012 you'll see a major, major change in that. But I think mostly what we're talking about here is nitrogen from various sources.

I could give you some -- two really good brochures from NOAA. And it's interesting is -- NOAA scientists from University of North Carolina and University of Maryland -- and they don't put numbers on it. The gentleman who's going to speak later is going to talk about a number from Chesapeake Bay -- but they talk about five major sources of the nitrogen.

And it's interesting that one of them is atmospheric nitrogen that can go as high as 45 percent, a lightning strike. I mean, so if we could just eliminate lightning, maybe we'd be okay.

COMMISSIONER EBERT: I wish you could, too.

DR. NELL: Of course, if it doesn't rain, we don't have a problem.

COMMISSIONER EBERT: Thank you.

CHAIRMAN CARON: Thank you. Next speaker?

MR. BELLOWS: Mark -- oh, do you want to finish?

MS. DOWNS: I never started.

CHAIRMAN CARON: That was quick.

MS. DOWNS: Be brief, be brilliant, but come on.

COMMISSIONER MURRAY: Best presentation so far.

MS. DOWNS: Wow. Gina Downs, and I'm here to represent Environmental Advisory Committee. We addressed this issue at our last meeting.

I have a dropping-off point based on what we just heard from Dr. Nell, I think it is. It's interesting he mentions, you can read one report, it says one thing. These pages lead you to believe one thing. Another report leads you to believe something else.

That's exactly what we found out at the EAC when we were reviewing this. We went through volumes of material. We looked not only within the state. We looked at the Chesapeake Bay models. We looked at Wisconsin.

Wisconsin. We were looking at federal publications, state, you name it, ad nauseam.

We didn't find a completely reliable source. It pains me to say -- you like to think that science is the last bastion of truth and accuracy in reporting, but as you just heard, they've lost their funding. You'd be naive to think that -- that what you hear from an expert doesn't get influenced by political preferences these days, doesn't get influenced by funding sources.

I think that's readily apparent when you look at the national level at global warming. As many experts say yes as say no. That was troubling to us at the EAC. What were we left to look at? We looked at the boots on the ground. We looked at what was happening, what you could reach out, touch, feel, and somewhat measure, although it's relatively new.

There are 40 cities and counties throughout Florida that have put in place some kind of ordinance to control runoff into their waters, and that's what we're really talking about, what's going to improve our water quality. It's not about how can we make our grass greener or, you know, keep it thicker for those three or four months in the summer. The overall picture is, how can we influence our water quality?

Now, normally my jumping-off point would be, do we have a problem with water quality? That's the first place to go. Well, we know we do. We have impaired waters. That's been validated by many sources.

So we turned to, like I say, the boots on the ground. We're not looking at the lab results. We're looking more at what's been happening around the state.

I'll just tell you from one -- talking about all the experts. The lawn-care specialists in one report have said that not fertilizing during the summer shows that the summer growth can remain perfectly healthy without fertilizers, although maybe not as green as some would like.

Another study said summer fertilization leads to more frequent mowing which stresses the grass and makes it more susceptible to damage from disease and insects.

I'm an economist. I'm not a green person, although apparently I'm kind of green today. What struck me in all of our studies, there -- I, several times, ran across the cost of cleaning it up once the nitrogen is in the water, and that jumped out at me. The EPA in 1999 estimated that at $100 a pound to remove nitrogen from water. Tampa Bay Estuary Program, which has been in place for years, they estimated that removal of nitrogen somewhere between 20 and $100 per pound.

So with that background, let me jump to this very colorful PowerPoint. We focused -- like I say, we looked all over the state, all over the nation, and then we focused getting the ordinances from these different counties just in South Florida.

Sarasota passed an ordinance in '07, and you can read it, Charlotte and Lee in '08. City of Naples passed their ordinance in '06. Now, it could be the city council passed it. It didn't go into place in '07. I heard someone else say it was '07.

South Florida Regional Planning, which encompasses all those counties plus Glades and Hendry, unanimously, by a vote of 22-0 in 2007, recommended stricter fertilizer ordinances.

I talked to Mike Bauer at City of Naples preparing for this and said, do you have any documents? Do you have any numbers that show improvement? He said not yet. They're going to have those numbers, he hopes, in June.

So I said, well, what are you seeing without the numbers? And he says, the visual will tell you. He said, everything we look at and can touch and feel and smell says there is improvement.

The earlier one in the county-wise is Sarasota. Same thing for them. They are finding it. They have a water-quality report from February 2001. They say, yes, they have documented results of improvement in their waterways. Roberts Bay is their big one, and their intracoastal waterway as well.

The next county was Charlotte County. This goes back to Bob Murray's questions, how you implement this program. How do you train people if you do put it in place? They have utilized in Charlotte County their extension agency. That's who's done the training for them countywide.

They do not have numbers to bring back to you yet. But I talked to people in ten different counties and municipalities, and they -- no one said, gee, this looks to be a failure. They said, it's too early to come out with the numbers, but everything we think, see, smell, hear seems to be that there is improvement.

Lee County. Again, this goes to the education question. Lee County focused on -- I know when Mark

Strain was here last month he talked about, how do you get this out to the consumer? Well, Lee County put these kinds of posters up in their Home Depots and Lowe's and the point place where you would buy your fertilizer. So they've stressed education and cooperation, not so much how can we penalize people who don't follow it.

Someone mentioned Naples. In Naples, the way they partnered was with Rookery Bay to do their education. The Rookery Bay people got involved in this Greenscape Program. And as I mentioned, Mike Bauer says, yes, we see improvement. He's the one who sent me these pictures when I asked him if he could give me something to put onto the slides that would show improvement.

Some comparisons between all those counties and the particulars of what they've done with their fertilizer ordinance. Charlotte did not do the four-month blackout. They're the only ones who have not done that. The buffer zone of 10 feet, yes, everyone implemented that. You can see Sanibel went a step further and took that out to 25 feet.

The four-pound nitrogen, which is the -- pretty much the onus of what we're talking about, the only one who did not go with the four pound was Charlotte County. It's not that they didn't implement some kind of restriction; they put it on the grass type, and they did do a four-pound limit on Bahia, Bahia, whatever that grass is called -- Bahia.

They had a three-pound limit on centipede grass. And the slide you saw earlier was related to St. Augustine grass. And in St. Augustine grass, that is known to not have as much runoff.

So in Charlotte County they allowed up to six pounds per year per thousand on the St. Augustine grass.

The 50-percent slow release, again, Sanibel exceeded what the other counties had done by requiring a 70-percent slow release. And, yes, all of them train the professionals, the turf professionals, in some way, shape, or form.

I would like to have been able to bring you numbers, because I love numbers, but I couldn't get a handle on how many applications there are on a commercial basis here. I think people wonder, well, how is Joe homeowner going to know what to do. I think, given the number of gated communities and HOAs we have here, I think it's fairly safe to say there's a high number of commercial applications that go on in this county. So getting a handle on that, I think, would show measurable difference from the get-go.

So what we have is surrounding counties and a regional planning highly recommending, already implementing, stricter measures, most showing pleasure with what they're seeing in the way of results, and our own city passing stricter measures.

Marco Island has discussed this. They're right on the cusp. They're waiting -- they'd like to pass something, and they probably will, regardless of what the county does. They're waiting to see what the county does.

In lieu of the county passing it, I believe they're going to go ahead and go with the same ordinance that the City of Naples has implemented anyway.

So like I say, we were left -- at the Environmental Advisory Group, we were left with looking at what we can consider the boots on the ground, what are the experiences statewide and nationwide with people who have put in some sort of ordinance, and we were comfortable saying nobody has repealed them. The ones who have had study -- follow-up studies that give you the numbers are seeing in -- reduced nitrogen content. Those who don't have the numbers yet are telling you everything they can see and smell shows improvement. They don't expect that the numbers when they come out are going to be contradictory to that position. So they asked me to come here and relay that to you today.

COMMISSIONER MURRAY: I do have --

CHAIRMAN CARON: Thank you. Go ahead, Bob.

COMMISSIONER MURRAY: I just want to reconfirm it. I know you said it the first time you said it; the second just now. So the EAC directed you to come here with this presentation?

MS. DOWNS: Yes, Bob.

COMMISSIONER MURRAY: Okay. Very interesting. Thank you.

CHAIRMAN CARON: Any other questions for Gina?

COMMISSIONER AHERN: Actually, I have one.

CHAIRMAN CARON: Go ahead, Melissa.

COMMISSIONER AHERN: What are your thoughts on doing the two-month blackout?

MS. DOWNS: I'm sorry.

COMMISSIONER AHERN: Two-month blackout?

MS. DOWNS: Well, we went with the four-month blackout, the -- or almost five-month blackout.

COMMISSIONER AHERN: Right.

MS. DOWNS: We were recommending that. The one study showed -- in fact, this was South Florida Water Management came out in '09, and they talked about the prudency of bracketing that blackout period. They were recommending in '09 to do the fertilization before the blackout period and after and that that should be sufficient. So we were comfortable with that -- with going along with that position also. Okay? Thank you.

CHAIRMAN CARON: Good. Thank you.

MR. BELLOWS: Next speaker, Richard Yovanovich.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich.

I just have a few comments and really some questions that I think need to be asked of people who spoke.

As I remember the conversation when we left off the last time, the Planning Commission's recommendation was to go with a two-month blackout, and let's have a scientist come and address the two-month blackout; that was what was being discussed. I don't believe it was a July, August, and September blackout. It was an August and September blackout, because I believe those were the rainiest months of the year.

So the discussion was, let's hear from the scientists about what the impact of that was. And you've heard, I think, from Dr. Nell, who clearly is an expert in this field and has dedicated many, many years to study this issue, and he said that that two-month blackout period fits within the proposed -- fits within their -- if I'll -- a feeding plan, if you will, for grass.

So you've heard from the scientists that, yes, the two -- two-month blackout period is supported in the science.

You also heard from Dr. Nell who said he's a scientist. This is an emotional issue, and all you've been presented is emotional information from people who are supporting this blackout. You do not have a scientist here supporting the blackout. You do not have a scientific publication that says you need a blackout.

In fact, DEP commented you do not need the blackout, that you need a scientific reason to go more stringent than the model ordinance, and your Conservancy has even said that you need a scientific basis to go more restrictive, and they haven't provided you with the science.

In fact, when asked the question, how do you know that there is runoff occurring from fertilized yards into the Gordon River? The response was, they don't know, that it's a lot of factors that could be bringing nitrogen into the Gordon River. They never said that fertilizer is the problem and that this proposed fix will, in fact, fix the problem.

There are no numbers that have been presented from other communities, no scientific studies to determine if their ordinance had any positive impact, or was it just because there wasn't that much rain that year. Were there other factors?

I'm clearly not a scientist, but the scientists would do the study to determine what the factors are, and there has been no scientific peer-review study to support anything that has been said by previous speakers supporting a blackout period.

The FDOT study that was mentioned, I think you should ask some more questions about that FDOT study, because I believe that happened in roadways and it was a compacted -- I think it was compacted ground. It was turf that hadn't been established. You know, that whole -- that whole study really needs to be analyzed in a lot more detail, and I think Amber -- I don't think she was relying on that study, but she certainly did mention it as supporting her position.

I think there's a whole lot more questions that need to be asked and answered before you support a ban on feeding the grass when it's hungry, you know, at the risk of, you know, kind of analogizing it to the human body. You know, there was a comment made, well, you know, everything has a lifespan. So why don't we just -- what's the harm in depriving that grass from having food?

Well, if you deprive the body from having food, that lifespan will shorten. And the data from Mr -- Dr. Nell Nell says, is that, if you don't feed the grass, it will impact the lifespan of that grass and ultimately, you know, create problems.

Again, you know, this is just a layman's -- trying to understand this. You know, anybody who -- when you go through -- you know, I could lose a few pounds. The way to lose the few pounds is not to starve my body because I ultimately end up eating a bunch at the end of the day because I can't make it.

The fertilizing protocols that they're talking about is feed it every two months and it will stay healthy. If you deprive it from when you need to do it, one, it will not be properly absorbed -- and Dr. Nell is the expert, and you need to listen to the scientists on this issue, not listen to emotion.

So we have sat back and listened to the scientists. The question that was supposed to be asked of the scientists, is the two-month period supported? The scientists have said the total blackout is not supported, but a two-month blackout can be supported and the grass can remain healthy, and the nutrients will get to the grass and it will not run off and it will not leach into the water system.

I think you need to listen to the scientists in making your recommendations to the Board of County Commissioners. And if you have any questions of me, I'll be happy to answer them, but I do think that we need to -- we need to ask the Conservancy where their scientists are and where their peer-review scientific studies are to support the blackout. Thank you.

CHAIRMAN CARON: Did you have a question?

COMMISSIONER EBERT: I have a question of Mr. Yovanovich.

Mr. Yovanovich, are you here representing the golf courses pretty much, the ones who are exempt from this?

MR. YOVANOVICH: Yes, I am. And you know what, the golf courses -- exactly. And why are the golf courses here? Because as I said at the last meeting, was because what you're proposing is the wrong thing to do to manage grass, and they know grass --

COMMISSIONER EBERT: They know --

MR. YOVANOVICH: -- and they're providing their expertise to this board even though they are not impacted by this ordinance. They don't have any -- you know, they don't have any risk by this ordinance but, you know, they need to get you the right information, and they're providing you the right information.

COMMISSIONER EBERT: And I do understand that. But they are exempt from this as well as the agriculture. What we're trying to do here is Mr. and Mrs. Homeowner. And there is a difference.

MR. YOVANOVICH: You're doing more than Mr. and Mrs. Homeowner. You're doing every community's common area. You are doing every community's common area that is not maintained by Joe and Josephine Average. It's a -- it's being maintained by the professionals, and the professionals are being regulated by this ordinance.

And we have said there are good things in this ordinance. We haven't said it's a bad ordinance. We're saying that the blackout period is not justified based upon the science, and the -- what you should be really thinking is, since they don't have a dog in the fight, if you will, you should give their testimony more credibility because they're not negatively impacted by any of this testimony. They don't have anything to gain by providing this information to you. It's --

COMMISSIONER EBERT: Okay. I would just rather see -- what I would like to see is all of Collier County having the same ordinance, is really what I'd like to see. That's why I asked about the City of Naples from those gentlemen, and they said they cannot find anything wrong with what the city has been doing.

It would just be nice for these companies that go, that do lawns in the city and also in the unincorporated area of Collier County, that they are all the same. That one --

MR. YOVANOVICH: I don't think they were asked the question, did the city do anything wrong?

COMMISSIONER EBERT: I did. I did ask one --

MR. YOVANOVICH: No, you asked them if they were happy. You didn't ask them if they did anything wrong.

COMMISSIONER EBERT: I asked them what they thought of the City of Naples and how they were with that, and they said they were happy with that.

MR. YOVANOVICH: I don't remember it that way, but we can go -- I'm sure we can go back and look at that. But I thought you asked them the question, did the city tell them whether or not they were happy, and you know --

COMMISSIONER EBERT: They're not having any problems with the stricter ordinance, I guess, is what I'm saying.

MR. YOVANOVICH: We don't know yet. We don't know. We don't know the studies. We don't know if their stricter ordinance has done anything to improve water quality. We don't know.

COMMISSIONER EBERT: Okay.

MR. BELLOWS: Next speaker --

CHAIRMAN CARON: Next speaker.

MR. BELLOWS: -- Marcia Cravens.

MS. CRAVENS: I'm Marcia Cravens, and I'm representing the Sierra Club. I'm the co-conservation -- the co-chair for conservation for Sierra-Calusa Group. We have over 1,500 members between here and Lee County.

They were very supportive of Lee County passing a fertilizer ordinance and very much support Conservancy's efforts and very much urge Collier County to adopt a stricter ordinance than the model ordinance.

There's a lot of talk here -- one of the things that struck me is all this emphasis on turfgrass. And, unfortunately, I think when you have all this emphasis on turfgrass, it limits the discussion on alternatives, alternative landscaping choices, and that's one of the big parts of Florida Yards and Neighborhoods is choosing different plants and not continuing landscaping culture and choices that we bring with us from up north where it's a completely different growing season and conditions there.

So I would like to see an emphasis -- I'd like to see this board recommend the -- take the recommendations that Mac Hatcher has and that the Conservancy has and recommend that it be adopted as the first step. I mean, we really need this first step badly.

We do have impaired water bodies. There's your science. I mean, those bodies were assessed for nutrients. They were assessed for other criteria, and they were found to be in very bad condition. There's your science.

And other counties are not finding that all their turf that might have been affected by a stricter ordinance than the model ordinance has died. So you don't have negative impacts from the ordinances that have been passed.

And, in fact, in at least one county that Amber showed, they did, in fact, see improvement. And I think if they were finding negative impacts from their ordinances, we would know about it by now. It would have been evident by now. They've been in effect for a good three, four years now.

One of the other things that I wanted to mention -- and I've been involved. I interviewed Mike Bauer and Alberto Chavez. He's the trainer for Rookery Bay on their best-management practice on the Green Program, and actually my husband and I helped to get it used in Pelican Bay. We did a lot of outreach and education. That's one of the pieces that's missing here is after you get this ordinance passed, there needs to be massive education, and I hope Florida Yards and Neighborhood is going to be re-energized in a big piece of it.

But I think there's another piece that's missing, too, that I'm just beginning to research and try and -- and address it to our government here, and that's the use of reuse/reclaimed water for irrigation because it's nutrient rich. We know it's nutrient rich. Our Board of Collier County has indicated that it's nutrient rich, and we don't know how much that has in impact.

And so even when you're not applying fertilizer, if your community has reuse reclaimed water or you're using non-potable water to water your lawns or gardens, you're actually getting nutrients in that water.

I don't know to what degree. I don't think it's really been looked at, but I'd sure like to see that it be looked at.

So, once again, for the Sierra Club in our area, I would urge that you make a recommendation for a stricter ordinance, go with the blackout. It is not -- there is no harm proven to having that done, and we do have a problem with water quality. Thank you.

MR. BELLOWS: Next speaker, Jerry Greeley.

CHAIRMAN CARON: Mr. Greeley was one of the people who passed out a bunch of information this morning that none of us have had the opportunity to digest.

MR. GREELEY: I tried to make it easy.

CHAIRMAN CARON: Go ahead.

MR. GREELEY: I have dots, some markings on a couple of pamphlets, just a couple of paragraphs, nothing

nothing really that requires a lot of reading time.

But my name is Jerry Greeley, and I'm from Island Walk. Island Walk is a community of about 1,856 homes. We're built around 30 interconnected retention ponds that are about 12 years old at this point in time. That's about 170 acres of water that we're dealing with.

At the last meeting of this Planning Commission, one of our residents, Herb Schuchman, advised you of the research and the learning that we've been trying to do in Island Walk, some of which -- same things that you've heard about already from these other folks.

We've found that the average life of stormwater ponds, which we're most focused on at the moment, is about 20 to 25 years before dredging becomes necessary. And there's a book that I handed you this morning, Stormwater Ponds Citizens Guide, that was put out by South Florida -- Southwest Florida Water Management District that states that the dredging will be necessary in as early as 10 years in some cases, but 10 to 25 years.

It goes on to say that there are other things that we can do to extend the period between this expensive and extensive project of dredging our ponds, such as adding aeration, control of chemicals including insecticides, weed killers, carwash detergents, control of all chemical organic waste that goes into the ponds, prevention of grass clippings getting into the ponds and storm sewers. These are just a few of the elements that need to be addressed before we can maintain healthy, beautiful ponds.

But we've also learned that, along with these factors, we have to control fertilizer runoff. We must control the methods that are used, we must control when it is done, how much is used, and where it is done.

All of these controls are just as important as the previous items that I mentioned to try to make our ponds healthy.

I've listened intently at previous meeting and this meeting, you know, people talking about the fact that fertilizer doesn't move even under the -- even under -- with rain under two inches.

If you read the studies that they're relying on, for the most part, a lot of them were done on level ground with no slope, and it says that in the study. In other cases it doesn't even say if there's a slope involved where the tests were taking place.

The slope behind most of our houses in our particular community -- which you can see on the map here is a very large community -- on the north side -- this is north. This is Immokalee Road. That's 951. This is Island Walk. Down here we have a number of communities that surround us that are on retention ponds that flow in to our community in two different locations, and we deal with whatever they send us out of their retention ponds, plus sheet flow that occurs through downpours and so forth. We have a golf course immediately behind our community.

So, needless to say, we're very concerned about what's coming to us from these other places, which will impact us severely, we think.

Like I said, 15 to 30 degrees is the slope that exists in the 10-foot buffer zone behind almost every home in our community.

Does anyone really believe that rain and irrigation water do not carry fertilization into ponds and groundwater, especially when there's a slope involved? And I seriously doubt that fertilizer defies the laws of gravity in Collier County. I mean, we know that it's going to flow down if you get enough rain with fertilizer.

Southwest Florida Water Management District states in their handouts that I've given to that you that too much fertilizer applied to landscapes, it seeps past the root zone in the grass, the plants and the trees, and into the Florida aquifer or runs off into water bodies.

The same publication from Southwest Florida Water Management recommends waterfront owners establish a 10- to 30-foot buffer zone with no fertilizer, no pesticide along their shoreline.

You know, most of us were told as children that experience is our best teacher. As we watch our lakes and ponds suffer from fish kills, which we've had in Island Walk, algae blooms, noxious odors, and the absence of bird population from a number of years ago that we used to have, common sense and experience tells us something has to be done.

There are over 40 counties and municipalities we've found and cities in Florida that have already passed more restrictive fertilization laws, and some have been in effect for a number of years, as we heard earlier. Our committee made direct contact with ten of these communities; all agreed that they did not have even one negative affect from the more restrictive standards that they've put into place.

Additionally, two offered that they now need less water to keep their grass. Their positive experiences in the extensive research that we've done have prompted Island Walk to pass our own restrictions which were in line with the resolution of the Southwest Florida Regional Planning Council.

So you wonder what has happened to our God-given senses. Have any of us driven into the City of Naples -- and I'm sure you have, and you've not seen dead or brown grass. Residents would never tolerate it, for one thing. I know our residents wouldn't tolerate that. They've had restrictions in place there for over two years.

As Gina mentioned, you know, there are a number of other municipalities and counties, Orange County, Marion County, Pinellas County, Sarasota County we found, Venice, City of Sanibel, City of Fort Myers, as well as the City of Naples that have already passed more restrictive.

So is it no longer valid in Collier County that experience is our best teacher? I mean, we wonder. Pinellas County, which I think is one of the more progressive, advises their residents to fertilize like a Floridian. It's illegal to fertilize from June the 1st to September the 30th. They realize that slow-release fertilizers spread before June 1st will still be viable during the summer months. They also realize that irrigation systems using retention ponds or reclaimed water also return nutrients back to the turf as well as the grass clippings and so forth that fall there.

They also realize that there are other alternatives to keep grass green if necessary. Communities must be educated on the many alternatives to fertilizing during the -- to alternatives to fertilizing in the summer months.

No fertilization nitro- -- fertilization with nitrates or phosphates is particularly important during the rainy season because this is the time of year where the water has the least oxygen.

A healthy pond must have oxygen saturations of 5 to 15 parts per million. When levels go lower, fish die, algae blooms increase, and odor may exist. As we've said before, the average life of the stormwater ponds is 20 to 25 years before dredging becomes necessary unless proactive measures are taken.

No matter what we do, dredging will some day be necessary. And Island Walk has installed an aeration system just recently at the cost of $320,000 in an attempt to buy time before we have to dredge.

In addition to having passed our restrictive fertilizing regulations -- and we're doing other things like evaluating our irrigation process and system -- we've set up a reserve already to prepare for that multi-million-dollar expenditure that we're going to have to make, and we're restricting vendors' access to the community. If we catch them dumping into our lakes or into our storm sewers -- which we've caught a number of them doing -- carpet-cleaning companies, construction companies. You wouldn't believe what they dump down our storm drains, which go right into our lakes.

We plan to advise our residents of all of the alternatives for cleaning materials and so forth in an attempt to get them to use more green material, as well as the vendors who come into Island Walk.

We think that Island Walk is going to be fine by virtue of the steps that we are taking at this point in time. We have a very proactive board, a large number of volunteers that care enough to invest a lot of their time and experience. But what about the vast number of communities who are totally unaware? Most of whom are around us at this point in time, they just do not understand.

All the water in Florida is interconnected in some way. These communities with water must learn why and how to maintain the water that they've been given stewardship over that eventually flows into the gulf. And time is needed to help raise this awareness so that we can all be prepared and maintain these healthy bodies of water. We think restricting fertilizer will help buy time for this education process to occur.

Island Walk is trying to do its part. We're initiating an outreach program to try to help raise the awareness, starting with those communities right around us and hopefully help them prepare for the future, and we'd just like to see Collier County do the same thing.

And I'd like to remind you again, fertilizer does not defy the laws of gravity. We know that it will flow down, and particularly when you're dealing with slopes, which most of these communities were built that design.

And that's all I have. Thank you.

CHAIRMAN CARON: Thank you. Mr. -- I think Mr. Schiffer has a question.

COMMISSIONER SCHIFFER: And since you really have experience with this in your lakes, are you -- you're using your lakes now to irrigate? Because it would make sense, since the nutrients are flowing in, that you pump them back up onto the lawn.

MR. GREELEY: We are.

COMMISSIONER SCHIFFER: Okay.

MR. GREELEY: We irrigate from our lakes.

COMMISSIONER SCHIFFER: And is that -- I mean, so couldn't you theoretically achieve a balance there where the lakes aren't -- doesn't have a high level of nutrients or --

MR. GREELEY: Well, I guess I'm not sure I follow what you're saying. We are trying to control all the factors. Right now we know that the nutrient levels in our lakes are high, higher than they should be.

COMMISSIONER SCHIFFER: Okay.

MR. GREELEY: We know that the inflow from these other communities is much higher than what we already have in our lakes. Yes, we're irrigating back onto our land. We put in a four-month blackout period as part of our restriction, and we believe that that will also keep our grass looking good through that blackout period because of the irrigation that's coming back out of those lakes.

COMMISSIONER SCHIFFER: And you use the nutrients out of the lake. Are you keeping data on what's happening to the lake?

MR. GREELEY: We have started doing that. We're about a month and a half into that. We've only had our aeration system in a month. We just started our whole project in September of last year studying this whole problem that we've been faced with.

And so we're new at it, but we are starting water testing. We've done some of that already. We're starting soil testing at various locations in our community as well as at various locations back from the waterline trying to evaluate exactly what's happening.

COMMISSIONER SCHIFFER: And then the algae blooms, are they seasonal, or once they start they just grow till they clog it and you've got to go in and wipe them out --

MR. GREELEY: Well, I mean, they're pretty much seasonal. But, yes, I mean, once they start, you're -- then you start pouring chemicals in to try to deal with that. And, again, another big point of certain for us, the amount of chemicals that we're throwing into the lakes on a continuous basis, which ultimately end up in the sediment in the bottom of the lakes, and sometime we're going to have to dredge, which potentially may be toxic waste. Some of the literature that we've read so far could be treated that way.

COMMISSIONER SCHIFFER: What is the season when it starts or gets worse? What's your experience?

MR. GREELEY: Usually it's the summer months where we see the worst situation so, you know, June, July, August. Our ban starts in June.

COMMISSIONER SCHIFFER: Okay.

MR. GREELEY: Mid June.

COMMISSIONER SCHIFFER: Yeah. Thanks for that info.

CHAIRMAN CARON: Okay. Thank you.

Oh, I'm sorry, Ms. Homiak.

COMMISSIONER HOMIAK: Question. Do you treat your lakes on a regular basis, have you over the years, on a regular basis during the year?

MR. GREELEY: We've had to, yes, right, we have.

COMMISSIONER HOMIAK: From day one you've always had your lakes treated?

MR. GREELEY: They've been treated in some manner, even when the developer started the community almost 12 years ago. He did some treating of the lakes, some mechanical and some chemical from the beginning.

COMMISSIONER HOMIAK: Thank you.

MR. GREELEY: Okay.

CHAIRMAN CARON: Thank you.

MR. BELLOWS: Sally Kirk.

MS. KIRK: Good morning. I'm Sally Kirk, and I live in Longshore Lake, which is a gated community in North Naples. We have an 88-acre, 21-year-old lake that serpentines behind more than 500 single-family homes.

The lake is our backyard, and we also irrigate from it. And, yes, we do treat it. Our water permit mandates that we treat and care for our lake.

Two years ago, when I was president of our homeowners' association, we experienced major algae problems in our lake. The algae was so widespread and thick that it clogged our intakes to our irrigation pumps. Such algae

blooms drew complaints from several residents, one of which threatened to sue me, incidentally, regarding possible toxins and reports of respiratory problems.

Sales in the community suffered when potential homebuyers saw the clumps of algae floating in the lake behind our homes. Longshore Lake was becoming Longshore Swamp.

During my research to resolve the problem, I discovered that water runoff from fertilizers caused nitrogen and phosphorus to pollute lakes such as ours, particularly during the rainy season.

During the rainy season the lake's temperature rises significantly. It's in the upper 80's, possibly 90 degrees, and that's the time when the algae blooms more. The algae loves the heat.

Jerry's already talked to you, and as other people have already told you about the other municipalities and counties in Florida, everyone it seems, except Collier County, has stringent fertilization laws.

You consider that Collier County is probably one of the wealthiest and one of the most educated counties in the whole State of Florida. It's very disappointing to me that we don't have the same ordinances that some of these counties -- these other counties have.

Sarasota County, for example, passed an ordinance in 2007 and has had a ban on the summertime use of fertilizer for three full rainy seasons. According to Jack Merriam, Sarasota County's senior environmental manager, there have been no negative consequences from this ban. In addition, there have been neither massive algae blooms nor spikes of nitrogen before or after the restricted season.

Prior to the restrictions, heavy rain would wash downstream into the state's waterways causing nitrogen and phosphorus pollution like one of a few summers ago that stretched 14 miles across Tampa Bay.

Pinellas County has a summertime ban on sales as well as the use of fertilizer, and Tampa lies within Pinellas County.

In an effort to resolve Longshore's problem, I initiated a fertilization ordinance which our board of directors approved for the community. The ordinance was based on both the City of Naples ordinance and that of Lee County.

Our policy calls for no fertilization from June 1st to October 1st. Fertilizer is prohibited within 10 feet of the lake, can have no phosphorus, and must be a 50-percent slow-release nitrogen.

In that two-year period, our algae problem has declined dramatically. Our lake is more than 20 years old, so we still have issues with settlement, but our algae is negligeable. In fact, if you were to drive out there today, you'd see we have absolutely no algae in our lake.

We hand out fliers to our landscapers at the gate in the fall and the spring written in English and in Spanish advising them of our ordinance. Longshore has 90 different landscaping companies that service our homeowners, and they all sign a promise when they come through that gate to abide by our law.

Failure to do so could prevent them from doing business in our community. We're serious about this ordinance. The values of our homes depend upon its success.

Collier County needs a strict fertilizer ordinance that includes a ban on summer fertilization, as well as a possible ban on summer fertilizer sales, like that recently initiated in Pinellas County.

The health of our stormwater ponds, canals, tributaries and ultimately our bay and the gulf depends upon it. Each one of our stormwater ponds ultimately drains down into the gulf and into the bay, so that's something to consider.

I'm a master gardener who is trained by the University of Florida's Extension Service, and I care for my own yard, as you can tell by all of my skin cancers. I've also been the chair of our landscape committee for several years. In 18 years at Longshore, I've only fertilized twice a year and used slow-release fertilizer. My grass is thick and green, as are most of my neighbors.

I support the more strict law recommended by the advisory council. I don't need scientific proof. Seeing is believing.

Thank you.

CHAIRMAN CARON: Thank you, Ms. Kirk.

Does anybody have any questions for her?

COMMISSIONER SCHIFFER: No.

CHAIRMAN CARON: Okay, thank you.

COMMISSIONER EBERT: I have a question.

Sally, do you -- does your irrigation also come out of your ponds?

MS. KIRK: Yep.

COMMISSIONER EBERT: Most communities, most of the gated communities, is it -- it's pretty much from your retention ponds that --

MS. KIRK: Well, I know Quail Village, which is across the street from us, and -- Quail Village draws theirs from their lakes, as does Longshore, and I believe Quail Creek does as well.

COMMISSIONER EBERT: Okay. So it's pretty much coming from the retention ponds and --

MS. KIRK: Yeah, right. We take our water from the retention pond.

COMMISSIONER EBERT: Okay.

CHAIRMAN CARON: Thank you.

Ray, how many more speakers do we have?

MR. BELLOWS: Four more.

CHAIRMAN CARON: Four more. Panel? It is now noon.

COMMISSIONER KLEIN: Whatever you want to do.

COMMISSIONER SCHIFFER: Let's do the four, then we'll --

CHAIRMAN CARON: Let's do the -- I think so, too. And those of you who are going to speak, if you have some really new information for us, that would be fabulous. Let us know whether you're for or against obviously, and we can probably move this along. Thank you.

MR. BELLOWS: Next speaker is Frederick Talbott.

MR. TALBOTT: Hi. Good to see everyone. I didn't bring any photographs because the photographs of the harmful algae blooms seemed to spook everyone last time. So -- I've got a couple of slides, though. And I'm also excited that Dr. Nell is here from the University of Florida -- we were just chatting -- because he led me on an adventure yesterday. He didn't know it until today, but he led me on a great adventure, and it was pretty exciting.

Many of you have been following HB457 up in Tallahassee, and that was the attempt to limit what we could do on fertilizer. And on March 23rd there was a hearing the Florida House Committee -- rather Community and Military Affairs Subcommittee -- and could put this on there -- and Dr. Nell, of course, participated in the hearing, and he was asked about -- and you clarify, please, for me, okay. Come on up if you'd like.

DR. NELL: No.

MR. TALBOTT: He was asked about the impact of landscape fertilizer on water bodies, and he didn't really have direct studies, as we've heard today; there are not that many direct studies on this. But he did cite the Chesapeake Bay, and the Chesapeake Bay, at the time that he had his discussion, he mentioned that it had a 3-percent impact on the Chesapeake Bay.

This surprised me a lot and it really hit home, because as you know from voice, I'm a Virginian, and I also lived on the shore of the Chesapeake Bay for many years, and I was also the lead investigative journalist for the Virginian Pilot covering the Chesapeake Bay for six-and-a-half years.

And I covered this in the late '70s and early '80s, and many, many studies that came out, and it kind of surprised me the 3 percent, because I thought it was much higher. He -- we were just chatting, and he mentioned that this came from a -- and what was it, again, a model from roughly 1997, and that's now been clarified, and lots more studies have occurred.

Now, you think this is the Chesapeake Bay, we're in Collier County, what has that got to do with anything? But it's got a lot to do with everything. And I've got some great news and it's wonderful news. And I'd like to pass this -- if you would pass it to everyone up there.

COMMISSIONER MURRAY: We're not going to be able to read it.

MR. TALBOTT: And that's because we couldn't have better timing. Because today, about an hour ago, the governor of Maryland signed a remarkable law, and this law -- and I'll get everyone to pass it along -- and this law will manage commercial and residential use of lawn and turf fertilizer for the entire state of Maryland and the entire Chesapeake watershed impacted by the state of Maryland.

And now what they've got for the entire state of Maryland, after the governor signed it this morning is, they have to have a 15-foot fertilizer-free buffer along all waters in the state of Maryland. Not one county, the entire

state. If you use the shield, it's ten foot.

If you take a look at the underlining in here, you'll see that this settles a few things. And I'm going to tell you about the research that went into this. They had the best research in the United States and in the world. This has been first contentious and then cooperative. And all of the communities -- as Dr. Nell mentioned today, all the communities did something very wise that I'd love to see us do here in Florida; they all came together, green industries, fertilizer industries, all the eco groups.

And the very, very intelligent and very water-sensitive members of the Maryland community -- because Maryland's a water state, as you know. You've been to Maryland, you've been through there, you know you have the crab cakes, you've had all of that.

In Maryland roughly 14 percent of the nitrogen and 8 percent of the phosphorus pollution to the Chesapeake Bay can be traced back to urban and suburban non-point sources, predominantly fertilizer runoff, fertilizer runoff.

The goal of this bill is to prevent runoff. Take a look at underlining. Watershed-wide, acreage maintained in lawns now exceeds corn in the Maryland area and is fast approaching all row crops combined. Refusing runoff from lawns increasingly matters. They have the science. They have it by the bucketloads.

Now, I called the governor's office of Maryland and Virginia yesterday. That's how I was led to this. I also called the key eco agencies in Maryland and Virginia.

And I also called a young man named Tim Wheeler. Now, Tim is the lead investigative reporter covering the environment for the Baltimore Sun and one of the top environmental reporters in the United States. And he said, well, you also may want to take a look at some of these resources, including Chesapeake Bay.net, which is a consortium of all the state agencies and all the interest groups and what they found regarding the impact of fertilizer storm runoff.

And if you would take a look at this chart, urban/suburban runoff, okay.

CHAIRMAN CARON: You're going to need a hand mike.

MR. TALBOTT: Okay, sorry. Great, thanks.

Urban/suburban runoff. That's the yellow, okay. And then, of course, as we were just talking, wastewater. Got to work on that as well. All right.

And then if you take a look at this -- and as we've talked about, the '97 model is outdated because the blue on this chart is stormwater runoff mainly due to fertilizer runoff, okay.

And like I said, they've got literally a thousand -- a thousand sites, studies, whatever, from almost every state in the nation and many -- you know, many foreign nations to put together the research on this.

Let me show you what can happen with all of these impact. This is the northern part of the Chesapeake Bay and the most populous area, Baltimore, Annapolis, okay. A lot of homes there, a lot of lawns, but also a lot of boats, because people up there are water people, and they want clean water, just like all of us do.

But this is what happened and what prompted them to act. With all of this impacting the bay from here to here, 80 miles on most eco maps, is jet black, because what they have there is a dead zone. If you buy crab cakes in Baltimore today, you probably will not eat Chesapeake Bay crab, because nothing lives in the dead zone. There's no oxygen in the summer months, nothing, zero.

We used to fish there as -- when I did as a young man. There's no fishing there now. They literally killed part of my Chesapeake Bay.

So I brought this in just because the timing was incredible, and it led an entire state to ban fertilizer use within 15 feet of its water year round.

I'd like to address two other things -- I'm out of here, I promise. One speaker today, Mr. -- is Yovanovich, right -- Yovanovich was here. I guess he's still here? He said something that surprised me. Because I like what Dr. Nell said. He said, we're going to talk science. We're going to talk science. Then Mr. Yovanovich said this, and I quote, pretty good at getting quotes, former reporter, attorney. Okay. I'm only representing me, no one else. Quote, "Fertilizer will not run off and will not leach." That's a direct quote, and you'll see it in your records today when you transcribe that thing.

And I was hoping he'd still be here, because I wanted him to prove it, because I've seen it. I've seen the results of it. We had one-third of the year in 2010 -- and right behind my house -- a harmful algae bloom, Cyanobacteria. I've already given you handouts on what that could cause.

And I'm the one with the grandfather who, for two weeks, had to just stare out of our great room, couldn't even approach the lake, couldn't go fishing, couldn't look for frogs, because we had what resembled human sewage on our lake for four months, all because our neighborhood didn't do what our neighbors at Island Walk did.

Our neighborhood in Village Walk got all kinds of information from me and my wife and then decided to continue fertilizing with phosphate fertilizer within three feet of the shoreline even during the heavy rain months.

And last but not least on the heavy rain months -- I also called the National Weather Service last -- yesterday. I covered that for the Virginia Pilot. Got a lot of friends and know a lot of the offices there. So I called three different groups with the National Weather Service, and I asked them a question about our June and July question, whether or not we should allow fertilizing then, because the last two June and Julys I've seen incredible gully washers, downpours, remarkable heavy rains hit our neighborhood. You couldn't go to the car, looked like a waterfall coming. Then I've seen fertilizing just before one of them, just before one of them, and then the rains hit.

So I asked my friends at the National Weather Service this: Do you know of any meteorologist in the world who can predict, within 24 hours, whether or not that rain is going to fall on a particular point on the map?

And in all three of the agencies, do you know what they responded? All three of them laughed at me. They said, that's the craziest question we've ever heard.

But if we allow fertilizing during June and July when we get those gully washers, we're saying that landscapers can do that. They can do what the best meteorologists in the world absolutely say they cannot do. And that's why I'm suggesting the four months, just in case, because we don't want another one of those.

Last but not least, we're going to get some stories. When I first met you, I told you I wanted to write a story about Collier County because I caught 15 bass in an hour and a half, and I was amazed. We're finding shells everywhere. We love the skies, we love the people here, everything about it. I want to write a story. I wanted to pose a story to the New York Times, but something really cool happened when I talked to Tim Wheeler. He said that the Association for Environmental Reporters is going to have their annual meeting in Miami. It's all of them in the country. And he said this is a national story what we're doing here.

So I invited all of them over here to Collier County. I'm going to be over there, probably going to be giving a talk, and I want them to see our county, I do. I want them to see our west coast, because I think we're making some inroads here, and I think it is a national story.

And I'm going to have about a swarm of -- I hope about 200 reporters coming in next September, October to take a look at what we do, and -- because I think this is -- this is paradise.

So thanks a bunch, appreciate it, and thanks for this wonderful mike. Helped a lot.

Any questions at all?

CHAIRMAN CARON: Thank you, Mr. Talbott.

MR. TALBOTT: Thank you very much.

MR. BELLOWS: Next speaker, Dailey McPeal (sic).

(No response.)

COMMISSIONER MURRAY: Probably went to lunch.

MR. BELLOWS: Dean Bryant?

MR. BRYANT: Hello. My name's Dean Bryant. I'm -- didn't plan on speaking today, but I feel compelled to, listening to the correspondence.

I'm an industry professional, been in the industry for 22 years, licensed in all categories, including -- I am a state BMP instructor to be doing the BMP instructor training.

And I just want to give you some food for thought. The conversation -- the comments back and forth were said multiple times about -- and said there was no impact associated from the blackout.

And I have the privilege of -- I cover the western side of the state all the way up to North Florida and Louisiana. My company has 73 offices in the state. And my -- I fulfill a quality-assurance technical position where I'm in the field looking at properties and training applicators almost on a daily basis.

And one of the interesting things that's taken place is I have -- again, work in Sarasota as well as the -- Naples and been a part of implementing the ordinances as they came along, and our company has taken a high road and has been in compliance from the get-go.

However, one of the interesting observations that our company has made and it continues to make is, for

example, if the ordinance starts in June and we stop applying fertilizer in June, our phone begins to ring by dissatisfied customers on or about the month of July and August, okay.

And I'm in the unfortunate situation in multiple situations where we're standing in front of a customer who is not pleased aesthetically with what's happening on the property itself, and in certain situations is considering terminating the service because of this.

And because of the lack of awareness that is out there, they really don't know about the ordinance in a lot of situations, and really and truly in some situation you get the opinion from the homeowner, they truly don't care. They're in a situation where they want the lawn to be green. That's what we're faced with. And you can state the ordinances and lay out the facts for them any way that you can.

So as a company, you know, we closely dictate -- we closely monitor the cancellations and those types of things. And in those counties, we have definitely found a connection to the blackout period leading to dissatisfaction, which causes us to lose -- you know, obviously lose those customers.

The concerning part about it is, I don't want to speak ill of my fellow green-industry professionals, but there's some folks, independents, that are out here that aren't taking the high road and aren't in compliance with this, and because there's no enforcement of this, that, unfortunately, you're in a situation where the customer says, you're fired and I'm going to hire, let's just say, Chuck in the Truck, and he's going to go do it and he's going to satisfy the customer.

And so enforcement is a very big key, and I just wanted to make the comment that there definitely is an impact, even to the point where our company has had to try to increase satisfaction from a customer. We've changed our agronomic program to support that.

Well, what that's actually ended up doing is, it costs more money to deliver that program. So the net result is the customer who receives our service ends up paying more, which is a vicious circle. If you pay more and you don't get the performance, you know, you can look at it from a consumer point of view.

So I just -- you know, I wanted to -- you know, we said over and over there's no impact. When you don't fertilize turf and then -- there was talk about the two-month increment, and that's pretty much a standard incremental service rate that most of the professionals are doing. You may be on the property more frequently than that in some programs, but most of the time you're fertilizer and your applications are done approximately every two months.

That's why it starts to show up. If you're making an April application, maybe in June you're okay, but when you get to August, you've got a lot of issues going on with the turf, and in some cases this turf becomes thin and doesn't perform the way it's supposed to, which actually works to the negative, because it requires more inputs from us to be able to keep weeds under control and those type of things, because the best control for weed -- the best weed control there is is a thick, healthy turf. When we don't have it, it requires more inputs from us to be able to satisfy customers and to maintain that standard turf.

COMMISSIONER SCHIFFER: Question.

CHAIRMAN CARON: Go ahead.

COMMISSIONER SCHIFFER: How often do you normally apply fertilizer? What would be a typical scheduling?

MR. BRYANT: It's about -- it's every two months.

COMMISSIONER SCHIFFER: Okay.

MR. BRYANT: Every two months.

COMMISSIONER EBERT: Year-round or --

MR. BRYANT: Year-round. It's different formulations and -- throughout the year. For example, in the nongrowing season itself, it wouldn't be a true -- when you say the word "fertilizer," it wouldn't be a true fertilizer. It would be mostly potassium and micro-nutrient base, because nitrogen, you're not feeding a plant to a -- you know, not feeding nitrogen to a plant that's not activity growing in those periods of times.

There is a spring and a fall feeding that particularly takes place, bringing the turf out of transition and back into transition, and much lower rates of drip feeding throughout the whole summer long. But without that drip feed itself, the turf is going to suffer.

COMMISSIONER SCHIFFER: You typically visit a customer once a month?

MR. BRYANT: Myself?

COMMISSIONER SCHIFFER: Well, your program. I mean, we call your company, I have a house.

MR. BRYANT: We have bimonthly -- we have a bimonthly where we're there every two months, then we have one that we're -- where one month we service the lawn, one month we service the shrub. But in that situation, we're inspecting both, and more of an IPM, integrated pest management type of --

COMMISSIONER SCHIFFER: And you have application procedures.

MR. BRYANT: Yes.

COMMISSIONER SCHIFFER: Some may be more intense than others?

MR. BRYANT: Well, again, the program is going to be related to whatever ordinance that we have, but, yes, we have a standard program, and it's very stringent, yes --

COMMISSIONER SCHIFFER: Okay.

MR. BRYANT: -- as to the number of days in between services, the application rates, the whole nine yards.

COMMISSIONER SCHIFFER: And could a blackout period cause you to really load up prior to the period?

MR. BRYANT: Well, what it ends up having to do is -- you know, we use the term "slow release" a lot, and slow release, to a business owner, says money. And money the consumer ends up having to pay.

So you try to fight that balance to where, yes, prior to the blackout you may apply some materials that are higher slow release, but it still has no -- there's just no possibility to be able to main (sic) the aesthetics and the turf quality that you want through a slow release that's not cost prohibitive. There is products out there that can last that long, but it's not something that you or I would want to pay for.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN CARON: Go ahead, Melissa.

COMMISSIONER AHERN: One of the concerns in one of the documents we received with the four-month blackout period is that, because the lawns are deteriorating, that people are overfeeding it when the blackout period ends. Have you seen that happening?

MR. BRYANT: Yes, yes.

COMMISSIONER AHERN: And for the customers that you have that are calling with issues -- and obviously you're not going to apply during the blackout. Are you aware -- do you know if any of those customers are starting to try to fertilize themselves?

MR. BRYANT: Most of my customer base is not interested in doing it themselves. Most of the customers we're dealing with are -- they've made the decision from the get-go, and I have very little of having to work with the homeowner as a competitor for myself in doing the service. Most of that would be the other competitors that are out there, the more single-type operators.

COMMISSIONER AHERN: Okay. What happens to the grass after you overfertilize on the back side?

MR. BRYANT: Well, I mean, it's -- anytime that we overfertilize, we get -- it's like you or I having the equivalent of a very, very large meal, you know. I mean, it's just -- it's not a balanced diet by any means. It's just not good practices, and it's going to cause an increase on insects and disease. It increases the foliage that we actually cut off and that could potentially end up in the street, like we see in those pictures and those types of things.

So it's just -- you know, it's bad practice all the way around.

COMMISSIONER AHERN: Thank you.

COMMISSIONER EBERT: Donna, I have a question.

CHAIRMAN CARON: Go ahead.

COMMISSIONER EBERT: You say you fertilize every two months?

MR. BRYANT: Yes, ma'am.

COMMISSIONER EBERT: Year round?

MR. BRYANT: Yes, ma'am. But that -- when you say "fertilize," we're not talking about the rates that we're talking about here. The rate would be indicative to the time of year, and the formulation would be indicative to the time of year.

COMMISSIONER EBERT: I've just never heard of anyone fertilizing twice a month all year round.

MR. BRYANT: Not twice a month, every two months.

COMMISSIONER EBERT: Every two months. I've just not -- that's fertilizing six times a year.

MR. BRYANT: That's -- I don't want to speak for all of my colleagues, but that's pretty much industry standard. Now, that doesn't mean -- where we're talking about the rates here today, that doesn't mean we're talking about a full pound of "N" or half a pound of "N" or anything else. You could be talking about much less.

It's a matter of getting the plant up to its par and then trying to keep it there through status quo for a period of time, and that's what we tried. That's -- it's the balance of being able to do that.

And what -- that directly addresses the previous question with -- instead of having to overload at particular times of year, trying to keep the plant on status quo and maintain a turf quality that, you know, represents the balance between aesthetics and responsible environment.

COMMISSIONER EBERT: And where are your clients getting most of their water from, city water or is it retention-pond water?

MR. BRYANT: We have a pretty good mixture of both. I would tell you that, you know, both. There's definitely some pros to the reclaimed water, but there's also some cons to the reclaimed water as well. And there are concern -- you know, there's a lot of clogging that can take place in sprinkler systems with reclaimed water and everything else that can produce thin turf, which thin turf, as we know, is going to not be a good stand-up turf. It's going to increase the runoff.

COMMISSIONER EBERT: Thank you.

CHAIRMAN CARON: Anybody else?

MR. BELLOWS: Last speaker.

CHAIRMAN CARON: Go ahead. Thank you.

MR. BELLOWS: Last speaker, Bill Davidson.

MR. DAVIDSON: I'm Bill Davidson. I am representing myself as a homeowner as well as the Everglades Golf Course Superintendents' Association.

A couple things that -- you know, we keep talking about fact. The fact of the matter is, grass is a living organism. If we do not feed that grass, it starts drawing on its reserves, just like the human body would. And over a period of time, even if you do feed the grass, it might be in such a decayed state of health, just like us, that we wouldn't be able to assimilate the food, hence the previous question, overfertilization, more runoffs, things of that nature.

Again, if -- and then if you don't -- if the grass is at a certain point -- and even though you feed it, it won't assimilate it, it's still going to die. So as my colleague said, it's about maintaining a level nutritional input versus overapplication on one side, underapplication here and there, and as an industry, I can tell you, we just don't go out and put down fertilizer because it's time to feed, because on a financial basis, that's equivalent to money out of our pockets.

So when he's saying he's going out and putting down a nutritional application, it's probably more of a potassium. It's other elements that the plant is requiring outside of a nitrogen or phosphorus source.

So don't think of fertilizer application as, it's always nitrogen and it's always phosphorus. That's really not the case, by and large, on our side. For the homeowner which, for the majority of -- is not what -- representative of the fertility application in this county, the professionals are putting down what the plant needs based upon their industry experience and education.

I think a couple things need to be really clarified that keep coming up. Everybody that I've talked to in the Golf Course Superintendents' Association, no phosphorus unless you have a soil test is fine. That's not in question, and I think that we can move past that point in the fertilizer ordinance.

There's a -- you know, we looked at the Charlotte Harbor graph that our friends from the Conservancy showed, and if you really look at that graph, there is no statistical trend upward. Now, if that trend was actually going to be analyzed, that last tick up would be thrown out because it's not a repeatable trend. Although it looks great on that piece of paper, if you really scrutinize that graph, it is not a statistical trend upward, and it's a very short time window. It wasn't repeated.

So where and how did that trend line get drawn? Because I could have done it out in the hallway and given it to you and amazed you with all this graph and this glory, but it really means nothing because it has no substance to back it up. So I would say be careful on how you look at that.

I attended every EAC meeting, and I can tell you that there was no boots-on-the-ground support of a stricter ordinance. There was not. We sat there and said, we want a scientifically-based ordinance.

We would prefer that the EAC -- if you look at what they recommend, they want a 25-feet (sic) setback from any impervious surface. They wanted these exorbitant restrictions that would really lead to massive degradation, okay. The boots on the ground are these guys over here and us. And he just told you he has seen the degradation.

And we're okay with having a setback from the water. I think we need to come to consensus with saying, what is the setback? It's smart. Don't put the fertilizer in the water. I think if you go to Island Walk -- I live in the Vineyards. You go to a lot of these communities; it's green right down to the bottom of the water. Well, of course, if it's going to be green at the water's edge, some of that fertilizer's getting thrown in there.

If you saw the pictures that Dr. Nell presented where you have the green line a couple feet up from the bank, the line is there for a reason, because the nutrients isn't coming down.

No one's going to dispute physics. If you have a weakened turfgrass and an open canopy, water's going to carry the material with it. The head of IFAS stipulated the fact, and no one's going to disagree with you. But if -- just like everything else, if you put something in its way, the water is going to be slowed down, it's going to have a chance to go in. And the more stuff you can put in front of it, the more it's going to be restricted, the better chance it's going to have to go down, and the better chance that a healthy turfgrass with an actively-growing root system will have to absorb that material out of the water.

A quick point -- I'm sorry. Is there a question?

CHAIRMAN CARON: No, go ahead. Finish, please.

MR. DAVIDSON: Okay. A couple quick points. A quick point about lake systems. When I was in -- when -- turf school, we learned about lake systems, and the lady even said to the fact that her lakes get up to 90 degrees.

I live in a serpentine-lake community, too, in the Vineyards, and the lakes are no wider than from me to the other side of the hallway. They can't get deep.

Now, I was a golf course superintendent at Naples Grande Golf Club, and that old borrow pit that was right there next to Golden Gate Parkway, it was 25 feet deep. I didn't put one pesticide application in that lake to control floating algae or anything in the three years that I was there, not one, because the water was able to keep cool; it was naturally deep. There were no problems.

It's a known fact that if you build a shallow lake, it's going to get hot, and anybody has seen the algae growing on the sidewalks where it's moist and gets warm. When you have hot water, you're going to have algae problems.

Now, in the Vineyard where I live, we've had aerators in there since day one. We've never had an algae bloom that I know of.

So it's a process of, how did you construct it and what are you doing about it due to your poor construction?

It's not necessarily the fault of the nutrient application. There's no doubt that if you put nutrients in the water, you're going to have an issue. But if you are smart about having a setback, you do the certain things that you need to do because of the construction of the lake, you know, that you can help yourself and not blame an outside source. Again, it's about just doing it smart.

A couple things about water. I hear how -- what's your irrigation source and how is that -- you know, are you sucking the nutrients out? I use reuse water, and I just had it tested, okay. It was 9 part per million nitrate, which is not bad, but also had 172 parts per million chloride, which is very bad. It also had 134 part per million sodium, which is bad.

So you have to combat those sort of things, you know. So you have to be able to make your plant healthy enough to be able to use the good stuff as well as service the bad stuff in your water.

And I don't think it's going to be an effective measure to say, well, we'll use the irrigation water out of the lake as a form of recycling the nutrients that are in it. It will, but you don't pump enough volume out of that lake in any given circumstances to take the nutrients out.

So it's about making sure that you have proper etiquette to not put the nutrients in there in the first place, have your setbacks, but also have a healthy turfgrass to keep it from getting in there.

And I hear -- the last thing, I'll wrap up real quick, is about golf and why is golf here. It's very simple. We

are turfgrass managers first and foremost. The golf course industry wants to stand as a united front with our brothers brothers in the landscape and horticultural division. We don't want to be segregated.

We also stand here as a method of trying to educate so that when and if this ordinance ever gets passed and it goes on the block of public scrutiny a couple years down the road, it is our thought process that this ordinance is going to say, why isn't it working?

Because you've already heard from Dr. Nell that phosphorus is going to go with the soil, nitrogen is going to go with the soil, and all that's going to -- and that's going to happen because of an open and thin canopy. And that's going to lead to poor -- because of poor turf health.

So it's going to come back and we'll say, well, we need to figure out what we didn't include in the ordinance the first time. And the first thing that's going to pop up is, those darn golf courses are doing it, okay.

So we want to stand here on the forefront as a united front to say, turf industry supports the science-based application of the nutrients, and we would like to support the model ordinance as presented by the DEP.

CHAIRMAN CARON: Any questions for Mr. Davidson?

COMMISSIONER SCHIFFER: I have a question. You brought out a lot -- the concept of doing it smart. Do you think that the companies that are out there -- is there a sloppiness maybe in the way they're applying fertilizer, which could be causing some of these lakes to overdo, or do you think -- in other words, are they out of balance? Are the companies working on the lawns in these developments, you know, maybe overfertilizing and stuff like that?

MR. DAVIDSON: I don't think it's a function of overfertility. I think -- truly, I honestly think -- and you've heard it over and over again, the answer is to educate, you know. And as the Superintendents' Association, I can tell you, we're willing to step up to the plate and educate, and you've heard Dr. Nell say he's willing to help publish some sort of training video or something.

It's about training your guys to do it correctly, the use of the deflector shields, the use of drop spreaders next to bodies of waters. You know, the requirement of, hey, we have a setback of five miles from any water body, or whatever it is. You have to train your guys to do it the correct way, because everybody knows, if you get too close, it's going to go in.

COMMISSIONER SCHIFFER: But you're in the future tense with that. So currently today, could there be sloppiness out there, and could that sloppiness be causing some of these excessive problems?

MR. DAVIDSON: I'm not going to try and speculate that there isn't. I don't -- I'm not so stupid to think that somebody's not doing the wrong thing. But I think over and large, no. I don't think it's a -- I don't think it's a fertilizer problem. I think it's a nutrient problem, nutrients from leaf litter, nutrients from septic tanks, nutrients from a lot of sources, not just fertilizer.

COMMISSIONER SCHIFFER: Okay. And last time you were here you had a word for applying fertilizer through the sprinkler system.

MR. DAVIDSON: That's called fertigation.

COMMISSIONER SCHIFFER: That's it. Thank you.

CHAIRMAN CARON: Anybody else have a question for Mr. Davidson?

I just want to make one comment on your boots-on-the-ground comment.

MR. DAVIDSON: Yes, ma'am.

CHAIRMAN CARON: And that didn't have anything to do with you. It had to do with the communities who had already put an ordinance into effect. That's where the boots-on-the-ground comment was --

MR. DAVIDSON: Okay.

CHAIRMAN CARON: -- according to the information we got.

MR. DAVIDSON: Yes, ma'am.

CHAIRMAN CARON: So thank you.

MR. DAVIDSON: Thank you. Just for clarification, during the EAC testimonies, we had representatives from the landscape care companies --

CHAIRMAN CARON: Oh, yes.

MR. DAVIDSON: -- who were in the entire state, a very large company such as my colleague that spoke before me, and he testified to the same effect. They have seen the degradation of the landscaping due to the blackout

blackout periods.

CHAIRMAN CARON: Okay. Again, this is a watershed ordinance that we're working on that the fertilizer ordinance is only a part of.

MR. DAVIDSON: Yes, ma'am.

CHAIRMAN CARON: So it is not just a turf issue.

MR. DAVIDSON: Thank you for your time.

CHAIRMAN CARON: You're welcome. Thank you. And we will now break and be back here at 1:30 -- 1:35.

COMMISSIONER MURRAY: Well, before we do, should we find out whether this is the end of it, or we go --

CHAIRMAN CARON: Well, that's all of our speakers.

COMMISSIONER MURRAY: No, I'm talking about Mac coming up and telling us what we're supposed to do.

COMMISSIONER EBERT: No, he'll be back.

CHAIRMAN CARON: Mac will be back.

COMMISSIONER SCHIFFER: Mac's not going anywhere.

COMMISSIONER MURRAY: All right.

CHAIRMAN CARON: Mac can't go anywhere.

(A luncheon recess was had.)

CHAIRMAN CARON: Welcome back, everyone. And we will -- Mac, come on up, and we will try to wrap up our fertilizer ordinance.

Do you have any last-minute things you'd like to say?

MR. HATCHER: Mac Hatcher, Land Development Services. The only thing I'll add to what was said this morning was that the City of Naples did adopt a resolution recommending that the county adopt an ordinance. I believe the term they use is "analogous" to their ordinance. And I provided the resolution and the -- a copy of their ordinance to you-all today.

CHAIRMAN CARON: Thank you.

All right. Obviously, now -- do you have a question?

COMMISSIONER SCHIFFER: For Mac, yeah.

CHAIRMAN CARON: For Mac. Go ahead.

COMMISSIONER SCHIFFER: Okay. Mac, looking at the redacted version -- I'm just kidding. But don't use that -- don't use that highlight again, okay, because, boy, it was hard to read. The only --

COMMISSIONER MURRAY: Sort of purple.

COMMISSIONER HOMIAK: Put a flashlight on it.

COMMISSIONER SCHIFFER: And it did look like a redacted version. The only thing --

CHAIRMAN CARON: The blue gave us trouble.

COMMISSIONER SCHIFFER: -- we're going to change is on Page 5 of 8, up at A, which would be Section 7A. You want to change that to one pound. There was a suggestion today that that maybe should be .7 for water soluble?

MR. HATCHER: It needs to -- the maximum is one pound of nitrogen per application.

CHAIRMAN CARON: Yeah, at a time.

MR. HATCHER: If you move forward with your recommendation of a minimum of 50 percent slow-release nitrogen, then you can't reach the .7 maximum of soluble nitrogen.

COMMISSIONER SCHIFFER: Okay.

MR. HATCHER: Do you follow me? If you have a 50-percent slow release, no more than 50 percent can be soluble nitrogen.

COMMISSIONER SCHIFFER: Right.

MR. HATCHER: So if you've got a one-pound total maximum, you can't exceed what the other requirement is.

COMMISSIONER SCHIFFER: Okay. I got it.

Okay. The other thing that came out today was the concept of, you know, maybe the wintertime is a concern. I mean, to me it almost seems upside-down, that when the plant material isn't needing fertilizer and people are putting fertilizer on it, that would offer more of a potential for runoff.

Is that something that we should look at, or do you think just the way the industry handles it, that's not going to be a problem, or --

MR. HATCHER: The science supports that concept. They have not done -- I don't believe they've done very many studies recently about that, because I think the scientists realize that when the grass is not growing, when plants are not growing, they don't uptake.

So there isn't any scientific studies to support that -- or to allow you to, I guess, estimate an application rate during that period of time, but it's not a recommended period for making applications.

COMMISSIONER SCHIFFER: Right. But, unfortunately, a lot of our studies are coming from an area other than the tropics, which we live in, which does have a better growing season.

MR. HATCHER: Well, that's true, but the Florida studies are requesting studies from the Fort Lauderdale Research Center, and that is very analogous to our situation.

COMMISSIONER SCHIFFER: Okay. And do you have a personal opinion on the concept of having blackouts and the length of time they should be?

MR. HATCHER: No. I'm going to have to, I guess, stick with what's been stated and that there isn't a scientific support for a blackout.

COMMISSIONER SCHIFFER: Okay. All right. Thank you.

CHAIRMAN CARON: Go ahead, Paul.

COMMISSIONER MIDNEY: I wouldn't be in favor of a winter ban because I think the lawn-care representatives said that it's not that they're putting a lot of fertilizer in the winter, but they're just seeing maybe trace things that the plants might need. And, you know, if you put a ban on doing stuff in the winter, you might interfere with stuff like that which could be legitimate.

CHAIRMAN CARON: Anybody else first -- comment?

COMMISSIONER SCHIFFER: Well, let me just kind of respond to Paul. You know, one of the concerns I have is that we may be loading these -- enriching these water bodies all year long, and it's only when they get warm that they have these blooms.

So, I mean, we have no evidence of, you know, over, like, a monthly report on what water bodies, you know -- what their makeup is, do we, Mac?

MR. HATCHER: The samples are taken monthly, or at least were up until fairly recently, but the analysis is done on an annual basis because you get enough variation month to month that you don't want to try and shorten the time frame and make a decision based on, you know, one month's worth of data. You want -- you want an annual period to do an evaluation of when something gets to be a problem.

COMMISSIONER SCHIFFER: But from those month studies, can we tell when things are loading and when they're not or -- in other words, do we find it -- I mean, the illusion I might have here is that it may be loading in the winter and then not so much in the summer when the product is being consumed by the grass. And the reason the algae shows up is obviously the temperature of the water.

MR. HATCHER: The most recent analysis from the Pollution Control Department does try to look at seasonal trends, and in most instances -- there's certainly not a clear pattern.

COMMISSIONER SCHIFFER: Okay. Maybe if -- Amber, do you have -- could you come up and answer that, or do you not have an --

MS. CROOKS: About the winter?

COMMISSIONER SCHIFFER: Well, do we any -- and I'm going to use the word "science," not to be against you. But the -- do we have any data showing how these water bodies are being enriched on a monthly basis to kind of determine when they're being enriched?

MS. CROOKS: Oh. Well, I think Mac is -- the best answer he provided is in terms of the water sampling that they do do, so I'm not sure we could get down to that -- specifics.

Now, in terms of what you're suggesting in terms of the winter ban, I think it's an interesting idea, and maybe it should be something that, if they get their funding back, IFAS should explore with some studies.

From the Conservancy's perspective, because we don't have any information lending to that at this time, we recommend sticking to the summer blackout period because we do have information. But I can appreciate the -- where you're coming from. Maybe we need to look at the winter as a pollution-loading time and look at banning also in that time.

COMMISSIONER SCHIFFER: Amber, are you also working -- like, for example, Village Walk who is now going to start acquiring data, it would be nice if we could start getting people like that together and start seeing what our local data is.

MS. CROOKS: As a part of this process with this fertilizer ordinance, we definitely are communicating more, and they're actually -- in conjunction or in addition to what the county's doing on their water-quality sampling and what the city's doing on their water-quality sampling, they're doing water-quality sampling in some cases. I know Island Walk is. The others maybe follow suit.

COMMISSIONER SCHIFFER: Okay, thanks.

CHAIRMAN CARON: Thanks.

The -- when we left last time around -- you have a question for Mac?

COMMISSIONER AHERN: Yes.

CHAIRMAN CARON: Go ahead, Melissa; ask it first.

COMMISSIONER AHERN: It seems like our biggest issue right now is determining the blackout period. I think we've all agreed to the other stipulations. What is your opinion of the two month, considering, you know, that -- I understand you support the no blackout. But after Dr. Nell's remarks on the two-month, what is your opinion?

MR. HATCHER: I'm certainly not going to disagree with him.

COMMISSIONER AHERN: Okay.

MR. HATCHER: I mean, every- -- nobody applies fertilizer, at least I don't think -- there certainly aren't any recommendations to apply fertilizer more frequently than that.

COMMISSIONER AHERN: Okay. Thank you.

COMMISSIONER EBERT: More frequently than what, Mac?

MR. HATCHER: Two months.

COMMISSIONER EBERT: All year long?

MR. HATCHER: No, seasonally.

COMMISSIONER EBERT: Seasonally --

MR. HATCHER: Warm season.

COMMISSIONER EBERT: Well, our winter months down here are warmer than they are up north. So there is fertilizer put down here because, being we're in the tropics, we do -- they do fertilize in the winter at some point. February is one of the -- one of them that -- because I've been asking some of the landscape people, and -- because it's warm down here during --

MR. HATCHER: It's not a recommended practice.

COMMISSIONER EBERT: Okay.

CHAIRMAN CARON: Okay. As I started to say, when we left last time, and by all testimony that we've heard this time around, we pretty much have consensus on the annual limit of nitrogen with the corrections that Mac made to only one pound of nitrogen at a time, four total pounds for the year, at least 50 percent slow release, zero phosphorus unless you've got a soil test that warrants it, the minimum of a 10-foot buffer. Both Dr. Nell and the Conservancy agree on that one.

Combining the buffer sections, standard penalty section, you've made corrections to that, so -- as to not have people chasing things they shouldn't, and we all agreed on a review after two years.

So as Melissa just said, we're down to talking about this prohibited period of time, and so let's focus in on that.

Dr. Nell's chart would have you fertilize every two months in April, June, August, and October. We know here we had been talking about August and September. I'm told by Mac that actually July is a heavier rainy month than September. I would have guessed August and September were the heaviest. He says not.

So it looks to me like we're arguing about the month of August, guys, and I think we need to start focusing

in.

And let's all remember here that this is only part of what we're working on, and really what we should be focusing on are things that will bring us better water quality, not greener grass. So -- because this is part of an overall watershed-management issue, and we do have the task force. The gentlemen on the phone have said the state ordinance is a minimum ordinance, and they have given several things that would trigger, perhaps, a more strict ordinance, verified impaired waterways, which we have.

And so what we're trying to do is then put in a fertilizer ordinance and watershed-management plans that will lead to improvement in the quality of our water bodies.

So at any rate, in my opinion, we're down to arguing about August. So if you want to weigh -- I mean, everybody should weigh in on this because this is the final sticking point here.

COMMISSIONER HOMIAK: Well, I think -- this is July. We're --

COMMISSIONER EBERT: This is July.

CHAIRMAN CARON: We had -- right.

COMMISSIONER EBERT: This is three months.

CHAIRMAN CARON: But July's not a problem, because if we're looking back to Dr. Nell, he likes a ban in July and September, are fine by him.

COMMISSIONER HOMIAK: Oh, I thought he said August and September. That's what --

CHAIRMAN CARON: No. August was one of the months he thought it would be okay to water in -- I mean, to fertilize in.

COMMISSIONER SCHIFFER: No, but Donna --

COMMISSIONER HOMIAK: Melissa asked.

COMMISSIONER SCHIFFER: The point he was making is he said every two months.

CHAIRMAN CARON: Right. April --

COMMISSIONER SCHIFFER: No, you can't take the middle month out.

COMMISSIONER AHERN: Right.

CHAIRMAN CARON: -- June, August and October.

COMMISSIONER SCHIFFER: Which happened to be where his little two-month arrows hit. So I don't think he was particularly pointing to a month. He was pointing to -- you know, he felt during the season every two months was appropriate to him.

CHAIRMAN CARON: Okay.

COMMISSIONER AHERN: And the question I asked was specific to August and September, because that's what we were discussing last time. I think --

CHAIRMAN CARON: Last time.

COMMISSIONER AHERN: -- you know, the end result was that he would support the two month as opposed to four because you only fertilize every two months. So you could time it out to where you fertilize right before and then right after, and it would be okay.

CHAIRMAN CARON: Okay. Now -- okay. So you're in favor of August, September?

COMMISSIONER AHERN: And unless -- I mean, if we have data from Mac that shows July and August would be the preferred months.

MR. HATCHER: No.

COMMISSIONER AHERN: No, okay.

CHAIRMAN CARON: No. It's not data. I just -- I had asked him -- I had made the comment to him that August and September were our rainiest months. And he said, actually no, it's July and August. So I said, fine. I stand corrected. I never would have guessed that in a million years, so --

COMMISSIONER EBERT: Okay. Donna.

CHAIRMAN CARON: Just a minute. Let's finish here, and we'll move on down the line.

COMMISSIONER AHERN: So I would be in support of a two month, and then we can, I guess, you know, discuss which months.

CHAIRMAN CARON: Okay. Go ahead, Brad.

COMMISSIONER SCHIFFER: My opinion, I mean, I -- I'm sorry, but I just really can't see where the

problem is doing it every two months. I definitely think you have to limit it. You can't do it every month.

But the concern is that this is a balancing, and if those months are -- I mean, you can't let any get into the water body anyway, so it's just a matter of being sure you're loading your site. If it is running off, if it is steep, you've got to treat it differently.

And I think maintaining an organism on a periodic basis is more important than trying to prevent it from eating at a point of time where it would lose the nutrients and they would go into the water.

COMMISSIONER AHERN: Right.

COMMISSIONER SCHIFFER: So I'm kind of with the doctor on this.

CHAIRMAN CARON: Okay. Paul?

COMMISSIONER MIDNEY: I would be in favor of what's written here, the July 1st through September 30th. I don't think it would be harmful to the plants.

CHAIRMAN CARON: Thank you. Go ahead, Karen.

COMMISSIONER HOMIAK: Well, I kind of -- I agree with Brad. I'm kind of -- I think it's kind a -- what I've heard today and seeing -- I know that when the grass is growing the most it's taking up the most nutrients, and that's in the warmer months when it's more rain, and in the drier months it's not, and that's probably where you're getting -- you're going to get more -- and it's been said here, I've read it -- that you get more runoff; the plants aren't taking the nutrients up. So it's not making any sense to me to take the food away when it's growing.

CHAIRMAN CARON: But you do know they get it from the rain?

COMMISSIONER HOMIAK: They do, and they get it from reclaimed water; they -- there's other sources, but I do see -- just when I went home from lunch today, I see -- the doctor also said that clippings have a lot of nitrogen in them, and I see all the time that those clippings are going right into the lake. They're whacking near the lake, and it's full. When anybody's done and it just -- it fills up the water sometimes.

So is it really all the fertilizer and -- I mean, is this the right thing that we're doing here when there's really no -- I don't know. I could be agreeable to the two August and September, I think, but I really think we're -- it's almost backwards what we're doing.

CHAIRMAN CARON: Well, again, if we do go to the two month that Melissa's talking about, it -- remember we have a review here in pretty short order, so if we found that there were issues, that could be changed.

COMMISSIONER HOMIAK: It's a good thing.

CHAIRMAN CARON: So I think that was smart of us to -- I mean, I think we're all concerned and that we thought we needed a review for sure.

COMMISSIONER HOMIAK: Well, I think it's going to make a difference if all the commercial and professionals, all of them, are trained.

CHAIRMAN CARON: Yeah.

COMMISSIONER HOMIAK: That's going to make a big difference as it is, because I've seen also someone, a lawn person -- the applicators that do just the fertilizer and the pest control seem to always do the correct thing anyway, that I've seen, but I've seen lawn people just fertilize along the lake, and it's going -- the fertilizer's going three feet into the lake, so --

CHAIRMAN CARON: Whoever issued blowers to these people should be tarred and feathers -- feathered.

COMMISSIONER HOMIAK: And I think the only problem is educating the homeowner after that, because they're not going to get it, you know. We have a hard time where I live. We have the reclaimed water, and people see a dry lawn, turn their sprinkler on when they're not supposed to, they overfertilize, and it's just a constant battle, so --

CHAIRMAN CARON: Mr. Murray?

COMMISSIONER MURRAY: You know, I think that sometimes green grass is a good indicator of failure to pollute with nutrients. As the doctor had indicated, the healthier the lawn, the more nutrients it's going to pick up.

I am not in favor of a blackout period. I'm in favor, if you will, of an application period as indicated by Dr. Nell. I think that takes care of it. To depart from what I understand is to be scientifically based information as opposed to -- although well intended, nevertheless I perceive to be conjecture. I am not in the view that we should

make a radical change that might actually create more problems.

An unhealthy lawn fertilized will probably cause more runoff and more problem with leachate and so forth.

A review of two years will be adequate for our purposes. This is -- business has been going on for hundreds of years of spoiled waters in many cases.

When I first heard this fertilizer ordinance discussed, I was very strongly in favor of a more strict, structured document. As I have come to learn through the education received through here -- and there are many good opinions and some good facts -- I cannot support prohibition during a period when the grass clearly will be growing.

And if we educate properly, people will minimize if not -- if not eliminate the application of fertilizer during the winter months. So I'm fine except for the prohibited period. I don't want any blackout.

COMMISSIONER EBERT: And I -- like Paul, I don't think three months is going to hurt Collier County. The city has a little bit larger one, but three month is -- golf course grass is completely different than what we even have on our lawns. There are different needs for different type grasses. And the way it's written here -- I agree with the way that you have written it, Mac.

CHAIRMAN CARON: Go ahead, Barry.

COMMISSIONER KLEIN: Is it all up to me now?

CHAIRMAN CARON: It's all up -- no, I haven't weighed in yet.

COMMISSIONER KLEIN: I'll side with Dr. Nell's suggestion.

CHAIRMAN CARON: Okay. So the two month -- I mean -- I'm sorry -- doing it four times every two months, excuse me; is that the one you want?

COMMISSIONER KLEIN: No. I think -- what -- what did Brad say?

CHAIRMAN CARON: The July?

COMMISSIONER KLEIN: What did Brad say?

COMMISSIONER AHERN: August, September blackout.

COMMISSIONER SCHIFFER: The point -- I think -- and the important thing by -- what the doctor is saying, it was not "months," it was "period." He was saying, you know, two months during the season is okay, and I agree with that, and that's not exactly the way we're wording this.

The danger is, if you can do it in July and you can do it in September, that means a guy can do it a month apart plus a day, so that we don't want either.

So I do think we have to reword the way we're doing this if we want to do it that way and not necessarily use a blackout period but use a period that you can do it during the season.

COMMISSIONER MURRAY: Yeah --

COMMISSIONER KLEIN: I agree with that.

COMMISSIONER SCHIFFER: -- which essentially is all year. So in other words, if we had an ordinance that said that you cannot fertilize a lawn within a two-month period, you know, or less than two months from the last time, that, to me, would be the proper --

CHAIRMAN CARON: Well, except that what you're talking about here is if we exclude, as Melissa was suggesting, August and September, then you are able to do it in July and October, which gets you to the every two months that Dr. Nell was talking about.

COMMISSIONER MURRAY: That would be three months.

COMMISSIONER SCHIFFER: Well -- but then there's the concern -- see, you know, I'm not sure the blackout period solves the problem. That's my problem. I think that a consistent fertilizing is healthy. Overfertilizing is bad no matter where -- what you're doing.

So I think putting months on it is kind of missing the point. He did give an example of when the months in it made sense. But, you know, maybe some guy's lawn is better, you know, in July, not August, but September, and then the guy across the street, there's nothing wrong with him doing it in June and August to me.

CHAIRMAN CARON: So what you're saying is you'd be in favor of no blackout period?

COMMISSIONER SCHIFFER: I would be in favor of not using the blackout method but use the periodic method to limit the fertilizing.

COMMISSIONER MURRAY: I think it --

CHAIRMAN CARON: Where are you going to start that from? I mean, where --

COMMISSIONER SCHIFFER: It doesn't matter if you use the period.

COMMISSIONER MIDNEY: How can you enforce it?

COMMISSIONER MURRAY: You're not going to enforce it anyway.

COMMISSIONER AHERN: How can you enforce the rest of it?

COMMISSIONER SCHIFFER: Well, I mean -- so it's down to how to enforce it?

COMMISSIONER MIDNEY: Well, I mean, if you have a prohibition in (sic) two months, at least there's something that people can look at, and you still get -- you still allow the people to fertilize every two months.

COMMISSIONER SCHIFFER: Well, then do it like a fire extinguisher. There's a tag on the water shut-off, and you punch the months you did it, you know, and you can't do it for two more months or something.

COMMISSIONER MURRAY: I think it should be noted that the prohibited application period from July through September was a compromise that Mark Strain offered, okay. That was his conclusion as to what it was, and I don't think that -- you know, nobody disagreed with it, per se, because we weren't finished yet.

So I think -- well, my point is very simple. The -- a prohibited period in my mind is wrong. I think the science suggests that every two months would be adequate and would perform the function of helping the grass grow and reducing, if not eliminating, the excess going into leach or runoff.

All of the other parts of it are mechanical in nature or educational in nature. So I'm very strong in regard to that. How we word it is another story.

CHAIRMAN CARON: For myself, I'm in favor of the July-through-September prohibition. I think that we have cities and counties surrounding us that, for the most part -- all but one -- are using some sort of blackout period without issue.

We've heard that -- specifically that they're not having any issues from Dr. Bauer in the city, and so I'm in favor of that.

It seems that that's not the consensus on the board, so the rest of the board here now has got to fight out what they mean by every two months.

COMMISSIONER SCHIFFER: Well, I think it could be worded somehow where it's -- you know, we have to come up with the wording where you cannot fertilize less than two months from the last time you did it. I mean, how we say it -- Mac, is that something that we could put in there?

MR. HATCHER: Well, you might be able to put it in there, but as Mr. Midney pointed out, enforcement of it would be --

MR. CASALANGUIDA: It's not practical.

MR. HATCHER: -- impractical at best.

COMMISSIONER AHERN: If you did August and September, you could still fertilize July 31st and October 1st, so you -- just trying to put a general timeline for, I would think, especially for the professionals, to -- for them to try to keep up with everybody's schedule would be a little onerous, as they're shaking their heads yes.

CHAIRMAN CARON: Onerous, yeah. Yeah, I can see that.

COMMISSIONER AHERN: So to just make -- it clear.

COMMISSIONER SCHIFFER: Well -- but, you know, we've even heard testimony from the industry that they don't do it -- they do it every two months. They don't do it every month anyway. So in other words, we're -- you know, these are professionals. You know, how can we be -- you know, be frozen by the fact that we can't enforce it? Let's come up with what the right thing is, and then we'll figure out how to protect it.

It's the industry that's going to have to protect it, their records. And if you can't trust these professionals, you know, we've got to come up with a way to, you know, license -- you know, to -- I don't get the enforcement being the issue.

If you want to, put a tag on the water shutoff the last time the place was fertilized, and punch the tag and do it like you do thousands of other things in society. And that's an option.

COMMISSIONER AHERN: What about monitoring, though? If you have a certain time specific, it would be easier to look down the road and say, okay, well, during these times these were, you know, the times we weren't fertilizing and either, you know, the nutrients or the water pollution's gone up or down. It's easier to try to --

CHAIRMAN CARON: For monitoring purposes, I think you're right.

COMMISSIONER AHERN: Determine that for monitoring.

COMMISSIONER SCHIFFER: I mean, but the bottom line is, we don't have a -- we haven't heard monitoring from, you know, the other -- I don't know what side, but the side that's worried about -- that wants the blackout, we haven't heard monitoring that, look, in Sarasota when you blackout, I mean -- I don't know if we're getting the data anyway.

I do think from this point forward and I do think, after we're through with this topic, we should discuss the review, because we do need data at that review, and we should discuss what that is.

But in the meantime I think it should be just purely worded as -- that you can't do it any closer than two months anytime, and then it's -- we can figure out -- the industry could work with the stockholders to figure out how to do it.

COMMISSIONER AHERN: And what about the monitoring? How do you --

COMMISSIONER KLEIN: Can we take a comment from the audience?

COMMISSIONER MURRAY: No. We're in deliberations.

CHAIRMAN CARON: No, we're in --

COMMISSIONER SCHIFFER: I mean, essentially what you're saying is that if we have a blackout, during that period of time we know no fertilizer's going to be dumped on a lawn via, you know, a company with a device. I mean, they're going to do it through their irrigation and stuff. But no fertilizer's going to be dumped on the lawn, and we could drive around and catch them doing it if -- real easy. The neighbors across the canal can turn you in and all the other kind of stuff.

But is that the best way to provide, you know, healthy lawns and not pollute the lakes?

CHAIRMAN CARON: Well, it's not going to -- well, it's not going to --

COMMISSIONER SCHIFFER: Okay. So you're saying that if -- well, I mean --

COMMISSIONER MURRAY: Very, very easy to prohibit. I mean, after all, that's what we do with everything. We're going to prohibit foods, we're going to tell people what they can eat, et cetera, et cetera.

I recognize the desirability of doing the right thing here to be sure, to be absolutely certain. But doing the right things means that we have to go slowly in the sense that we don't want to overkill one way or the other.

If we have impaired waters, it's not solely resulting from fertilizer. I saw a pie chart before that was shown that said -- that looked like it was fairly large in term of its quadrant, and yet the statement was, it was 14 percent, and that was the 14-percent number that -- and I think it was Gina's document -- 14 percent, that leaves an awful lot of other percent for contributing factors.

I really am concerned with us trying to get down to the absolutes. We need to crawl a little bit here first.

My recommendation would be, as simplistic as this may seem, stipulate -- in the absence of any other methodology, stipulate, fertilization, April, two months later, two months later, and two months later. And within that context, if it has to be that later we have to amend that they have to keep records to do that, to show that, then fine. Because enforcement is going to be the biggest difficulty of all of this.

COMMISSIONER SCHIFFER: Well, I've got an easy enforcement. If it's an odd-number address, you fertilize on an odd month. If it's an even-number address, you fertilize in the even month. And guess what?

COMMISSIONER EBERT: Brad, we have a problem. Most communities have landscape companies come in, and they're not going to skip every other property because of the numbers of the house.

COMMISSIONER MURRAY: He was kidding.

COMMISSIONER SCHIFFER: What they're going to do is stay on one side of the street. But the point is that you would know somebody's out of line visually, and you could catch the guy across the canal, and everybody can self-police, or self-enforce in this case.

COMMISSIONER MURRAY: I would hope that education was the primary --

COMMISSIONER EBERT: It is.

COMMISSIONER MURRAY: -- effort on this thing. You enact an ordinance for the purpose of modifying behavior, and you do that with --

CHAIRMAN CARON: We are.

COMMISSIONER MURRAY: -- by making it painful. But, you know, this is something that we should start out with the emphasis on education. So I'm not going to say much more.

CHAIRMAN CARON: Well, I believe that we have education in this policy. That's part of it; that's a big

part of it. And thinking of ways that we can enhance that is obviously a good thing, Commissioner Murray, because I think you're absolutely right; if you don't educate people as to what they should be doing and what's the right thing to do, it's not going to happen. But we've tried in this ordinance to have that component in it.

Now, it seems to me that from the majority of the board here, there is no -- the, July-through-September prohibition does not have enough support to get a majority of the votes.

COMMISSIONER SCHIFFER: Can I bring up another discussion point? Diane -- it was something she said that made me think of it.

CHAIRMAN CARON: Sure, Brad, because I wouldn't want you to forget it.

COMMISSIONER SCHIFFER: No, you wouldn't, and I'm prone to that.

The -- you know, the point you made is that, you know, the companies didn't want to leapfrog them. They won't be leapfrogging. They'd be on the side.

See, but one thing that isn't fair to these companies is to have a blackout where right before that blackout they are jammed and right after that blackout they are jammed. I mean, it would be much smarter if these companies could deal with, essentially, half the community one month and half the community the other month. I think we'd get a better blend of their service and a better -- they could better blend the fertilizer. I'm done. Nothing to forget.

COMMISSIONER HOMIAK: We seem to be talking mostly -- we're focusing on turf, but this is for everything, right?

COMMISSIONER SCHIFFER: Right, it's for everything.

COMMISSIONER HOMIAK: It's for fruit trees, it's for your shrubs. So you're taking away the months they need to be and are supposed to be fertilized, and you're taking that away.

COMMISSIONER SCHIFFER: Good point.

COMMISSIONER EBERT: Very good, Karen.

COMMISSIONER HOMIAK: Well, if it's a blackout, it's a blackout.

COMMISSIONER SCHIFFER: Well, it's a good point, I mean, because we're worried about the lawn.

COMMISSIONER HOMIAK: We have home- -- we're talking about -- where I live, it's homeowners doing most of this, so they're still going to fertilize their fruit tree, I can tell you that right now, whether you black it out or not.

COMMISSIONER AHERN: Well, I mean, maybe we're getting caught up in the word "blackout," because we're all talking about a two-month --

CHAIRMAN CARON: Yeah.

COMMISSIONER MURRAY: It should be a sequence.

COMMISSIONER AHERN: -- two-month period, so it's determining how we calculate.

CHAIRMAN CARON: And both Dr. Nell -- I mean, Dr. Nell did -- that was his suggestion, every two months, and he would have supported August and September as -- just in terms of him backing up his two-month calendar here of trying to figure it out. He was supportive of August and September for Collier County to take those two months off.

So you just figure it out beyond that. So you'll go back, and October will be a good month to fertilize as will, potentially, July and May and -- however you back it up here to get to the every two months. That's what he's saying.

COMMISSIONER SCHIFFER: We pluck every other month out and say that's a blackout month.

COMMISSIONER MURRAY: I don't remember it said that way.

COMMISSIONER HOMIAK: I didn't think he meant that. I don't think he said that at all.

COMMISSIONER MURRAY: I don't remember it said that way.

COMMISSIONER SCHIFFER: I mean, he showed us a chart where -- in a sense what he was showing is the consumption of the lawn taking the nutrients, and it showed that he periodically did it every two months. I'm not sure the arrow pointed to the ideal month. I think it just showed when he fertilized.

CHAIRMAN CARON: No, I don't think it --

COMMISSIONER SCHIFFER: The period was the important part, not the arrowhead.

CHAIRMAN CARON: I don't think it said that either, Brad. That's what I'm saying. But when he did tell

tell us and Melissa and everybody else that August and September would be okay months not to fertilize here, then all you have to do then is -- you can back up and do -- figure out the other months that you can. I mean, it's pretty simple.

COMMISSIONER HOMIAK: It might not be the right time.

COMMISSIONER SCHIFFER: No. It may be simple but to me doesn't seem like the right answer.

CHAIRMAN CARON: Okay. So his was not the right answer?

COMMISSIONER SCHIFFER: His two-month periodic fertilizing is the right answer.

COMMISSIONER AHERN: You're hung up on the August, September specifically.

CHAIRMAN CARON: Okay.

COMMISSIONER SCHIFFER: But anyway, what do we -- well --

CHAIRMAN CARON: So we're down to -- the last thing that I heard was this every two month, and I guess you're just going to let anybody decide. So I can do it whatever -- every two months I want, and Paul can, and then we'll all try to sort it out when we come to our review period in a couple years.

COMMISSIONER SCHIFFER: I like odd-even addressing, so that means that, you know, everybody knows where they're supposed to be on that month.

COMMISSIONER MURRAY: Can we not compel -- I mean, as long as we're compelling, can we not compel lawn people -- now, this wouldn't get down necessarily initially to homeowners. But could we not compel the maintenance of a log? We do that with swimming pools; we require the testing daily and a notation about what that test revealed. Why can we not do the same thing here?

If we are -- I'm definitely not in favor of a blackout, a prohibition in the context of just simply saying no, and I think we make it much more complicated by asserting that, you know, we'll be all over the park. Yes, we will because that's a reality with human beings.

And in an effort to try to bring it to something we can work with, I would say maintenance of a log a requirement. At least we could then get data; we could correlate the information. Would it be a task? Absolutely. But if we're concerned with having to get that information, I see no other easy way to get that.

This -- the only other way to deal with this, if we're going to go around and around and around, is to table it because we're not going to satisfy what we need.

I'm definitely not in favor of a blackout. The more I think about it the more I realize -- and Karen's point was excellent.

COMMISSIONER MIDNEY: Bob, I think that's kind of a good compromise, because that way you don't have a blackout of certain months, but you do have some sort of recordkeeping, and that way people will be more conscious of it, and I think that's a good compromise.

COMMISSIONER MURRAY: I believe code enforcement could then look at a log and determine whether or not they know something's happened.

MR. KLATZKOW: Whose log?

COMMISSIONER MURRAY: Whose -- that was you?

MR. KLATZKOW: Whose log?

COMMISSIONER MURRAY: The log would be --

MR. KLATZKOW: I as a homeowner, do I now have to keep a log every time I fertilize?

COMMISSIONER MURRAY: Yeah, that's what it ultimately would get down to if we're going to use a log in the first instance.

Well, I agree that this is a challenge beyond. I'm -- my effort was aimed at the people who do the planned unit developments, they go in and they take care of tracts of land, common property, and there's HOAs that they have one, maybe two companies doing it. That's where I was going. That was my effort.

I fully realize this is a -- to some degree an absurdity as to try and enforce it. I recognize that, but that was my effort to try to make something happen.

CHAIRMAN CARON: Well, I think -- I'm sorry. Who? Mac?

COMMISSIONER AHERN: Nick.

CHAIRMAN CARON: Or Nick. I'm sorry, Nick.

MR. CASALANGUIDA: Just to offer a little bit of input to this based on what you heard, to recap a couple

couple things for you, Commissioners.

Your industry professional told you that he typically visits a site once every two months, one to fertilize and one to, you know, check out the shrubbery one month and turf the other month. Your Dr. Nell said every two months was okay.

You have a choice between state-model ordinance of zero, and your abutting neighbors have gone four months. And you're deliberating on whether to do a blackout period or to do some other alternative.

I would try and stick to those two choices, because for us, if you're going to come back in two years and revisit this, either you go with the state-model ordinance or you go with your neighbors, or if you want to do in between to two months and wait two years, but trying these other alternatives where you're trying to do some mishmash of alternative months and addresses and how we can enforce this thing between homeowners and people is going to be very difficult for us.

COMMISSIONER MURRAY: Oh, absolutely.

CHAIRMAN CARON: Thanks. Melissa?

COMMISSIONER AHERN: What if we went with the no blackout period and just put that you could not fertilize more than once within a 60-day period?

MR. CASALANGUIDA: How do I enforce that between the homeowners?

COMMISSIONER MURRAY: You can't, you can't.

MR. CASALANGUIDA: And that's the problem. You know, personal homes is -- as, you know, county attorney pointed out, am I asking them for their log and when they put down and --

COMMISSIONER AHERN: How do you enforce otherwise, though? I mean, it's going to be just as difficult.

MR. CASALANGUIDA: If you had a set blackout period, then it's easy to enforce.

COMMISSIONER AHERN: Like the September -- August, September.

CHAIRMAN CARON: Yeah, like you're talking August and September.

MR. CASALANGUIDA: So I think if you're going to be -- revisit this -- and, again, you've heard testimony from both sides, the science isn't quite there yet, but they're getting better. Lee County has four, City of Naples has four. We're wrestling between zero, two, and four. I think that's what you should focus your deliberation on.

COMMISSIONER EBERT: Because we've agreed with everything else on here; it's all been okay with the four pounds.

CHAIRMAN CARON: Yes.

COMMISSIONER EBERT: Everything else is perfect.

CHAIRMAN CARON: Yes.

COMMISSIONER EBERT: So you're right. I just kind of like what Mac put in there, July through September. Three months is not going to hurt.

COMMISSIONER MURRAY: Okay. That's what you think.

CHAIRMAN CARON: Okay. So we're back to that discussion. Ms. Ebert has not changed her opinion.

COMMISSIONER MURRAY: I've not changed mine.

CHAIRMAN CARON: And you've not changed yours. You want nothing?

COMMISSIONER SCHIFFER: And I'm not going to change my mind. And one thing, Diane, is that means that they could, like, super load this thing, you know, through June, through May. I mean, the important part was to periodically feed your -- this organism so that it has a constant flow of nutrient, not like, you know, banquets and feasts and, you know, starvation and fast. I mean, what is that?

COMMISSIONER EBERT: No, Brad. I understand.

COMMISSIONER SCHIFFER: And we can't design the system based upon the convenience of the enforcement.

CHAIRMAN CARON: But then, Brad, you can accept August and September and just figure out the rest of the two months after that.

COMMISSIONER SCHIFFER: But I'm also worried about June and May. I mean, that's -- you know, you're -- some reason August, September is special to you. It's not to me. It's --

CHAIRMAN CARON: No.

COMMISSIONER HOMIAK: That's what Mark suggested last time, just a compromise.

CHAIRMAN CARON: Wait a minute. It was testimony.

COMMISSIONER AHERN: Well, I think it was suggested because of the rainfall.

CHAIRMAN CARON: Yeah, it was testimony.

COMMISSIONER SCHIFFER: The testimony said the most important months to keep fertilizer away from an organism is through July 1st to September 30 -- or August and September. That doesn't makes sense to me. And I don't know -- I guess I've been in the wrong hearings, because I don't remember that being -- I remember the -- anyway, you know what I remember, so -- I keep saying the same thing over and over.

CHAIRMAN CARON: Right, you do, and this is not getting us anywhere.

So I'll ask a question. How many people would be in favor of no blackout, of zero?

COMMISSIONER SCHIFFER: Well, that's not right either.

COMMISSIONER MURRAY: Well, don't we have to have a motion for that?

CHAIRMAN CARON: Okay. Well, I'm asking you to weigh in here on these alternatives.

COMMISSIONER SCHIFFER: Let's narrow it down -- let's narrow it down to the blackout period or a periodic period meaning you can only do it within a certain period of time, the 60-day in this case. In other words, you can -- we either black out for a little period or we have a regulation that doesn't allow people to do it, you know, in some sort of period that we determine, which appears to be 60 days.

COMMISSIONER HOMIAK: I think that's what Nick just told us what we were -- we either black out -- have two blackouts --

COMMISSIONER SCHIFFER: But that's Nick worried about enforcement. I mean -- and so we're -- how can we design an ordinance that's based upon the ease of enforcement?

I mean, the -- we should be basing something that's based upon the science of -- you know, the nutrition and the prevention of enriching lakes. That's what we're doing here, not making -- and when -- think of the enforcement even in a blackout period. What are you going to do, patrol the street or neighbors are going to turn in, or a hotline, or what's going to happen there?

MR. CASALANGUIDA: It's relatively easy for me to enforce if you've got a set date.

COMMISSIONER SCHIFFER: Yes, I agree with that.

MR. CASALANGUIDA: I can visit the site. And periodic, I will tell you, my -- one neighbor will -- the anonymous code line will ring, and I'll go out there, and I'll look to see if there are fertilizer granules, and I'll ask the neighbor for a log, and the neighbor will look at me and smile.

And so I don't -- I don't have a good enforcement on periodic, and that's why I think your state-model ordinance says zero, and other counties have adopted a blackout period, because that's at least enforceable one end to the other.

COMMISSIONER EBERT: And the other thing was, our neighboring counties around us, there are 40 counties that are already doing this, and we're going to revisit it in two years. We had put down, it's only three months here, but it's close. We're close to the City of Naples, so everything in Collier County would be pretty even. It would be much easier to enforce.

CHAIRMAN CARON: Go ahead, Paul.

COMMISSIONER MIDNEY: I think we're down to a choice between two things, either a two-month enforcement from August through September or no enforcement.

COMMISSIONER AHERN: Correct.

COMMISSIONER MIDNEY: So why don't we just frame the question in that way.

CHAIRMAN CARON: I thought I just did that.

COMMISSIONER AHERN: Under the enforcement section of this, Mac, what is the opportunity to cure? What are you going to do, pick the granules out of the grass?

MR. HATCHER: Well, as I indicated when we discussed about this initially, the cure is difficult in most instances. About the only thing that can be cured is where you've got fertilizer that's applied to an impervious surface. That can be removed; otherwise, there isn't a cure.

MR. CASALANGUIDA: A fine.

MR. HATCHER: Right, you go straight to fine.
COMMISSIONER AHERN: Just the fine.
CHAIRMAN CARON: Yeah. But I also think then, the cure that you've just created is for the future, because if somebody gets a fine, they're not going to do it again. And that's, you know, the bottom line on some of these things. It just has to be that. So --
COMMISSIONER SCHIFFER: Okay. Just for clarity, the thing I want, which is the two month, is buried in the zero, right?
COMMISSIONER AHERN: Yeah.
CHAIRMAN CARON: Right.
COMMISSIONER SCHIFFER: I mean, my only menu choice that would get me the two-month regulation is either not to vote or vote for zero.
COMMISSIONER AHERN: I would support zero.
COMMISSIONER MIDNEY: You could either vote for those two months or --
COMMISSIONER SCHIFFER: Right.
COMMISSIONER MIDNEY: -- you could vote for zero.
COMMISSIONER SCHIFFER: And zero's the wrong answer, so thanks, guys, for making me vote for something that's not the right answer. So I think I won't vote. That will make it easier.
CHAIRMAN CARON: I'm not sure that you can do that, but anyway.
COMMISSIONER SCHIFFER: Well, it's a straw vote. It's not a motion, so I can do it.
COMMISSIONER AHERN: I would support zero.
CHAIRMAN CARON: So Melissa's still with August and September?
COMMISSIONER AHERN: Yes.
COMMISSIONER SCHIFFER: I'm still two months, so put me down for nothing.
CHAIRMAN CARON: You're nothing.
COMMISSIONER SCHIFFER: Which is a subset of zero if you need a count.
COMMISSIONER MIDNEY: August and September.
CHAIRMAN CARON: You'll go with August and September.
Karen?
COMMISSIONER HOMIAK: Oh, man. The state model is nothing. I'm going to go with that.
COMMISSIONER MURRAY: Zero.
COMMISSIONER EBERT: I go with the ban.
CHAIRMAN CARON: I'm sorry?
COMMISSIONER EBERT: I go with the ban.
COMMISSIONER MURRAY: You have to stipulate what ban you're talking about.
MR. CASALANGUIDA: Two months.
COMMISSIONER MURRAY: That's different than what they're talking.
COMMISSIONER EBERT: Two month.
CHAIRMAN CARON: Two month, yeah.
COMMISSIONER KLEIN: Two months.
CHAIRMAN CARON: Okay. So the consensus is --
COMMISSIONER SCHIFFER: It's a tie.
CHAIRMAN CARON: No, it's not a tie. There are three people who want nothing, and the rest have indicated that they will accept the August and September. So there you go, 5-3.
MR. KLATZKOW: Four.
COMMISSIONER SCHIFFER: Wait a minute.
CHAIRMAN CARON: I'm sorry.
COMMISSIONER MIDNEY: No, Mark's not here.
COMMISSIONER SCHIFFER: So if I vote, it would be a tie?
CHAIRMAN CARON: No, no.
COMMISSIONER SCHIFFER: So who are the three?

CHAIRMAN CARON: You're in the "no" column.
COMMISSIONER MIDNEY: You're in the "zero."
CHAIRMAN CARON: You're in the "zero" column.
COMMISSIONER SCHIFFER: And I see -- Bob, weren't you a "no," or were you --
CHAIRMAN CARON: Yeah. Zero -- yeah, Karen, you, and Bob.
COMMISSIONER SCHIFFER: That's four.
CHAIRMAN CARON: No, that's three. Karen, you, and Bob.
COMMISSIONER SCHIFFER: Oh, I thought you were there.
COMMISSIONER AHERN: I said I would support zero before I would support anything more stringent.
COMMISSIONER SCHIFFER: So there's four, isn't it?
COMMISSIONER EBERT: I thought you said the two-month ban.
COMMISSIONER AHERN: Yes.
CHAIRMAN CARON: Yes.
COMMISSIONER SCHIFFER: Oh.
COMMISSIONER AHERN: Yes. And then I said I would support --
CHAIRMAN CARON: She's still on her two months.
COMMISSIONER AHERN: I would support zero before going more than 60 days.
CHAIRMAN CARON: So there's five people who are saying that the August, September ban is what we will put in the ordinance and recommend to the board.
COMMISSIONER MURRAY: It needs to be a motion, I would believe.
CHAIRMAN CARON: No. They're all -- Bob, I don't know. Did we take a vote on all of the rest of the items? We just did consensus.
COMMISSIONER MURRAY: I just -- is this a workshop? If it's a workshop --
CHAIRMAN CARON: We did a consensus the last time around on all the rest of the issues, I believe.
COMMISSIONER MURRAY: But it's an ordinance. Or is it a --
COMMISSIONER MIDNEY: I would make a motion --
CHAIRMAN CARON: Well, go ahead, make a motion.
COMMISSIONER MIDNEY: -- that we go with ban between August and September.
CHAIRMAN CARON: Thank you. Do you have a second to that motion?
COMMISSIONER EBERT: I second.
CHAIRMAN CARON: All right. All in favor?
COMMISSIONER AHERN: Aye.
COMMISSIONER MIDNEY: Aye.
CHAIRMAN CARON: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER KLEIN: Aye.
CHAIRMAN CARON: And those opposed?
COMMISSIONER SCHIFFER: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER MURRAY: (Raises hand.)
CHAIRMAN CARON: There you go.
COMMISSIONER SCHIFFER: One thing --
CHAIRMAN CARON: Thank you, everybody.
COMMISSIONER SCHIFFER: Not about the topic, but one thing --
CHAIRMAN CARON: Yes.
COMMISSIONER SCHIFFER: Mac, you got the requirement for -- back to the redacted thing. And by the way, it's impossible to read in this lighting over here in the shadows. But I think you put it in the definition of prohibited application period, and I think that's really bad code writing where you put the requirement in a definition.
So I think -- I would like to see if you could keep a definition but then go over to the timing of fertilizer

application and put the requirement we just voted on in the -- that. In other words, definitions is not a place that you put the time frames and stuff. Do you -- are you okay with that?

CHAIRMAN CARON: Yeah. It should just say a time period.

COMMISSIONER SCHIFFER: Yeah, like two months.

MR. HATCHER: I can do that.

CHAIRMAN CARON: Okay. Thank you, Mac. I appreciate it. Have you got everything you need, Mac?

COMMISSIONER EBERT: No, he's coming back.

MR. HATCHER: No, that will do it.

MR. CASALANGUIDA: No, he's not coming back.

CHAIRMAN CARON: He is not coming back.

MR. HATCHER: Two years.

CHAIRMAN CARON: Yeah, two years, right.

COMMISSIONER SCHIFFER: But one thing before we leave this, because that two years is really important, and I really -- because of the stumbling on these issues, I really think we should -- and I think the department should or the Conservancy or stakeholder group should really figure out what we want to talk about in two years --

CHAIRMAN CARON: Yeah.

COMMISSIONER SCHIFFER: -- or whoever's here, because, you know, we really need data, we really need to help with these communities that are having trouble with algae, we really need to really understand what it is. You know, maybe the best way to do it is to apply it to the irrigation, you know, take a test of what's coming out of the pond, put in what's missing, and that's how you get a perfectly balanced system. But -- so let's, you know, get really smart about this, not depend on these kind of requirements, and so how do we, in two years from now, sit with the right data?

MR. HATCHER: Water-quality sampling, per se, what's typically done, addresses the whole issue of runoff. It does not separate out the effects of fertilizer. That's one of the reasons that this deliberation is so painful. It takes expensive focus studies like IFAS and other universities are doing on turf or other landscape plants, separated from general runoff, in order to determine the effects from fertilizer.

So we'll be able to update you on current literature. If the model ordinance is changed in several areas, we can -- we can update you on the state of the science, but I certainly wouldn't anticipate that the water-quality results are going to be indicative of a need for change.

COMMISSIONER SCHIFFER: But what I'm thinking is, couldn't we put together, maybe the Conservancy, somebody take the lead, because these communities are isolated, fighting this on their own, and they're doing the best job. So how do we put together some sort of a team, a club, a stakeholders' group that actually shares what they're knowing and starts to really -- you're right, that's data, but it's more than just data. It's whether his grandchild can go to the edge of the pond certain months. So why don't we --

CHAIRMAN CARON: And it's education, which is obviously important to all of us. Mr. Murray brought that up earlier.

COMMISSIONER SCHIFFER: And they can meet every two months. Just kidding. But anyway, I think that's an important thing.

COMMISSIONER HOMIAK: I'm sorry. Maybe that's a better answer right there is that the communities take these things on themselves and police themselves and do their own with their association.

COMMISSIONER SCHIFFER: I mean, the testimony we heard, they're the ones that are worried about it the most, and it's their property values. They don't want scum in their ponds.

COMMISSIONER HOMIAK: They have the ability. They're doing it.

COMMISSIONER SCHIFFER: The other question, Mac, where in the watershed plan is the requirements for cleaning up algae once you do have it? Some of the testimony we've had, the most shocking part of this process is people describing the genocide that they've done to their lakes, you know, killing everything alive within six feet of it. Where are the requirements for how to clean up algae? Is that in the watershed?

MR. HATCHER: It's not. The growth of algae is part of the normal function of a stormwater treatment

system, and currently it's up to the maintenance entity for the stormwater system as to how they maintain it. The thing that the county and the state and federal government are interested in is, what comes out of the end pipe of the stormwater system. And if they trap algae in the stormwater system, then that removes nutrients that would be coming out of it.

So we're in favor of them managing their systems to eliminate algal problems, but the growth of algae in a stormwater system is really kind of a natural process.

COMMISSIONER SCHIFFER: So there is no regulations in the stormwater's plan on how to clean lakes or maintain lakes?

MR. HATCHER: There are not. The proposals that we made for low-impact development standards will hopefully have a significant impact on the amount of nutrient runoff that goes into those stormwater lakes, much more so, I believe, than this fertilizer ordinance.

COMMISSIONER SCHIFFER: But the answer is, there's no requirements?

MR. HATCHER: Correct.

COMMISSIONER SCHIFFER: And that's fine.

MR. HATCHER: We're not proposing a requirement for treatment of the lakes.

COMMISSIONER SCHIFFER: Okay.

MR. CASALANGUIDA: Why don't we agree as staff to look into some of this stuff as part of the watershed management?

COMMISSIONER SCHIFFER: Well, it should because --

MR. CASALANGUIDA: Okay.

COMMISSIONER SCHIFFER: -- we heard some testimony of guys that, like, wiped out everything within six feet of the lake to get rid of it.

MR. CASALANGUIDA: Sure.

COMMISSIONER SCHIFFER: I mean, obviously the sediment's increasing, and what was that, you know.

MR. CASALANGUIDA: Right. I think we've learned a lot from what Island Walk is doing and some of the other testimony. I think we need to incorporate some of that, what we do in terms of outreach and as part of the development of the watershed LDR. So let's take that as guidance to move forward with that.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN CARON: Thank you, Mac.

MR. HATCHER: Thanks.

CHAIRMAN CARON: Run quick, because we're apt to come up with another question. Thank you.

***All right. Finally, these poor people who have been with us all day. Our next item is SV-PL2010-1995. It's a Walmart sign variance.

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

CHAIRMAN CARON: Thank you. Does anybody have disclosures?

(No response.)

CHAIRMAN CARON: Go ahead, sir. The floor is all yours. Are you Mr. Pressman?

MR. PRESSMAN: Yes. Good afternoon. My name is Todd Pressman, P.O. Box 6015. They sent me down from Tampa this morning. I thought I had plenty of time to come down and visit with you-all, maybe go home, take a nap, because I woke up early, but I'm going to be in a rush to get back because I have a 6 p.m. hearing up there I got to get to.

Madam Chairman and Board Members, we're here today for Walmart stores. This is a wall-sign variance. It is the site that is located on Collier Boulevard here. This is the store location here on Business Circle.

And to orient you, the site is a very large site. It is comprised completely of 23.95 acres. The building itself is 221,903 square feet. Your staff describes the store itself as 5 acres, over 1,000 parking spaces, very large site, 1,200 feet lot frontage. The building frontage alone is 750 feet for building width. Just a closeup of the site. I'm sure most of you are familiar with it.

The wall signs are proposed just for this front wall. I'll show you what they are specifically in just a minute. But to give you good orientation, the wall signs proposed are just for the front of the store.

So when you look at the surrounding areas, the wall signs will be here. It will not impact into the residential

residential in the area -- or in the vicinity. And to give you a distance measurement, by Google measurement, this is just about 500 feet to Collier Boulevard.

This is just a quick elevation of what the site may look like, but specifically, sign by sign, currently the Walmart -- and they call this the spark -- looks like a big asterisk. That is permitted. That is permitted.

Sign 1 under the variance is outdoor living, which is the 50 square feet. That's at this far end of the store where those uses or those materials are kept. Home and pharmacy, which is located here, which is 64 square feet -- and, again, that's oriented to where it is in the store, and then market, which is the grocery element, which is -- a little bit hard to read, I'm sorry, without my glasses -- thank you -- 18.5 square feet on the front. So that is what is proposed.

Now, just to give you -- this is just a second look to let you see what those signs are in their typical package.

Now, the specific variances are really broken into two categories. One is to -- the code allows three of the wall signs. The request here is to allow a total of five.

The second element is the square footage. Code allows 250 square feet. We're proposing to go 350 square feet.

One of the primary reasons behind it and one of the reasons that comes forward with your staff recommendation and support -- we're thrilled to have your staff support; they've wholeheartedly supported it -- is that they are directional in nature.

When you're approaching a store or size (sic) of this nature, when you're coming in the main entrance, you really need to know which way in the store you're going to be servicing. So, for example, if you're looking to go to the market and the market's on this side, you need to be parking on this side or you're going to be trudging in the store, get upset, I got to walk all the way to the other side of the store and go all the way to the other side of the store. Likewise, with the uses that are posted for this side of the building.

So as I sort of intimated up front, the signage that you see, which is designed just in the front of the store, very small, I don't -- I think it's fair to say you would never see those wall signs to the street at a linear distance of 500 feet. It is primarily directional in nature so people know where in the store they're going and to then orient themselves as they approach the store and be able to know where their interests are.

There is a very minor-effect variance. When you take into account the size of the location and the immensity of the store, if you were to take the signs that we're asking and calculate just the surface square footage down the front wall -- that's just the front wall -- they would account for 1.5 percent surface area.

So one thing that -- and you have a good sign code, but one thing your code has a little bit of difficulty is, on very, very large sites, it does allow you some more additional wall signage. But on a site of this nature, I think it's important for you to know where the benchmark is. In this particular case, if you were to add up all the wall signage, including the allowed signs, the total service area would be 1.5 percent.

And another perspective might be that if this were a typical shopping center which did have a separate -- separately-owned pharmacy and they had a separately-owned market and they had a separately owned home good stores, and all those different elements, this site would be, by right, allowed many, many times the amount of square footage that we're asking today.

So in terms of how your code works, we think this is a very -- a credible request. It's not an overage. It's designed for on-site signage. And, again, with those elements, we're very glad to come forward with your staff's recommendation of support.

Walmart is thrilled to be in this area. It's an important area for them. This is a very upgraded site. I travel the state doing a lot of the Walmart stuff, and this is a very upgraded site, a very nice site, and they appreciate being in the market and appreciate your consideration today. Thank you.

CHAIRMAN CARON: Thank you.

Barry?

COMMISSIONER KLEIN: I just have some comments. They're good, so I better disclose I have no financial interest. I have no stock. I have not spoken to this gentleman. I've only been in the shopping center business, like I said a couple weeks ago -- but almost four decades.

First of all, I think -- and I live near this Walmart. Walmart is supposedly classified as a department -- as a super center. They're really a shopping center. What they have here is almost 250,000 square feet, and the

Nordstrom store at Waterside is 77,000 square feet. You're talking about a mammoth store with -- that needs more sign.

And I just wanted to tell you that they are -- and they're a good citizen of our county, by the way. They have about a million square feet, if they count the four stores they have, plus the Sam's. So I think there's no doubt that they should get this variance.

CHAIRMAN CARON: Mr. Murray, were you next?

COMMISSIONER MURRAY: Yeah.

Sir, I was here when the original building was being processed for rezone and ultimately building. And although I didn't have time to go and investigate further, I do remember that signs were requested, very much the same type signs were requested at that time, and obviously you either didn't build them because we may have agreed to it or, as I recollect, we didn't agree to it at the time.

And I'm just wondering if you have the file from any of that period. I'm going to ask the same question of staff, because that becomes an important factor as to what -- what it is we're doing here.

I don't have a problem personally with more signage. I do say this, though. I do know that your argument about people need to be directed, I do know that part of marketing is to change things around so that you always keep people going to new places, they find new things. So while I appreciate what you're saying, I don't think that's a good enough argument.

I had a question which I will save for the moment for the -- I do have a couple of others. Hold on, please.

The other -- as I recall, we actually were talking the last time about having a barber shop sign as well. There was a barber shop in there.

All right. I can't find what I'm looking for, and I'm not going to hold you up.

MR. PRESSMAN: Yes, sir.

COMMISSIONER MURRAY: But are these signs going to be changed out as they change the locations within the stores?

MR. PRESSMAN: I've personally work with Walmart for over a decade, and I've never handled any kind of change-out for them, sir. I certainly can't attest to management situations at this site, sir. I have no knowledge and wouldn't have any in that regard if things were going to be changed.

Obviously, for -- obviously, they're planning these (sic) signage now, and that's to correspond with what's in the store. I assume that that's the way things will stay.

COMMISSIONER MURRAY: Well, this -- in looking over the detail again, it does represent -- a sign variance in this case does confer a special privilege on the applicant, and so we have to be mindful here what that represents when the next party comes before us.

MR. PRESSMAN: Yes, sir.

COMMISSIONER MURRAY: And so I -- again, I have no personal problem on it. Are you -- you made a case that you wouldn't see the signs 500 feet in. One of our other responsibilities is to make certain that whatever is available to be seen does not become an attractant that will actually take somebody who's driving and cause them to have a problem.

So there's a little bit of a question -- when you said what you said, you stimulated something in my mind about -- I don't know if that's a good thing. So what you're saying to us, I guess, is that as long as they see the Walmart sign, they'll drive in and they'll look for the other signs.

MR. PRESSMAN: Well, there is a free-standing sign, which is to code.

COMMISSIONER MURRAY: Yes.

MR. PRESSMAN: And a large wall sign is clearly visible, 500 feet. These other signs are very small. I can't imagine that they would readable from the main thoroughfare, and they're certainly not -- they're certainly not designed to be.

COMMISSIONER MURRAY: So you're depending upon it entirely being, once they're on the campus, so to speak, that they would then be using those signs. So they'll drive around?

MR. PRESSMAN: For the signs that are under the variance, yes, sir, that's correct.

COMMISSIONER MURRAY: All right. That was my set of questions. Again, I'll make my point, I don't don't -- I don't have, personally, a problem with it, but trying to subscribe to the Land Development Code and the

Growth Management Plan, this is definitely conferring upon Walmart a privilege.

MR. PRESSMAN: I would just say, in short response, Madam Chair, if I may, not to elicit a huge debate. I would say to you that the circumstances clearly are, if this were a 7-Eleven right on Collier Boulevard, the purposes, the use, the visibility aspects of the signage we're proposing would not be appropriate. But taking into account the scale and the size and immensity of the site, I believe that it does, and your staff believes -- believed the same as well.

I appreciate your opinion, sir. Thank you.

COMMISSIONER MURRAY: I appreciate your comments. Thank you.

CHAIRMAN CARON: Mr. Schiffer?

COMMISSIONER SCHIFFER: And, Bob, you might be recalling, we really beat the signs back on the Walmart on Immokalee Road. And, actually, I think we beat it back too far, because I feel pretty good, when you ride up on 75, you can't tell what that mass of buildings -- the architectural standards broke it up. It's a beautiful mass of buildings, but you have no idea what it is, and that might not even be safe for travelers who would benefit from the pharmacy or something.

I mean, I think -- I'm going to support this thing, because the major point that he made, and Barry alluded to, is that if this was multiple tenants in a shopping center broken up, this would be full of signs. I mean, this is nothing compared to the percentage that you would get with multiple tenants. So I don't think, and the distances, that this in any way would be a lesser degree of an aesthetic. And we're lucky we don't have the multiple tenants.

Thank you.

COMMISSIONER EBERT: Ms. Caron?

CHAIRMAN CARON: Okay. Do you-all want to hear from staff, or do you have a question for Mr. Pressman?

COMMISSIONER EBERT: No. I was going to mention that the Target is right across from them, and they have their separate grocery, pharmacy, so -- and we'll hear from staff.

MS. GUNDLACH: Good afternoon, Commissioners. I'm Nancy Gundlach, principal planner with the Department of Land Development Services.

And staff is recommending approval of this sign variance. We do have a condition of approval, and that is the additional wall signs are limited to the building facades facing towards Collier Boulevard.

And I also wanted to make reference to -- for Commissioner Murray, I wanted to share with you that there are no additional sign provisions in the PUD for this particular Walmart.

And I was thinking maybe -- this Walmart is located just south of I-75, where you --

COMMISSIONER MURRAY: I pass it very often.

MS. GUNDLACH: Okay, okay, because I --

COMMISSIONER MURRAY: I know exactly the one.

MS. GUNDLACH: Okay. We were thinking that there's another Walmart further south down by the East Trail. There may be some provisions in that particular PUD.

COMMISSIONER MURRAY: I'm familiar with that one -- I'm familiar with that one as well.

MS. GUNDLACH: Okay.

COMMISSIONER MURRAY: And, quite frankly, I'm pretty clear in my mind -- and I could be wrong, and maybe Brad is correct -- but I'm pretty clear in my mind the issue I raised was associated directly with this store.

MS. GUNDLACH: Okay.

COMMISSIONER MURRAY: So if I can ask a question.

CHAIRMAN CARON: Yes.

COMMISSIONER MURRAY: I didn't know if you were finished with your presentation.

MS. GUNDLACH: Oh, I'm finished.

COMMISSIONER MURRAY: Okay. All right. Now, you have to resolve for me then this question under E on Page 6 of 8, it says, will granting the variance confer on the applicant any special privilege, and you say yes.

Well, how can we have it at both ends of it?

MS. GUNDLACH: A variance, by its very nature, always conveys a privilege on the person requesting it.

COMMISSIONER MURRAY: Oh, yes. I remember now. That's right. Brad has, on a couple of occasions, suggested we remove that because of that very same --

MS. GUNDLACH: We have the same answer every time.

COMMISSIONER MURRAY: Yeah, thank you.

MS. GUNDLACH: Yeah.

COMMISSIONER MURRAY: Okay. I'm -- I'm -- again, I don't really have a problem with this, per se. I just don't want to be getting out into the world -- now -- that didn't make sense to you, but it did to me.

If it is true, I mean, the sign code says X, and it said X for Walmart, but for -- what was your -- Target? Target has Y and Z. And I guess that's always a question.

And the only reason I'm talking even a little bit further is because I do have a very good recollection of this. I remember the issue of the barber shop being right in -- as you go in on the right-hand side and the whole routine. And it was clear to me that we -- for whatever reasons, we must have turned it down at the time, because it was requested, and you didn't investigate that file?

MS. GUNDLACH: I did not investigate that hearing file, no.

COMMISSIONER MURRAY: All right. I'll let it be on its own. I'm not going to be the hard nose here.

CHAIRMAN CARON: Does anybody else have any questions?

COMMISSIONER SCHIFFER: I'll make a motion.

CHAIRMAN CARON: Do I have a motion?

COMMISSIONER SCHIFFER: I'll make a motion that we forward Petition SV-PL2010-1995 to the commission with a recommendation of approval.

COMMISSIONER MURRAY: I'll second that.

MS. GUNDLACH: Thank you, Commissioners.

MR. PRESSMAN: Madam Chairman, I did want to say to you very quickly, doing this from out of town is very difficult. I just wanted to let you know Ms. Gundlach was a phenomenal help, very fair, kept my feet to the fire, but she was phenomenal help in dealing with me, and I'm sure the public, and I wanted to make sure you-all knew that.

Thank you.

CHAIRMAN CARON: Thank you. Would you like to actually have your vote taken?

COMMISSIONER MURRAY: He's not in a hurry to get back, is he?

CHAIRMAN CARON: I think you might want to wait a minute.

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

CHAIRMAN CARON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN CARON: Any opposed?

(No response.)

CHAIRMAN CARON: Okay, thank you. You've got your vote.

We do try to get ahead of ourselves here.

***Okay. Our final hearing for today is a conditional-use boat-dock extension, BD-PL2010-1685, Vanderbilt Beach boat-dock extension.

Do we have -- have you talked to any -- do -- any disclosures from anybody?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN CARON: Brad? Sorry.

COMMISSIONER SCHIFFER: Are we going to -- these people are all waiting.

CHAIRMAN CARON: Yes, in a minute.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN CARON: Just do your disclosures.

COMMISSIONER SCHIFFER: I just feel sorry for them.

CHAIRMAN CARON: Then she can swear everybody in.

COMMISSIONER SCHIFFER: They're just so ready to be sworn.

The -- I had a conversation with Bruce Burkhard. We discussed what he felt would be the appropriate length of this dock.

CHAIRMAN CARON: Okay. I've had conversations with Tim Hall, with staff, with the County Attorney's Office, and with citizens.

Okay. Now you may swear everybody in, Terri.

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

CHAIRMAN CARON: Thank you.

Hi, Tim, go ahead. The floor is all yours, finally.

MR. HALL: Finally. Good afternoon. My name is Tim Hall with Turrell, Hall & Associates, here representing the petitioner on this boat-dock extension.

And I think what I'll start with is something that Commissioner Caron had asked me to do when we -- when we talked, was to kind of run through our process to show how we got to the design where we're at.

And what I've got is a series of exhibits that I can put up. And when we first started on this project prior to making any applications, the -- to the state or the federal agencies or the county, basically looking at what could possibly be done on the property, and the county setback from riparian lines or from property lines is 15 feet. So in maximizing that shoreline, we initially did 15 feet.

And knowing that under the Manatee Protection Plan the site would be allowed up to ten slips, we kind of used those and ran through a couple of scenarios where the most we could fit was eight slips within those areas.

But in looking at the adjacent facilities and needing to accommodate the navigation that had already been established with the boats that moored there and all, we realized that the 15 feet wouldn't be appropriate in this case. So we went to the state standard, which was a 25-foot setback, and ran through several examples of those with five or six boat slips.

The other thing that had occurred was during the conditional uses for the upland property, they had made a commitment that the site would only have six slips. So the eight went down to six, and the side setbacks went from 15 to 25 feet.

I'll just run through these. These are a bunch of different alternatives that we looked at with those -- you know, with those parameters.

And also knowing that we were going to be dealing with a boat-dock extension, there was no way to get these boats within 20 feet of the seawall. We also started looking at some of the other requirements that are entailed, the primary and secondary considerations.

And going through those, the first one, whether or not the number of docks proposed is appropriate to the site, that had kind of been established in their conditional use that they would have six slips or that they would be allowed up to six slips.

The water depths immediately against the seawall are shallow. They're less than half a foot deep at mean low water. So going out to accommodate that a little bit was also required.

Whether the -- and I'm going to skip over No. 23 and address that last, because I think that's where the biggest concern would be based on the conversations that I've had so far.

So No. 4, whether the dock facility protrudes no more than 25 percent the width of the waterway. The waterway where this facility is located is approximately 450 feet; 25 percent of that's about 115 feet. So our furthermost extension that would be allowed under the boat-dock extensions would be 115 feet.

As I said, we already had the restrictions of at least 25 feet on both sides, so our envelope basically became a 50-foot by 100- or 112-foot square.

And then whether the location is such that the facility won't interfere with the use of neighboring docks. Number 3 and No. 5 kind of tie together. And in looking at the established uses for the docks to the north and south, south, there were larger boats. There to the north there's a 36-foot boat. To the south there's about a 27- or 28-foot

vessel.

And when we design for vessels of that size, kind of a standard backing distance that you want for the boat to be able to maneuver in and out of a slip is one-and-a-half times the overall length of the boat.

So if the boat is 36 feet, then you're looking at somewhere between 52 and 55 feet that you want to give that boat to be able to maneuver in and out. The 28-foot boat would, correspondingly, be about 42 feet, plus or minus.

So that actually -- given the way that the facility to the north and south had been constructed, that meant that our 25 feet, especially on the north side, wasn't sufficient to give that vessel its length and a half.

They had about 10 feet of clearway between the boat and their property line, and our 25 feet that we were providing was only 32 feet. So we had to look at reducing the design further, and we ended up with what is -- has been proposed and what's in front of you today.

You can see that the 44 feet that we provide to the edge of the vessels with the 10 feet that they have on their side gives the 54 feet on the north, and the 29 and 14 or 15 feet on the south gives them the 42, 43 feet that they need for that vessel.

The other thing that this design does, it's the minimum amount of decking that you can actually have for a facility like this with six vessels. I mean, it's basically just the walkways associated with those. Every other design that you saw me put up actually has more overwater structure and overwater decking, so that went towards meeting some of the secondary criteria in terms of minimizing that.

I think the staff report was well done. The -- it shows that we do meet all of the primary and secondary criteria that are applicable to this, and that's pretty much the extent. You know, we think that we did what we were supposed to. The design is minimalized. It allows the property to make use of their riparian area while still giving the neighbors the uses that they've been accustomed to.

So I'd be happy to answer any questions.

COMMISSIONER MURRAY: I have questions.

CHAIRMAN CARON: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: In looking through the file -- I'm going to ask a number of questions. I notice that there's a hurricane plan required. Has that been put into effect?

MR. HALL: It hasn't been fully developed. There is a -- there's a draft, and for a facility like this, the hurricane plan usually has to do with any of the things that are on the dock, such as fire extinguishers and other things, making sure that they're either fastened down or removed, making sure that any vessels -- the one thing I forgot to mention is these vessels are -- they're not public. They're for members and the guests of the club, the Upland Club there, and it's -- it kind of falls in between the definition of permanent and transient mooring. Mooring's not allowed at these docks for more than 48 hours.

COMMISSIONER MURRAY: I'm aware.

MR. HALL: So that's -- in terms of the hurricane plan, making sure that any vessels that are there, the hurricane plan for those, because they are transient, would be to relocate the vessel to a safer location.

COMMISSIONER MURRAY: The question of excavation is clear in the permit, but dredging I couldn't find. Is dredging permitted under your permit?

MR. HALL: It is, yes, sir. There's a -- I will --

COMMISSIONER MURRAY: You don't have to. I'll take your testimony.

MR. HALL: Okay.

COMMISSIONER MURRAY: Because that's something I just didn't find, and I looked it over and I didn't find it.

MR. HALL: In the state and federal permits, there is a little bit of dredging that will occur immediately adjacent to the seawall where I said it was very shallow.

COMMISSIONER MURRAY: Right, right. Now, as a curiosity, do we have -- is there any current that runs through that area, current of significance?

MR. HALL: It's -- most of the current there is generated by the tides. So as the tide goes up and down, it is is at the -- kind of the end of the system, so the currents are minimal. They're associated with tides, and you may have -- if the wind is blowing in the correct direction, you may have a little bit of circulation that's associated with the surface currents, the wind.

COMMISSIONER MURRAY: Well, the basis for my question there is that you have six large vessels, and you have a five-foot dock line, and you have some pilings. And if you have a significant current, you have an awful lot of weight being pushed against the draft. And that was -- you understand my question --

MR. HALL: I do, and you run into that, like, on the -- a good example, the Snook Inn on the Marco River is a good example of that when you get a really strong current. There are no currents like that at this --

COMMISSIONER MURRAY: That's what I needed to understand. I notice that you have it under Vanderbilt Beach, Limited Liability Company and yet it's Floridian Club Docks. That -- which is the right -- I mean, they're both valid, I guess, but what is it, a doing business as?

MR. HALL: Correct. I'll defer that --

MS. BISHOP: Yes.

MR. HALL: Karen says yes, it's a doing business as.

COMMISSIONER MURRAY: Okay. And then I think my last question is -- yes, that was the permit. The other one was -- yeah, I'm curious about one of the documents you have. It says existing seawall -- I'm sorry. Proposed spoil containment area. My question there is -- currently a parking lot from the visuals that you've shared, is this a temporary containment area while you're dredging?

MR. HALL: Correct, yeah. It will be -- it will hold the spoil material, and then the material will be loaded into the other trucks and transported off of that, and it will return to its use as a parking lot once that's done.

COMMISSIONER MURRAY: Okay. And, finally, I looked at the spacing between. It's awful tight for the kind of vessels that are going to go head in like that. I'm estimating roughly four-and-a-half to five feet between vessels.

MR. HALL: Five feet is what we -- is what we designed for.

COMMISSIONER MURRAY: I hope you don't have a single screw trying to get in under those circumstances.

MR. HALL: Because of the -- it's mostly temporary and transient mooring, the most likely use would be that the boats would come in from the outside to the forward, and then as they move up, the other boats would move forward. We don't anticipate there being a lot of maneuvering needed to get in and out of them.

COMMISSIONER MURRAY: Really? I don't believe that, but okay. That's my questions. Thank you.

COMMISSIONER SCHIFFER: I have a question, Donna.

CHAIRMAN CARON: Okay. Brad, you can go next.

COMMISSIONER SCHIFFER: Can you -- do you have a layout where you did the boats perpendicular to the dock?

MR. HALL: Perpen- --

COMMISSIONER SCHIFFER: Like, for example, the dock above has a main dock with finger docks for the boat perpendicular to it.

MR. HALL: No, we didn't -- we didn't really look at layouts like that because the length and the amount of space that would have taken up would have not been -- wouldn't have been feasible.

COMMISSIONER SCHIFFER: And what would have gone wrong? I mean, you'd have, from the back the boat, about 17-and-a-half feet, and then the dimension of the other property. What couldn't happen there then?

MR. HALL: Well, you'd have had -- if you had 17 behind the back of the boat and you only have 10 on the other side, that only leaves you 27 feet. And, like I said, the boat to the north needs 50 to be able to maneuver in and out.

COMMISSIONER SCHIFFER: The boat to the north, what do you mean, the -- okay. So --

MR. HALL: The big boat to the north there --

COMMISSIONER SCHIFFER: Okay.

MR. HALL: -- is a 30-foot-plus vessel. And if we had -- I don't really have any -- if we had made those docks perpendicular -- I'm assuming that's what you mean, perpendicular like that.

COMMISSIONER SCHIFFER: Right.

MR. HALL: Then getting through the reduced area at the easternmost edge of those docks would have been been a little bit tighter, and then having the boats backing or forwarding into each other would have been, you know, unsafe and not a feasible alternative in our opinion.

COMMISSIONER SCHIFFER: Okay. Do you have a picture showing this dock in relation to all the other docks on that side, not just these neighboring two?

MS. BISHOP: If we get Internet access, we can go to the web.

COMMISSIONER SCHIFFER: That's the point. If you do look at Google maps or something, you'll see that this thing's going to stick out much further than anything up that shore, and --

MR. HALL: I've got it. I have it here.

COMMISSIONER SCHIFFER: That's kind of close. But even if you keep going all the way up, you're going to see that this thing would be the one that sticks out the furthest, and --

MR. HALL: Well, it's -- I mean, it's compatible with -- the dock to the north, again, was permitted out to 102 feet or 107 feet depending on which document you look at. So it is actually in line with what is allowed at the dock to the north.

COMMISSIONER SCHIFFER: Okay. I mean -- and that must have been to the back of the boats when they're positioned on the lifts.

MR. HALL: Which is what the county measures to. It has to include the boat as well.

COMMISSIONER SCHIFFER: Okay. Because I think it's -- I mean, I'm a little concerned the thing's sticking out, that it is an unsafe situation where these are the kind of docks that get nailed by some -- somebody usually a little -- was thirstier than he should have been that day.

And I'm just afraid of something sticking out, sticking out in the water like this really looks like it is to me, is kind of a problem. But let me -- the questions I really have will be with Nancy, so thanks.

CHAIRMAN CARON: Tim, you said that your conditional use --

MR. HALL: Yes, ma'am.

CHAIRMAN CARON: Your conditional use, you said, granted you six slips, the potential for six slips?

MR. HALL: Yes, ma'am, I believe that's correct.

CHAIRMAN CARON: Can you show us where it says that in the conditional use?

MR. HALL: Yeah. I think it's -- the configuration that's actually shown in the conditional use showed the six slips. I don't know that it's --

CHAIRMAN CARON: It showed a T dock which, from the looks of it, couldn't fit more than three or four vessels.

MR. HALL: Okay. Well, I don't have that conditional use in --

CHAIRMAN CARON: I have the -- that exhibit that you gave us, or staff gave us; somebody gave it to us. And I was just trying to figure out how it was possible to get on that little T that you showed. Looks like maybe a boat on the inside of that T on either side and a boat on the outside. Maybe you could get two boats on the outside. I'm not sure.

MR. HALL: Okay. I'm sorry. I still don't see that exhibit, so I don't know exactly what it looks like.

CHAIRMAN CARON: Okay. This is --

MS. ASHTON: I have the resolution.

MR. HALL: Here, let me get it.

CHAIRMAN CARON: We all got this exhibit in our packet.

COMMISSIONER MURRAY: I was just trying to be helpful there.

CHAIRMAN CARON: Yeah.

MR. HALL: The -- this one actually shows the -- some mooring. I mean, if you see the way the pilings are laid out, it shows two -- kind of like Mr. Schiffer was saying, it shows perpendicular mooring, two against the seawall, two against the inside edge of the T, and two on the outside edge of the T.

CHAIRMAN CARON: Okay. Now I need my exhibit back so I can see that.

COMMISSIONER SCHIFFER: Would you -- before you give it back, would you just stick it on the visualizer so we can see what you're talking about.

All right. I don't remember that.

MR. HALL: The way that the -- the way that the mooring piles, these little dots if they -- if they -- you may not be able to see them --

CHAIRMAN CARON: Yeah, we can see them.

MR. HALL: -- on there. But this one allowed for vessels on each side against the seawall, two more on the inside edge of this T, and then two on the outside edge of the T.

CHAIRMAN CARON: Oh, two on the inside of the T as well?

MR. HALL: Right. So there's actually one, two, three, four, five, six.

CHAIRMAN CARON: Oh, okay. I got it. Okay, thank you.

MR. HALL: But as I had said to Mr. Schiffer, that design wasn't feasible. It actually takes up more than the -- than the 50 feet that was allowable when we got to the state and federal permitting agencies.

CHAIRMAN CARON: No, I understand that. I was just trying to understand the six, because I didn't have it anywhere else in anything I had.

On your exhibit -- well, again, this comes from those exhibits that were attached. It shows that the dock to the north is 10 feet away on the outside -- the largest part of that -- the T part --

MR. HALL: Correct.

CHAIRMAN CARON: -- but that the boat you're trying to accommodate actually sits back so it's 12 feet away, a little more than 12 feet away; is that correct?

MR. HALL: Yeah, probably, the way that that vessel is sitting in there. There was a -- if you look back on older aerials, there was another vessel that used the slip adjacent to that, that's immediately next to the long-finger pier, and that one was very comparable in size. But given the -- where the dock was and all, we still went, you know, with the -- basically the biggest boat that they would be permitted to put in there, going out to their submerged land lease and all of that, would be, you know, out to the actual extent of the finger pier.

CHAIRMAN CARON: Okay. Because I'm just looking at multiple exhibits, and all of them have different numbers on them. That's not a good thing, okay, for future.

MR. HALL: Well, I mean, it depends. A lot of them have different numbers on them, but the numbers are generally referencing different things. I mean, that's what we try to do.

CHAIRMAN CARON: But this is referencing the boat to the north, and that's what I'm referencing. And so that's actually 12.21 or 12.35. I don't know why there would be a difference in the piling, but -- away from your riparian line.

MR. HALL: Okay. When we do the -- and that's -- I guess that's accounting for the boat that is actually there right now. But when we design, we have to design for what's allowed there, and so what's allowed there is actually a boat that's larger than what may be there now.

CHAIRMAN CARON: Okay. I don't think you could get a bigger boat in. Go ahead.

COMMISSIONER SCHIFFER: How do we know what's allowed there and what isn't allowed there?

CHAIRMAN CARON: Yeah.

MR. HALL: We looked at the submerged land leases that were issued by the state for those adjacent facilities, and a boat is not allowed to go -- can go up to but not past that land-lease boundary or they're noncompliant with their state permits.

COMMISSIONER SCHIFFER: And did we check -- I mean, they must have got a boat-dock extension.

MR. HALL: No. Actually, both -- the facility to the north was built in 1980, the one to the south was built in the early's '90s, and both of those were done prior to the boat-dock extension ordinance being in effect for them.

COMMISSIONER SCHIFFER: So are they legal docks then or --

MR. HALL: They're legal, but they're, I guess, nonconforming is the term you guys use.

COMMISSIONER SCHIFFER: Okay. And you're saying that a boat thus can solely go whatever dimension it is, as long as he stays above the lease area?

MR. HALL: As long as he stays within the lease area. And I believe some of the exhibits that you guys have related to this one shows where the leased -- the leased boundary will be for this facility, and you'll see that it actually goes out to 108 feet for the lease.

We're going to be limited by the BDE to 106, but DEP always likes to have a little bit of a cushion there in case there's an issue with construction or that kind of -- that kind of issue. We have to go to them first before we come to you guys, so it usually starts out as the larger number, and then when we do the BDE, it's actually a smaller number than what was approved for the lease.

COMMISSIONER SCHIFFER: But the important thing, that's a number you provide?

MR. HALL: Well, it's a number -- yeah, I guess it's a number that we provide and then is verified by survey upon construction.

COMMISSIONER SCHIFFER: Okay. But in other words, the length is based -- from the state's standpoint, you said you want 106, they'll give you 108. They give you tolerance.

MR. HALL: Well, we say we need 106, and they say you have to lease 108 to give us the assurance the you'll stay within your lease area.

COMMISSIONER SCHIFFER: Who determined the width of that lease area?

MR. HALL: Again, that was based on looking at a normal -- we use a fleet mix that looks at the boats that have been constructed, like, within the last five years and what the normal width or beam of those boats are, and so you look at the 5-foot dock, plus two of those beams again, plus a little bit of a cushion --

COMMISSIONER SCHIFFER: All right.

MR. HALL: -- for boats that might be slightly wider.

COMMISSIONER SCHIFFER: Thank you, Donna.

CHAIRMAN CARON: So what you're saying is if you have 35 feet, 36 feet to the north with 25-foot setback and they're 11, the boat that exists there to the north cannot turn and get out?

MR. HALL: I'm not saying --

CHAIRMAN CARON: I mean, I know they're used to wide turns because you're not there right now, so they take up all of your space to turn, but --

MR. HALL: It's very hard to turn any vehicle within its length. I mean -- any boat. I'm sorry. I guess there are cars and unicycles and stuff that you can turn pretty good, but a boat is very difficult to turn, especially if it doesn't have bow thrusters or multiple screws. It's very difficult to turn within its own body length.

CHAIRMAN CARON: Okay, thanks.

COMMISSIONER SCHIFFER: Can I have the floor again?

CHAIRMAN CARON: Yeah, absolutely.

COMMISSIONER SCHIFFER: So I mean -- and that's what we have to judge with the appropriateness of an extension. If you put these things up against the seawall, perpendicular to the seawall, that wouldn't be an issue.

MR. HALL: If we put them perpendicular to the seawall, then you would be limiting the number of slips. We couldn't do six slips perpendicular to the seawall.

COMMISSIONER SCHIFFER: What's the width of the slips that you would need?

MR. HALL: The width of the slips, I believe, are 15 feet, so you've got 15 --

COMMISSIONER SCHIFFER: So why -- I mean --

CHAIRMAN CARON: Well, it's showing here as 12.

COMMISSIONER SCHIFFER: Yeah, I mean, you know --

MR. HALL: Twelve.

COMMISSIONER SCHIFFER: -- you've got a setback that we could be discussing, but you could theoretically put them all perpendicular and then always be out of that guy's way.

MR. HALL: Well, even if it's -- if it's 12 feet, you're -- you would still be limiting -- you would still be limited to four vessels. We only have 50 feet.

COMMISSIONER SCHIFFER: Because you gave them that number, and that's what they gave you.

MR. HALL: Because the state requires 25-feet setbacks from the property line.

COMMISSIONER SCHIFFER: Right.

MR. HALL: That's not a number that I gave them. That's a requirement from the state.

COMMISSIONER SCHIFFER: All right. Got it.

CHAIRMAN CARON: Anybody have any other questions? Okay.

COMMISSIONER EBERT: What gave you -- how many people are in this club? This only can just be transient dockage here, within 48 hours?

MR. HALL: Membership -- membership of the club right now is limited to the -- to certain buildings within within the Dunes community that's further to the north. And I believe that there are also some honorary memberships or guest membership that were given to the neighbors to the north and south of the club so that they could -- they could utilize the facilities there as well.

CHAIRMAN CARON: Thank you, Tim.

Nancy?

MS. GUNDLACH: Good afternoon, Commissioners. I'm Nancy Gundlach, for the record, principal planner with the Land Development Services. And staff is recommending approval of this boat-dock petition.

I do -- there is one condition of approval, and it is a carryover from the previous condition of approval for this entire site. And it states that docks in connection with access via the Vanderbilt Lagoon may not be used for the berthing or mooring of boats in excess of 48 hours. The exact language in the previous conditional use just got carried over.

And I also wanted to make a clarification in the staff report, and that is that all of the primary and secondary criteria have been met.

And it would be my pleasure to answer any questions you might have.

CHAIRMAN CARON: Questions?

COMMISSIONER SCHIFFER: I have a question.

CHAIRMAN CARON: Go ahead.

COMMISSIONER SCHIFFER: Nancy, my concern on this thing is that the dock itself is going to stick out, essentially what the neighboring dock plus boat would stick out, which means if no boats are on it, it's just a dock, which isn't very visible. To the north if boats are on it -- I mean, if no boats are on it, you know, there's equipment there and everything.

So my concern is the safety of this thing sticking out into the waterway where people could not see it. I mean, I'm sure that they'll have reflectors and stuff, but people are slamming into those all the time.

So do you -- the staff has no concern whatsoever about the safety of this thing jutting out into the waterway? And the reason it juts out further than the other one is because the other one is measured to boats. So if there's an object out there, it's visible because it's a boat. If this thing is out there, it's a 5-foot dock that, at night, may not be that visible.

MS. GUNDLACH: Okay. The designer said that they normally put reflectors at the end of the dock. So I'm -- oh, also that there's 300 feet left over in the channel for the boats to navigate.

COMMISSIONER SCHIFFER: But what I'm concerned about is some guy coming along, zipping along, and, you know, following that side of the channel and not seeing it and hitting it, and that's the classic boat accident that really does maim a lot of people.

But, anyway, if you're not concerned about it your answer is, I'm not concerned about it.

MS. GUNDLACH: Okay.

CHAIRMAN CARON: Do you have any other questions?

COMMISSIONER SCHIFFER: No, other than I'm concerned about it, no.

CHAIRMAN CARON: Okay.

MR. HALL: If I might, Mr. Schiffer, the other that -- Vanderbilt Lagoon is also an idle-speed zone. So if they are -- they wouldn't be zipping unless they're -- you know, unless they're illegal. They would be moving at idle speed, or they should be.

COMMISSIONER SCHIFFER: But every one of the accidents are based upon bad judgment, and till they experience hitting this, they're going to have bad judgment. But anyway, I understand your point, too.

CHAIRMAN CARON: Tim, are you required to have lights on your dock on this marina facility?

MR. HALL: We're not required to have lights. There will probably be lights, but they'll have to be measured against some of the -- they're close enough that they would still have to be measured against the turtle lighting standard. Everything would have to be down, not up.

So it's possible that, depending on the lights and depending on what the conservation guys say when they go out and do their surveys and so forth -- the lights are planned, but it may be -- there will definitely be reflectors.

CHAIRMAN CARON: Thanks.

Nancy?

MS. GUNDLACH: Yes.

CHAIRMAN CARON: You refer in your staff report to this marine facility as a residentially zoned property. It's not a residentially zoned property. It's a -- it's a conditional use for a club, right?

MS. GUNDLACH: Yes. The zoning of this property is RT, which stands for residential.
CHAIRMAN CARON: Right.
MS. GUNDLACH: Okay.
CHAIRMAN CARON: Everybody knows that.
MS. GUNDLACH: And in the code that is listed under residentially zoned properties.
CHAIRMAN CARON: It's not listed under that. It is listed with criteria for residential properties.
MS. GUNDLACH: I could show you. Do you want to put it up?
CHAIRMAN CARON: Yeah, I mean, I've read the -- I've read the code.
MR. BELLOWS: Yeah. I think the commissioner's referring to there's a list of residential zoning districts.
MS. GUNDLACH: Yeah.
CHAIRMAN CARON: Right, and this as well. And RT as well.
MS. GUNDLACH: Correct.
CHAIRMAN CARON: Not that it is the same as residential. There is no water-depth issue because they have a dredge permit; is that correct?
MS. GUNDLACH: They have a dredge permit, that is correct.
CHAIRMAN CARON: So there's no water-depth issue with this.
We've had it explained what the difference between the 108 and the 106 is. It won't make a difference in their calculations, but should -- in -- as far as protruding into the waterway, should we be measuring from the 106 or from the 108?
MS. GUNDLACH: We measured as per the Land Development Code, and per the Land Development Code it would be 106.
CHAIRMAN CARON: Okay. What are the -- the special conditions that you're talking about not involving water depth are strictly the constraints placed on this dock facility, on this marina facility, based on the north and the south?
MS. GUNDLACH: Are you citing something from the staff report?
CHAIRMAN CARON: Yeah. I'm just reading criteria. I'm just going through criteria.
MS. GUNDLACH: Okay. Which one are you on?
CHAIRMAN CARON: Number 1, secondary criteria.
MS. GUNDLACH: Okay.
CHAIRMAN CARON: We pretty much had it memorized.
MS. GUNDLACH: Yes. That's what's stated. It's limited by -- the design of this is limited by the existing facilities to the north and south.
CHAIRMAN CARON: There is no requirement for the specific length of boats that they're showing, is there?
MS. GUNDLACH: No.
CHAIRMAN CARON: Thank you.
MS. GUNDLACH: You're welcome.
CHAIRMAN CARON: And we have public speakers here, I believe.
MR. BELLOWS: Yes, we have about five speakers. First one, John Bammel.
(No response.)
MR. BELLOWS: Bruce Burkhard?
MR. BURKHARD: Good afternoon, Commissioners. My name is Bruce Burkhard. I'm a resident of the Vanderbilt Beach area.
And during the -- just start out that during the go-go years of the 1990s and the early 2000s, development was rampant throughout the whole Vanderbilt Beach area. And, in fact, we felt that we -- our area was the target for developers because of the fairly rich returns that they were able to get on investments on the water.
And as things developed, very large properties kept growing and growing, and we were, as residents, not part of the process. We were left out.
So as a result we decided that we had to get our neighborhood organization more organized and come up with a way to start controlling the growth. Instead of being witnesses to what was going on in our neighborhood and

having no say or control over it, we felt that we had to get a handle on it.

So we started getting proactive, getting educated. And what we ended up doing was, in response to a large development to the north of our area, we lobbied the County Commission and got in -- a moratorium put in place to stop construction and let's get a look at what's going on and let's try and control what's happening and let's have us have a say in what's happening.

In the end what developed was the Vanderbilt Beach Residential Tourist Overlay District. And in about 2004, I believe it was, that was finally passed, that overlay was passed and is controlling what happens in the Vanderbilt Beach area right now. It's sometimes hard to enforce it, and that's kind of where we're at right now.

But the purpose of the district was to encourage development and also redevelopment in the Vanderbilt Beach area to be sensitive to the scale and sense of proportion that was existing when we all bought our homes in that area. We wanted to stop the "can you top this" construction that was going on.

One of the areas that we addressed as a potential problem area during that overlay process was marinas, and essentially this is what we're talking about today. This dock system qualifies by LDC standards as marina.

We made marinas part of a conditional -- part of the conditional-use process. And one of the problems we foresaw with docks was ever-increasing lengths, again, "can you top this?" And here we are today.

When Mr. Connors developed the Vanderbilt Beach area, he planned on the lagoon waterside area being residential, both single- and multifamily residential. Unfortunately, along the way in the bad old days, some commercial development did get permitted. LaPlaya's parking lot turned into a parking garage, hotel suites were built on the lagoon side, and a party facility was also built there.

Like so many businesses, LaPlaya then tried to maximize their property on the lagoon to the detriment to the neighborhood, we felt. They proposed and almost got away with putting a 120-foot precedent-setting marina in the area.

Our association strenuously fought the overreach, and we did enforce the overlay, but it wasn't easy. We eventually reached an agreement that greatly scaled back the project, and it included, as part of the agreement, several other neighborhood-friendly restrictions.

LaPlaya's docks now project out about 75 feet, so they have the standard 20 feet, plus a 55-foot extension, not an 86-foot extension.

Right now we're faced with another creeping dock-length situation. If it's allowed to stand, it will set a new, longer standard and would serve as a precedent for future docks in the lagoon. We feel it's just simply too long.

The requested extension is not compatible with what is a standard in our neighborhood. We feel the length of the boats used to justify the need for this extension -- and as you saw in the drawing there of 30 feet -- is a very arbitrary number. The majority of boats in our area are simply not that long. I live there, I have a boat, and I know what my neighbors have for boats, and 30 feet is not a standard boat.

So 106 feet of projection into the lagoon in a heavily trafficked area due to the fact that there's a commercial marina at the south end of the lagoon which generates a lot of traffic, both inexperienced boaters using party barges that they rent by the day, as well as numerous fishing charters who, by the way, do not cruise at idle speed as they go in and out of their charters because time is money.

So I think this dock, this proposed extension, flies in the face of what we've been consistently trying to enforce over the years since we put our overlay in place.

And somebody wanted to see an idea of what the docks looked like along the canal, and I pieced together from the -- from one of the sites here a survey so that you can see -- get a feel for what we have.

Now, you can see that most of the docks are consistent and much less than this 106 feet that's being bandied about. The docks -- that dock to the north that we've been talking about has three extensions -- thank you, Ray -- three extensions, three boatlifts that got added onto the T that bring it out farther. That's -- that dock is a real outlyer. Nobody else in the canal area has anything like that.

So I think it's false to be using that as a comparison standard for this new proposed dock. Just because that dock is not in conformance with what our standards should be, I don't think that should be used as a basis of comparison.

So this project needs to be scaled back so that it extends no further than other permitted conforming docks.

We think an extension of 55 feet on the top of the already permitted 20 feet, just like LaPlaya, just like the docks down at the south end of the lagoon, would be fine. We wouldn't object to that.

And, in fact, when Army Corps of Engineers was involved in the early permitting of this, I told them just that. I said that if their -- if this dock, their proposed dock at the time, went out no further than the prevailing other docks in the lagoon, we wouldn't have a problem with it. We really wouldn't object. But to go further out is really, in my estimation, just pigging it out.

Please help us preserve the spirit of the overlay and put a stop to overly ambitious projects that, over time, change the character of our neighborhood.

A couple of questions -- a few questions that I'd like to have answered is, one, what is the actual intended use of this dock? Are these strictly day boaters coming in, going to the restaurant, and leaving at night, or are these docks going to be used on a longer-term basis?

I understand there's a stipulation, supposedly, for a 48-hour limitation, but who's -- who's going to enforce that and who's to say that that's exactly what's going to happen? Who is going to enforce the stipulations?

And what happens if the 48 hours is violated? Who's responsible for enforcing it? What's going to be done if it's not?

It's already been brought up that they do have a dredging permit, so normally the reason for an extension -- an extension is really nothing more than a variation for a dock. Usually the reason is that there's shallow water in close, so you need to move your dock out farther than the standard 20 feet in order to accommodate the shallow water.

Well, shallow water's not going to be a factor here since they have a dredging permit to bring their boats in closer.

Also it's intimated or it's basically being said that this is the only configuration of docks that can work. They've looked at every possibility, and this is the only one that will work. Well, we've heard that before. There was a project on Vanderbilt Beach Drive a few years ago where we were -- where they were seeking a 60-foot dock extension in a residential area, and we were told that the 60-foot dock was the only possible solution.

Well, fortunately the Planning Commission listened to us and they denied the dock extension. Well, don't you know, we were called by their lawyer, and we came in and had a session. And lo and behold, there was a way that we could bring the docks in closer, and they did not need the 60-foot extension.

I think the same case is true here. I think, perhaps, more permitting might have to be done. It might be more work, it might be more costly to build a different configuration. But I think a dock system can be built inside of the 70 feet that's more or less the longest standard that exists along the west shore of the Vanderbilt Lagoon.

And we'd ask you to please deny this, and let's see if we can get something that's more in character with our neighborhood. Thank you.

COMMISSIONER MURRAY: Unfortunately, I have to leave. I wish we could deliberate, but I have to go.

MR. BELLOWS: Next speaker?

CHAIRMAN CARON: Yes, please.

MR. BELLOWS: Kathleen Robbins.

MS. ROBBINS: I'm Kathleen Robbins. I'm secretary of the Vanderbilt Beach Residents Association. I have many of the same points that Bruce has, but I'm not going to reiterate them necessarily.

Our issue is with the length, and my personal issue is the fact that the length is being determined by a nonconforming comparison. I'm not happy with that at all. I think we need to pin down exactly what was permitted on that dock to the north.

Right away on all the drawings you can see that the T extends to within the setback. Normally it's 15 feet, and they only have a 10 or 11 T. That's giving some navigation problems. Mr. Hall had to accommodate.

The boat that's in there is a twin-screw boat. They shouldn't have any problem navigating out. And the dock protruding out into the bay further than other docks, I can tell you there's an example behind Bonita Beach, and it is a hazard to navigation. And anybody who says they're not worried about it has never navigated.

When you have one dock that sticks out, you can be stone cold sober, you can just turn to talk to your friend, and there it is. You're right on it, going slow speed. It's a big issue.

Also people tend to stay to that side of the bay because that's where Lighthouse Restaurant is. It's -- you don't want to drive down the middle of the bay because you miss all the sightseeing. So it's going to be an issue.

I think before you approve this you need to pin down exactly what is legal on that dock to the north. Whatever they have that was legally permitted, I don't have a problem with allowing the Floridian Club to do the same thing, but I think they're going out further than that which was legally permit before, and I have a problem with that.

Thank you.

COMMISSIONER SCHIFFER: Can we ask Nancy that question?

CHAIRMAN CARON: Hold on. Brad, did you want to ask?

COMMISSIONER SCHIFFER: No. I was going to ask Nancy. Is that -- I mean, if they were a nonconforming dock, they couldn't add the lifts on the outside of a nonconforming dock, correct?

MR. BELLOWS: For the record, Ray Bellows.

We have building permits for this dock that show it was legally permitted. While the code has changed and it requires a boat-dock extension, if they're still within their land-lease agreement, the boat lifts probably could have been added without the extension.

COMMISSIONER SCHIFFER: Okay. So the boat lifts could be added without a --

MR. BELLOWS: As long as they were still within that land lease.

COMMISSIONER SCHIFFER: So that's how it would be worded, that the --

MR. BELLOWS: It really --

COMMISSIONER SCHIFFER: You can build any kind of dock you want --

MR. BELLOWS: -- depends a lot on what the original building permits showed. We'd have to verify that.

COMMISSIONER SCHIFFER: Yeah, I wonder.

CHAIRMAN CARON: What do you have in front of you as the length?

MR. BELLOWS: This is the plan detail with the building permit for the dock when it was originally submitted. It has mooring pilings on the water-side edge of the T part of the deck. And in my opinion, if there is a land lease that covers a greater area than that, then at the time those boat lifts were added, they would have been found consistent with this plan.

CHAIRMAN CARON: But what is the length of that?

MS. GUNDLACH: Eighty-seven plus whatever the boat length will be.

MR. BELLOWS: Yeah. Seventy-five plus 12 plus the length of the boat, which would bring it around 100 feet or so.

CHAIRMAN CARON: Right around 100 feet.

MR. BELLOWS: Yeah.

CHAIRMAN CARON: Okay. Yeah.

Ray, do we have other speakers? I wasn't sure. There are other people sitting out here.

MR. BELLOWS: I was just going to mention that -- I didn't know if you wanted the permit number for that boat dock, but it was issued in '80, and it's Permit No. 1710, and it was issued on 4/11/1980.

MS. ROBBINS: Could you repeat that.

MS. GUNDLACH: The permit number is 80-1710.

MR. BELLOWS: And we can provide you a copy, too.

MS. ROBBINS: Thank you.

MR. BELLOWS: The next speaker, Dailey McPeale (sic). I think I called you earlier by mistake.

MR. McPEAK: Oh, okay. Good afternoon. I'm Dailey McPeak, and I look at this from maybe a little different perspective than some of you.

I'm in the Manatee Building, which is the third building north of the proposed dock area. And I have many pictures of waking up early in the morning, the sun comes up, and I see the sun glistening off the beautiful pristine water. It's a gorgeous area, as all of Naples is, and we have a manicured wonderful town we live in, and I think we have a moral and maybe an ethical obligation to try to preserve that as best we can.

The other speakers that talk about the traffic moving up and down, the boat traffic does move right along our edge. I thought it was because it was deeper there. But for whatever reason, we seem to be the boat traffic flow,

flow, and this -- I do think that is a hazard sticking it out into the bay so far.

In our building, the people I've talked to -- and I'm sure this date is not by accident, because our friends and neighbors, 80 to 90 percent of them are up north already. But the ones I've talked to are equally opposed to this proposal.

One of the friends of ours in our building recently sold his 26-foot boat because that's really a very shallow area, and if you get much longer than about a 22-foot boat, you can only go out at high tide. It really becomes a -- I have a boat. I know that.

And at any rate, he sold his house because it's just too much trouble trying to get a 26-footer in and out. It's doable high tide, but it's more effort.

So major point is that our community would like to protect the wonderful aesthetic view that we have there. The lights reflecting on the water at night are beautiful, and this could eventually, if this precedent is set, could actually impact our property values. So I'm encouraging you folks to protect our community and the beauty of our community.

You can tell -- this point was already well made -- that it's a high density area. We already have a lot of traffic. We have a lot of people. We have a lot of boats. And you can see by the way they're shoehorning, trying to shoehorn these boats around -- and the way I drive a boat, I like a lot of room to try to get the boat in and out.

And there is wind and there is a little bit of current that, as he said, has to do with the tides, and sometimes it takes me two or three times to get my boat in because the wind's blowing this way, the current's this way, oh, yeah, so I've got to -- you know, and it takes a little while. So you get a big boat; that becomes a bigger issue.

Bottom line is, I just encourage you to try to protect our beautiful area. We're so fortunate to have lived -- to live here. Let's protect it as best we can. Thank you.

CHAIRMAN CARON: Thank you.

MR. BELLOWS: The last speaker is David Galloway.

MR. GALLOWAY: Thank you, Madam Chair and other commissioners. David Galloway, involved with the Vanderbilt Beach Residents' Association.

My only concern is one issue. I think that there's a lot of attributes for having boats come in there and whatever, but I come from law enforcement. I've worked marine safety over the years, and the only thing I can see here that's really a detriment is the safety issue of this protruding out, even though it's only going out past -- or equal with the other boats there are there. But when those boats on that other dock are removed during the daytime -- if you look at it certain times of the year, they're not even there -- that dock will protrude past that other dock by quite a few feet.

I've had the privilege of looking at a -- architectural drawings from, I think, 2008 a couple years ago, and I would have favored the wing-type design of that dock that -- probably one of the original designs of that dock area would have kept it back in a little bit, and it would have had been able to maneuver the boats in and out properly there.

And as far as determining the size of one dock against the north and south dock owners, probably not considering all the other docks in the area and all the other citizens that use that waterway, so I don't know if that's a fair way to just design one dock based on one of the docks that are there now.

As some people know that have been in boating for some time, that a 30-plus-foot vessel, some people can't maneuver it in 50 feet, let alone 100 feet. So it all determines how good of a navigation -- navigator of the waterways.

But I encourage you at least to look at that. There are other designs out there that I think that the -- they've had in the past, and one was -- to me was very, very workable view-wise, sight-wise and whatever. And I know that, more than likely, living there year-round, you probably won't see the boats there on a daily basis, but we'll see that dock there protruding out past the other dock every single day, because that will become a permanent abutment out there.

And I think the major thing I'm concerned with is the safety of the people that are boating on that waterway.

Thank you.

CHAIRMAN CARON: Thank you. Any other --

COMMISSIONER EBERT: I have a question.

CHAIRMAN CARON: Go ahead.

COMMISSIONER EBERT: Tim, did you say that this dock was for 30-foot boats?

MR. HALL: It's designed, yes, ma'am, for 30-foot boats. And I should clarify, when we talk about 30-foot boats, that's overall. The gentleman was talking about a 26-foot boat. When they're sold, that's usually to the transom, and then if you add -- if it's an outboard motor, you add the two feet or whatever that's associated with the motor. If it has a windless or a bow pulpit on the front, then you add length there as well.

So when we talk about 30-foot boats, it's overall from the very tiptop front of the boat to the back of the motor, not just what is normally sold as a 25- or 26-foot boat.

COMMISSIONER EBERT: Do you feel you could do a little different design?

MR. HALL: Well, I mean, I think we did about -- probably about 40 different designs when we were, you know, going through this. And in talking to -- I'm sad that Mr. Bammel wasn't here, because he was the representative for the dock to the north. He wasn't able to stay because this kind of went later than we had thought it would.

But there are definitely different designs, I mean, that could be done. What we did was take all of the criteria -- you have to remember, when we do this, we look at the Collier County criteria, the State of Florida criteria, and the Army Corps of Engineers' criteria. And two of the big things with the state and the federal agencies is minimize. And they don't look so much at the length but the massiveness or the overall size of the facility.

So to their minds, you look at the single finger going out. That's the least amount of dock or overwater structure that could be done. So you have the least amount of shading associated with that, you have the least amount of material that's out there in case of a storm or something that would blow it -- you know, that would do whatever with it. That's the least-damaging alternative in their eyes, as well as with the submerged land lease.

We much preferred the Christmas-tree design as well. It allows for easier access to the boats, getting in and out. It was harder on the adjacent docks because it left them less room to maneuver, like I said before. It also resulted in more overwater decking and a larger area that would have to be leased from the state.

So when they looked at the alternatives, this straight line going out was, to them, the smallest, because they don't necessarily look at just the length but the overall size of it.

So that's how we ended up with what we were in trying to accommodate the three agencies that we have to go through, as well as the neighbors.

COMMISSIONER SCHIFFER: Donna?

CHAIRMAN CARON: Go ahead, Brad.

COMMISSIONER SCHIFFER: And, Tim, you know, just fiddling here, there is one design that you didn't show, and that's keep the south the same, put two boats and push it up. I mean, you want 15 feet for the boats; is that right?

MR. HALL: Well, the least -- the actual moor- -- from the -- between the mooring piles, I believe, is what Mrs. Caron said was -- Commissioner Caron, is 12 feet --

COMMISSIONER SCHIFFER: Okay. But this works with 15, so it definitely will work with 12. So you put -- the way you have it on the south side of the docks, the same, and then put four boats perpendicular on the north side, the math fits in within the 25-foot setbacks, and you could cut off at least 20 feet, maybe -- that's only 70 feet if you put a dock between the two.

MR. HALL: If you have -- if you have two boats moored, like a finger coming out.

COMMISSIONER SCHIFFER: And put two boats parallel with the finger, and then put two perpendicular off between two boats each, you would fit within there, and it wouldn't have to be that long.

MR. HALL: That is -- that would be 40 -- you'd have 30 feet plus 5 feet plus 12 --

COMMISSIONER SCHIFFER: Fifteen is --

MR. HALL: Plus 15.

COMMISSIONER SCHIFFER: -- is 50, and you said you only need --

MR. HALL: Is -- that's actually 60 feet.

COMMISSIONER SCHIFFER: Whoops. That's 60. No, 30 plus 20 is 50; 30, 5, 15.

MR. HALL: Okay. That's --

COMMISSIONER SCHIFFER: I hope it is anyway.

MR. HALL: That's correct. Yeah, that's 50 feet.

COMMISSIONER SCHIFFER: Okay. So -- and it would fit that way, and it wouldn't have to be that long out there.

MR. HALL: Well -- but then the 50 feet wouldn't allow for the boat to the north to get in and out.

COMMISSIONER SCHIFFER: Well, he would have 13 feet less than what you have now.

MR. HATCHER: Right.

COMMISSIONER SCHIFFER: Well, and -- I mean, the way you draw the picture of them it looks like you could. I mean --

MR. HALL: We're trying to leave -- we were trying -- like -- we were trying to leave him 50 -- between 50 and 54 feet, or 50 and 55 feet.

COMMISSIONER SCHIFFER: Measured from what?

MR. HALL: Measured from the end of that T dock.

CHAIRMAN CARON: I tell you what, while we're all, you know, making our own little drawings, why don't we give the court reporter here a break, and we'll be back in ten minutes. Okay.

(A brief recess was had.)

(The speaker was duly sworn and indicated in the affirmative.)

CHAIRMAN CARON: Really?

MS. BISHOP: Yeah. Listen, I can't lie. I'm one of those people who just can't lie. Okay. So that's just who I am, absolutely.

Karen Bishop for the developer. I wanted to make some statements to not rebut, but just to comment on other things, and I think we may have come up with a design that might be palatable for the commission.

I want to remind everyone, this original conditional use for this project was done in 1998. Those docks were approved in 1998. They weren't built in 1998, but they were approved, and their design at that time was that T dock, which is like how our neighbors have.

Unfortunately, when we went back to try to do that T dock, we realized that wasn't going to work. And then when we submitted our application, the neighbors to the north objected, so we had to make accommodations because we were, in their eyes, blocking their waterways.

So we literally have done 30-plus plans to try to accommodate the number of slips as well as the needs of the neighbors on both sides.

And as an exhibit shown earlier, if you look up and down, a lot of those docks were done when they didn't have to meet the same criteria that we do now. And we appreciate we're the last ones in the block, but we're not trying to do anything other than just get what we got in 1998.

The -- let's see. I don't believe that this is going to be a precedent. I appreciate that there may be some safety issues. We have over 300 feet in that canal. We will be lighting. We will be, in fact, putting reflectors up; however, unfortunately they don't give licenses and do IQ tests at the same time, so I can't look forward to who's going to hit it or not hit it.

We did do a count of boats, because there were other dock facilities that we're involved in. There's about a thousand boats in that area; over 60 percent of them are over 30 feet and above, the size of those boats.

We are a private facility just for the Dunes, so it is not a public place where you're going to have a bunch of different people. It's going to be people who live in the neighborhood up the road are going to come over here, dock 48 hours, and then go home. That's as simple as it gets.

We do have some dredging, but it's up against a seawall because that's where kind of the fill -- which I'm sure -- this is -- same thing goes around all the seawalls, the dirt kind of sits up on that, so that's the only place we're going to do any dredging.

And just so you guys know, we've been permitting this for almost four years, so it's not like we just started and we didn't try to accommodate. Four years we've been trying to get this resolved with everyone being happy.

Based on what we've discussed already, we've agreed that we can drop the size of the boats from 30 feet to 28 feet, which brings the totals down to 100 feet. That's what we can do to try to lessen our impact and to be aligned with our neighbors.

If there's any other questions, I'll be happy to answer.

CHAIRMAN CARON: Thank you. And does anybody have any other questions?

MR. HALL: I just want to clarify something Karen said real quick. The thousand boats in Vanderbilt Lagoon is correct. The 60 percent that she was talking about is not necessarily all the boats in Vanderbilt Lagoon.

We did a traffic study of boats going out to Wiggins Pass through Water Turkey Bay and all. And on the days that we surveyed, 60 percent of the boats that we counted then were over -- were over 30 feet in length, but that was nowhere near the thousand boats that are in Vanderbilt Lagoon. That was just the boats that were traveling on the days that we did the survey.

CHAIRMAN CARON: Right. And you also don't know that they actually moor in the Lagoon either, so --

MR. HALL: Well, yeah. It's just --

CHAIRMAN CARON: Whoever was traveling there. That's fine.

MR. HALL: It was a -- it was a sunrise-to-sunset study, so if they weren't mooring in there, then they had been driving around at night, so --

CHAIRMAN CARON: Okay.

COMMISSIONER SCHIFFER: So what does that put us? We have -- we dropped six feet off the dock?

CHAIRMAN CARON: We brought the dock in line --

COMMISSIONER AHERN: With the neighbor.

CHAIRMAN CARON: -- with the dock to the north. It is out with its lifts to 100 feet, actually 99 feet when you do the math.

So if we do that, then there is no protrusion beyond what's already there on the larger dock to the north, and they get their six slips, and I would think that everybody would be -- while not up and down happy, would at least be content that we're not setting any length precedent in here, which would be a terrible thing to do. It would definitely go against the Vanderbilt Overlay. They are trying very much to keep everything in scale and proportion, and we have to work with what we've got.

The petitioner for his side of things has had to jump through numerous hoops in order to accommodate this permitted dock that got permitted back in 1980 with no setbacks, and even the dock to the south, while it's obviously much shorter, still only has 14 feet, and we definitely require 15 feet now, especially if you're going to have that configuration where you've got to try to get out.

So, I don't know. I think it's a good solution.

COMMISSIONER SCHIFFER: Okay. I'll go with you on that.

But, Rocky (sic), can you put two red lights on the end of that dock? And the reason, too, is when the one bulb burns out, hopefully you'll change it before the other one does.

MR. HALL: Okay. Yeah, I'm a little bit younger than Rocky, but I understand we do look a little bit alike.

COMMISSIONER SCHIFFER: I'm sorry.

CHAIRMAN CARON: Please.

COMMISSIONER SCHIFFER: Yeah, I'm sorry.

MR. HALL: We don't have any objection to that.

COMMISSIONER SCHIFFER: But two. You have power out there?

MR. HALL: Two. We could put one on each corner.

COMMISSIONER SCHIFFER: Perfect.

CHAIRMAN CARON: Makes sense. Thank you.

Okay. So I guess we need to put this in the form of a motion.

COMMISSIONER SCHIFFER: Which I will do.

CHAIRMAN CARON: Thank you.

COMMISSIONER SCHIFFER: I move -- and this doesn't have to be forwarded.

CHAIRMAN CARON: Yeah.

COMMISSIONER SCHIFFER: This is it.

CHAIRMAN CARON: This is it.

COMMISSIONER SCHIFFER: That we approve BD-PL2010-1685, the Vanderbilt Beach boat-dock extension.

COMMISSIONER KLEIN: Second.

CHAIRMAN CARON: With the revisions?

COMMISSIONER SCHIFFER: With the elimin- -- you know, with it chopped down to 100 feet and the addition of two red lights at the tip.

CHAIRMAN CARON: And the staff stipulation?

COMMISSIONER SCHIFFER: And all staff stipulations.

CHAIRMAN CARON: Okay.

COMMISSIONER KLEIN: Second.

CHAIRMAN CARON: I think -- second, okay. Thank you.

All in favor?

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

COMMISSIONER CARON: Aye.

CHAIRMAN CARON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: (Absent.)

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN CARON: Thank you. No opposed? That was everybody, so no one was opposed.

There you go. Thank you, everybody, for hanging in. I do, however, want to have staff hang in here for a minute, because I want to talk about this boat-dock situation in Vanderbilt.

I want to make sure that when these come before us there has been consideration for the Vanderbilt Beach Overlay. This cannot be forgotten and ignored again.

Secondly, it's even more important with situations like this, because this was a conditional use to begin with. Already you have compatibility issues that have to be addressed. And extending those, the boat docks, makes you revisit those same compatibility issues, which is what we did here today and tried to get that accomplished.

But I just want to make sure that the Vanderbilt Beach Overlay is not ignored when functioning when we're doing things in Vanderbilt Beach. Let's pay attention to these overlays. People work very long and very hard and spend a lot of money getting them done, and we should pay attention.

We don't want the people not paying attention in Commissioner Coyle's area for the Bayshore Gateway Triangle, we don't want them in Fiala's district not to pay attention to the Goodland Overlay, we don't want them in Henning's -- Commissioner Henning's area not to pay attention to Golden Gate's master plan, or Commissioner Coletta's district for the Immokalee Master Plan or the Golden Gate Estates plan. So let's not do it in District 2 either. We need to pay attention.

And I appreciate it, so thank you. I appreciate the extra work that Nancy did finding ancient permits; not an easy thing. So thank you very much.

COMMISSIONER SCHIFFER: Move to adjourn.

CHAIRMAN CARON: Do I have a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN CARON: Thank you. Thank you, everybody, for hanging in so long.

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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 4:17 p.m.

COLLIER COUNTY PLANNING COMMISSION

MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 7/7/2011, as presented ✓ or as corrected

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