

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, September 17, 2020

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:

Edwin Fryer, Chairman  
Karen Homiak, Vice Chair  
Patrick Dearborn  
Karl Fry  
Joe Schmitt  
Tom Eastman, Collier County School Board Representative

ABSENT:  
Paul Shea

ALSO PRESENT:  
Raymond V. Bellows, Zoning Manager  
Jeffrey Klatzkow, County Attorney  
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

CHAIRMAN FRYER: Good morning, everyone, and welcome to the September 17, 2020, meeting of the Collier County Planning Commission.

Will everyone please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: Will the secretary please call the roll.

COMMISSIONER FRY: Mr. Dearborn?

COMMISSIONER DEARBORN: Here.

COMMISSIONER FRY: I'm here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER FRY: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRY: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRY: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER FRY: Mr. Shea?

(No response.)

COMMISSIONER FRY: Mr. Chairman, we have a quorum of five.

CHAIRMAN FRYER: Thank you, Mr. Secretary.

COMMISSIONER FRY: I struggle with that math every time, don't I?

CHAIRMAN FRYER: But you're getting it right.

COMMISSIONER FRY: I'm getting it right. That's the important thing.

CHAIRMAN FRYER: Thank you. All right.

Agenda addenda. Mr. Bellows?

MR. BELLOWS: Yeah. For the record, Ray Bellows. On today's agenda we have a continuance of Agenda Item 9A5, 9A6, 9A7, and the last one, 9A8, and that's going to the September 25th, a special meeting day on Friday.

CHAIRMAN FRYER: Good. And, of course, that's so that those applicants don't have to wait around here all day for a .001 percent chance that they would be reached, so I think that makes good sense.

MR. BELLOWS: Yeah.

CHAIRMAN FRYER: Is there a motion by the Planning Commission to --

COMMISSIONER SCHMITT: I make a motion as stated.

COMMISSIONER FRY: Second.

COMMISSIONER HOMIAK: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: Motion carries. Thank you.

Other announcements, sir.

MR. BELLOWS: And are you going to announce a time-certain on 9A3?

CHAIRMAN FRYER: I will or you will.

MR. BELLOWS: Okay. Why don't I do that now?

CHAIRMAN FRYER: Okay. Perfect.

MR. BELLOWS: Agenda Item 9A3 is scheduled to be a time-certain at 3:00 today. And that's 9A3.

CHAIRMAN FRYER: Well, we have --

MR. BELLOWS: Or 4, excuse me.

CHAIRMAN FRYER: We have --

COMMISSIONER SCHMITT: 9A4.

CHAIRMAN FRYER: 9A4 is 3:30.

MR. BELLOWS: Yeah, 9A4.

CHAIRMAN FRYER: 3:30.

MR. BELLOWS: 3:30?

CHAIRMAN FRYER: Yep. And that's to accommodate the applicant's need otherwise to have gotten a readvertising. So we don't want to put them through that. They'll be able to start, and then we'll be able to continue it to a day certain upon their completion of whatever they can complete before 4:00 p.m., and we have a hard break at 4:00 p.m. because the Board of County Commissioners comes in at 5:00 for a budget hearing.

Mr. Bellows?

MR. BELLOWS: That's all I have.

CHAIRMAN FRYER: Okay. Thank you very much.

Planning Commission absences. On your screen you see that we've got a meeting on September 25 for the continued items from today. So please let me know, anyone know that they will not be available on that date?

(No response.)

CHAIRMAN FRYER: Okay. That means we will have a quorum. That's a good thing.

Then October 1 is our first regular October meeting. Does anyone know whether they will not be in attendance for that?

(No response.)

CHAIRMAN FRYER: Okay. Once again, we'll have a quorum. Then we have a 5:05 p.m. meeting on October 8 for an LDC matter. And for your information -- and I'll look at the vice chair and ask her if she will be here in person for that.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN FRYER: Good, because I will be participating electronically for that.

COMMISSIONER HOMIAK: Oh, okay.

CHAIRMAN FRYER: So under the ordinance you'll need to preside.

Okay. All right. Approval of the minutes -- approval of the minutes. We don't have any minutes to approve.

Chairman's report: I have none at this point.

Consent agenda: Once again, none.

\*\*\*Advertised hearings: First matter to come before us is the Yahl Mulching small-scale Growth Management Plan Amendment adoption hearing. This is PL20190001052, the air curtain incinerator matter, and it is companion to the conditional-use application numbered 20190000948. And this item had been continued from our June 16, our July 16, and our August 20 meetings.

We've already heard what I assume will be most of the evidence. But all those wishing to testify in this matter, please rise to be sworn in by the court reporter.

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

CHAIRMAN FRYER: Okay. Ex parte disclosures from the Planning Commission, and

I -- County Attorney, please correct me if I'm wrong, but I don't think we need to disclose anything except what's happened since our last meeting.

MR. KLATZKOW: Correct.

CHAIRMAN FRYER: Thank you.

Okay. Patrick?

COMMISSIONER DEARBORN: Nothing new to add.

CHAIRMAN FRYER: Karl?

COMMISSIONER FRY: Nothing other than an email from Planning Commissioner Shea that we all received.

CHAIRMAN FRYER: All right. I also received that one-way communication, and I've had conversations with staff and communications with applicant's counsel.

COMMISSIONER HOMIAK: Just email.

COMMISSIONER SCHMITT: Well, likewise, no discussions with anyone other than an email that Nancy forwarded which was a letter from the applicant's attorney. I believe -- was it the attorney?

MS. GUNDLACH: I forwarded an email from Paul Shea this week.

COMMISSIONER SCHMITT: Yeah. And I got the email from Paul Shea as well that you forwarded. He was not communicating directly with us. It was something you had forwarded.

MS. GUNDLACH: That is correct.

COMMISSIONER FRY: There was also a rebuttal email forwarded; is that what you're referring to?

COMMISSIONER SCHMITT: That's the one I was citing. There was a rebuttal email. I can't remember -- I believe that either came from one of their -- the applicant's professional --

MS. GUNDLACH: Came from the agent, yes.

COMMISSIONER SCHMITT: -- agent, yeah.

CHAIRMAN FRYER: Okay. Thank you very much.

MR. EASTMAN: No disclosures outside of the public record.

CHAIRMAN FRYER: Thank you. Sorry, Mr. Eastman.

Okay. We're going to begin by asking staff in the person of Ms. Gundlach to update us a little bit since it's been a while since we've thought about it, although I hope everyone's done their homework. But, please, Ms. Gundlach, if you'd give us a quick precis.

MS. GUNDLACH: For the record, Nancy Gundlach, principal planner with the Zoning Division.

And a lot's happened since this was heard back in June, and I have a quick presentation to share with you. We'll begin that right now.

Okay. At our petition on June 16th, there was some requests made of you for us to address, and the first one was to contact the Greater Naples Fire District, and Chief Shawn Hanson should be here this morning -- we're expecting her -- to answer any questions you might have related to fire issues.

And you also had requested a trip count based on the current AUIR, and that is in the Transportation Impact Statement, also known as a TIS. And you also requested -- I believe it was you, Commissioner Schmitt -- some information on the history of no open burning at the landfill, and we did receive a memo that there's been no open burning at the landfill from the director.

COMMISSIONER SCHMITT: Okay.

MS. GUNDLACH: And also you had requested that additional sprinklers be added to the site. As part of your CCPC package, there was a site plan showing the additional sprinklers.

And the next request is no charging shall take place when winds are greater than 15 miles per hour for a period of 20 minutes. And also, along with F, the fire alert system shall be in place

during evening hours. That has been added to the emergency action plan. And also public access times, and that has been shared with us as well, and that was part of your packet.

And -- okay. And then just to share with you, staff did meet with Chief Hanson via teleconference, and we have some additional conditions of approval that we're recommending, and that is, No. 1, that the property owner shall comply with any and all applicable codes with an approved emergency plan agreement as determined by the Greater Naples Fire District and the Collier County Bureau of Emergency Services.

Number 2, the ACI shall be properly installed and anchored per the Collier County Land Development Code, the Florida Building Code, and the Florida Fire Prevention Code.

And, Number 3, the ACI facility requires an insubstantial change to a Site Development Plan approval.

And that concludes our presentation. If you should have any questions, we have our subject-matter experts here from staff. And I'm looking for Chief Hanson. I'm hoping she's out there. But she did confirm she's coming, so maybe she got tied up somewhere.

CHAIRMAN FRYER: Good. Please let us know when she arrives.

MS. GUNDLACH: We will.

CHAIRMAN FRYER: Any questions or comments from the Planning Commission?

COMMISSIONER SCHMITT: Yeah, I do.

Nancy, just for clarification, the Florida Building Code is actually the International Building Code, IBC, adopted by the State of Florida. But it is the IBC, just for clarification.

MS. GUNDLACH: Okay. Would you like us to change that reference?

COMMISSIONER SCHMITT: Because Florida doesn't create its own building code. They adopt based on the IBC, which the county adopts as well.

MS. GUNDLACH: Okay. Thank you.

CHAIRMAN FRYER: Any other questions?

(No response.)

CHAIRMAN FRYER: I have one for Mrs. Gundlach. When we considered this last, there was an Exhibit C called conditions of approval that had seven points on it. The last -- oh, I see Chief Hanson. Thank you. The last point, just so that we know we're talking about the same thing, was a continuous minimum 6-foot height mulch or topsoil pile. All that -- all those conditions are still a part of the staff's approval?

MS. GUNDLACH: Correct.

CHAIRMAN FRYER: Okay. Thank you very much. I just wanted to be sure. Anybody else?

(No response.)

CHAIRMAN FRYER: If not, then we will ask the applicant to continue with his presentation.

By the way, Ms. Gundlach, thank you for the slides as well. That's always especially helpful.

MR. WRIGHT: Good morning, Mr. Chairman, Commissioners. I'm Jeff Wright with the Henderson Franklin law firm here on behalf of the applicant. We have our team with us: Jim Golden and Bruno Ferraro from Grow Scientific, and Jeff Ekis, the site manager.

Just to overview the procedural posture, in June, the case was heard, a hearing was held, public speakers were heard. And one of those public speakers, surprisingly, I think, to everyone here was the Solid Waste Department. And despite having a recommendation of approval from staff, Solid Waste expressed concerns about a potential for a fire risk at the nearby landfill.

So the matter was continued so staff could evaluate those solid waste concerns and to see whether or not it would change their recommendation of approval to a recommendation of denial or whether it could be properly conditioned.

Well, thankfully, staff has concluded that they're still recommending approval but it's going to be more heavily conditioned than the original proposal that we brought to you in June.

As I mentioned in June, the -- and the Chairman just alluded to, there are seven original conditions that we brought forward. Those seven were the result of our neighborhood information meeting, and one of those conditions incorporates a 44-page rulebook that has additional restrictions and mandates for operations on site.

As Commissioner Schmitt pointed out last time, those conditions in a conditional-use resolution are enforceable by Code Enforcement. So what we really have is the seven that we started with that incorporate the rulebook that has literally, I'd say, 50 to 100 additional conditions incorporated into that rulebook, and after those seven that we offered as a result of our neighborhood meetings and since June, as Nancy pointed out, we have added eight more. So we have 15 new conditions with this application.

One of those conditions, I have to point out, incorporates the prior conditional-uses condition, and there were 13 of those. So when I add it up, there's 28 conditions. And as I mentioned with that rulebook, I think this is the most heavily conditioned conditional use I've ever seen. And I worked at the county for 10 years, and I've been practicing for quite a few years as well.

Now, we want to be good neighbors. We want to get along with Solid Waste, and we did everything we could to address their concerns. I reached out via email to Dan Rodriguez, who I believe is here. I talked to him before the hearing, and he said he hadn't gotten my email. I sent it in June promptly after this hearing.

We've also gotten a letter from Solid Waste where they put their concerns in writing. We tried to address those concerns by adopting an additional condition, which we've incorporated into this proposal today, and we never heard back from them. So we felt the need to submit our written rebuttal to their written opposition.

Now, as I mentioned, there were eight new conditions since we last saw you. Three of those were prompted by the fire district, four by the Planning Commission, and one, as I mentioned, was from Solid Waste. And I have to compliment Nancy. She did a great job summarizing those conditions in her memo. And I understand that you may have questions of us. We have our experts here. I also notice that Dan Rodriguez is here in the crowd. So we just want to have an opportunity to respond to whatever Solid Waste might have.

With that, that's it.

CHAIRMAN FRYER: Questions for Mr. Wright?

Go ahead, Secretary.

COMMISSIONER FRY: Jeff, good morning.

MR. WRIGHT: Good morning.

COMMISSIONER FRY: Just reiterate for us what the benefits of the ACI, the air curtain incinerator, are for Collier County and the residents.

MR. WRIGHT: Okay. Now, we do have our experts here, and they're very well versed in this technology, but I'll give you a quick list, and if we need more, we can always rely on them.

It's a logical evolution of this site. This site already has mulching and recycling and transfer site for waste. And this is a new modern technology. And at the last hearing we put a lot on the record. It boils down to, it's modern. It's green. It's efficient. It's safe. It's quiet. It will create less dust and noise than mulching and less traffic than currently exists at the site. And, of course, less horticultural waste and also a valuable byproduct, excellent fertilizer.

I think the big thing is, mulch fires are a problem here, and by relying less on mulch and relying more on ACI, they remove a fire threat as well. So, like I said, we have our experts here to elaborate further.

COMMISSIONER FRY: Okay. I believe the Solid Waste Department had a -- the

impression, as I recollect, was there was some threat to their revenue from this air current incinerator operating versus them handling the waste. What is an update on that?

MR. WRIGHT: Well, like I said, we want to be good neighbors. They're in the same business as we are, and that's really -- you know, there's -- the term "competitor," "competitiveness" came up at the last hearing. And Solid Waste made a comment that currently the volume of horticultural debris that Yahl processes on site, the county gets credit for that, and that's fine. But without that, they lose that credit. So that's one thing that Solid Waste had a problem with.

There's also a -- you know, I'd leave it to them to make their case, but -- yeah, the biggest problem that we have with Solid Waste is we feel that they're acting out of fear and not out of science, and that's why we have, literally, a combustion expert here who teaches combustion to other operators of these machines and to go through the facts and the science versus the fears, because the science shows that there's zero threat to the landfill, and we're happy to present that testimony right now.

COMMISSIONER FRY: Okay. Last question. There were, I believe, public speaker neighbors that had concerns about fires, you know, that despite all the planning and prevention measures -- and I see a bunch of new conditions that are related to fire prevention and emergency management plans and such. I believe we'll have public testimony again today; is that correct, Chairman Fryer?

CHAIRMAN FRYER: Yes.

COMMISSIONER FRY: What are we likely to hear today? And has there been any progress in addressing their fears of fire spreading from this site?

MR. WRIGHT: Well, my understanding was that the public hearing had been closed. Now, obviously, you have the prerogative to call anybody up that you want to hear from, but -- so I wasn't expecting the public to have a portion of this meeting.

Now, if they were to speak, I think they would say the same thing that they said before. There's an individual with a respiratory condition, and we have a condition within our resolution to address the wind direction. Solid Waste's condition that we recently added was also related to wind direction.

So I expect that they will express fear over the potential for fire. And if I were in their shoes, I might, too, because I'm not an expert in fire or combustion.

But Bruno is, and he'll tell you that there's no risk. So they're likely to express fears about fire. And I think this spring they had a recent event that probably makes -- it's fresh in their mind. Also noise. And we established at the last hearing that this engine's small. It's an 85-horsepower engine. And I think our expert testified they'll hear the trucks. We won't see the -- they won't hear the ACI. And the one way you can tell if it's running or not is to see if there's heat waves coming from it, because there's no visible emissions when it's operating.

So I would expect noise, odor, dust control, all those types of things that any reasonable neighbor might raise. And I think that we've addressed every single one of those. And if you look at our operating plan, which is one of the conditions, incorporated in one of the conditions, there's details on dust suppression, wetting the area around the facility, and making sure that it's safe for everybody.

Now, these wind limitations that we've put in there are designed, in the unlikely event that there's an ember, that the ember won't travel because the wind won't allow it to. And we have a buffer around the whole site. That's why we picked three acres for this thing. It's not three acres large. It's a small -- not much bigger than a semi-truck, but we have three acres so we can have adequate buffering and sprinklering and a berm there all intended to protect the neighbors and address their concerns.

COMMISSIONER FRY: That's all I've got. Thank you.

CHAIRMAN FRYER: Thank you.

Any other Planning Commissioners with questions, comments, please?

(No response.)

CHAIRMAN FRYER: If not, I just have a couple.

First of all, I have it in my recollection, but I don't believe I have it in my notes, that a commitment of some kind might have been made on behalf of your client that in the event of a hurricane or other disaster, the need to dispose of all of the loose waste that would be brought about by the high winds and other characteristics of the hurricane. Would -- it's indicated that your client would be willing to receive that material. My question is is that, would there be a tipping fee charged to the county?

MR. WRIGHT: I'm not sure that we've looked that far ahead as to whether there would be a tipping fee. Now, I have -- Jeff Ekis is here, the site manager. And the first half of that inquiry is, of course, we're there, and we want to be good neighbors. We're here to help.

I was at the county. I saw some of the contracts that they have to let for cleaning up debris, and millions of dollars. So we're there. We're neighbors. We want to help. We want to be part of the team.

So -- now, as to whether or not a tipping fee would be charged, this goes to the competitive question, because right now you have two facilities that both process horticultural waste. And one of them, we hope, will be able to do it more efficiently and more cheaply than the other, and that's the Yahl Mulching site. So the idea there is if there is a tipping fee, it would be, presumably, substantially less than what the county would have to charge. And I will tell you right now -- and I'll defer to Jeff in case he's got a -- Jeff Ekis, that is, that we would do everything we can to avoid charging a tipping fee.

CHAIRMAN FRYER: Okay. So as not to tread anywhere near close to the concept of an exaction, I won't ask for anything further. But I just wanted to know what the spirit was on the part of your client, so thank you.

And I believe those are all the questions that I have of you, sir. You're going to -- are you going to call upon Chief Hanson, or do you want us to?

MR. WRIGHT: I'd be happy to. I don't want to treat her as a hostile witness or anything. I just want to hear what they have to say.

My understanding is -- first of all, I want to say thanks to Great Naples Fire Department, because Chief Hanson and her team, they traveled to another off-site location out of this county to go look at one of these things and get a first-hand observation on how they work, so I wanted to thank her for that. But other than that, I just wanted to -- we have their support. We have their conditions incorporated into our approval. And I'm just anxious to hear her say the same, but we don't need to call her. Thank you.

CHAIRMAN FRYER: Well, I'll ask her, please, if she would, to come up and give us that confirmation. And we that know you're busy today, Chief, so we won't take up a lot of your time.

Chief, have you been sworn in?

CHIEF HANSON: No, sir.

CHAIRMAN FRYER: Would you mind.

(The speaker was duly sworn and indicated in the affirmative.)

CHIEF HANSON: I do.

Hi, good morning.

Yes. To address what Jeff just said is, so I have been to another site just north of Tampa, so I have gotten to witness an ACI firsthand. I have gone out to the Yahl Mulching site, so I can actually factor in all conditions.

And what I can say is -- at this point is that all of the staff at Yahl Mulching's been super cooperative. They do know that they have work to do to become code compliant, which is really



what our main concern is. In addition to the Florida Fire Prevention Code, they do have certain parameters that they have to meet for the Florida Forest Service as well as DEP. So all of those things have to combine and be there before we can say, yeah, you-all are good to go with your ACI, because there are two pieces we have to look at. One is their normal operations and then bringing in the ACI.

CHAIRMAN FRYER: Thank you. So, Chief, in your opinion as an expert in this area, which, of course, you are, you would not consider -- if we were to approve this project, you would not consider that to be an unreasonable action on our part, would you, without -- that we haven't duly regarded the safety issues and factored those in?

CHIEF HANSON: Correct.

CHAIRMAN FRYER: Okay.

CHIEF HANSON: As long as they meet all the conditions that we put forth, including the emergency operating plan and any code requirements, that is -- that's really what we would be looking at.

CHAIRMAN FRYER: Thank you very much. I appreciate that.

CHIEF HANSON: You're very welcome.

CHAIRMAN FRYER: Does any other planning commissioner have questions for Chief Hanson?

COMMISSIONER FRY: Yes.

CHAIRMAN FRYER: Please go ahead, Secretary Fry.

COMMISSIONER FRY: Chief Hanson, thank you for being here.

CHIEF HANSON: You're very welcome.

COMMISSIONER FRY: Just curious, Mr. Wright mentioned there are 28 conditions on this -- on this application right now, and I know a lot of those -- many of those -- and I think some of the more important ones to a lot of people in this room would be those that prevent the chance of fire spreading from this facility.

Can -- the number of conditions and requirements that are put in place, can those be effectively managed, and can we have reasonable certainty that that -- even though -- a lot of conditions appears complex to me to manage. Should we have certainty that we can effectively manage those things and that all those requirements will be met?

CHIEF HANSON: I can't speak to the requirements that are outside of my purview. I can only speak to what's going to be required within our emergency plan and anything that's required by the Florida Fire Prevention Code. I can say that we would not allow any type of burning if they are not 100 percent code compliant and we're not comfortable with what the layout ends up being.

COMMISSIONER FRY: Would your organization be monitoring their compliance periodically?

CHIEF HANSON: Yes. Absolutely, yes.

COMMISSIONER FRY: How often would that occur?

CHIEF HANSON: Well, that's going to depend upon how often they plan on doing their actual burning, and it may come down to the time of the year. One of the things that we would be looking at is daily burn authorizations, whether that comes from the Florida Forest Service or whether they notify us. If the conditions aren't so, that we're concerned that it's an excessively windy day and it could potentially break the air curtain within the incinerator, which is when you see a little bit of combustion, you know, that would be one of those things where we'd say, yeah, can you not burn today.

And, again, just with my interactions with them, I'm confident that they're willing to cooperate and go with that.

COMMISSIONER FRY: Are you saying that they will need approval every day to run

the incinerator?

CHIEF HANSON: As what is typical with any type of open burning, any open burning, whether it's land clearing, whatever it is, is required to get a burn authorization through the Florida Forest Service, and that is a daily burn authorization, and that is one of the conditions that we would put within our emergency operating plan with them that they would have to do.

COMMISSIONER FRY: And so I would assume that would be subject to the weather, what's occurring, the fire danger --

CHIEF HANSON: Correct.

COMMISSIONER FRY: -- as well as previous compliance --

CHIEF HANSON: That is correct.

COMMISSIONER FRY: -- in following all of the conditions that you've required?

CHIEF HANSON: Correct.

COMMISSIONER FRY: Okay. Thank you.

CHIEF HANSON: Yes, sir.

CHAIRMAN FRYER: Any other questions for the Chief?

(No response.)

CHAIRMAN FRYER: If not, thank you so much, Chief, for being here. We appreciate it.

CHIEF HANSON: You're very welcome. Thank you.

CHAIRMAN FRYER: Thank you.

I just have a couple more questions, and then I've also been asked to read an email. First of all, with respect to hazardous waste, at the NIM I believe it was mentioned that that just wasn't going to happen. I don't know if that's a 100 percent guarantee or what the real likelihood is that some hazardous waste might like being burned. I'd like to have a little more of a record made on that point, please.

And, of course, the hazardous waste we're most concerned about is something that is covert or not visible, because I know you're not -- you don't intentionally receive hazardous waste. But what steps are taken to avoid some sneaking through?

MR. WRIGHT: Mr. Chairman, I have Bruno Ferraro to answer that question.

CHAIRMAN FRYER: Okay.

MR. FERRARO: Good morning, everyone.

To answer the question about hazardous waste, hazardous waste is a very specific type of contaminant. And we're dealing with large pieces of trees and brush and things like that. If there was -- there's also going to be spotters that will separate things that are not allowed to be burned at an air curtain incinerator. And there is a list of those in the Department of Environmental Protection permit that will say what you can and can't burn.

So if there's anything suspicious that doesn't look like a tree or branch or something that's vegetative, it's going to be pulled out. So if there's a container like a gasoline can or something like that that's in it, it's going to be readily noticeable, and the spotters that go through these waste piles will pick them out. So that's what prevents any kind of stuff; plastic, paper, things like that, also.

CHAIRMAN FRYER: Okay. What about wood from a demolition job that has been painted with lead-based paint?

MR. FERRARO: That's a very good question. C&D material is not going to be burned in an air curtain incinerator. It's not considered clean wood, so they would not allow C&D to even be part of that pile. It's just clean vegetative waste.

CHAIRMAN FRYER: D -- the D is demolition, and what's the C?

MR. FERRARO: Construction and demolition debris.

CHAIRMAN FRYER: Oh, okay.

MR. FERRARO: So if there was a hurricane and there's a lot of mixed waste and things like that, they would be very careful not to be burning that kind of material and just taking the downed trees and that sort of material.

CHAIRMAN FRYER: Okay. Thank you, sir.

Also, there was a reference to some of the materials, and I'm not sure where the applicant is on this, so I'll just ask the question, and it may more appropriately be for Mr. Wright. But my question is, is the applicant willing to put the fire out every night or anytime otherwise that there is nobody on site?

MR. FERRARO: I could answer that.

CHAIRMAN FRYER: Please.

MR. FERRARO: You just can't shut an air curtain incinerator off. You have eight tons of material at the end of the day that's going to burn down, and it's going to burn down naturally. You do not want to place water on that fire. Number one, it makes a lot of steam, and it throws a lot of particulate into the air, embers into the air. You do not want to put the fire out with water or dirt. It is -- it will smolder. It will make smoke.

You want it to burn down naturally. It's inside of a large rectangle refractory-lined firebox that's designed to contain the heat and allow that material to burn down. It typically will burn down in a couple of hours, but the next day you will have embers at the bottom of it, okay.

It will stay hot. The next day they only have to add vegetative material to start the fire again, turn on the fan. They don't need any more fuel to start the fire, because it will be still hot. That's the truth of the matter.

CHAIRMAN FRYER: Okay. All right, sir. I think that's all I have --

MR. FERRARO: Thank you.

CHAIRMAN FRYER: -- other than Planning Commissioner Shea, who is absent today as a result of a medical matter, has asked me to read his email into the record, and so I'm going to do that. And the print is a little small here, so I hope I get it right.

But his email, which was addressed to Mr. Bellows and Ms. Jenkins, it says, I do not -- this is from Paul Shea. It says, I do not have all the paperwork, as I am in the hospital, but I do have a very strong opinion that I would like to make.

I've been in the heavy equipment processing business focusing on the environmental sector. The one thing I have learned is if anything can go wrong, it will. This could be a result of equipment error, human error, or act of God. This is a highly vulnerable area to fire, and the county landfill down the road can deal with the material without creating a potential public issue.

I fail to see how approving this request will benefit anyone but the applicant while putting the rest of the county residents at great and unnecessary risk. I strongly oppose this request with little to no possibility to change my mind. This would be a big mistake to approve.

And then he says, Anita, could you please forward this to Commissioner Fryer and make sure someone reads my email into the record before the Commissioners vote on the matter on Thursday.

And the first thing I want to say is heartfelt thanks to Commissioner Shea who, although he's in the hospital and is unable to participate in any fashion, nonetheless, is taking his responsibility seriously enough to have sent this communication, and we are very, very grateful, indeed, to have him on the Planning Commission. He certainly is far more knowledgeable about this than I am.

All right. Having said that, I'm going to ask the applicant very quickly, so we can wrap this matter up, is there anything you wish to say to respond to Commissioner Shea's point?

COMMISSIONER SCHMITT: Do we have any other public speakers?

MR. BELLOWES: We have some public speakers, but we also have Dan Rodriguez with Public Utilities that would also like to speak on this item, if we can call him up now.

CHAIRMAN FRYER: Of course, yeah. Well, before we go to the public speakers, do you have something you want to say?

MR. WRIGHT: Well, I just wanted to say in response to Commissioner Shea's email, that's the first we heard of that, and we understand his concerns. Thankfully, we have our expert here, and hopefully we'll put enough on the record to convince you that the science supports our application. And as far as a great risk that he alluded to in his email, it's not true. There's not a great risk, and we'll have an expert elaborate on that as well, if we'd have that opportunity after Mr. Rodriguez, perhaps.

CHAIRMAN FRYER: All right. Anything further from the applicant before we go to public comment?

MR. WRIGHT: Nothing other than a chance to rebut.

CHAIRMAN FRYER: Of course you'll have that.

MR. WRIGHT: Thank you.

CHAIRMAN FRYER: Certainly.

All right. Public comment?

MR. BELLOWS: Dan Rodriguez.

MR. RODRIGUEZ: Thank you, Ray.

Good morning, Planning Commissioners. For the record, Dan Rodriguez, your Deputy Department Head, Public Utilities, and your former Solid Waste Director for 13 years, and also with our teams of professionals, we were responsible for doing some of the largest debris missions in the state of Florida after Hurricane Irma, removing 3.5 million cubic yards of debris in about three months and, during Hurricane Wilma, about a million-and-a-half cubic yards in just over four months. So we're familiar with operations as it relates to debris removal processing, horticulture waste and whatnot.

So with that, I want to thank you for the opportunity to come before you and to present staff's recommendation to not support any type of incineration here in Collier County and, more specifically, to not support this incineration project next to the county landfill, residents, or future community recreational areas.

As Kari Hodgson, our Solid Waste Director, has stated to you previously in this boardroom and in writing, this thermal incineration method is not a good method for disposal for horticulture waste, as it generates air pollution and creates an unwanted fire hazard adjacent to the landfill and surrounding woodlands, thus potentially putting our infrastructure and residents at risk.

As many of you are aware and familiar with, the Board of County Commissioners adopted the Collier County Growth Management Plan, public facilities element of the Solid Waste. This comprehensive and strategic plan, which mirrors our integrated Solid Waste strategy, was based on enduring guiding principles which are outlined on Page 2 of that sub-element.

The first and, certainly, one of the most important guiding principles is environmental and growth management compliance. Environmental compliance means managing the impacts of air, soil, water, and wildlife as well as the quality of life impacts to the community, such as aesthetics, odor, noise, and traffic.

Planning Commissioners, this incineration project is in direct conflict with these guiding principles. County staff and our leadership have fought for years to ensure and maintain the landfill be compliant and that there are no off-site odors.

As many of you remember, during the '90s, we had tremendous air issues with the landfill where if you were at Golden Gate City at the community park, you could smell the odors coming from the landfill. Now, granted, they were not from incineration but more management practices of the operation of the landfill.

I remember as a young park ranger patrolling that park smelling that odor and saying, how can this come about? And I remember the Commissioners at the time and some of the current

Commissioners fighting to shut down the landfill to prevent those odors from getting into the community.

My department head, Dr. Yilmaz, worked diligently with our commissioners and leadership to clean up the landfill and only use disposal methods that did not create odors or impact the quality of life to our residents and local businesses. We have been tremendously successful in maintaining that level of service for the last 25 years.

If I may, I'd like to show you a site map.

Ray, can you put that up for us.

You've probably seen this site map before. There you go.

CHAIRMAN FRYER: Yeah, just occasionally.

MR. RODRIGUEZ: Right. And thank you for your support for those projects surrounding the landfill.

As you are well aware, this is the transportation corridor.

COMMISSIONER SCHMITT: Ray, 180 degrees. Thank you.

MR. RODRIGUEZ: This is the transportation corridor to our community.

COMMISSIONER SCHMITT: Again.

MR. RODRIGUEZ: Yeah, one more time.

COMMISSIONER SCHMITT: One more time.

MR. RODRIGUEZ: And the gateway to our city.

COMMISSIONER SCHMITT: You must be learning how to use that from Rich Yovanovich.

CHAIRMAN FRYER: So north is up now?

MR. RODRIGUEZ: There you go.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Sorry, Rich. He's probably listening.

MR. RODRIGUEZ: Good point.

Is this where we want our residents and visitors who are traveling to and from Collier County, the City of Naples, to see and smell horticulture waste being burned potentially eight hours a day, six days a week? I don't think so.

Please take another look at the aerial map again and notice the development to the west, the county landfill, which you are all familiar with. That is the Collier County Sports Complex Events Center. Our community is spending millions of dollars to provide a venue where our residents, visitors, and youth can come and play on a large scale. If you've not had a chance to visit the site, I encourage you to. It's very impressive. As you can see from the picture, much of the infrastructure is already in place.

This incinerator project is in direct conflict with this project where we are promoting our residents to get outdoors, enjoy nature on these state-of-the-art athletic fields and venues in a clean-air environment. Can you imagine when this site is filled with several thousands of people and everyone on the fields, sidelines, and the venues asking, hey, what's that smell seven days -- six days a week? How much have we invested in this development?

I also need to mention that along this business corridor are several hotels that currently operate, and others are coming. Do we want our visitors to wake up in Collier County who've stayed the night, excited about going to the beach, excited about going to this venue and saying, hey, what's that smell? Absolutely not.

Additionally, Planning Commissioners, we have all heard the term NIMBY; not in my backyard. Would we allow an incinerator to be placed in our development? Would you want the chance of burnt -- the chance that burned horticulture waste permeates the air as you are working in your yard or plant beds? Absolutely not.

Collier County Government has done very well to maintain good neighbor policy with our

neighbors at the landfill. We need to continue to reinforce the relationship following our guiding principles and protect our environment. Our Solid Waste director, Kari Hodgson and I, will continue to work on plan presentation to the Board and get further guidance from our County Manager to recommend that this project not be recommended or approved.

One more picture, if I could just show. I forgot to show this picture. I mentioned if you get a chance to go out and see the site, those are the fields. Just behind the fields, I think from this viewpoint, this vantage point, you can see the operations. The landfill's just behind there. We are going to be pressed to provide even greater service to make sure that there are no off-site odors.

In the 13 years that I've managed the landfill and probably the 20 that my boss has, we've probably had maybe two complaints that were validated coming from there, the landfill. That incinerator's just on the other side that's going to be burning six days a week, smoke, the smell of wood. We've all had campfires. We've all smelled it. I'm not quite sure what the volume is, the number of tons they plan to burn a day, but I can assure you, no matter where the wind's blowing, you're going to smell it, and it's going to permeate through the neighborhood.

Thank you, Ray.

So with that, I appreciate your time and support and your efforts to help us keep Collier beautiful, Collier County beautiful, and maintain our vision to have truly the best place to work and play. Thank you.

CHAIRMAN FRYER: Thank you. And before I open it up to substantive questions or comments, I have a procedural one. And, at first blush, it's somewhat awkward for the county to be speaking to us with two voices, but on the other hand, I think it's probably a sign of strength that we can hear fully from two strongly held points of view, and so for that I am grateful.

I'd like to know -- I'd like to be educated a little bit, though, about the chain of authority. Is there an official county position at the CEO level, at the County Manager level?

MR. KLATZKOW: You have a recommendation from your planning staff. That recommendation is based -- we all live in silos in the county, all right. And the planning staff's silo deals with the LDC, the Comprehensive Plan, and that's what they're making their recommendation on.

Mr. Rodriguez has a different silo, all right, and different concerns, and he's making a different recommendation. So that, yes, you may be getting a recommendation from one side of the building that we're okay with this from a land-use standpoint. Mr. Rodriguez is saying, well, that may be so, but we have the following concerns, and he's laid them out. So you've got a -- and this is unusual, by the way. It's -- I rarely see this. You have the staff report where some of your staff is recommending approval based on the land use. Other staff is saying we disagree with that for the following reasons, and that's fine.

CHAIRMAN FRYER: And I think it's healthy. It's just -- that helps clarify how it's come to us. And I take it, Mr. County Attorney, that we can consider the recommendations on an equal basis?

MR. KLATZKOW: It's a totality of all the evidence before you, between that that Mr. Wright and his witnesses have been giving, what the county's been giving, what public speakers might give. You weigh the totality of everything you hear.

CHAIRMAN FRYER: Questions, comments from Planning Commission?

COMMISSIONER SCHMITT: My question is, are there any more public speakers? Before Jeff rebuts, I'd certainly like to hear the rest of the speakers.

But, sorry, go ahead, Tom.

CHAIRMAN FRYER: Yeah, please.

MR. EASTMAN: I had a question. We've got conflicting testimony here. The conflict says this won't be a problem. Mr. Rodriguez says it will. There's one in operation in Tampa, and I'm just wondering if anybody in the room can speak to how long that's operated north of Tampa

and what experiences they've had in actually running one of these.

CHAIRMAN FRYER: Okay. And, Commissioner Schmitt, what I was trying to do is, these are questions that were meant for Mr. Rodriguez as a public speaker, and then we'll return to the other public speakers. And so -- but Mr. Eastman has asked a question. Let's get it answered if we can. Do we have someone who's has visited Tampa for that purpose?

MR. RODRIGUEZ: Actually, I haven't been to the one in Tampa, and I don't believe Kari's been to the one in the Tampa, but I do have experience with an air current recently about a year ago near Waterways by Orangetree. We're actually clearing the site to put in infrastructure for the utility in our expansion of our plant. And the contractor brought in an air curtain. It, obviously, wasn't the exact air curtain that they're using. But to our surprise, they had placed it there and started burning the horticulture waste. And the first thing I get the very next morning, several residents from Waterways said, what are we doing? Is there a fire? What's going on? And so our direction to our contractor was to quickly finish that operation and remove it from site. So that's the most recent experience that I have.

CHAIRMAN FRYER: Thank you. Any other questions for this speaker?

COMMISSIONER FRY: Mr. Rodriguez, please, before you -- you're like a yoyo up there.

MR. RODRIGUEZ: That's okay.

COMMISSIONER FRY: Please describe any financial impacts to the county landfill operation that would result from the approval of this air curtain incinerator.

MR. RODRIGUEZ: There are none. And, actually, Mr. Wright misspoke. We are not in competition with the business. Collier County has, for years, had the policy of partnering with private sector. If they can better handle the material, which they do -- the majority of our operations -- I believe close to 80 percent of our operations are privatized -- then we want that. Our tipping fees, as stated by Kari several times, are probably \$20 more than the next closest. So why would you bring it to us? We don't want it. We want the private sector to handle it. So good question.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Other questions for this witness?

MR. WRIGHT: Mr. Chairman, I just have a quick point of clarification on this split recommendation that you have before you, if I may.

There was one staff report, and it's recommending approval. Solid Waste was at the preapplication meeting in May, and they had two representatives there. What's supposed to happen is they're supposed to speak with one voice and incorporate all the concerns into one staff report. We have one staff report, and we have a rogue outside department saying that you should recommend denial. But the staff report before you, both of them recommend approval, and I just wanted to make that very clear. From the applicant's perspective, it's not a fun way to do business when you sit down with the county, you get a thumbs up from everybody early on, and then we get hit in the knees when we come to the hearing. Not a good way to do business. I just want to clarify.

MR. BELLOWS: For the record, Ray Bellows. I'd just like to respond to the issue with the dual type of response from staff.

CHAIRMAN FRYER: Go ahead.

MR. BELLOWS: We have an organization set up in Growth Management Department that is assigned to review land-use petitions. They represent various sectors and specialties throughout the county, and they make a professional recommendation on land-use items. Sometimes there are projects that have greater impacts than our typical Growth Management Department staff can address, so we reach out to others. We reached out to the landfill for their comment. So they have come up with a different opinion than the staff that is responsible for

making a determination.

CHAIRMAN FRYER: Thank you. I have one more question, but before I do, for Mr. Rodriguez, does anyone else?

(No response.)

CHAIRMAN FRYER: Okay. Mr. Rodriguez?

COMMISSIONER SCHMITT: I do.

CHAIRMAN FRYER: Oh, I'm sorry. Please go ahead.

COMMISSIONER SCHMITT: Dan, having been part of the staff when we were going through those odors -- and I think actually it went into about 2002 and '3, I just want to credit Jim Mudd as well, because Jim was part of the initiative. And you remember at one time they were talking about putting large fans out there, some of those proposals.

MR. RODRIGUEZ: Absolutely.

COMMISSIONER SCHMITT: And we can all laugh about it now, but there was a considerable effort. And those who were in the county at that time and lived here, they know it was -- it was pretty abusive, the smell, from that standpoint. And your team, Dr. Yilmaz as well, have done a tremendous job in bringing that site to what we have today in the county, and I commend you for that. But I just wanted to recognize Jim as well. No longer with us, but...

MR. RODRIGUEZ: Absolutely. Great leader, and -- absolutely, and, like our current County Manager, you know, committed to strategic planning that has put us where we're at today and why we can stand here and say we truly have one of the best communities in the nation if not the world.

And if I could just add one more point that I forgot -- I left out. At what point do we stop incineration? Do we stop when we have the opportunity today? Or how many is enough? Do we add two more? Do we add four more?

You know, it's funny -- and it's probably dramatic, but if you remember the Gulf War, I remember a picture of the oil fields burning. And just imagine if you took a 30,000-foot view of Collier County. In your mind, do you want to see these incinerators running throughout the county that are impacting our neighborhoods? Absolutely not.

Our current vendors -- and I say it's a partnership -- use horticulture composting. It's a beneficial use. They claim it's a beneficial use, but it's one use. Once it's burned, that resource is gone. The vendors we currently have, they mix it, they make fertilizer, they make soil stabilization. And that's probably a bigger part of this is -- and nothing against this company because I don't know anything about them, but we partnered with Waste Management. They haven't brought incineration to us. They've adopted our guiding principles. They know what the expectations are in Collier County.

Additionally, they've invested \$1.8 million in a compressed natural gas facility, fueling facility. They've bought over 65 compressed natural gas trucks. They cost about 380,000 each. That's why in some of your neighborhoods, most, you don't smell a diesel truck going through there. They burn 92 percent cleaner. Those are the types of partnerships and relationships we want.

I've known Jeff Wright for years. A little disappointed that he said I didn't respond to his email, but...

CHAIRMAN FRYER: Pardon me, sir.

MR. RODRIGUEZ: That's okay. But I'm available 24/7.

CHAIRMAN FRYER: Okay. I have a question for you, if you don't mind.

MR. RODRIGUEZ: Sure.

CHAIRMAN FRYER: And I'll start by saying, I am not adverse to having even conflicting recommendations coming from within the county. I think, perhaps, we may even be better served if we had more of that from time to time. It's probably a good idea that there be one



official position and a minority report, if you will, where whoever the top-ranking person, if it's the County Manager or below, comes in and says this is the majority opinion but there's -- you know, you need to know this other group as well. But I think that's very healthy for us to have this to consider.

My question for you, sir, is this -- and I'm less concerned over the odors than I am about the potential for public safety. So in your opinion, have the 28 conditions not sufficiently -- reasonably sufficiently mitigated the risk to the public safety of a material negative occurrence?

MR. RODRIGUEZ: The answer is no. And that's because there's no guarantee that that incinerator, which burns at how many degrees --

CHAIRMAN FRYER: Address your comments --

MR. RODRIGUEZ: Sure -- however many degrees it burns at, that you can contain those embers, the ash completely. And I've seen them. I've seen the one, as I mentioned before. And I've seen fires that have gone up --

CHAIRMAN FRYER: I'm going to ask you for short answers because --

MR. RODRIGUEZ: Sure.

CHAIRMAN FRYER: -- because of all we have to do. And you've answered my question.

So to follow up on that, do you believe it would be unreasonable for us to approve this application with the 28 conditions?

MR. RODRIGUEZ: Yes, I would.

CHAIRMAN FRYER: All right. And that's your expert opinion?

MR. RODRIGUEZ: That's the expert opinion, yes.

CHAIRMAN FRYER: Okay. Anybody else have questions or comments for this witness?

(No response.)

CHAIRMAN FRYER: If not, thank you, sir.

All right. Now we go back to public speaking.

MR. BELLOWS: Yes. We have four persons registered to speak and four registered for the virtual and one caller is unidentified with the last four digits of the phone number 3170. If they can identify themselves and address us which item they want to speak to.

MR. WRIGHT: Mr. Chairman, just a procedural issue. I just want to get on the record that it was our recollection, as I mentioned at the beginning, that the public hearing had been closed and this was continued to address a number of matters, none of which included the public hearing component.

CHAIRMAN FRYER: Okay. You've made your record. And I'm going to ask members of the public who have already spoken, already made their point, unless they've got a new point that's risen as a result of what they've heard today, I would ask that you refrain from speaking a second time.

So who do we have next?

MR. BELLOWS: We'll start with the in-person folks. Nicole Soubelet, followed by Richard Soubelet.

CHAIRMAN FRYER: Now, ma'am, I believe you've spoken already.

MS. SOUBELET: No.

CHAIRMAN FRYER: You have not, okay. There's written material, then, from you. You have the child who has a -- no, I mean written material that you've submitted to us.

MS. SOUBELET: Oh, yeah.

CHAIRMAN FRYER: Yeah. And just to refresh my recollection, you are the parents of a child with a respiratory problem.

MS. SOUBELET: My twin sister, yes.

CHAIRMAN FRYER: Oh. Okay, thank you. I'm sorry. Go ahead.

MS. SOUBELET: Good morning, everyone. I came here to petition against the establishment of a curtain incinerator on the Yahl Mulching.

I live on 211 Washburn Avenue, less than a thousand feet from the property.

We had a fire May -- yeah, around May. I don't think the people running this business know what it's like to have a fire, our living with high-risk fires. And so it's hard, because we have a farm, and we have tractors. We have to get everything out. We have to get all the property watered down and then to pray every single, like, hour that an ember does not fall on our property is crazy. And to have -- to have to do that every single day for this burner to be burning is insane.

So I plead for this project to be not approved. Thank you.

CHAIRMAN FRYER: Thank you, ma'am.

Next speaker?

MR. BELLOWS: Richard Soubelet.

MR. SOUBELET: That's me.

CHAIRMAN FRYER: Oh, yeah. Please, use both podiums; alternate so that the person who's cleaning one, the other one can be used during that time.

DR. SOUBELET: Good morning. I'm Dr. Soubelet. I live 300 feet from the site.

And something different from the last time. I don't know if it was May or -- yeah, it was May, I think. Something different that I did, homemade, is that I hear the representative from mulching that you have that mulching at the site. It was -- nobody lived less than 500 feet.

So I represent here that the point where there are many people lives less than 100 -- 300 -- 500 feet; 100 feet, 300 feet, 150 feet. So it's many people who live there, which is every day we will go to work, smell, and we live there. That's the main issue.

I prepared to say many words, but the commissioner and Mr. Rodriguez took my own words, so I appreciate that.

And the last thing from the other which is different from the other -- yeah. This is the reality. This is the pile of mulch they try to burn. Look at the machine. Look at the height. Many more than 10 feet. I think it's 12 or 14. I don't know. This picture I took after the last meeting here.

So next one. This is what they tried to fix, the water after the big fire that we have. And it's very important to -- can you see the two inches or one-and-a-half inches pipe made with plastic? It's common sense. Very important, the common sense, that if it is going to be fire there with this plastic pipe, what good it's going to do with a huge, big fire. Like, for example, mother nature -- the other -- can you put on the other. Yeah, should be that.

Look at the helicopter. That's our property 200 feet from the site. We say thank you to the firefighters that made, this day, 200 or more flights over my property to fight with the fire.

And the other question about money: Who pay these trips, these firefighters from -- who pays? Maybe -- I don't know who. Collier County or whatever, but it's spending money for a cause who make Mother nature.

CHAIRMAN FRYER: Doctor, you have one minute, sir.

DR. SOUBELET: No, no, that's okay.

So common sense, it's very important to have in the decision common sense, because that's -- if something could be wrong, it will happen. And we are going to be there. Everybody's going to see the smoke from the TV, but we are going to be there.

Thank you very much.

CHAIRMAN FRYER: Thank you, sir.

Next speaker?

MR. BELLOWS: Sarah Spector.

CHAIRMAN FRYER: Ms. Spector.

MS. SPECTOR: Good morning, Commissioners. Sarah Spector with Roetzel & Andress. I'm here on behalf of three close-by neighbors. I represent Janie Michael Yag and Shore Acres Farm, American Farms, and Steinmann Farms.

I did speak to you last hearing, and I have a few additional points based on the additional information provided by staff. So if you will --

CHAIRMAN FRYER: Proceed.

MS. SPECTOR: Thank you.

Though Mr. Wright opined that these property owners may oppose the proposed air curtain incinerator use because they are direct competitors of Yahl Mulching, that is not the case. Shore Acres Farm is a full-service equestrian facility offering horse boarding and training, American Farms is Florida's premier grower of annual and perennial plants, and Steinmann Farms operates a tree farm with current plans to expand to surrounding property.

Each time a fire ignites in this area, these property owners stand to not only lose their property but also the businesses they conduct there, some of which have been affected by previous fires.

At the last hearing I raised some of -- I raised the issue of this being an impermissible request. Staff, in its September 9th, 2020, memorandum to you, attempted to address this issue by stating that an air curtain incinerator is a permissible accessory use and expansion of the collection and transfer site for resource recovery conditional use in the agricultural zoning district. This, however, misses the point.

The Land Development Code establishes four types of uses: Permitted or principal uses, accessory uses, conditional uses, and prohibited uses. Essentially, principal uses are those that are permissible by right, and accessory uses are those that are allowed only if the principal use exists. Conditional uses are only permissible with specific approval.

Section 10.08.00 of the Land Development Code provides the following relative to conditional uses: A conditional use is a use that would not be appropriate generally or without restrictions throughout a particular zoning district or classification but which have control as to number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, or the general welfare.

Such uses may be permissible in a zoning district as a conditional use if specific provision for such conditional use is made in the LDC.

Thus, to conclude that a conditional use is permissible, you must find that two factors are present. The conditional use must be specifically listed as a conditional use in the LDC.

Unspecified accessory uses to a conditional use are not recognized by the LDC. It must promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, or the general welfare.

My point in referencing the public use zoning district at the June 16th hearing was that it is the only mention of an incinerator use in the entire LDC. There is no specific provision that allows for an air curtain incinerator as a conditional use in any other zoning district. And as noted previously, there's no such thing as an accessory use to a conditional use. You can only have an accessory use to a principal use. Accordingly, Factor 1 is not present.

Your own Solid and Hazardous Waste Management Director and now Public Utilities has specifically identified that Factor 2 is not present, going so far as to state that there are no measures that eliminate the risks associated with adjacent burning, which risks have the potential to create more demand for fire resources that should be reserved for residents in the Estates.

Additionally, in speaking with the Greater Naples Fire Rescue District, there's concern that the site can maintain compliance with fire code requirements for the current mulching operation alone with the most recent site visit revealing greater than permitted pile heights, insufficiently

sized access roads that were under water, and inadequate water sources for firefighting needs.

As of a conversation on Tuesday morning --

CHAIRMAN FRYER: You have one minute.

MS. SPECTOR: Thank you -- the fire district did not have enough information to conclude whether all code requirements can be met to allow for the addition of an air curtain incinerator.

In response to the adjacent owner's concern, the applicant points to the fact that the main cause of fires in the area is lightning strikes. The impact of the proposed use on -- I apologize. There will obviously be no data showing that an air curtain incinerator was the cause of a fire when no such use currently exists.

Though an emergency action plan has been submitted in response to a previous inspection failure, the plan provides no assurance that there will be adequate response to an overnight fire. It specifically states that Yahl personnel are expected to immediately respond to fire emergency since response time could be the difference between a controlled or out-of-control situation.

However, the only provision for overnight response on the part of the operator is the posted telephone number for two individuals who can respond and operate equipment with 30 minutes of notification, which hardly seems like an immediate response. The applicant has provided no testimony or evidence to rebut the conclusion that the air curtain incinerator will not promote public health and safety.

CHAIRMAN FRYER: Your time is up.

MS. SPECTOR: Thank you very much.

CHAIRMAN FRYER: Next speaker?

MR. BELLOWS: Shannon Crawford, and the next speakers will be virtual.

CHAIRMAN FRYER: Okay. Shannon Crawford? Are you Ms. Crawford?

MS. CRAWFORD: Yes, I am.

CHAIRMAN FRYER: Go over to that mic, please. It's clean. Have we previously heard from you in this matter?

MS. CRAWFORD: Yes.

CHAIRMAN FRYER: All right. Do you have new material?

MS. CRAWFORD: Yes. Actually I have a response to the PowerPoint that Yahl's team presented at our last meeting.

CHAIRMAN FRYER: I'm going to ask you to confine your testimony to new matter.

MS. CRAWFORD: Okay. Yes. So my response on their matter is considered new matter? Hopefully?

CHAIRMAN FRYER: We'll go with that.

MS. CRAWFORD: So they say that this is a logical evolution for this particular property, and I say that it's not. It's not logical to introduce a fire source to that area, especially considering the landfill.

The air curtain incinerator they say reduces the release of smoke by 85 percent of an open burn, but that's 15 percent more smoke than we have as it is. That's 15 percent of an open burn which is 100 percent more smoke than we have.

They've also said that their facility hours will be 5:30 to 6:00 -- excuse me, 5:30 to 5:00, but here, in one of their slides, it said that all charging shall end no later than one hour after sunset.

After charging ceases, the airflow shall be maintained until all material within the air curtain incinerator has been reduced to coals and flames are no longer visible. There will be no one on site during that time, at sunset.

They said that they will accept all conditions. And they're not -- they are not operating under their current conditions. Their current conditions say that their maximum pile height is 10 feet, and they currently have pile heights of between 20 and 30 feet.

So, you know, the whole saying about the predictor of future behavior is past behavior, and we can even say current behavior; that currently they are in violation of code, and they know that they're coming up here trying to get a permit that has 28 conditions on it, and they're not abiding by their current conditions.

And so my argument is that they can't be trusted for any of these conditions if they don't comply with the conditions that they have upon them now. So that's basically what I have to say.

CHAIRMAN FRYER: Thank you very much.

Ray?

MR. BELLOWS: All right. For the virtual, we have an unidentified caller, and the last four digits of the phone number are 3170. If we can try that person one more time.

CHAIRMAN FRYER: All right. Is Caller 3170 on the line? Caller 3170?

(No response.)

CHAIRMAN FRYER: If not, who's the next speaker, Ray?

MR. BELLOWS: Lorelee LeBoeuf.

MS. LeBOEUF: This is the RLSA I'm speaking on.

CHAIRMAN FRYER: All right.

MR. BELLOWS: Okay. You're listed here as 9A1. That's this item.

MS. LeBOEUF: No.

MR. BELLOWS: All right. Then Lynn Martin.

CHAIRMAN FRYER: Lynn Martin?

MS. LeBOEUF: Those are RLSA.

CHAIRMAN FRYER: Okay.

MR. BELLOWS: They're all listed as 9A1. So if -- we need to correct that then.

CHAIRMAN FRYER: Okay. I just want to be sure that we didn't have any real 9A1s on the phone who wanted to speak.

MR. BELLOWS: Well, let's just go down the list and -- Craig Black?

(No response.)

CHAIRMAN FRYER: Keep going.

MR. BELLOWS: Ginger Goepper.

That's the last of the list, and we may have one other additional speaker.

COMMISSIONER HOMIAK: He needs more time to find them.

CHAIRMAN FRYER: Mr. French, are you going to speak?

MR. FRENCH: No. You're just going a little too fast.

COMMISSIONER HOMIAK: He needs more time to find -- you've got to watch the guy back there.

MR. BELLOWS: I think we were trying to get someone registered.

CHAIRMAN FRYER: Okay.

MR. BELLOWS: We may need a little more time.

CHAIRMAN FRYER: About how much more time do we need?

MR. SUMMERS: We're good.

MR. BELLOWS: We're good.

CHAIRMAN FRYER: We're good. All right.

MR. BELLOWS: And that's all the speakers I have.

CHAIRMAN FRYER: Okay. Thank you.

Well, any questions/comments before we go to rebuttal from the Planning Commission?

(No response.)

CHAIRMAN FRYER: If not, Mr. Wright, you're on, sir.

MR. WRIGHT: Thank you, Mr. Chairman. I'll be respectful of your time.

A lot of the concerns that have been raised are science related, and I'd like Mr. Ferraro to

get up here and testify in just a second here as to the technical and the real science behind this. There's fear and there's the science, and Bruno's an expert in the science of combustion, and he'll be able to elaborate.

I also wanted to just point out in July of 2015 the Board of County Commissioners recognized Yahl Mulching while Mr. Rodriguez director of Solid Waste for their efforts and for their business, and it was a recognition under the WRAP Awards Program. And you heard Mr. Rodriguez say he's never -- he didn't know who Yahl is. Well, he is the one that was responsible for recognizing them five years ago.

Thank you.

CHAIRMAN FRYER: Thank you.

Sir, please state your name again.

MR. FERRARO: Bruno Ferraro with Grove Scientific Engineering Company.

Let me separate fact from fiction to help you in your decision-making. Number one, the Collier County Landfill, Naples Landfill, is a major source of hazardous air pollution under 46 CFR Part 3 of the code of federal regulations.

COMMISSIONER FRY: Can you speak up, sir, or close to the mic. Thank you.

MR. FERRARO: The Collier County Landfill is a major source of our pollution under Title 5 where the proposed air curtain incinerator is a minor source of air pollution.

The U.S. EPA has recently downgraded the air curtain incinerators out of the Code of Federal Regulation because they are a minor source. So the statement that it's the bigger source of air pollution is false, okay.

I also had the pleasure of working the odor control system and did the dispurga (phonetic) modeling back in the '90s for the flare for the Collier County Landfill as well as worked on the gas management system.

The fact that air curtain incinerator is not considered open burning -- it is not open burning. A trench burner, which Mr. Rodriguez alluded to, which burns land clearing debris on a portable basis where they bring in a fan and a plenum, they dig a trench and put the material in, they are not air curtain incinerators. They are trench burners. They do generate a lot of smoke. They do cause lots of complaints. They do have the potential to cause fires because of the locations where these things are placed.

So they are problematic, and they're typically there for five or six days, then they're gone and everybody forgets about them, okay.

A refractory lined air curtain incinerator, which is what's being proposed, most people will not know it's running unless they walk up to it and see it running. So the supposition that guests traveling down the highway are going to encounter these billowing piles of smoke is not true. Most people coming in won't even know it exists, including the neighbors will typically not know the thing exists. I will never say that an air curtain incinerator will never smoke. They're allowed to smoke, but under most conditions they do not, okay. They don't generate innocuous odors. And I've been involved in at least 100 of these projects around the country. I am not aware of one refractory lined air curtain incinerator that has caused a forest fire.

The conditions to keep the area wet located in a part of the yard that's controlled, keeping fire trucks around, water trucks, et cetera, is the best management practice for an air curtain incinerator.

I think the risk is very low compared to naturally occurring risks. Florida is a fire climax community meaning that Everglades were based on fire, okay. Fire is what kept the Everglades and the typical Florida environment what it is. So, yes, we do have natural risk of fire in Florida. That's how nature's made it. And most of the trees and things like that are capable of handling that kind of environment.

So I think the image that's portrayed of this billowing smoke and odor and risk to the

landfill is not a true statement, okay. Under most conditions you won't know it's operating. I'll be happy to answer any questions I can from a technical standpoint.

CHAIRMAN FRYER: Planning Commissioners, my signaling device board is not working, so --

COMMISSIONER FRY: We have this one.

So in your experience in other air curtain incinerator facilities, how often are there complaints about odor? That was the main objection raised by Mr. Rodriguez.

MR. FERRARO: The customers that I currently operate with, I don't really have any that have ongoing odor complaints from their facilities.

COMMISSIONER FRY: What do you mean by "ongoing"?

MR. FERRARO: We have had air curtain incinerator operations that have been shut down in the past. I'm talking 15, 20 years ago before there was more management control over them. They were put in neighborhoods that were highly populated, you know, right up against -- you know, within 50 feet of a mobile home park, that kind of thing. Those were inappropriate sitings, in my opinion. So the ones I currently represent all are on adequately-sized parcels in properly zoned out-of-the-way areas, not in the middle of a residential area. More rural. And from those, we've had really no -- none; virtually none that I'm aware of.

COMMISSIONER FRY: How would you rate the site of this proposed air curtain incinerator based on those criteria, being out in the open?

MR. FERRARO: I think it's an excellent site. It's got the necessary setbacks, the rural nature of the location, the ability to control the site are all positive things. I think the site's probably ideal for it.

COMMISSIONER FRY: We're looking at a photo on the screen of ball fields at the upcoming --

MR. FERRARO: Really nice-looking.

COMMISSIONER FRY: What do you think the risk is of odors inundating the people that are visiting that site?

MR. FERRARO: There's always the potential -- and I won't lie about this. There's always the potential for some wood smoke odor on transiting areas outside the site; always that potential. If the air curtain incinerator is operated in accordance with the way we've set it up, it burns very hot, and you will not get the odors from that fire. What happens during rainstorms and times when you have to shut the machine down, you can get some transient odors, and it would be a wood smoke odor. You can't burn wood without getting some transient odors.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you. Any other questions for this witness, Planning Commission?

(No response.)

CHAIRMAN FRYER: If not, thank you.

Mr. Wright, do you have more?

MR. FERRARO: So Mr. Wright asked, and we discussed this. I do not believe, in my professional opinion, that the operation of air curtain incinerator poses a fire threat to the landfill. Okay.

CHAIRMAN FRYER: Thank you. Anything else, sir?

MR. WRIGHT: One last thing. I know that there's been an attorney here; Ms. Spector from Roetzel & Andress has raised this question about, we started out of the gates in the wrong direction, and, obviously, that she's raising a question of interpretation of the LDC, and that interpretation was made early on in this process. There's a process for third parties to challenge those interpretations, but it's not here. That particular argument has been raised and addressed multiple times on the record. It happened at the hearing. It happened in Nancy's memo. And

I'm happy to refute it again today. But our position is that if she did have a problem with that interpretation, then she should have filed an appeal of it, and that's all.

CHAIRMAN FRYER: Thank you. Before you step down, any questions for Mr. Wright?

(No response.)

CHAIRMAN FRYER: All right. If not, I believe we can close the public comment segment of this matter.

And, Planning Commission, should we take our break now and come back for deliberation and vote, or should we deliberate and vote first?

COMMISSIONER SCHMITT: I think we can deliberate and vote now; is what I would recommend we do.

COMMISSIONER DEARBORN: Second.

CHAIRMAN FRYER: Okay. Then that's what we'll do.

Go ahead, Commissioner Schmitt.

COMMISSIONER SCHMITT: All right. It will probably be long, but I want to make sure everybody understands.

Look it, as a former Army engineer and as a former District Commander in the Army Corps of Engineers, I'm very familiar with the debris cleanup, debris reduction, air curtains. Trench curtains are a trench -- and I know that I'm not going to dispute the science, but a trench air curtain is an air curtain. This is a little bit different because it's a more upgraded and modern type of air curtain.

But given all that said, I cannot support this. I think it's an incompatible use with the surrounding property. I lived and worked on Kandahar Air Base in Afghanistan for a year where I had to endure open burning. Now, that was open burning, because that's the way the U.S. government and the U.S. Army and the Military forces got rid of our trash.

I am not willing in any way, shape, or form to allow any type of open burning in Collier County given it air curtain or otherwise. I don't -- as I said, it's incompatible. There may be other locations in the county where this could go, but not this location, especially considering the issues that Mr. Rodriguez brought up and considering -- and you want to call it who was there first? But the county spending upwards of over \$100 million, I believe, now in a sports complex, I see no need to put this operation in and near the sports complex; therefore, I recommend both petitions be disapproved.

CHAIRMAN FRYER: Thank you. Other comments from the Planning Commission? Commissioner?

COMMISSIONER DEARBORN: I would have to confirm -- concur with Joe. There's a need, for sure, but to have it that close to the sports complex we spent so much time on to making this unbelievable facility for these youth to come enjoy and the homeowners that are in close proximity -- the old thing, I wouldn't want it in my backyard I think holds true here, so I'm in line with my fellow commissioner and his comments.

CHAIRMAN FRYER: Secretary Fry, did you want to speak?

COMMISSIONER FRY: I weigh in on two fronts. One is the fire risk and the other on the odors risk. I believe the fire -- the fire expert maybe allayed my concerns over the fire -- the main concern over fire risk, but the odor risk, I believe, Bruno -- I'm not sure what your last name is, but I appreciate your honesty in saying that, you know, you will occasionally get some odors of burning wood smoke, and I just don't think that is something that we should entertain in this area. And so I have a hard time supporting this as well.

I appreciate the science of it, and I've looked for every way I can, you know, support it, but I'm also concerned about having 28 conditions on something. To me, that's a red flag that if you have -- to need that many conditions on something just to make it palatable, that maybe it's not



really a good fit for where it is applied to be.

CHAIRMAN FRYER: Vice Chair?

COMMISSIONER HOMIAK: Yeah. I'm struggling with this, but I don't think it's in the right area. I think it's a good idea, but with this -- if you have crowds of people outside in that sports park, I just -- I'm a little concerned that it's in the wrong spot.

CHAIRMAN FRYER: Okay. From my part, my main concern is safety. And I'm glad that we had a spirited discussion. I'm glad that it was candid and that we heard from both sides on the staff. But the fact that we had a senior member of county staff, Mr. Rodriguez, saying, in essence, that there was an unreasonable risk to the public safety, even to the extent that it cannot be sufficiently mitigated by the 28 conditions, causes me not to be able to support this.

Any further comments to be made by the Planning Commission?

Mr. Eastman, did you want to be heard?

MR. EASTMAN: No, thank you.

CHAIRMAN FRYER: Okay. All right. Is there -- is there -- we've got two -- we have to have separate votes. First of all, we have a small-scale GMPA for the air curtain incinerator. Is there a motion to --

COMMISSIONER SCHMITT: I stand by my motion for both, so...

COMMISSIONER DEARBORN: And I second.

CHAIRMAN FRYER: Okay. So it's been moved and second --

COMMISSIONER SCHMITT: To disapprove.

CHAIRMAN FRYER: -- to disapprove.

Any further discussion? If not, all in favor, say aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Then the second half of this is the conditional use, which I guess probably is moot now.

MR. KLATZKOW: Well, sort of. We may as well -- we're here, you know.

CHAIRMAN FRYER: Okay. All right. Is there a motion on the CU?

COMMISSIONER DEARBORN: So moved.

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor -- and this is of disapproval --

COMMISSIONER SCHMITT: Disapproval.

CHAIRMAN FRYER: -- please say aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: Thank you, applicant.

COMMISSIONER FRY: Mr. Chairman, may I make a comment?

CHAIRMAN FRYER: Yes, please.

COMMISSIONER FRY: I just -- I will say that I -- I feel this is an unfortunate situation where the applicant got this far along unaware of a major objection from within the high-ranking areas of Collier County. I hope that there is a procedure that can be put in place or -- to avoid this from happening again. I do feel that --

COMMISSIONER DEARBORN: Yes.

COMMISSIONER FRY: -- when you come before, you have the rightful expectation that all aspects of the county are going to be able to weigh in in a timely manner before you expend the time and energy and expense to get this far in the process. So I do feel for the applicant in that regard.

MR. KLATZKOW: The county agrees with that, and I believe Mr. Casalanguida's had discussions. And it's an imperfect world, and I can't promise this will never happen again, but we'll try.

CHAIRMAN FRYER: I mostly concur with Commissioner Fry. I just -- I find it healthy to have disagreements be brought before us. It's probably a little bit better if they were an official point of view, maybe at Mr. Casalanguida's level or Mr. Ochs' level.

MR. KLATZKOW: This should have been done at the pre-app level. This never should have gone this far. But, again, it's an imperfect world, and our staff works in silos, and sometimes people don't talk to each other.

CHAIRMAN FRYER: Understood.

Thank you.

And we will now be in recess for 10 minutes until 10:39 a.m.

(A brief recess was had from 10:29 a.m. to 10:39 a.m.)

MS. JENKINS: You have a live mic.

CHAIRMAN FRYER: Thank you, ma'am.

Ladies and gentlemen, let's return, please.

\*\*\*The next item is purely legislative in nature, and it's a matter that we've already started. We will continue with. And this is PL20190002292. It's the RLSA large-scale Growth Management Plan amendment transmittal hearing. In our last meeting we heard from representatives of staff and of the Conservancy of Southwest Florida, League of Women Voters, and the Eastern Collier Property Owners, or ECPO, and the latter group's presentation was cut slightly short as a result of the fact that we had to accommodate a hard stop for the Board of County Commissioners, as we do today, by the way.

So I think they were about five minutes short. I had offered, or at least was prepared to offer, ECPO another 10 minutes today if they wished to do that. But I've been informed by staff that ECPO has decided to end its -- and correct me if I'm wrong -- but has decided to end its official presentation and continue speaking through individuals during the public comment section.

So before we get into that segment, we have two more organizations who wish to make a joint presentation. They are the Florida Wildlife Federation and the Audubon Society. They'll be given a total of approximately 20 minutes at this time. And I'll call them up in a moment.

But, Ray, just so that -- well, Anita, if you have the slips, my question is going to be at this point, how many registered speakers, roughly, do we have?

MS. JENKINS: I see about a dozen in the room, and we have several on Zoom.

MR. FRANTZ: We have 16 people on Zoom.

CHAIRMAN FRYER: Sixteen on Zoom and seven here.

MS. JENKINS: About a dozen, sir.

CHAIRMAN FRYER: Oh, I'm sorry. About a dozen. Sixteen, a dozen; okay 38 [sic].

Is it the wish of Planning Commission that we attempt to -- or that we ask public speakers, whether they're here or not, to be limited more than five minutes because of the number of people

we have? What's your position?

COMMISSIONER HOMIAK: More than five minutes?

CHAIRMAN FRYER: Under five minutes.

COMMISSIONER HOMIAK: Oh, okay. Under. I would say three.

CHAIRMAN FRYER: Okay. Three. Does that sound right to everybody?

COMMISSIONER DEARBORN: I'm never a fan of limiting people that want to speak and share their time, but I understand the logistics of timing, too, so...

COMMISSIONER SCHMITT: I would agree. If we have speakers who want to combine their time, please let us know.

COMMISSIONER DEARBORN: Yes.

COMMISSIONER SCHMITT: And -- because I know some -- there are speakers who are representing various organizations, and if they want to combine their time, I'm willing to go -- since this is the Planning Commission -- I know the Board limits to three -- I would consider going to five.

But I just want to make sure that we -- the speakers certainly have a right to speak, as Patrick noted, and it's our -- frankly, our duty and obligation to listen. But if they feel like their points have been presented, just note it as such and we'll move on.

And with that, I don't know -- Anita, were you going to start on a presentation, or are you going to wait?

CHAIRMAN FRYER: I have a little more I want to say.

COMMISSIONER SCHMITT: Okay. Go ahead. Sorry.

CHAIRMAN FRYER: So it seems to be the consensus that we will limit it at three and we will encourage people to accept time from other potential speakers who are present in the room, and we can aggregate that way.

I'm going to ask, though -- and this is really in order to facilitate a full and fair hearing of this and to give us ample opportunity to have our discussions and ask our questions that speakers be concise as possible and be clear and avoid being redundant.

Once we've heard a concept once, if it's been articulated well, we'll take note of it, and it doesn't need to be repeated again and again. Obviously, if that's what we hear from the public, we're not going to cut people off who haven't had a chance to speak and wish to.

The other thing that I would like to do is, in the interest of achieving full disclosures from all speakers, I'm going to ask each one to state, in addition to his or her name, any group affiliation that they have, because I think the public has a right to know if we've got someone who is representing an organization, and that's across the board. I'm not picking on anyone in particular. And, of course, if you decline to reveal that information, we'll let you speak, but we can't help but take note of the fact if you do decline. So it's a respectful request only.

And we're going to ask that the segment of public speaking go on for a reasonable amount of time. As long as it appears to be productive and clear and concise and informative, if needs be we'll carry this matter over to the 25th of September, which may well be the case because we've got a -- we've got a hard stop at 3:30 today, and that's as far as we can go, and we also have lunch and potentially an afternoon break. So we've got a lot to do.

Having said all of that, also staff has requested to be heard before we conclude today, so we will honor that request. And I think that's -- those are all the notes that I have at this point, so -- okay. Let's go right with the Wildlife Federation and the Audubon Society, who I'm going to give an aggregate time of 20 minutes to, please, if you can, in a joint presentation.

Ms. Budd.

We're going to have a stereophonic, all right, sir. That's fine. Please proceed.

MS. BUDD: Good morning. Meredith Budd with the Florida Wildlife Federation.

MR. CORNELL: And I'm Brad Cornell with Audubon of the Western Everglades, and I

also work for Audubon Florida's Corkscrew Swamp Sanctuary here in Collier County.

CHAIRMAN FRYER: Thank you, both, and welcome.

MS. BUDD: Thank you.

We had a chance -- an opportunity to speak to a couple of you in advance of this meeting. And I know yesterday Brad sent out a handout. We do have copies of this here. If you do not have it, I'm happy to provide it to you. And we will go ahead and get started.

MR. CORNELL: So the first thing, I'd like to just quickly remind everybody that it was our two organizations that joined the Department of Community Affairs back in 1997 to challenge Collier County over its growth management program. The program, in particular, that was aimed at protecting natural resources on 300,000 acres of rural lands. And the specific aspect of that was the Natural Resource Protection Area Program. The county, through their EAR process, the Evaluation and Appraisal Report process, had proposed to take all the deadlines out of establishing NRPA's, as they were affectionately known, and we objected to that, as did DCA.

And we were successful in that litigation. What it did was set the table for settlement discussions, negotiations, and a decision was prompted by the state to come up with plans for those 300,000 acres. The governor, Jeb Bush, who was just elected then, 1999, said, all right, Collier County, figure it out, and you've got three years to do it.

And I want to point out first that the Audubon Society and the Florida Wildlife Federation recognized that the NRPA's were predominantly wetlands, and that was -- the very first one was the mangroves at Pelican Bay, and we said, they've got to have uplands. You know, we really want to see more robust, full ecological system NRPA's, and so that was because of panthers and upland species.

And the second point I want to make is that in the process of going through the establishment of the Rural Fringe Mixed Use District on about less than 100,000 acres, and the Rural Lands Stewardship program in 2002, we recognized in both of those programs that they needed to have restoration as part of their policies; that just preservation alone was not enough. We needed to restore lands. Both of those programs, after they had started the discussions, realized we forgot something; we need to add restoration. So that was a new thing that was added to both of those.

Both of those programs, Rural Fringe Mixed Use District, which you-all haven't seen yet -- you haven't had those policies come in front of you for the restudy process but you will, and both of those programs had to up the credits allowed to get restoration. That was a very important part that we advocated for, and that is why those credits went up, and that's part of evolution.

MR. BUDD: So what we have today is an incentivize-based program to help preserve land across the landscape. What is the cost, outside of a program like this, of preserving land?

In Lee County, Edison Farms was purchased in 2018 for about 10,000 an acre. This was, of course, for conservation purposes. In Collier County, not too long ago, Triple H Ranch in North Belle Meade was purchased. Our organizations, among others, did advocate heavily for this to be in conservation, and that's still an option. But as of right now, it's -- it has no intended purpose that's been designated, and this purchase was also evaluated at 10,000 per acre.

So based on the average cost per acre for the 55,000 acres that are already preserved through this program with the RLSA, that would have cost the county about \$550 million.

So I'll note here that nowhere in the program policies does it say that all preserved lands will be taken down to conservation. We're looking at preservation. Lands are designated as SSAs and preserved from development, depending on which land use layers are removed and the associated credits that get rewarded for the appropriate land use layers. The preserve land is maintained forever at the expense of the landowner, and it has that restoration potential. Another cost that would be borne by the landowner.

Purchasing the land at 10,000 an acre average cost doesn't necessarily mean that it's going

to be restored. This program not only allows for the preservation of land, but it will also facilitate resources that would otherwise be unfunded. If we wanted to preserve all of the acres in the RLSA that would be eligible for preservation through the RLSA program, it would cost well over \$1 billion.

MR. CORNELL: We knew in the establishment of the Rural Lands Stewardship Area Overlay program that this was a strategy that had not been done anywhere else, and we didn't know whether it was going to work. We didn't know if the conservation, the agriculture, the economic elements of all of this were going to fly, that anybody would even participate. So we had put in there, all of us did, that there needed to be a five-year review. That took place from 2007 to 2009.

I and others in this room participated on that appointed committee, and we evaluated the program to be successful. It had put into stewardship over 50,000 acres in the first five years, and that is a huge success. There was the first town, Ave Maria, that demonstrated that the landowners were going to participate. So by those measures it was a success.

However, there were some things we saw that needed to be fixed, and those came in the form of several recommendations to improve the program, and that included increasing protection of farms so that they wouldn't be converted to one-on-five base zoning. That's 40,000 acres of preservation added. To cut the R-1 credits, the designation of restoration without doing it, we saw that as -- that was generating too many credits, we had recommended cutting it in half to cap the credits in the development acres to adjust the calibration so you would have to use more credits to entitle towns and villages, to prioritize the restoration for panther habitat and wetlands. And this was all done as part of a very, very robust two-year public process.

So that's what you are seeing moved forward very belatedly; 10 years later we had proposed those, and they went in front of the County Commission in 2010. Now, finally, we're getting to see those policies move into Growth Management Plan amendments.

MR. BUDD: Along with some of the -- I'll add, along with some of the additional white paper recommendations. So we have the five-year review amendments and additional amendments coming before you today.

So the maps on this screen show you panther telemetry in the RLSA. The map on the left displays the limited telemetry points that lie within the proposed open areas, and the one on the right shows the expansive amount of telemetry points that fall within the proposed eligible SSA areas.

So telemetries are actual instances of panthers on the landscape. It's a point in time. It's not the one and only, but it's a data source that we can look at and see where the panthers are physically on the landscape. Ninety percent of all of the telemetry points combined fall within the proposed SSA areas.

The areas proposed open areas clearly have less value to the panthers than those of the SSA areas. For the proposed open areas, the RLSA amendments that you have before you include provisions that SRAs need to be compatible within the surrounding land uses. So a lot of the telemetry points we see on that left-handed screen, the animals -- the individuals are using the edges, and so these RLSA amendments need to have -- they say that the SRA needs to have defined edges, and they need to be designated to be consistent with the character of the adjacent lands. This includes setbacks, buffers, and techniques to minimize any conflicts between SSAs, agricultural uses, and, of course, the SRA uses within the SRA area.

As such, this program, the RLSA, inclusive of the amendments before you, in contrast to the underlining zoning, which would be -- the land would be subject to without the program, sets up a framework that is not only beneficial to the Florida panther but to other imperiled and common species as well. It provides incentives so that the lands throughout the RLSA can host species that would otherwise be subject to that underlying zoning.

MR. CORNELL: Now, there's an assertion that some critics of this program say that why

are we giving so many credits for development potential for protecting wetlands and panther habitat that are already protected by state and federal resource protection rules, like the Clean Water Act and the Endangered Species Act and the Environmental Resource permitting program? It seems like a logical point; however, I would like to counter that with the unfortunate experience that I, as a 20-year conservation policy person, have witnessed, and that is, on wetlands alone -- and you see the map up here side by side. The map on the left shows pink of shallow seasonal wetland extent predevelopment, and on the right you see that -- in South Florida, that those wetlands have largely disappeared. Over 70 percent have been destroyed, and it's a big consequence for wood storks in Corkscrew Swamp Sanctuary.

My point being that according to data from the National Oceanic and Atmospheric Administration and Audubon analysis, more than 30,000 acres of wetlands have been destroyed in Lee and Collier County alone since 1996, and that's with the Clean Water Act and the Environmental Resource program. Over 30,000 acres we have lost that have not been adequately mitigated for.

So given that, we need additional local policies at Collier County to make sure that we don't lose our wetlands; that we make sure that what we value is protected, and that's what Rural Land Stewardship adds to -- that is the value.

MS. BUDD: We want to get into the nitty-gritty. Overall, the proposed amendments, which are inclusive of the five-year review amendments, and some of those white paper recommendations, we're overall supportive of those amendments. They present policy changes that improve the program and effectuate that landscape scale connectivity that our organizations are looking for. That's a -- the environmental benefit is our number one priority with this program.

So we want to go through relatively quickly so you can see where we see the program recommendations are really beneficial and highlight those and then some of the concerns where we wish that you may take our recommendations to perhaps make a recommendation to alter, potentially, some of the recommendations before you.

So for a policy -- Group 1 policies, additional -- or the conditional stewardship easements, adding an additional entity to the easements as well. And then, of course, Policy 1.22 that caps credits and acres. That's a cap of 45,000 acres that includes the public benefit uses. That is a policy change. You'll see in a different -- in Group 4 policies, I believe where the cap on credits includes the public benefit acreages as well and then, of course, the cap on credits.

One of the concerns in Group 1 that we do want to flag for you is that we do wish that the white paper recommendation, which is under No. 6 and 7 in the Environmental Protection Area, that adds language for management responsibility into the SSAs for exotic removal. That's something we see as a benefit, and we do recommend that that be included.

MR. CORNELL: In Group 2, I want to flag a criticism of Rural Land Stewardship SSAs, that they have relatively little conservation value, and this goes back to what I just said about the wetlands. In addition, the SSAs are pushing back -- they're an incentive for the landowners not to utilize the existing base zoning of one house for every five acres. And the counter to that has been, well, nobody's really going to do that. But all you have to do is look at 100 square miles of Golden Gate Estates and realize, people are going to do that very readily. Just give them time and population growth, and people are going to say, well, I can make a lot more money building houses than I can farming tomatoes or peppers. So these SSAs have a huge amount of value.

And the other point is that the Growth Management Plan amendments that are here before you today are going to fix some of the problems like restoration designation with no actual restoration. Well, these policies are going to -- are going to incentivize these landowners to actually do the restoration rather than just designate it. So I think we have our fixes.

In addition, I want to flag that Policy 2.2 is probably the most important policy, in my opinion, of all of them today, and that is the one that creates the agricultural incentives to protect

farms and ranches. We overlooked that back in 2002, and this is an opportunity to make good on that. It adds 40,000 acres estimated of preservation should the landowners participate in that, and that is -- a lot of that is in the area of critical state concern, which is a vital area to not see developed.

A couple of adjustments. Habitat Stewardship Areas really should be eliminating layers -- Land Use Layers 1 through 4 rather than just 1 through 3. Native habitat in Policy 3.11, we believe, has too many credits for exotics and fire management. As important as those are, it's hard to distinguish that from lesser forms of restoration.

And we just want to see a clarification of Water Resource Areas that are used for stormwater. Those get counted as part of the SRA. They should not be counted as part of an SSA, and that's just something -- because of the language, WRAs are normally SSAs. Just clarify that when they're using them for stormwater treatment, they're an SRA.

MR. BUDD: And Group 4 policies, so the -- I mentioned this earlier. The 45,000-acre max, this includes now the public-benefit acreage as well. The 4.5 requires the master plan to include a management plan for minimizing human-wildlife conflict. This is a really important policy. And we see it not only beneficial to the RLSA but an area greater than the RLSA as well.

4.19 recalibrates the credits. Brad mentioned the recalibration through the five-year review. We see that as a benefit.

And Policy 4.23, which you see -- we actually see in multiple group policies to maintain the dark sky environment. Again, a benefit that is beneficial to not only RLSA but in greater areas of the county.

Some of the concerns, we think that there just needs to be a clarification in Policy 4.9. WRAs were crossed out, and we do believe that that should be retained or clarified as to how the WRAs would not be included or would be included in certain instances.

Group 5 policies, as you know, pertain to non-SRA development, and we see the maintenance of the dark sky included in the policies. Policy 5.7, we are very happy to see that.

Some of the concerns are Policy 5.4. It refers to SRA development, but it's in the Group 5 policies, so we just want to see some consistency, perhaps, seeing that in Group 4 policies as well since it's already referencing SRAs.

And Policy 5.5 speaks to species of special local concern. I don't know if that's necessarily identified language-wise by the county, so I just need some clarity on some of the language used.

So the importance of these policies that I mentioned just before, 3.15, 4.23, and 5.7, which speak to the nighttime environment, these -- the importance of these policies are not exclusive to the RLSA. Villages both inside and outside the RLSA are coming online, and it's critical that LDC language is drafted as soon as possible so that necessary measures can be implemented on the landscape.

So the nighttime environment, this was a consensus item in the white paper, and LDC amendments are needed now. Policy 4.5, which was -- speaks to reducing human-wildlife conflict, these are needed to address -- the LDC amendments are needed to address the types of measures that will be required to actually limit wildlife conflict. So we've listed a couple -- a few here, potential ideas for amendments that could speak to how to reduce wildlife conflict, for example, bear trash cans. These are LDC amendments that we need to be effective now on the landscape.

So in addition to some of the concerns we noted above on the other slides, we request that you recommend to the Board that these policies pertaining to reducing wildlife conflict and maintaining the nighttime environment get there --

CHAIRMAN FRYER: Mr. Budd, you're at the 20-minute mark, so if you'd keep that in mind, please.

MS. BUDD: Sure. We have just a couple more slides.

CHAIRMAN FRYER: Okay.

MS. BUDD: We ask that you get those LDC amendments drafted now in advance of the final approval of the RLSA, and we actually have drafted some of those that we're happy to share.

MR. CORNELL: So I just want to flag this LDC issue and underline the fact that not only for the wildlife and the nighttime sky environment, but all the LDC amendments that should accompany all these Growth Management Plan amendments that you're looking at today, we believe -- it's been 10 years that staff and all of us have been looking at this. Let's have LDC amendments move parallel to this whole process so that we don't have to wait another year after these are adopted before they're implemented.

And I think -- you know, we've started drafting them, but I think your staff probably have some ideas as well. I think this is something that's way overdue.

MR. BUDD: I'll quickly flag this map for you. This is the map provided in your packet, and we wish that you recommend an update of this map. There's actually a corridor in the northwest corner of the RLSA that has lands dedicated that go into Hendry County, and so we do wish that you recommend updating that.

And I'll quickly go over these last slides. It shouldn't take any more than a couple minutes, Chair, if that's okay.

It's been -- oh, this -- Brad, go ahead. I'm so sorry.

MR. CORNELL: No, that's all right. I just -- the issue of fiscal neutrality is a very important issue. The Smart Growth America study that has been referenced by several speakers earlier in the last meeting brought up this issue. And I just want to flag the issue that you're not going to get fiscal neutrality until some time has gone by; till people have moved into these communities.

And so the Smart Growth America study spotted their proposals, 20 years. We should do the same in evaluating the Rural Lands Stewardship. Policy 4.18 requires fiscal neutrality, and I think that is a plus. And when we evaluate it, we should understand that there's going to be some time before that actually is achieved.

MR. BUDD: I wanted to flag this table for you. There's been talk that the RLSA's bringing 300,000 people to Collier County. Collier County is growing every year. 300,000 people, according to 2020 economic report, are coming to the state every year. So people are coming with or without the changes to these policies. And this table shows you that in 2070 the RLSA projections are 116,000. Buildout is 243-. So 300,000 likely wouldn't even come until the turn of the century.

1.22, it has been asked of you to deny this recommendation. This is a recommendation to ensure a cap on development acreage and a cap on credits. It's vital to that. And if your concern is too much development and too many credits, why would you oppose an amendment that would put a cap on both of those?

Finally, we'll just wrap up with this slide. The Panther Review Team, which was composed of six scientists with expertise in Florida panther ecology asked a simple question: Does the five-year review recommendations as a whole provide additional conservation benefit to the Florida panther when compared to the current RLSA program?

This team of experts concluded that the proposed revisions to the RLSA, the five-year review amendments that you have before you today, would represent an enhancement of panther conservation over the existing RLSA program, and this doesn't even include the white paper amendments.

So we've gone far too long operating under the current program that everyone agrees can be improved. We all agree to that. We support the amendments before you. We ask you to consider our concerns and recommendations that we list in our slides, and we urge you to



recommend LDC amendments move concurrently with the RLSA policies and those that we asked for now move immediately in terms of wildlife conflict resolution and lighting.

We thank you so much for the time, Mr. Chair.

CHAIRMAN FRYER: Thank you very much. I've got a comment and a question or two, but first I want to ask other Planning Commissions if they have comments or questions for these speakers.

And the machine is working here, so the signaling device is working. Member 2. Is that going to be Mr. Dearborn?

COMMISSIONER DEARBORN: He beat me again. You go first. I'm 1. You're 2.

CHAIRMAN FRYER: Okay. I've got Mr. Fry. Go ahead, sir.

COMMISSIONER FRY: You were No. 1, but thank you.

First of all, if you guys had a TV show, I would watch it. That was a great back and forth. Very entertaining and educational.

So just a couple questions for you. So am I to understand that your opinion of the -- what staff has recommended in the allocation of R-1 for allocating lands for restoration versus R-2, which are when you actually restore the land, that you are in favor of the system that they have proposed?

MR. CORNELL: Yes, because it's reducing the R-1 credits 75 percent. Even more than the five-year review recommendation was, which was 50 percent. It's now reduced to one credit per acre rather than two.

COMMISSIONER FRY: Okay. Thank you.

So maybe describe for me, we've got several environmental or NGOs that are represented in this issue. So we have the Audubon. We have Florida Wildlife Federation. We have the Conservancy, which spoke last time. And I guess I'm a little confused in just terms -- the relative missions of your organizations. You obviously have some different viewpoints. You've expressed more in support than the Conservancy, more in opposition. So just -- what is your understanding of the difference in the missions and why, perhaps, you've arrived at different conclusions when you're all environmentally focused and habitat focused? That's a loaded question, I realize, but --

MS. BUDD: Yes. The Florida -- I'll speak on behalf of the Florida Wildlife Federation here.

We work to protect wildlife, water needs; that's our priority. Environmental outcomes is our priority for this program. And there's a lot more on your table before you today than just the environmental components of the RLSA.

So as it speaks to the environment, the amendments before you, inclusive of the five-year review and the additional white paper amendments, we feel, are an improvement than what we have over the current policies as it pertains to wildlife protection, habitat restoration, preservation of land.

The R-1 designation, we understand, in a perfect world we wish, perhaps, that never had been introduced in the first place, but it was. It's something that the program is operating under. We understand that getting rid of R-1 completely is not necessarily an option. Reducing it by 75 percent, I think, is a win, and putting on that back-end credit on the R-2 to really incentivize getting the R-2 done on the landscape, that's a really big step forward from where we're at. And so we're looking strictly and primarily, really, at the environmental outcomes, and that's where I stand on my position on this program.

COMMISSIONER FRY: Okay.

MR. CORNELL: And I would just add, I agree with Meredith on that, but I do want to point out that -- you asked about mission. The Conservancy and Audubon, Audubon Western Everglades, and the Wildlife Federation, Defenders of Wildlife, another group that's involved with

this, we're all in sync in terms of objectives. We want to protect wetlands, wildlife, panthers, Everglades resources. We're all in sync on this. It's just a question of strategy.

I would say a distinguishing feature for our groups is that it's -- we recognize the vital necessity of working with large landowners, not only here in Collier County but across the nation. All you have to do is look at the sage grass out in the Midwest, you know, that needs millions of acres. You cannot talk about recovering the sage grass as a listed -- potentially listed species without talking to ranchers. And so I would say the same is true in Florida. We've got to protect these large ranches, or the panther and wide-ranging species are doomed.

COMMISSIONER FRY: What's your opinion of the results of the RLSA since 2009? I think we've somewhat informally been operating under those recommendations, at least in the background. Is your opinion that the RLSA has overall been successful since its inception and even since 2009?

MR. CORNELL: Let me take that, if I may, because as a member of the Five-Year Review Committee, that was our assessment although, as I mentioned in our presentation, there are some caveats. We saw, well, yes, it was successful. We have more than 50,000 acres in Stewardship Sending Areas, which is, you know, a huge acreage, and it's smart targeting in terms of it's Camp Keais Strand, Okaloacoochee Slough, down by the Panther Refuge. It's the main panther and wetland linkages in our landscape; however, we also recognize vulnerability to the one-on-five attraction for those areas that are still open that we're much beyond the 45,000-acre cap that we wanted to institute. So that was the reason for the ag stewardship.

So we've got some more improvements to do, and that's what these are all about. It's not everything, but this is a first step.

COMMISSIONER FRY: You made a lot of detailed suggestions in your slides. Do we have those? Do we have copies of those? Does staff have copies of those recommendations? Okay.

MR. CORNELL: On that machine.

CHAIRMAN FRYER: We need them. I was going to ask for it as well.

COMMISSIONER FRY: Okay. Final question is, you seem to be saying that -- are you suggesting we do not approve the amendments that are proposed by staff until the LDC -- the accompanying LDC language is also presented? I'm not quite clear.

MS. BUDD: No, not quite. We wish that the LDC amendments in general move concurrently with the RLSA policy so that they're in step with one another as opposed to addressing the LDC policies post approval of the RLSA policies, and then, outside of that, those specific to wildlife conflict and lighting, since those really address issues that are not really unique just to the RLSA, we think it may be a benefit, and we ask that you perhaps recommend those specific LDC amendments get written outside in advance of the RLSA since they do pertain to areas that are not just in the RLSA but -- like the RFMUD or even Golden Gate Estates areas.

COMMISSIONER FRY: Okay. So that raises a question for me just really in how this process needs to flow. I'm under the impression we really need to approve the amendments in order to initiate the LDC effort but -- am I correct or incorrect about that?

COMMISSIONER SCHMITT: The amendments --

CHAIRMAN FRYER: Go ahead.

COMMISSIONER SCHMITT: The amendments have to be approved on the GMP. That, then, would follow -- what follows are the implementing guidance, which are the LDC amendments. If we do not approve the GMP, then there's no need to do LDC amendments.

COMMISSIONER FRY: Right.

COMMISSIONER SCHMITT: So your GMP is the governing document, the Growth Management Plan, Comprehensive Plan. The LDC becomes the implementing guidelines.

COMMISSIONER FRY: So we're really just talking about issuing some guidance about

LDC input at this point along with approving these amendments?

MR. CORNELL: Yes, but recognize that the way land-use authority works in local government and here in Collier County is that the Land Development Code is what's governing on the specificity. And when you review applications, you're looking at the LDC as the sort of specific guideline.

COMMISSIONER FRY: Understood. And I think, you know, some of my concerns with the RLSA vision fall within the LDC, which are the compact communities and walkability and bikeability, interconnectedness, all those things, which I realize are implemented in the LDC. So I think we're all united that, if we approve this, we want to move forward as swiftly as possible with the LDC amendments. But I think it's a -- we have to approve the amendments first, and then the LDC work can happen.

COMMISSIONER SCHMITT: Yeah. With hopes that staff is already working on LDC amendments.

CHAIRMAN FRYER: Yeah. We could ask for bullet points and get the level of assurances from staff that certain things are going to be covered in a certain way before we approve the GMP, and then we can relax a little bit because we know that that's the direction that staff is going in.

But right now -- and I think the point is very well taken, and I was going to compliment the speakers raising this, that the process move in parallel.

As Commissioner Schmitt says, we really do need to act on the GMP first, but it would be awfully nice if we knew the general direction staff was going in with at least bullet points, if not perhaps draft language that we had in front of us. So I commend you for that.

Commissioner Schmitt, did you have more?

COMMISSIONER SCHMITT: Yeah, I have several questions.

And then, Meredith and Brad, you are of the -- I guess, the three big players, you're the last to speak, so I'll address some of the issues, because we've already heard from the Conservancy and the League of Women Voters, which I'm sure we'll hear again. But you mentioned loss of wetlands. Critical issue. We've known that for years.

Three issues dealing with wetlands. Typically you avoid, you mitigate, or you compensate. Those are the rules. This does not in any way truncate or -- I'm asking the question now -- because I know the answer, but I want you to state it on the record, either you or Meredith. This does not in any way circumvent in any way, shape, or form either the Clean Water Act, '72 Clean Water Act, the Endangered Species Act, '73, or NEPA process; is that correct?

MR. CORNELL: That is absolutely correct. And, in fact, it improves on and complements those processes. And that was my point about, you know, those are vital regulations, but they're flawed. They're not fully functional. And this adds a local complement to that to make sure we don't lose.

COMMISSIONER SCHMITT: And that's exactly the answer I was looking for, because the federal guidelines are exactly that. That's part of the Section 404 of the Clean Water Act permitting process. And, again, Section 7, consultation, under the Endangered Species Act. Those are currently existing.

Then, again, through -- whether U.S. Fish and Wildlife rules or Habitat Conservation Plan, an HCP, but these rules another layer more beneficial to wildlife than if we just strictly stuck with the federal guidelines; is that correct?

MR. CORNELL: That's correct. This is local government's opportunity to manage its own national resource destiny.

COMMISSIONER SCHMITT: Which we legally can do.

I just want to reiterate, again, you talked about the 2008. Just for the public's edification, there were 23 public hearings, public meetings. Public was invited throughout. And I'll just

highlight some of the players involved. And for the record, so everybody knows, I was the Community Development Administrator for Environmental -- Growth Management -- well, the Community Development Environmental Services administrator from 2002 to 2009 during the time frame this was developed. Of course, my position was limited -- or eliminated when they combined -- what is now Growth Management, they combined the two after I left. That was -- and for budgetary reasons, and I want to cover that so my colleagues understand this as well.

But the Conservancy of Southwest Florida, Defenders of Wildlife, Eastern Collier Property Association, Florida Gulf Coast University, Florida Fish and Wildlife Conservation Commission, Florida Wildlife Federation, Naples Backyard History, Sierra Club, Southwest Florida Management [sic] District, University of Florida Institute for Food and Ag Sciences all participated in those 23 meetings which led to the 2009 proposed amendments.

COMMISSIONER FRY: You did not mention Audubon.

COMMISSIONER SCHMITT: Audubon was involved as well. Why aren't they on the list? They did. They participated as well. Brad was there, I know that.

MR. CORNELL: They didn't want me on the committee, though.

COMMISSIONER SCHMITT: The unfortunate circumstance was, in 2009, those who may recall, we were going through significant budgetary processes, and after I laid off almost, I think somewhere around between 200 and 225 people in my organization and, essentially, the organization was combined with Transportation, we went to the Board, but we did not have the finances or resources or staff to pursue the amendments. And you're correct, these have been sitting since 2009.

I thank the Board, and they brought it back to life in 2018. Anita may highlight this, but in 2018 staff conducted I don't know how many more meetings, probably another 20. Kris Van Lengen, who led that initiative, and folks were involved which led to further amendments.

So understand, we are not creating a new system. And I think there's a lot of misinformation out there. This is an existing system. It was approved and codified by the Board of County Commissioners in 2003, I think it was the correct date. The zoning already exists at one unit per five acres. This is to incentivize land development to put lands in conservation, and that's what this program was for. It is not creating villages, towns, and hamlets. We are not doing that in these hearings. They're already approved. They can come under the current guidance today.

The effort here, as you pointed out, is to make improvements to what was identified are the shortfalls, and there are shortfalls, and that's what we're addressing right now. We need to address the shortfalls that were identified and try and what I would call fix some of the errors we -- I'll call them errors because they came to light after we began to implement and evaluate SRAs and SSAs, and that's where we're at.

So that's what this is. This is not a rezoning, this is not a redo of the process, and we are not in the process of going to evaluate the scoring or the layers or all those type of things. If the Board of County Commissioners want to do that, then I guess we can reconvene the public hearings again and bring this all back to the public for a further review, but that does not change what currently exists.

Applicants today can come in under the current guidance and submit both SSA and SRA applications, that's correct, right?

MR. CORNELL: That's correct. I think if we had had these amendments 10 years ago, some of the issues that we're discussing now would have been addressed.

COMMISSIONER SCHMITT: Absolutely.

The other critical piece -- and, Brad, I'm going to ask you because one of the important pieces of these -- this amendment are the preservation of ag. Can you highlight that, please, the ag lands that were identified that were not part of the initial SRA -- or initial RLSA that --

MR. CORNELL: Well, it was always an objective. I mean, the final order from the

Governor and cabinet said the county had to figure out a way to maintain agriculture --

COMMISSIONER SCHMITT: Correct.

MR. CORNELL: -- and protect resources and do innovative development or innovative economic activity.

What we realized was that in the natural resource based Stewardship Sending Areas we had not really incentivized directly the protection of farms and ranches. And so that omission was what we're trying to address with the new Policy 2.2, ag stewardship credits, an incentive-based way to protect farms and ranches.

COMMISSIONER SCHMITT: So under current laws today, that ag could be very easily converted to one unit per five acres with no restriction?

MR. CORNELL: Base zoning doesn't go away.

COMMISSIONER SCHMITT: Base zoning, okay.

And so the important piece here is that policy is going to protect lands which are beneficial to both the Conservancy, the Wildlife Federation, and Audubon because the ag lands certainly are part of the process of allowing for corridors and other type of --

MR. CORNELL: Right. It prevents --

COMMISSIONER SCHMITT: -- lands for wildlife to flourish.

MS. BUDD: They hold value for wildlife, certainly.

COMMISSIONER SCHMITT: Yeah. I just want to make that clear again for my colleagues, because that is a very important piece here that came up during the 2009 review and, of course, it's now been sitting, and it's 2020. And you're correct, had some of this language been in place for the last couple of SRAs, it would have probably been -- well, it would have been far more beneficial from the standpoint of the program.

But to dispel any myth that certainly will be perpetuated, this is not -- these amendments are not approving new development. The development already is approved and -- or could be approved under the current policies.

MS. BUDD: And I'll add, I think that the amendments before you also address the concerns that were brought from, I believe it was DCA. It was a report from 2007 which was made in advance of the five-year review recommendation. So the five-year review recommendations, I believe, do speak to some of the concerns that DCA brought up some years ago back in 2007 making sure that those lands aren't as vulnerable to the one-on-five conversion through the protection of agriculture and cap on acreage, of course.

COMMISSIONER SCHMITT: Well, that's all I have for now, because I have more information, but I'll hold off until we hear other speakers.

CHAIRMAN FRYER: Thank you, Commissioner.

Commissioner Dearborn.

COMMISSIONER DEARBORN: I rescinded my request.

CHAIRMAN FRYER: Oh, I'm sorry.

COMMISSIONER DEARBORN: I think Joe covered it, and Mr. Fry.

CHAIRMAN FRYER: Okay. Anybody else?

(No response.)

CHAIRMAN FRYER: All right. Before these two speakers leave, I just want to make reference to a telephone conversation that we had back on September 11, which was enlightening for me, and it helped me identify where the points of agreement and, perhaps, points of different approach that you were taking in relation to the other conservation groups, so that, I found, elucidating.

In the course of that conversation, we discussed smart growth and the flip side of that, which is urban sprawl, or at least that's one aspect of the flip side of it. And this relates to a comment that was made a little earlier by one of you this morning about the degree -- or about the

degree to which the RLSA has been successful so far.

And the subject of Rivergrass came up in our conversation. And you both acknowledged, really, in no uncertain terms, your point of view that Rivergrass was not an example of smart growth that, in fact, it was really quite the opposite. Have I characterized that fairly?

MR. CORNELL: Partly fairly. If where you're driving on this is what our view is of the smart growth policies in the Rural Land Stewardship, I would say that in terms of Rivergrass, our -- at least the Audubon Society's view of that is that your most important aspect of smart growth is siting. You've got to put development -- you've got to put our communities in the right place. Don't put it in wetlands. Don't put it in panther habitat. Don't put it next to things.

I mean, your previous conversation was illuminating about the curtain wall incinerator. You know, those kinds of things, there are certain things that land use has to try and manage, and that's job one. And as a conservation organization, our view is that the most important aspect of smart growth is to put it in the right place and to have a regional context of conservation surrounding it. That's what SSA 15 was all about --

CHAIRMAN FRYER: Let me interrupt then and say --

MR. CORNELL: Sure.

CHAIRMAN FRYER: -- what I thought I heard you say really, which I'm really clear I heard you both say, and I believe you agreed with me that Rivergrass Village was not an example of smart growth and it was -- that's very much to the contrary. That's what I heard. And English is my mother tongue, so -- just like it is yours.

MS. BUDD: So I will say, sir, when we were speaking on the phone, I was speaking with you in a conversation, and today I'm speaking on behalf of the Florida Wildlife Federation where I am promoting the environmental outcomes of the RLSA.

CHAIRMAN FRYER: Okay.

MS. BUDD: And so with all due respect, my personal opinion is not of an expertise on smart growth. I don't have expertise in --

CHAIRMAN FRYER: That's fair enough. But I've accurately characterized your personal opinion, I believe; have I not?

MS. BUDD: My personal opinion, again, is not what I'm here to speak on the record for.

CHAIRMAN FRYER: Well, then I will. I'll tell -- I will continue to tell the public what you said, and you will just have to --

MS. BUDD: That is your prerogative, sir. And as a Planning Commission, I think that you have every right to look at all of the aspects of the policies, including smart growth, as it pertains to affordable housing --

CHAIRMAN FRYER: We will.

MS. BUDD: -- but here on behalf of the Federation --

CHAIRMAN FRYER: Ma'am, thank you.

So the things that you said -- and I'll take it -- if you say this was your personal opinion and not on the part of Audubon, that's a fair qualifier, because we didn't cover that.

Also, you made the point -- and I don't know if -- you both made the point, or at least you accepted my point -- I don't know if it was as a personal opinion or on behalf of your organizations -- but you said in very strong terms that aggregation is a desirable characteristic for proximate villages under common ownership.

MR. CORNELL: I will agree with that again, and I -- you know, the aggregation of land ownership into a town rather than villages is an important aspect, and I will use as an example the Rural Lands West town that we all were looking at for a long time. I had reviewed that many times and met with the landowner and the developers and their consultants, had consulted with our science staff out at Corkscrew Swamp Sanctuary. A town, a larger development, affords you more flexibility and more opportunity to do smart growth, to create jobs, to achieve the smart growth

development aspects that are not really, you know, our issue, but what it does is it consumes lots and lots of credits and allows more conservation to be done in the Rural Land Stewardship Program.

And if I remember the meeting in front of you and in front of the Commissioners on Rivergrass, a lot of the speakers complained that we were looking at a village rather than a town, and that speaks to that aggregation issue that you're raising, Mr. Chair, and I would agree with that. You know, a town is easier to get a smart growth outcome versus a village. Nevertheless, I still want to point out the most important smart growth element is the conservation regional context and the correct siting. Rivergrass is still in the right place; same place as Rural Lands West. We just have lost the larger aspect of it.

CHAIRMAN FRYER: Okay. That's fair enough.

MS. BUDD: And I agree with that, Mr. Chair, as well, with the aggregation as well.

CHAIRMAN FRYER: Thank you.

The last point that we all agreed upon was that affordable housing is desirable, and not just for the RLSA where it certainly is desirable, but for the whole of Collier County. Did I state that correctly?

MR. CORNELL: Not as a conservation element but, yes, affordable housing is something that has challenged Collier County everywhere. The County Commissions, many County Commissions for many years, have wrestled with this, and Planning Commissions have not been able to solve this problem. And it's not unique to Collier County. It's a problem in many urban areas across the United States. And it's not a conservation issue, but it affects us. We all, obviously, have an interest in solving that problem. How you do it, I don't know.

CHAIRMAN FRYER: Thank you.

All right. Other planning commissioners' questions for these witnesses?

(No response.)

CHAIRMAN FRYER: If not, thank you very much.

MS. BUDD: Thank you, Mr. Chair.

MR. CORNELL: Thank you.

CHAIRMAN FRYER: Thank you.

Ms. Jenkins, do we have -- who's our next must be speaker?

MS. JENKINS: Susan Calkins.

CHAIRMAN FRYER: Susan Calkins?

MS. CALKINS: All right. Hi, Susan Calkins, long-time resident of Naples and one of the people who was sitting in this room in April 2009 when these five-year review amendments, the recommendations for them, was approved by a 3-2 vote.

CHAIRMAN FRYER: Ma'am, would you mind indicating if you're representing a group?

MS. CALKINS: Oh, I'm sorry. I work with the League of Women Voters, the Environmental Affairs for a long time --

CHAIRMAN FRYER: Fair enough. Thank you.

MS. CALKINS: And as a resident here for 20 years I've been involved with environmental issues.

CHAIRMAN FRYER: Thank you.

MS. CALKINS: And I would say -- you know, I guess I'm responding in part to the fact that we've heard a great deal said about this being -- the five-year review recommendations being a consensus -- it was consensus recommendations. You know, everybody was happy with that.

I think if you go back, that was a very contentious meeting, and to say that there was consensus at that point is really revisionist history. There was not a consensus at that time, and there was not consensus in truth. I would say there was not agreement, let's put it that way, among all the stakeholders at the time of the five-year review. There was public comment, indeed, and

you listed all the organizations that participated, but public comment taken and recorded doesn't equate to consensus.

The decisions about appropriate amendments were made by members of the Five-Year Review Committee, a committee composed of 11 voting members, only one of whom represented the environmental community.

The majority were allied, and you can, you know, look for yourself, although you have to look hard. It's on the Collier County website under the library for the RLSA. They all represented -- the majority, not all, represented in one way or another business and land development interests.

So considering the composition of the committee, I think you can see why many of the concerns raised at that time -- and you've got -- you know, there's a long list of them, concerns about things like a surplus of credits and adequate protection of natural resources. You can understand why they never found their way into the final five-year review recommendations. The issues remain.

Then we fast forward to 2018, the RLSA restudy. I was party to that; thought that would be a chance to perhaps make some of these changes that are still needed, I think, in this program. The last two of the 12 public meetings were titled "consensus meetings." And there was a hired facilitator. At the last meeting, consensus meeting, wrapping things up, the facilitator said, if a comment cannot be supported or agreed upon by all audience members, the comment will be considered to be a non-consensus item. That's -- you can find that in your white paper.

Representatives of the Eastern Collier Property Owners turned out in force at that last meeting. Standing at the back of the room, they shook their heads "no" a lot. We ended with a lot of non-consensus items.

At times, the facilitator said, how can we change the wording to get consensus? So when it was applicable, words like "require" were banished. "Encouraged" was replaced. Although a majority of those attending the meetings wanted a smaller footprint with smarter compact development, better protection for listed species, and Water Resource Areas, we are, instead, being offered larger towns and villages and, in many cases, inadequate protection for listed species.

CHAIRMAN FRYER: One minute remains, ma'am.

MS. CALKINS: So as Planning Commissioner Schmitt noticed at the last meeting, you've received comments from individuals with a history of involvement in the RLSA. You've got 63 pages of commentary from the Conservancy, 24 pages from the League of Women Voters. Those concerns belie the notion of consensus, and I think that we can say right now that, in truth, we would all like to put these recommendations to bed. But without real consensus and without the required data and analysis which still remains to be done, letting these recommendations go forward as is would be a grave error. And I hope -- I think that what has been said previous to me indicates there are a number of areas, and certainly all those things you got from the Conservancy and from the League show that there are a lot of places where we can make changes to make these better. And I think that's what we want to see this time around and, certainly, the LDC needs to go with these amendments, but these amendments can also be improved dramatically.

CHAIRMAN FRYER: Thank you, ma'am.

MS. CALKINS: Thank you.

COMMISSIONER SCHMITT: Thank you.

CHAIRMAN FRYER: Next speaker.

COMMISSIONER SCHMITT: I have a question.

CHAIRMAN FRYER: Oh, question for you.

COMMISSIONER SCHMITT: Yeah. Ms. Calkins, you basically are clear that there was lack of consensus and that was, I mean, that's --

MS. CALKINS: Yeah.



COMMISSIONER SCHMITT: To use your position. But you clearly understand if these GMP amendments are not passed, they can -- projects will still move forward --

MS. CALKINS: Yep.

COMMISSIONER SCHMITT: -- under the current and existing regulation. Would you prefer that versus the -- at least getting some of these changes in that I think are necessary?

MS. CALKINS: You know, we've got, what, 36,000 acres left to build on. I think you could take a timeout, make the changes, get it right. I mean, it's been 10 years. You know, why we are now -- I mean, we can do -- there's no question we need to get them through, but we could take a timeout, not take any more permits for these villages right now until we get it settled.

COMMISSIONER SCHMITT: But that would be issuing a moratorium of some sort.

MS. CALKINS: Well, you can call it what you want. Zoning in progress --  
(Simultaneous crosstalk.)

COMMISSIONER SCHMITT: Well, legally it would be a moratorium. There would have to be some kind of compensation. This is private land. So I will -- you know, that's something the County Commissioners -- and I leave that to the County Attorney.

MS. CALKINS: It's a zoning issue.

COMMISSIONER SCHMITT: But -- so, okay. I understand. And then you talked about --

MS. CALKINS: I don't think that all the changes are so dramatic that they can't be done in a relatively short time; my position.

COMMISSIONER SCHMITT: Well, it's -- short time. It's been --

MS. CALKINS: Right.

COMMISSIONER SCHMITT: It's been 2005 to 2009, 2009 to 2020.

MS. CALKINS: Exactly, but my point is that I don't think that's a reason to get it through right now.

COMMISSIONER SCHMITT: Well, then, we're under the status quo.

MS. CALKINS: Well, not forever.

COMMISSIONER SCHMITT: Which landowners have the legal right to submit an application.

Okay. The only other question, you said "required" versus "encouraged." How -- legally, in the League's mind, how can the government legally require a private landowner to comply?

MS. CALKINS: We're -- people are required all the time. When they build their homes, they're required under certain codes to do this or that. I mean, goodness sakes.

CHAIRMAN FRYER: I think if I could add to that, the requirement, if this were adopted as a requirement, would apply to new SSAs and SRAs. It wouldn't change what's already happened --

MS. CALKINS: Thank you.

CHAIRMAN FRYER: -- because that happened under the current rules. So people still don't have to volunteer into the program, but once they volunteer into the program, they're going to be subject to its then requirements.

MS. CALKINS: Yeah.

COMMISSIONER SCHMITT: Well, they are -- through the LDC they will be, because if they volunteer, then the LDC are the implementing criteria -- essentially become the requirement. But what I heard you say is they should be prohibited from any other type of development, and they're required to participate in this program. They could still build one per five acres now.

CHAIRMAN FRYER: They're not required to participate in this program. It's voluntary.

COMMISSIONER SCHMITT: Correct.

CHAIRMAN FRYER: And so the rules that are in existence at the time that an SSA is applied for or SRA, those rules will apply. And as the County Attorney has said, and I agree

100 percent with, the longer we stretch this out without reaching some kind of a resolution, pretty soon we won't have anything at all to regulate. So time is not really on our side.

COMMISSIONER SCHMITT: Right. Those were both of my questions.

CHAIRMAN FRYER: Thank you, ma'am.

MS. CALKINS: Agreed.

MS. JENKINS: Your next speaker, Mr. Chair, is Mitch Hutchcraft, and Mitch will be followed by -- or would you like to take lunch after Mitch?

CHAIRMAN FRYER: No. Let's -- we can get another speaker in.

MS. JENKINS: Okay. The next speaker will be Nancy Zolidis.

CHAIRMAN FRYER: Okay.

MR. HUTCHCRAFT: Good morning. My name is Mitch Hutchcraft. I am representing King Ranch. We are landowners within the Rural Lands Stewardship Area.

I think based on some of the comments that you heard from Brad and Meredith today and the video that you saw before presented several facts that I think seem to have been lost in recent discussions.

First, the Rural Land Stewardship was approved in 2002. It is the law of the land and the acting policy. The original approval included a sprawl analysis which was found by DCA, county staff, the Board of County Commissioners, to be consistent with the Florida Statutes.

The study also confirmed that landowners are critical stakeholders in the conversation and that private landowners had development rights before the RLSA was ever created. The program is voluntary and is designed to protect rights and use incentivization to establish stewardship activities while facilitating a mix of agriculture, housing, and employment opportunities, and those frameworks come directly out of the Florida Statutes.

The Rural Lands Stewardship approach achieved these goals with a mix of flexibility and assurances so that it was equitable to all of the landowners; the landowners that enter early in the program and landowners like ourselves who would likely participate much later in the process.

These original Rural Lands Stewardship benefits will only be enhanced by the recommendations of the Five-Year Review Committee. They will include credits for agricultural protection, creation of panther corridors, and a recalculation of credits and establishment of caps.

Secondly, I think that previous information demonstrates why I'm proud of the work that we've done and the meaningful partnerships that we've created with key environmental organizations as well as state and federal agencies. This has resulted in significant environmental progress both inside and outside of the Rural Lands Stewardship context including panther protection, wildlife underpasses, protecting natural systems, regional connectivity, and restoring native lands.

And we've done it by aligning private property rights and resources with beneficial environmental outcomes. And I think short of this alignment, the alternative is a public purchase and maintenance program placed wholly at the feet of the Collier County taxpayers. And our approach has proven far more successful.

Again, I think that the recommendations that are before you today will only enhance the environmental objectives of the original RLSA program.

Third, we've gone through a very long and very transparent process. You've heard comments like slow down; take the time; why the rush? These are not serious comments. This was approved in 2002. The recommendations you are considering today were the results of two years of studies that were ultimately presented in 2009. They've been rereviewed and reaffirmed most recently in the staff report that you have before you.

Let's actually do the right thing and adopt these refinements rather than ignoring the mountain of data that's already been presented, which brings us to today.

In 2019, the Board of County Commissioners directed staff to prepare these Growth

Management Plan amendments reflective of the Five-Year Review Committee and reinforced by the white paper while addressing any other relevant items through a separate Land Development Code process. The package before you today is consistent with the Board's direction. It is supported with relevant and appropriate data and analysis. It is consistent with Florida Statutes 163.3177. It documents how the activity resulting from these amendments would support or enhance the original goals of the Collier County Rural Lands Stewardship Area, and I would urge you to support them.

Thank you.

CHAIRMAN FRYER: Questions for this witness?

COMMISSIONER SCHMITT: Yeah. I just have one.

Mitch, you made a statement, and what I believe you heard -- what I heard you say is, yes, okay, then if we want to place these lands in preservation, the government can do so but, certainly, they can do so by purchasing the property and put it into preservation, which would cost the taxpayers.

I think I read a quote from Nancy Payton that kind of alluded to the number of acres to be purchased were well in excess of a billion dollars. Is that what -- your estimate?

MR. HUTCHCRAFT: That's correct. That's a number that I've heard for the acres that have already been identified for preservation. I think if you implement the program as it's anticipated resulting from this, it approaches a billion dollars. And so, yes --

COMMISSIONER SCHMITT: That's why I said a billion. I think Nancy's quote was a billion.

MR. HUTCHCRAFT: Yes, I think that's accurate. And the county always has the opportunity to do a private acquisition of a willing seller, and so that's always been the county's prerogative.

CHAIRMAN FRYER: Mr. Fry.

COMMISSIONER FRY: Mr. Hutchcraft, so King Ranch is part of the ECPO?

MR. HUTCHCRAFT: That is correct. We are a landowner, and we're a participant in ECPO.

COMMISSIONER FRY: Where are you in the list of -- like, what number in terms of how many acres you own versus the other --

MR. HUTCHCRAFT: I think we are probably fourth or fifth.

COMMISSIONER FRY: Fourth or fifth?

MR. HUTCHCRAFT: Yes, sir.

COMMISSIONER FRY: Do you anticipate coming forward at some point in the future with villages or towns or something along those lines?

MR. HUTCHCRAFT: On behalf of King Ranch, we have always made it clear that our intent is to remain in agriculture as long as economically viable. We have been moving forward recognizing that this program is the ultimate use of our property, and so we've been acting in reliance on this program.

I think there will be a point in time when the economic viability of agriculture in this area is challenged. And so the amendments that you have before you today does a much better job of concentrating and ensuring that agriculture that can be in place is in the right location and that development that occurs is in the right location as a result of that.

So I think it benefits all property owners. And, frankly, the agricultural credits for a company like ours, it ensures that all of the property owners are treated equitably. There's a great certain on our behalf that if some of the projects go forth earlier and are held to a different standard but then those projects that come in later in the program are held to a much more stringent standard, it is not fair and equitable of all of the participants in the Rural Lands Stewardship Area.

COMMISSIONER FRY: So it's your opinion that the agricultural credits that are

introduced in these amendments will be beneficial to you in possibly being able to keep the land agricultural if that's your wish?

MR. HUTCHCRAFT: Yes, sir. I think that's certainly beneficial, and the ag credits in the panther corridors are items that we have been strongly supportive of through the process.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: The staff came forth with an initial set of proposed GMP amendments, it was dated, I believe, March 9. Are you familiar with that draft, sir?

MR. HUTCHCRAFT: Generally. I can't tell you the dates or the specific details, but I'm generally familiar.

CHAIRMAN FRYER: All right. Do you have an opinion as to whether that would have been a good version for the county to adopt?

MR. HUTCHCRAFT: The landowners and King Ranch, specifically, have been very supportive of the five-year recommendations. We think that those are consistent with the data and analysis that was prepared. And so beyond those, I think it is a -- those are additional items that, if they should be addressed, they should be addressed in a separate process after the five-year amendments are adopted.

CHAIRMAN FRYER: All right. I think what I hear you saying, then, is you're not sufficiently familiar with the March 9 draft to express an opinion on it.

MR. HUTCHCRAFT: I don't think I said that.

CHAIRMAN FRYER: Well, tell me again what you said.

MR. HUTCHCRAFT: I said that we have been supportive of the five-year amendments. Those are amendments that we think should go forward and be adopted. If there are additional items that should be reviewed, they should be reviewed as a secondary process after the adoption of the five-year-review amendments.

CHAIRMAN FRYER: Did the March draft capture those amendments effectively?

MR. HUTCHCRAFT: The five-year amendments were part of the recommendations in that draft, but there were a number of other provisions that were not reflective of the five-year review.

CHAIRMAN FRYER: Did your company express disapproval of the March 9 draft?

MR. HUTCHCRAFT: I don't know that King Ranch specifically provided a comment, no.

CHAIRMAN FRYER: Okay. Thank you. Any other questions for this witness?

(No response.)

CHAIRMAN FRYER: If not, thank you, sir.

MS. ZOLIDIS: Chairman Fryer --

CHAIRMAN FRYER: Yes, ma'am.

MS. ZOLIDIS: -- thank you for allowing me to speak today. My name is Nancy Zolidis, and I'm speaking for myself.

CHAIRMAN FRYER: Thank you.

MS. ZOLIDIS: I am a retired hydrogeologist; recently moved to beautiful Naples, so it's taken me quite a many hours trying to get up to speed on this program.

After earning a masters and a Ph.D. in land resources from the University of Wisconsin, Madison, I worked for over 20 years primarily in the private sector as a consultant on a variety of water-related issues.

Today I'm going to talk about two of those issues. One is the Flowway Management Plan and the other is the Water Retention Areas.

I am in support of the requirement that a Flowway Management Plan be developed as part of the approval process for an SRA. Although described by staff in the restudy white paper, the Flowway Management Plan requirement was not included in the final recommended amendments.

One of the goals the Flowway Management Plan would ensure is that the flowways operate efficiently and effectively, maintaining flows and, when necessary, attenuating discharge and stabilizing water flows to reduce downstream impacts. To carry out this objective, the staff report outlined several maintenance activities. In addition to this goal, the Flowway Management Plan can serve to protect our flowway systems, including adjacent and dependent wetlands, by conducting baseline studies, analyzing results, and tracking changes over time.

The goal is to maintain the health, the structure, and functions of the flowways as land conversion occurs or even as agricultural activities continue or are altered. Assessment of the changes and conditions enhances our understanding of development impacts and leads to improved management methods.

In my opinion, the county should take the active oversight role of coordinating Flowway Management Plan activities and recordkeeping so that it -- so that there is consistency in how the plans are developed and reviewed over time.

Another element I'd like to speak to is the Water Retention Areas. These are retention -- these should not be used for primary stormwater management. Retention ponds do not discharge water to a downstream water body but stores water that may be evaporated, sometimes transpired, or infiltrated in the soil and percolated downward to the water table.

One study estimates that 50 percent is lost through lateral and downward flow. According to the 2010 Collier County wellhead protection study, there is a concern for development in areas with shallow water tables and thin, sandy soils that do not effectively attenuate the contaminants. This is especially a concern in areas of high recharge rates that are reported for parts of Camp Keais Strand by the 2010 Collier County Watershed Management Plan.

Agencies are still documenting the contaminants in our urban generated stormwater. A recent 2019 national study by researchers from the USGS and the EPA looked at 50 runoff events in 21 sites across the United States in 17 states. Unfortunately, Florida was not one of them.

The 69 contaminants frequently reported included 21 pesticides, 11 household chemicals, five nonprescription pharmaceuticals, three plant and animal sterols, and two prescription pharmaceuticals. Little is known about the potential chemical exposure from organic and inorganic contaminants in urban stormwater runoff or the potential effects on groundwater surface water quality or ecosystem health.

Thank you.

CHAIRMAN FRYER: Thank you very much. It's 11:55. It's probably, unless the Planning Commission feels otherwise, an appropriate time for us to take a lunch break. And hearing no objection, let's stand in recess until 1:00 p.m. for lunch.

Thank you.

(A luncheon recess was had from 11:55 a.m. to 1:00 p.m.)

(Commissioner Dearborn is absent for the remainder of the meeting.)

MS. JENKINS: Mr. Chairman, you have a live mic.

CHAIRMAN FRYER: Thank you, Ms. Jenkins. We're reconvened, and we'll continue with public speaking. Who's next?

MS. JENKINS: Chair, your next public speaker is Judith Hushon.

CHAIRMAN FRYER: Ms. Hushon?

MS. HUSHON: Coming, coming.

MS. JENKINS: And Judith will be followed by Liesa Priddy.

CHAIRMAN FRYER: Okay.

MS. JENKINS: Well, we might have to have some -- let's see.

CHAIRMAN FRYER: Okay. When you're ready, ma'am.

MS. HUSHON: Okay. I'd like to introduce myself. I'm Judy Hushon, and I have been associated with the Conservancy and League of Women Voters, but I'm really here today wearing a

different hat. I'm wearing the hat of the ex-chair of the Environmental Advisory Council which heard the five-year amendments back in '09. So I'm kind of turning back the clock a little bit since I had a lot of knowledge of what went on back at that point.

And as you know, the BCC decided 3-2 in a contentious meeting to adopt and then not to fund the data and analysis. And they were -- this was at a time when, of course, we were in the recession and there was no money running around in the county to fund this. They asked the developers if they wanted to do it. They said no. So we sit with what we had in 2002.

But there was one thing done at that time. Nancy Linnan hired Carlton Fields to tell the county what data and analysis are required, and they turned out a memo, which I did send to you all just so you could see it and read it yourselves. It's a good memo, and it's still exactly as valid as it was on the date it was written.

In 2017, you know, we had tried to move -- we're trying to move forward again. There's a requirement. The law that governs all of Growth Management Plan is Statute 163.3177. There's a section that covers data and analysis, because you have to do that. The data must be consistently used across the various planning elements. Statutes states the data required for the analysis must be taken from professionally acceptable sources, et cetera.

Then it lists in Rule 9J5 these points. And you'll see there are a lot of them. So I thought I wouldn't just sit up here and rattle them off. I put them up visually, and I also sent those points to you.

These are a lot of different points that it's just to make sure that the best data are being -- best and most currently -- I should say most current, because Nancy Linnan's memo says that. So now if you submit -- you couldn't use the data that you were planning to submit back in 2010. You'd have to send 2020 data on population estimates and things like that.

And you'd have to update your existing public resources. Different things are available today than were available then. And some of these are interesting, the extent to which urban sprawl is encouraged, whether development is proposed as walkable, connected, and whether a range of housing choices and a multimodal transportation is provided.

Provision of water and energy, provides for recreational needs. These are all things that are in the statute that are supposed to be in our Growth Management Plan, and we're supposed to be ensuring that every development that comes forward has these things properly incorporated in it.

If you do a major redo of your Growth Management Plan, you have to answer these questions. This is the data and analysis. We have done enough of a change that we will have to answer and submit these -- this data and analysis. So whether you decide to move forward or not -- I mean, if you decide to move forward, just know that it doesn't become law until this happens, because it didn't happen before. I mean, that's what I'm -- I'm just trying to make everybody aware that there's one more step in this. I don't think the county is particularly feeling flush at the moment either at this time. So I hear laughter over here from county staff.

So they're not looking forward to it. It was estimated to cost \$90,000 back then. My guess is it's well over 200,000 to do this study today. I'm just putting that out.

So until a comprehensive data analysis is prepared --

CHAIRMAN FRYER: Ma'am, you're right at five minutes, I'm sorry. Try to wrap up in the next few seconds.

MS. HUSHON: I am. I have one sentence.

CHAIRMAN FRYER: Okay. Go ahead.

MS. HUSHON: Until a comprehensive data and analysis is prepared, these amendments should not be adopted nor should any new communities be approved for development under these rules. We need a zoning in progress. Thank you.

CHAIRMAN FRYER: Thank you very much.

COMMISSIONER SCHMITT: I have a question.

CHAIRMAN FRYER: Yes. Question for you, Ms. Hushon.

COMMISSIONER SCHMITT: Judy -- well, I'll ask staff because, of course, this -- Nancy Linnan and Marti Chumbler were both from Carlton Fields, so they were both -- they were -- just to correct the record.

MS. HUSHON: Oh, okay. I'm sorry.

COMMISSIONER SCHMITT: They were both from Carlton Fields, and they were hired by the county as consultants to develop the implementing plan.

MS. HUSHON: Okay.

COMMISSIONER SCHMITT: But I'll ask staff -- and I -- clearly, this letter recognizes it but, of course, there's no longer a DCA.

MS. HUSHON: No, but there is something equivalent.

COMMISSIONER SCHMITT: Something equivalent. My question to staff, is this criteria required today as part of the application process, and everything that was cited in this letter, does it need to be accomplished before we can forward any of the Comp Plan amendments to the State for review?

MS. JENKINS: Commissioner, I would point you to the legal considerations on Page 6 of your staff report --

COMMISSIONER SCHMITT: Okay.

MS. JENKINS: -- that provides what your considerations are to move a Comprehensive Plan forward, and the data that is required in there may include, but not be limited to, survey studies, community goals and visions, and other data available at the time of adoption and plan amendment. Those studies have been provided by both the Five-Year Review Committee and the white paper that was completed as well. That provides the data and analysis for these amendments.

COMMISSIONER SCHMITT: So, in conclusion --

MS. ASHTON-CICKO: 9J5 was repealed.

COMMISSIONER SCHMITT: Yeah, and that was the other question, is 9J5, is that still applicable today?

MS. JENKINS: No, sir, it was repealed.

COMMISSIONER SCHMITT: That's what I thought. I thought 9J5 was repealed. So it's no longer applicable.

So -- but -- so from staff's perspective, what is supposed to be submitted you believe is being or has been submitted to support these amendments?

MS. JENKINS: Yes, sir.

COMMISSIONER SCHMITT: Okay. Thanks.

CHAIRMAN FRYER: Thank you, ma'am.

MS. HUSHON: Okay.

MS. PRIDDY: Good afternoon, Mr. Chairman and Planning Commissioners. My name is Liesa Priddy, and my family is the third largest landowner in the county. We are part of the Eastern Collier Property Owners group that has an intense interest in the future of our property, both financially and as stewards of the land. We operate JB Ranch, a beef cattle operation, in the southeast portion of the county and have done so since the 1940s.

For perspective on where we're located, our property was noted on the panther telemetry map that was shown previously by Meredith and by Brad, and probably where the majority of those telemetry points are located was on our property. We're pretty much ground zero for panther populations.

I tell you this to emphasize that we have skin in the game. The majority of our property is a sending area. While many here today are concerned about how the growth of Collier County proceeds, let me be emphatic that no one is as concerned as we are.

Probably of all the people that are -- have already spoken or will speak to you today, I'm probably the only person here that actually lives and works in one of the sending areas of the RLSA. We aren't developers. Our industry is agriculture.

It would be fine with us if not one more house was built in Collier County, but that's not reality. Reality is that growth will continue, but it is the responsibility of all of us that it be done responsibly. Right now we can build one house per five acres, just as Golden Gate has been developed, but who wants that? We don't. So for us, and we believe for the citizens of Collier County, the best alternative is the RLSA program and the enhancements that the five-year-review implementation would bring.

We're one of the property owners that acted in good faith on the RLSA, placing over 4,700 acres of our ranch into Stewardship Sending Area No. 12 and relinquishing our development rights. The value that we receive from this are stewardship credits that we can market to an SRA sponsor. We need this program to continue to work for that value to be realized.

As you know, RLSA was established 17 years ago to address natural resource protection, preservation of ag lands, and urban sprawl in response to a judge's final order in 1999. Part of the RLSA requirement is to have five-year reviews. This was completed in 2009 after exhaustive work but was never implemented.

Nicole Johnson with the Conservancy was quoted as saying, we want to protect listed species and their habitats to preserve agriculture and to ensure that urban sprawl is avoided. Well, that's what the property owners in the RLSA want, too.

She also said that a lot has changed since the program launched in 2002 and that we now know a lot more. I totally agree, and that's why five-year reviews are part of the program. The review doesn't mean toss the baby out with the bathwater, but to incorporate enhancements such as the ones which have been recommended. This isn't a kids' game where one child doesn't get their way and cries for a do-over.

To even consider a moratorium would be akin to an adult do-over. Please don't condone a strategy of delay in order to achieve special interest desires to get their own way.

Ten years after the first five-year review was not implemented, here we are finally moving through the transmittal and adoption process that should have been done many years ago. I appeal to you to support your professional staff's recommendations and the direction from the Board of County Commissioners to transmit these GMP amendments for the RLSA overlay.

Thank you. Any questions?

CHAIRMAN FRYER: I don't see anybody lit up. Oh, go ahead, Commissioner.

COMMISSIONER FRY: Quick question. So you -- cattle is your business --

MS. PRIDDY: Yes.

COMMISSIONER FRY: -- primarily?

MS. PRIDDY: Yes.

COMMISSIONER FRY: Did that qualify for these ag credits, or is that only for crops?

MS. PRIDDY: It's my understanding that it would, yes.

COMMISSIONER FRY: It would. So you might be eligible for additional credits or if --

MS. PRIDDY: I'm not an expert on the details of it, but it is my understanding, yes.

COMMISSIONER FRY: Okay. Thank you.

CHAIRMAN FRYER: Next speaker, please.

MS. JENKINS: Your next speaker, Mr. Chair, is Rae Ann Burton, followed by Lorelee LeBoeuf.

COMMISSIONER FRY: Could I quickly ask Anita to clarify whether cattle operations would be considered eligible for an ag credit.

MS. JENKINS: Mr. Fry, the ag credits would apply to any open lands. So they'd have to be designated as open for the ag credits to apply.



COMMISSIONER FRY: So already in the SSA, no additional credits -- you're not eligible for additional credits?

MS. JENKINS: Not under the ag credit.

COMMISSIONER FRY: Not under the ag credit.

MS. JENKINS: Yeah. The ag credits apply to open. They don't apply to HSA, FSA, or WRA.

CHAIRMAN FRYER: Ms. Burton, go ahead.

MS. BURTON: Good afternoon. My name is Rae Ann Burton. I live at 2530 31st Avenue Northeast, Naples, Florida, Rural Golden Gate Estates.

This is my second visit here in regarding to Item 3. I'm a single retired senior, property owner, one of the smallest homeowners fighting to protect my home.

This benefits the developers to build as many luxury developments they can squeeze out of their land. They only care about the bottom line and profit because they don't live here and it's not their backyard.

RLSA claims it's created to prevent estate sprawl, but many building permits are for site homes for developers' proposed communities.

There is a constant request for rezoning of currently RLSA to build more complex -- Rivergrass, for one -- luxury communities. This restructure gives even more credits to use to build. What lands have they restored?

It states more protection of endangered Florida panther and the 15 others species, yet they build insensitive wildlife habitat claiming no wildlife but then state a fence and a wall will be built to protect the community.

Developers -- developments change water flow, absorb less stormwater than the Estate homeowners' acreage because of compact buildings, streets, and driveways. Even the construction of these communities have impacted water quality within proper water runoff of sites, polluting the canals. I know I've reported them. They don't adhere to the requirements now, and this gives even more credits without guaranteed restoration. What guarantee is there that these amendments will be honored? If there were no massive developments to the destruction of wildlife habitat or wetlands, there would be no need for restoration.

It is said these amendments aren't for new developments, but it will impact current and future ones. The developers are currently requesting rezoning, less requirements, and less responsibility and infrastructure. They have the right to build on their land, but not at the cost of ours.

Don't approve the RLS as it is with possible plans to be adjusted later. It should be adjusted, completed now with less credits, more protection of environmental, and consideration of the Estate homeowners that live here.

PBS on the 2nd of September had Elm -- I'm sorry I can't pronounce his name -- a program on Wild of [sic] Florida. He stressed need or preservation for wildlife and future generations. Uncontrolled massive growth destroys water sources, creates traffic congestion. It will make the Estates a hub surrounded by compact luxury communities destroying unique rural Naples and possible tourist trade. We don't want to be the suburb of multiple communities.

Thank you, and keep safe.

CHAIRMAN FRYER: Thank you, ma'am.

COMMISSIONER SCHMITT: I have one --

CHAIRMAN FRYER: Oh, I'm sorry.

COMMISSIONER SCHMITT: Ms. Burton, I just have -- I just have one item. You mentioned -- I just would like to correct the record, and you may dispute that. But you mentioned rezoning. This is not a zoning action. I want to stress that again. The zoning already exists -- you have to go to the microphone.

The zoning already exists, and the applications for either villages or townships are -- the zoning is already there and approved. When they come in for the applications, all we're doing is reviewing those applications and applying the rules. We're not rezoning. So I just wanted to make sure you understood that. It is not a rezoning action. The zoning already --

MS. BURTON: This one is not, but they have gone in and -- I've gone to all your meetings.

COMMISSIONER SCHMITT: Yeah.

MS. BURTON: They come in, and they request rezoning so they can make residential and agriculture commercial.

COMMISSIONER SCHMITT: Okay. Well, I'm just stating, it is not a rezone.

MS. BURTON: That's why I stated that.

CHAIRMAN FRYER: Thank you.

Sorry I didn't see your light on.

MS. LeBOEUF: Hello. My name is Lorilee LeBoeuf. I'm a resident of Naples. I am a member of the Conservancy. I'm also a member Audubon of Corkscrew Swamp and a member of the League of Women Voters and the American Association of University Women. I'm here today to address the benefits of smart growth and why it is the right choice for the RLSA.

What the county residents want: County's own Community Character Plan completed in 2001 shows our residents want traditional neighborhoods with tree-lined streets, interconnectivity, and access to nature. I have provided on an attachment a link to that study so that you may look at it.

Secondly, the RSLA [sic] needs towns where people can live, work, and play. Collier County is approximately the size of two Rhode Islands. If you exclude the eastern conservation lands, it is the size of Delaware. That's quite large; think about it. But one cannot imagine Delaware with just six small little communities and municipalities like Collier County. More importantly, you cannot imagine people commuting from one side of Delaware to the other seeking employment, yet that is the dynamic of Collier County. What the RLSA needs is a town and community in which people can work, live, and play without community. A town, not a strip center.

Density is important. High density compact buildings -- building provides higher tax return per acre than lower density building. Low-density building requires more roads, sewers, water, and services per acre than high density; therefore, compact communities provide a greater cost benefit to the taxpayers than a sprawling single-family development.

Additionally, compact communities use a smaller footprint where the remaining lands, normally filled with sprawl, are now available for recreation and conservation in order to avoid sprawl and another Rivergrass.

I am recommending three provisions: Reinstate the word "require" in the Land Development Code on minimum densities within one-quarter mile of the town center. Policy 47.1, do not increase the towns by 1,000 acres. Policy 4.72 [sic], do not increase the village size from 300 to 1,500 acres.

Aggregation. I'm not going to go into a lot of depth because I know other people -- speakers will address this, but having a series of villages with no town center is contrary to what the RLSA needs to avoid mass communicating -- commuting.

Comprehensive land analysis. Smart growth won't work if you don't know what you need. As recommended by Carlton Fields in 2010, I request a comprehensive land-use study for the RLSA.

I want to talk about the hidden costs of infrastructure. Strong Towns, a non-profit that focuses on local finance and land use, recently published an article entitled, "The Growth Ponzi Scheme." The author states, as with any Ponzi scheme, new growth provides the illusion of

prosperity. In the near term, revenues grow while the corresponding maintenance obligations which are never counted on the public balance sheet are a generation away.

The American Society of Civil Engineers noted that over a lifetime a city frequently receives just a dime or two of revenue for each dollar spent on infrastructure.

If you take all the lands that are available to purchase in the RLSA, in the long run it's going to be much cheaper than any of the amount of money you're going to spend on infrastructure. That's just a projection.

So I'm telling you that the infrastructure comes at a very high cost, and governments are losing money constantly. It's like paying forward.

I'm providing here a list of all the references that I have given you including that article, which I think you would like to read. If we want the RLSA to be cost effective for taxpayers, livable, and sustainable, please make the requested changes to the RLSA amendments I've asked for.

Thank you.

CHAIRMAN FRYER: Thank you.

MS. LeBOEUF: If you'd like a copy of the attachment or --

CHAIRMAN FRYER: Please, sure. I don't see anyone is lit up, and I don't have any questions or comments at this time either. Put it up here, and we'll pass it out.

MS. LeBOEUF: There you go.

CHAIRMAN FRYER: Thank you very much.

MS. LeBOEUF: Thank you very much.

CHAIRMAN FRYER: Next speaker, please.

MS. JENKINS: Your next speaker is Tina Matte, followed by Neale Montgomery.

MS. MATTE: I'm going to cede my time to Neale.

CHAIRMAN FRYER: To whom?

MS. MATTE: To Neale Montgomery.

CHAIRMAN FRYER: Oh.

MS. MONTGOMERY: Good afternoon. For the record, my name is Neale Montgomery. I'm a member of the Florida Bar, specifically a long-term member of the environmental and land-use section. And I represent ECPO, and I'm here to discuss some of the legal issues that have been raised.

At the first hearing and today, we've heard a lot of discussion about Carlton Fields. And Mr. Schmitt beat me to it, but he pointed out that 9J5 was eliminated in 2011. And Nancy Linnan, Linda Shelly, me and others, worked on edits to the Growth Management Act at that time when 9J5 was eliminated. So that list of things you're supposed to do is not true, is not legally required.

And one of the asks that you've been presented is that you need to do a needs study. I would refer you to Section 163.3248. That's the Rural Land Stewardship statute, and it says, in the Rural Lands Stewardship Areas, the future land use overlay may not, mandatory language, require a demonstration of need based on population projections or any other factors. Thus, Item No. 5 of the Conservancy ask, asking you to do a needs analysis, is illegal.

It has suggested at the last hearing and referenced today that you should do more to eliminate the base density of one per five. You can't. Again, I'm going to reference the RLSA statute. And I've highlighted the sections for you.

You may not, again mandatory language, displace the underlying permitted uses or the density or intensity of land uses assigned to the land within the RLSA that existed before the creation of the RLSA. So those folks who are worried about sprawl, sprawl existed. That's why the study was done. You may not take away one unit per five acre. To do so would be illegal.

CHAIRMAN FRYER: It would be a taking.

MS. MONTGOMERY: Bert Harris and I say a few other things, yes, sir.

And there's also been concerns about listed species, and I really appreciated Brad and Meredith's presentation today and Mr. Schmitt's questions because, again, in the RLSA statute it talks about the fact that an applicant must coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect listed species and their habitat. And when this evaluation is done, it must be done on their RLSA as a whole. And that makes a lot of sense if you think about Meredith's map where she showed you where, you know, the dots specifically are. It wouldn't make sense to do it on a piece-by-piece basis. It makes sense to look at it as a whole, and that's what the statute requires.

You've been asked to rebalance. When you do that, you need to think about what the RLSA statute says. One, it is a long-term incentive-based program, and that incentive part's important. By law, the total amount of stewardship credits within the RLSA must be sufficient to achieve the long-term visions and goals.

So when you hear people say, reduce the number of credits and increase the amount of preserve, it doesn't work that way. They have to be balanced. You have to incentivize the owner, because if the incentives aren't sufficient, you're never going to get to the other end.

In fact, the Florida Statutes provide that in addition to stewardship credits, landowners should be provided with other incentives which includes, among other things, compensation.

This is my second hearing, and I've yet to hear anybody suggest, when they talk about reducing credits, that the landowners should be provided compensation. But to the Chairman's point, if you're going to reduce credits, you're going to have to consider compensation.

Subparagraph 10 --

CHAIRMAN FRYER: You have about a minute, ma'am.

MS. MONTGOMERY: -- of the Rural Land Stewardship --

MS. MATTE: She's got my time.

CHAIRMAN FRYER: Oh, that's right. Sorry.

MS. MONTGOMERY: This section constitutes an overlay of land-use options that provide economic and regulatory incentives for landowners outside of established and planned urban service areas to conserve and manage vast areas of land for the benefit of the Estates citizens and the natural environment.

Now, there's been a lot of focus on saving the land for the public, which is a wonderful thing, but you still have to provide economic and regulatory incentives in a way that does -- that maintains and enhances the asset value. If you look at the statute, it specifically says that the credits and the incentives have to maintain or increase the value of the property. So for those who look at that as a bad thing, I'm sorry, but the statute requires you to consider that.

There's also been some suggestion that the existing program is flawed and not consistent with the state statute. I'd refer you to the last paragraph, Subparagraph 11 in the RLSA statute. And what you'll see there is a recognition by the state legislature that Collier County's program was adopted before the statute was adopted, and it specifically says Collier County's consistent with this. There's also a specific reference to the fact that the Governor, the cabinet, and the legislature considered the fact that those amendments, the ones that are in place, are consistent with this chapter, this chapter which refers to 163. That means your state legislature, your Governor, and your cabinet found the existing program is consistent with Chapter 163. So the suggestion there needs to be a do-over is wrong and not legal.

And I would submit for the issue of affordable housing, equal protection would indicate you have to treat everyone the same. So affordable housing is a problem countywide. And a program that's going to be implemented should be implemented countywide. And it's as it relates to aggregation, that's been borrowed from 9J2 for DRIs and it's being improperly requested and applied in this instance.

Thank you.

CHAIRMAN FRYER: Well, there's some questions. Commissioner Schmitt has one.  
Before --

If I may, Joe.

Tell me, again -- and I think you said this, but I didn't catch it. Who are you representing today?

MS. MONTGOMERY: ECPO.

CHAIRMAN FRYER: You're representation ECPO, okay.

MS. MONTGOMERY: Eighty-five percent of the landowners, yes, sir.

CHAIRMAN FRYER: Okay. Thank you. Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. A question in regards to -- and I want to reiterate, again, and you stated it, but this way in no way, shape, or form circumvents any of the required laws, the Clear Water Act, the Endangered Species Act, the National Environmental Policy Act, correct?

MS. MONTGOMERY: Correct.

COMMISSIONER SCHMITT: Correct.

MS. MONTGOMERY: And let me just say that in the last couple years there's been a provision adopted that applies to both counties and to cities that says local governments should put in any development order that they have that the approval of this zoning or this, you know, development order, doesn't obviate the need for you to go get permits from federal and state agencies.

COMMISSIONER SCHMITT: Correct. They're still required to get federal and state agencies through the --

MS. MONTGOMERY: Yes, sir.

COMMISSIONER SCHMITT: -- federal process and through the ERP process through the South Florida Water Management District.

MS. MONTGOMERY: Yes, sir.

COMMISSIONER SCHMITT: And that's Environmental Resource Permit. I'm using acronyms.

How many years have the landowners been working on a Habitat Conservation Plan; do you know?

MS. MONTGOMERY: When it gets past a decade, I quit counting, so --

COMMISSIONER SCHMITT: It should -- I think it's around six or seven years they've been -- the ACP, which is required by -- U.S. Fish and Wildlife is asking for a comprehensive. That's why I'm asking the question, because you mentioned it. But it is a comprehensive Habitat Conservation Plan for the entire area, the 193,000 acres, not just the SRA; is that correct?

MS. MONTGOMERY: Yeah. I mean -- and this goes way back to when -- you probably remember when Big Cypress submitted, and then they had to -- they withdrew when they started to look at the habitat as a whole. So, honestly, I can't remember how long that's been, but it's been a long time.

COMMISSIONER SCHMITT: Because I received an email, and somebody insinuated that the administration was allowing for some kind of truncated process to circumvent the NEPA process, which is totally incorrect. I mean, NEPA's law. You have to follow the law unless Congress changes the law.

MS. MONTGOMERY: I was going to say, local governments can't --

COMMISSIONER SCHMITT: And local governments can't usurp the law.

MS. MONTGOMERY: Right.

COMMISSIONER SCHMITT: Now, the other question then -- I believe I read in -- and I -- just since you're representing the landowners, the draft Environmental Impact Statement, which was issued by U.S. Fish and Wildlife in 2018, recognized the history and the importance of the

RLSA.

So from the U.S. Fish and Wildlife perspective, at least it was my understanding -- maybe other speakers will speak -- can refute, but it was my understanding U.S. Fish and Wildlife is very supportive of this. And I would anticipate that, part of the HCP, that there will be significant, and I mean significant, assessments of PHUs, Panther Habitat Units, at a very significant cost. I can give you some examples for smaller developments.

MS. MONTGOMERY: I can, too.

COMMISSIONER SCHMITT: But I would assume that there's going to be significant impact in regards to PHUs for any developments. And I don't know if -- if you would elaborate on that.

MS. MONTGOMERY: Yeah. I'll just give you one example. There's a parcel of property south of Germain Arena or Hertz Arena north of Miromar Lakes. It had a Corps permit. It expired. So they had to go back after 2010 and get a new one. Now, it's completely surrounded by development. 1.4 million just for that small parcel.

COMMISSIONER SCHMITT: The PHUs. Yeah, that's about right. About right for --

MS. MONTGOMERY: Yeah.

COMMISSIONER SCHMITT: Let's say --

MS. MONTGOMERY: But that gives you an automatic --

COMMISSIONER SCHMITT: -- about a 3,000-acre development. It's going to be well over in excess of a million dollars.

MS. MONTGOMERY: Well.

COMMISSIONER SCHMITT: The PHUs.

MS. MONTGOMERY: Absolutely.

COMMISSIONER SCHMITT: Yeah. Unfortunately, I know about this stuff. Thanks.

CHAIRMAN FRYER: Thank you.

I have a few questions for you.

MS. MONTGOMERY: Yes, sir.

CHAIRMAN FRYER: First of all, is it ECPO's position that its members have vested legal rights in the current GMP language with respect to future sending and receiving areas?

MS. MONTGOMERY: It is ECPO's position that they have vested rights. They have moved forward in reliance on the program. They have worked through the process and the five-year plan, and to the extent that they've agreed to those changes, they're willing to move forward. But they are not willing to divest themselves. Thus, an earlier question that you asked Mr. Hutchcraft about the March 9th document, ECPO submitted an official response of their comments and concerns. So they are on record as to their concerns with that particular draft.

CHAIRMAN FRYER: I've seen that, and, of course, that resulted in the revised staff proposal, which is much more favorable, wouldn't you say, to ECPO?

MS. MONTGOMERY: It's much more consistent with the RLSA statute that says there has to be appropriate incentives.

CHAIRMAN FRYER: So your position is that, really, as a result of vested rights law, the only things that we could change in the GMP are things that ECPO approves of; is that your position?

MS. MONTGOMERY: No. I think I would refer more to Chapter 70 in the Bert Harris Act which says, essentially, you have a bundle of rights, and if you inadvertently burden those rights, which is a much, actually, stronger test, that can be compensable. So the local government can do anything it wants, but it's subject to challenge.

CHAIRMAN FRYER: Okay. All right. Let's see. The present owners lived for a number of years under the DRI requirements, which were, I would say, strict; certainly reasonable and, I think, fair to the taxpayers on the point of aggregation and also fair to the county at large

with respect to affordable housing where specific numbers were used.

Having lived under these rules, now they've been repealed. It seems like that's sort of an unexpected opportunity that the landowners can get. Is it their -- is it their position that they want to retain that benefit, and they don't want to go back to what they had to live under with the DRI?

MS. MONTGOMERY: Well, sir, I know you know that the DRI rules have been changed and the thresholds have been changed, and they've been significantly eliminated. So for all intent and purposes, DRIs as they used to be don't currently exist, and even the affordable housing rule was always difficult because they were using the East Central Florida methodology, which nobody liked. And so they decided we shouldn't use that anymore because everybody didn't like the fact that it looked at a specific point in time.

So it would be hard to say that we're trying to get out under a rule that the government told us they didn't want us to use anymore.

CHAIRMAN FRYER: Well, the government -- the state government told you that you didn't have to. They didn't say they didn't want you to.

MS. MONTGOMERY: No. The Regional Planning Council, which was made up of all the local governments, here locally submitted that they were concerned about continuing to use the East Central Florida methodology, which had been the long-term established methodology.

CHAIRMAN FRYER: That's not the government, though. That was an interest group. Now, with respect to the concept of smart growth, are you familiar with the Rivergrass project?

MS. MONTGOMERY: I know it exists. It's not my project, so I'm not intimately familiar with it, no, sir.

CHAIRMAN FRYER: Okay. So you're not in a position to say whether you have an opinion that it's an example of smart growth or dumb growth?

MS. MONTGOMERY: No, sir.

CHAIRMAN FRYER: Okay. The current GMP is worded so as to encourage smart growth and discourage urban sprawl. Your client, I take it, would resist or does oppose strengthening those words to "require" and "prohibit"; is that correct?

MS. MONTGOMERY: I would submit that 163.3177 has the urban sprawl rule in it. And within that, there's, if you do four of these items, then you're deemed not to be urban sprawl. Our position is that the RLSA, as it exists and as it's proposed to be amended, discourages urban sprawl because it meets four of those factors.

CHAIRMAN FRYER: Right. That's as far as the state statute was willing to go with respect to burdening counties, to encourage and discourage, but that is not -- clearly not, under any rule of statutory interpretation, a statement that the county can't do more if it wanted to.

MS. MONTGOMERY: Urban sprawl is a creature of statute and legislation; otherwise, anybody can define it anyway they want. We're bound under growth management. Which we're talking about growth management amendments. We're bound by 163.

CHAIRMAN FRYER: Well, put that aside for a moment unless you're saying that the county has -- are you saying that the county has no latitude to require --

MS. MONTGOMERY: I'm saying the county has to follow the law.

CHAIRMAN FRYER: Well, okay. Thank you.

Now, did the county have any latitude to insist upon smart growth to prohibit urban sprawl? Are you saying it lacks jurisdiction to do that?

MS. MONTGOMERY: The county is required to meet the urban sprawl Rule 163.

CHAIRMAN FRYER: May the county go beyond Rule 163?

MS. MONTGOMERY: I'm not going to offer that opinion. That would come from your County Attorney as to whether or not --

CHAIRMAN FRYER: I want to know what your client's --  
(Simultaneous crosstalk.)

CHAIRMAN FRYER: I want to know what your client's position is on that.

MS. MONTGOMERY: My client's position is that you should follow 163. We have four of the factors. We discourage urban sprawl.

CHAIRMAN FRYER: Okay. And no more? The county's prohibited from going further than 163 to require; is that your client's position?

MS. MONTGOMERY: I'm not going to offer what the county's allowed to do. I'm suggesting my client's position is that the growth management amendments need to comply with 163, and as it exists and as they're drafted, we meet the urban sprawl rule, yes, sir.

CHAIRMAN FRYER: Well, you're not answering my question and -- but I think that's a sort of an answer of itself. So I'll let that one go for now.

And I believe that's all I have for now.

MS. MONTGOMERY: Thank you, sir.

COMMISSIONER SCHMITT: I have a question.

CHAIRMAN FRYER: Mr. Schmitt.

COMMISSIONER SCHMITT: And maybe the Chairman, we can discuss this. But we keep on throwing this word around, "smart growth," and I -- what do we mean by smart growth? Are we talking about the Community Character Plan that was developed by Dover-Kohl in 2001? Are we talking about --

CHAIRMAN FRYER: Let's please not --

COMMISSIONER SCHMITT: What are we -- what are we -- what do we define as smart growth? Because that's sort of like if I bump into it, I'll know it, and I'll see it, but somebody describe it. And I can tell you from Dover-Kohl -- just so I could finish. Dover-Kohl, which was a study commissioned by the county and was identified as a Community Character Plan, our first attempt to use that was a remodeling of Naples Park. It went nowhere and hasn't been even looked at since. So it was a complete failure. That's what I just want to know. When we throw this term around, what do we mean?

CHAIRMAN FRYER: That's a very good point, and I appreciate that. It is a term that already has found its way into the GMP.

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: And so has urban sprawl. And in both cases I would call for a more detailed definition which rightfully belongs in the LDC, not the GMP. So we really don't have -- I mean, we're all -- we all have our own points of view as to what it means, and I would personally say we can't get to that level of detail in the GMP. But I would also say that there's absolutely no reason in the world, and I don't think this council has offered anything, to say that the county is prohibited by Section 136 or any other state law from changing the word "encourage" to "require" and "discourage" to "prohibit."

MS. MONTGOMERY: I would say this --

COMMISSIONER SCHMITT: Go ahead.

MS. MONTGOMERY: -- that you're right, the term isn't defined. And so you all know that famous quote from the Supreme Court about obscenities. It says, I know it when I see it. And, unfortunately, that's the situation in which we find ourselves. Everybody has a different idea or concept, and they know it when they see it.

CHAIRMAN FRYER: Well, that, we hope, will change when we come to the LDC.

COMMISSIONER SCHMITT: Yeah. Well, it's like the developments. When you're not there, everybody says we want nice, you know, front porches and walkable communities. But the market wants -- everybody wants to live at the end of the dead-end street at the end of the cul-de-sac. So it's the dilemma between what people think should be and what the market sells.

And what was the final opinion on the study that was -- was that an independent study on smart growth that was part of our papers? What study was that? It was in one of our pages.



MS. JENKINS: You may be referring to the Smart Growth America that --

COMMISSIONER SCHMITT: Yeah, that's --

(Simultaneous crosstalk.)

MS. JENKINS: The Conservancy initiated that statement, not --

COMMISSIONER SCHMITT: Oh, that was the Conservancy, which was pretty much refuted by staff; is that correct?

MS. JENKINS: That is correct.

COMMISSIONER SCHMITT: Okay.

MS. MONTGOMERY: And I would say --

CHAIRMAN FRYER: Just a moment, please.

MS. MONTGOMERY: I thought I was going to answer his question.

CHAIRMAN FRYER: He didn't ask you one. You may still have a chance to speak.

MS. MONTGOMERY: Okay.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Hi. So I guess my question for you is this. You know, we have the amendments that are before us. I believe your position is the ECPO is in support of the amendments as proposed?

MS. MONTGOMERY: As proposed currently, yes, sir.

COMMISSIONER FRY: There certainly have been some suggestions for fine-tuning, modifications of those. I mean, obviously, there's been a suggestion to start over with the analysis and kind of redo -- a redo. But if it was to move forward with more fine-tuning suggestions, is the ECPO in a stance of negotiating a good faith to -- you know, to work out additional changes that might be needed so that it passes this board and the County Commission?

MS. MONTGOMERY: I think there's probably more than one answer to that. One answer is, ECPO feels like they've been in negotiations or been in discussions since the five-year analysis, and they've been waiting this entire time, and they went through the restudy analysis, and at this point in time, we're tweaking. It may be acceptable, but it starts to feel like you're negotiating against yourself. We still have to remember that you have to retain the asset value of the property, and the incentives have to be sufficient. And everything I've heard alluded to suggests saving more land and reducing incentives. And if that's what it boils down to, then I don't know that you're going to have support of ECPO.

COMMISSIONER FRY: I'm very sensitive to the fact that this is a voluntary program. You are the landowners. We depend on you for this to be a success. So, you know, I'm only thinking in terms of a partnership as we move forward to try to get things right so that they can move forward. I believe a -- you know, I was told a long time ago, probably by my parent, that a decision to do nothing is a decision.

MS. MONTGOMERY: Yes, sir.

COMMISSIONER FRY: It's a bigger decision in some cases than to do something. And then the paralysis by analysis is another thing that has rung true in my life at times, and maybe a few other people in here.

So I guess I'm just trying to understand your position, because I think we've had a lot of viewpoints expressed. Some are more of a tweaking standpoint. Certainly -- who knows. We have this board. You have the County Commission which ultimately makes the decision. There may be some adjustments. I don't -- I haven't heard any commissioners up here suggesting that we take away property rights or anything like that. So that's certainly not the terms I'm thinking in.

But just in the spirit of cooperation to get this moving forward is my question to you.

MS. MONTGOMERY: Obviously, without knowing specifically what the language is or what the changes are, it would be hard to say, sure, they agree to that. There's some concern and trepidation, again, in light of how long we've been in the process.

And I think Meredith and Brad pointed out earlier that these changes improve the program, the ones that are suggested, and ECPO is on board with these changes that improve the program, so we're hopeful that the folks who want a do-over or who aren't as mindful as you are about property rights won't carry the day.

COMMISSIONER FRY: Gotcha. Thank you.

CHAIRMAN FRYER: Thank you.

MS. MONTGOMERY: Thank you.

CHAIRMAN FRYER: Next speaker, please.

MS. JENKINS: Your next speaker, and it appears the last speaker in the room, is Mr. Alan Reynolds.

CHAIRMAN FRYER: We have this other podium, Mr. Reynolds.

MR. REYNOLDS: I've got some slides.

CHAIRMAN FRYER: Okay.

MR. REYNOLDS: Hello. One good thing about being a speaker is, I guess, you get to take your mask off for a little bit. I'm Al Reynolds. I'm a professional planner. I'm a fellow of the American Institute of Certified Planners. I've been practicing planning for 42 years here in Collier County. I've been involved in planning many of the communities that you live in and work in. I was the planner on Ave Maria.

This is probably getting close to the hundredth meeting or workshop I've attended on this subject going back to 1998.

CHAIRMAN FRYER: Sir, are you speaking on behalf of anybody?

MR. REYNOLDS: Yes, sir.

CHAIRMAN FRYER: Would you please identify them.

MR. REYNOLDS: Absolutely. I'm speaking on behalf of the Eastern Collier Property Owners.

CHAIRMAN FRYER: Thank you. Thank you.

MR. REYNOLDS: One of the hallmarks of Rural Lands from the beginning is that it was a data-driven process. And I'm going to date myself a little bit and quote Sergeant Joe Friday from Dragnet. Some of you may remember. "Just the facts." So I'm just going to talk about facts. If you want to ask me about opinions, I'll do that afterwards, but let me go through some facts very quickly.

So the first fact is that, to date, property owners in Eastern Collier County have put approximately a third of their private property into stewardship easement, and they've done that in anticipation that there will be a value to be received from the credits that they earned by giving up their valuable private property rights. So not all of those credits have been used. The majority are still being banked for future use. So keeping this program functioning properly is essential so that property owners that have already made commitments realize that value.

I think you've seen this before about how far we have come and where we are. I'm just going to note that going way back to 2002, there was an estimate of how many acres it would take to accommodate growth in Collier County, and that estimate was 6,700 acres. And as we stand here today, there are 6,682 acres that have been approved for stewardship. So there was some good work that was done in the initial formulation of this program and some pretty clairvoyant work in that regard.

Conservation Collier is an outstanding program, taxpayer funded. I think it's been noted before that the amount of land that has been put into conservation and agricultural protection by this program is 10 times what has been done by the Conservation Collier Program. So incentives work, and they are working right now to protect land that could never be protected through a purchase program under any kind of a scenario that would be supported by taxpayers.

So next fact is that in the nearly two decades since this program was first adopted, there

has been exactly zero development that would be considered sprawl. Not a single acre of land has been subdivided into a five-acre lot in that 20 years. And what we have instead is we have a new town and a university that was designed using the smart growth principles that are incorporated in your Land Development Code. That town has 2,500 new homes. It has a nearly \$1 billion tax base to date, and it's only 25 percent built. It generates over \$8 million of annual ad valorem revenues to Collier County.

It has 1,600 new high-wage jobs at Arthrex. It has an 1,100-student university that is only going to continue to grow, and all of the infrastructure in the Town of Ave Maria, all the water, sewer, drainage, parks, sidewalks were all funded by private interests and not by the taxpayers of Collier County. And that's probably about a half a billion dollars worth of infrastructure that was put in the ground. That, in part, is the definition of smart growth.

The next fact is that if the currently adopted program is fully implemented, which means that the property owners continue to support it, we'll have 90,000 acres of land being put into stewardship easements to protect valuable natural resources, including completing the connections from the Corkscrew Swamp marsh all the way down to the panther preserve of the Camp Keais Strand and the Okaloacoochee State Forest. It's extraordinary. So long as the property owners continue to use the program, this is what the future of Eastern Collier County looks like.

So let's just look at what happens if we don't have a Rural Lands Stewardship Program that is supported by property owners. Okay. That's what the map looks like. That's the public land that has been acquired through Conservation Collier and other programs over that same 20 and more years.

I'm going to skip a couple of these, because the time has been curtailed. We thought that we were being given a little bit more time. But people have already talked about the panther corridors. That's a new feature that is part of this set of amendments. It's a critical one to create some linkages for the Florida panther. It requires federal approval before those corridors are put in place.

But I do want to talk about the ag credit, because, as has been said before, this is probably the most fundamental enhancement to the program. Forty thousand acres, which is an area about the size of Golden Gate, is going to be protected with that credit using incentives without any public-funded purchase.

CHAIRMAN FRYER: Mr. Reynolds, you're over five minutes now. Can you start wrapping it up?

MR. REYNOLDS: Yeah. If you can give me maybe another couple minutes, I'll try to -- I'll try to get to the finish. I've waited 10 years to be able to speak --

CHAIRMAN FRYER: Well, you're going to get some questions and comments, I think, so...

MR. REYNOLDS: Very good.

CHAIRMAN FRYER: But try to wrap it up as soon as you can.

MR. REYNOLDS: Fair enough.

This map just shows, again, what exists in the adopted program today, which is the baseline rights, converted to 40,000 acres of ag protection. That increases the amount of total protection to three out of every four acres in Eastern Collier County.

So let me just say that -- maybe the last fact that I'll go because you've asked me to wrap it up. I stood in this room 10 years ago in April, along with a lot of other folks, and before the BCC and on the record there was a commitment that was -- that was asked by Commissioner Fred Coyle. And that commitment was to accept a 45,000-acre cap and a 404,000 credit recalibration, which is identical to what your staff is proposing today.

Went around the room, asked people if they would agree to that. Eastern Collier Property Owners said yes, the committee said yes, Audubon said yes, Wildlife Federation said yes, and the

Conservancy said yes. So we are standing here today honoring a commitment that we made in April 2009, and we would really like the Conservancy to follow the lead of the Wildlife Federation and Audubon and Eastern Collier Property Owners, and reaffirm that commitment that was made 10 years ago.

And this is just the last point because -- and I think your staff can address it, but there's been a lot of press given to the Smart Growth America study. So if you read your white paper you'll see that the comments from staff -- your professional staff on that was that it was found to be completely deficient and unfortunate.

And so that's not the kind of study that I think we want to be citing as why we're going to have sprawl in Collier County and the extraordinary taxpayer impacts that have been so widely quoted.

So with that, I will be pleased to answer some questions.

CHAIRMAN FRYER: Thank you. No one is lit up now, so I'll lead off.

First of all, you're familiar with Rivergrass, I'm sure.

MR. REYNOLDS: Yes, I am.

CHAIRMAN FRYER: Okay. Is it -- in your opinion, is that an example of sprawl?

MR. REYNOLDS: Well, Mr. Fryer, you're an attorney, and you understand that the Conservancy is in litigation with Collier County over Rivergrass, so hopefully you would agree with me that it would be inappropriate to be making comments with Rivergrass on the record in this hearing, so I would decline --

CHAIRMAN FRYER: No, I don't agree with you, but you certainly may decline to answer if you don't wish, but I don't agree with you.

All right. The situation, as I see it, is that the vested rights now with respect to future -- and let me preface this by saying that to the extent we're talking about SSAs 1 through 16, I think -- I think a strong case can be made that that is vested. I'm looking out for what might happen with future SSAs and SRAs. Is it your position that the present owners of -- that are members of ECPO have vested rights in the current language with respect to future development areas?

MR. REYNOLDS: Well, I'm going to -- I'm going to let you rely on Neale Montgomery's answer about vested rights, because that's a legal term. What I will tell you is that all of the SSAs that have been approved to date would be vested under the program at an exchange rate of eight credits per acre, and the proposal is that future Stewardship Sending Areas that will be approved after the adoption of those amendments would require 10 credits per acre. So there is a change in the credit calibration for the future SSAs, but the current ones would be vested under that eight.

CHAIRMAN FRYER: Yeah. That was the staff August 3rd version, but the 9 March version had it up to what, 14, 15? What was that number?

MR. REYNOLDS: I don't recall, but staff may.

MS. MONTGOMERY: Fourteen.

CHAIRMAN FRYER: How many?

MS. MONTGOMERY: Fourteen.

CHAIRMAN FRYER: Fourteen, yeah. So, really, it's a step down from where we were in March 9.

MR. REYNOLDS: Well, my recollection is March 9 was the first draft of GOPs that was circulated for public comment, and I think staff received public comment, certainly, from us and a whole lot of other folks, and that led to a second round of amendments and a final round, which are the ones that are before you today. So the March 9 amendments were -- you know, are not on the table today. That was the starting point.

CHAIRMAN FRYER: There's been a fair amount said in previous hearings and also in the news media with respect to the sequence of events in 2002, and particularly as they pertain to

two specific provisions in the RLSA.

You were there. You were on the scene working, I guess, for WilsonMiller; is that correct?

MR. REYNOLDS: That's correct.

CHAIRMAN FRYER: And then that company was acquired by Stantec, and you're working for Stantec now?

MR. REYNOLDS: (Nods head.)

CHAIRMAN FRYER: My predecessor, Chairman Strain, raised the point in the Planning Commission transmittal hearing that these two sections were added after all the public input had been brought to an end. Do you recall that sequence of events?

MR. REYNOLDS: Absolutely.

CHAIRMAN FRYER: Would you please give me your version of it.

MR. REYNOLDS: I will. And, actually, even though this has been asked and answered many, many times, we can go through it again. And I figured it might come up, so I've got a couple of slides just to help frame the point.

So there are two kinds of credits in the program. There are base credits, and there are bonus credits. So in 2002, the base credits, which are the credits that a property owner gets by giving up their development rights -- those are base credits -- were estimated, and that estimate was used to go through a credit calibration of how many acres would be generated by that number of credits.

CHAIRMAN FRYER: Pardon me, sir. And I -- and you can continue along this line if you wish, but I just want you to know you're not answering my question. So let me -- maybe it was because I didn't state it well.

What I'm concerned about is that it appears a few days prior to the adoption of the RLSA that Policies 1.21 and 3.11 were amended, increasing the number of stewardship credits in the system, and that action took place after all the public input had been brought to an end.

MR. REYNOLDS: That's incorrect.

CHAIRMAN FRYER: That's incorrect? Well, will you please correct the record on that point.

MR. REYNOLDS: I certainly will, and that's what I am trying to go through here, and I want to make sure that I go through it so that hopefully we don't have to run through the explanation again. But it's certainly been well documented in the white paper.

So the base credits were Part 1. The bonus credits were Part 2. And there were two bonuses. There was an early-entry bonus, and there was a restoration bonus, okay, and those bonuses are over and above the base credits. And those bonuses, on the transmittal of the plan amendments by the county to the DCA, had not been quantified to the satisfaction of the DCA. So they commented back to the county, and they said, County, you need to quantify these credits.

So the early-entry bonus was quantified at a cap of 27,000, and the restoration bonus were quantified on a per-acre basis, and that was done between transmittal and adoption. So those elements were, in fact, done prior to the public hearing for the adoption and were put in place, and those are the bonus credits that took the estimate of developable land from 16,800 acres to the current estimate of 43,300 acres under the current program. So the bonus credits, okay.

So they were put in the program. It was no surprise. They were actually -- the restoration was put into the program at the request of the environmental NGOs because property owners weren't really sure that there was a need for a restoration program.

So just to clear up one more thing that has been misrepresented, in 2002, when the committee was doing their work, they estimated 134,000 base credits. That was the 16,800 acres of development. In the restudy, the estimate was updated. It was 128,000 base credits. That's 16,000. So it went down. And then in 2020 the new estimate that your staff has prepared using

the latest data is 136,000 base credits, which is 17,000 acres.

So the change over 20 years to that number is 200 acres over and above the estimate from 2002 of the land that can be developed using basis credits. And everything else is a function of the bonus.

CHAIRMAN FRYER: Well, that -- I can't dispute what you're saying. I wasn't there. But I'm going to repeat what I found in the official records. Excuse me.

Mark Strain, at the adoption hearing, the Planning Commission adoption hearing of October 17, 2002, asked whether or not the added policies had been publicly disclosed. And the Planning Commission adoption hearing was just five days before the RLSA program was adopted by the BCC.

So Mr. Strain asked, and I quote, Anybody that can answer this is fine with me. The policies in this whole process that you are presenting to us today, did they go back to the commission -- committee, and has the committee approved all of this? Has it had all the public input in that regard?

And then the county's then outside counsel, Ms. Marti Tumbler [sic] replied, no. In fact, that was the same. That didn't happen in the fringe either. Um, there was some discussion. We wish we had had the time to do that. I mean, as you are, I'm sure, very well aware, we were under a very quick block of time in order to comply with the final order. In a perfect world, it would have been nice to do that, but here we had to deal with the constraints that we got.

Do you disagree with that?

MR. REYNOLDS: I'm not going to agree or disagree because I didn't make that statement. The fact of the matter is, is that the amendments that were brought to the Board of County Commissioners included a quantification of both an early-entry bonus and a restoration bonus on a per-acre basis.

CHAIRMAN FRYER: In your opinion, is that statement true or false, whether you made it or not?

MR. REYNOLDS: I think I answered your question.

CHAIRMAN FRYER: No, you didn't. Marti Tumbler's statement. I know you didn't make it, but in your opinion, is it a false statement?

MR. REYNOLDS: I'm not going to -- I'm not going to --

CHAIRMAN FRYER: Okay. You refuse to answer, that's fine. That's fine.

MR. REYNOLDS: You can, you know, ask Marti Chumbler.

CHAIRMAN FRYER: I'll -- okay. Obviously, you're not required to answer any questions up here, and if you want to refuse to answer them, you're -- that's your prerogative.

Mr. -- Commissioner Fry is lit up. Go ahead, sir.

COMMISSIONER FRY: Okay. Mr. Reynolds, you're in a unique position, I think, to speak to this. You brought up Ave Maria, and you were in the middle of that. You were the planner for Ave Maria, correct?

MR. REYNOLDS: Among others, yes.

COMMISSIONER FRY: Were you involved at all with Rural Lands West?

MR. REYNOLDS: Yes, sir.

COMMISSIONER FRY: You were. So we all know, and some of us, including myself, lament that we did not get Rural Lands West to evaluate here, because it was a town; far more dynamic, I think, in terms of interconnectedness and walkability and a destination commercial area, more of a town center like Ave Maria. So I think some of the things that we all -- many of us believe were great assets from a town like Ave Maria we were not able to realize when Rural Lands West withdrawn.

So one of my large concerns right now is -- with this program is, are we going to see a string of village after village after village that are gated PUDs perhaps with some additional smart

growth objectives built in? How do we get to having one or two or three towns in the RLSA? You know, for myself I'd love to see that quantified, you know, in some way so we have some certainty that occurs, but give me your impressions of how we get to the point -- what is the likelihood and what will it take for us to get more towns for the property owners to come forward with towns and be able to get them through.

MR. REYNOLDS: Well, number one, I think the -- adopting these amendments is going to set -- send a good signal that the county is putting in place enhancements to the program that have been long overdue, and I think that the property owners have been very clear that we felt like that needed to take place before we got to further down the road in looking at some of these other enhancements that people are suggesting.

I would say that the best way to encourage a property owner and a developer to work together on a town is for there to be a very close collaboration between the county and the property owners and the developers and the builders to look at what is needed to really support a town, and what is needed is not just the private investment in infrastructure that builds the town but it's also the county's responsibility to be planning and programming county infrastructure and facilities and services in coordination with the future growth.

So I think the more that there can be a situation where the county and the applicants are working together to find ways to put the right infrastructure in place using the various mechanisms that are done, that I think you can get property owners and developers to be willing to look out 25 or 30 years. But make no mistake, you know, the ability to undertake a town is quite unique. And we have -- I think we were fortunate that our first project in rural lands was a town. But that was the Barron Collier company who had a very unique situation in that they had the expertise, the capital, a partner with a university that was willing to come to the table, and all the ingredients came together to create that opportunity.

It's hard to find people that have that kind of vision and that ability to commit resources for a payback that may not be until 15, 20, 25 years down the road. So I do think the reality of the market right now is that you're going to see villages because they're more doable, frankly, in terms of the capital markets, the planning, the forecasting, how far the county is in their forecasting for capital improvements. But that being said, there's absolutely nothing wrong with a well-planned village. And you've got a -- I think you've got a code, at least in my opinion, that is -- it is a smart growth code that you have that is adopted in your Land Development Code.

So I think we've got the tools in place to encourage the kind of development, you know, that everybody wants to see. But I do think it's that collaborative effort.

And, you know, the Town of Big Cypress, I started working on that in 2005 and spent about three years working with the property owners before it had to be withdrawn during the recession because the DRI process was becoming a stumbling block. We were going through a DRI. And then I spent over three years with the same family trying to plan the Town of Rural Lands West. And, frankly, we just were never able to get to the finish line with a proposal that was acceptable to the county, so that's when it changed.

COMMISSIONER FRY: Do -- the amendments that are before us today, do they in any way improve the chances of future towns making it through the process, or is there more needed? What -- I guess, is this enough to allow a greater possibility of towns in the future?

MR. REYNOLDS: I think so. I think it does. I mean, most of the amendments that are -- other than the incentives that we've talked a little about -- are actually fine-tuning to the policies to try to address some of the development characteristics and other kinds of things. So, yes, I think it's going to help and -- but I think the biggest help is when we can all be working together to try to make things happen as opposed to having to defend lawsuits against projects and spending our valuable time and resources in that environment as opposed to doing good planning. And what happened in 2002 with this program was one of the best examples of collaboration and

good planning that I've ever had the privilege of being part of. So if we can get back to the idea of let's all work together and let's see if we can support these things as opposed to trying to find reasons to knock them down, I think we'll get a better result.

COMMISSIONER FRY: It seems to me -- final comment. It just seems to me to be a bit of a no-brainer that whatever we do from here on out needs to create that spirit of collaboration and partnership between the landowners in Collier County with whatever we end up with.

MR. REYNOLDS: Absolutely.

COMMISSIONER FRY: So thank you.

CHAIRMAN FRYER: Mr. Eastman, and then Mr. Schmitt.

MR. EASTMAN: Towns are rare and special. We have one example; it's the Town of Ave Maria. And I believe I made this point at the last meeting, but I'd like to make again, the developer impacted how many acres involved with the Town of Ave Maria?

MR. REYNOLDS: The Town of Ave Maria is actually 5,027 acres of which a thousand and 20-some-odd are associated with the university. So the town itself is 4,000, and then the balance is the university.

MR. EASTMAN: Okay. And then in exchange for being allowed to impact that area in the rural lands, how many acres were protected in perpetuity?

MR. REYNOLDS: There were approximately -- there were, I believe, six SSAs totaling about 17,000 acres that created the credits for Ave.

MR. EASTMAN: That seems like a great public benefit.

MR. REYNOLDS: I couldn't agree more. I mean, you know, we talk a lot about smart growth at the micro level, but at the macro level, a program that protects three acres or more for every acre of development is the definition of smart growth, and there's a lot of communities in this country that would love to have something even remotely approaching that kind of a -- that kind of a ratio, yes, sir.

CHAIRMAN FRYER: Commissioner Schmitt?

COMMISSIONER SCHMITT: Yeah, just -- Karl, talking about villages, I think as they come in -- this gets into whoever's the last one in line, kind of, is going to get hammered, because I believe these amendments are going to allow us to take what's already approved and another one come in, and it's going to give us the latitude to look at them holistically.

COMMISSIONER FRY: Even those that are in the process currently?

COMMISSIONER SCHMITT: Well, they still have to come forward, and then we get to look at it. We can certainly evaluate it based on its relationship with the neighboring village. I think that latitude is there. But that's just --

Alan, the 2,020 base credits, 136,000, the increase, does that include the credits that are now going to be awarded for the 40,000 acres of ag land? Is that why the --

MR. REYNOLDS: No.

COMMISSIONER SCHMITT: It does not include that?

MR. REYNOLDS: No.

COMMISSIONER SCHMITT: Okay.

MR. REYNOLDS: It does not, and that's why the credit number is going from -- the estimate today would be 315,000 without the ag incentive and without the panther incentive. That's why it's going up to 404- is to create credits that can enable those two new features that aren't in the program today. But the base credits are more or less the same as they were 20 years ago. It's based on the natural resource values.

COMMISSIONER SCHMITT: And then basically the same for the 45K cap?

MR. REYNOLDS: That's correct.

COMMISSIONER SCHMITT: There's no change. That's been 45- since 2009?

MR. REYNOLDS: Well, there is no cap today, just to be clear.



COMMISSIONER SCHMITT: Okay.

MR. REYNOLDS: There's zero caps in the program. So today --

COMMISSIONER SCHMITT: Good point.

MR. REYNOLDS: -- the estimate says that we could build approximately 43,000 acres of SRAs, or entitled to 43- --

COMMISSIONER SCHMITT: Yeah 43-.

MR. REYNOLDS: -- plus --

COMMISSIONER SCHMITT: Plus.

MR. REYNOLDS: -- 43,000 acres of open land -- ag land that is unencumbered.

COMMISSIONER SCHMITT: Which would be developed at -- could be developed at one unit per five acres.

MR. REYNOLDS: One to five, right.

So in reality, you're going from north of 80,000 acres of potential development footprint to -- without a cap to 45,000 acres with a cap.

COMMISSIONER SCHMITT: Okay. Yeah. Good. I'm glad I asked that question. Thank you.

CHAIRMAN FRYER: Mr. Reynolds, WilsonMiller's 2008 memo to Collier County stated that the RLSA program is estimated to produce a total of 315,000 stewardship credits assuming 100 percent property owner participation. That was -- I assume you would own that statement as of 2009. What has changed since?

MR. REYNOLDS: Yeah, I'm happy to own statements that I made. So, yes, we did that estimate. It was 315,000 credits. So that is a combination of the base credits, which is about a hundred and -- we talked about 136-. It used to be 128-. The early-entry bonus credits, which were discontinued after about 20,000 credits, and then 160,000 estimated restoration credits. So I don't know if that math works out exactly. But, basically, it was a combination of those three categories: Base, early-entry, and restoration.

CHAIRMAN FRYER: Anybody else have questions of this speaker?

COMMISSIONER SCHMITT: No.

CHAIRMAN FRYER: Thank you, sir.

MR. REYNOLDS: You're welcome, sir. Thank you.

CHAIRMAN FRYER: Next speaker?

MS. JENKINS: The next speakers are on Zoom, so I'll look to the back of the room and ask them to pull up our Zoom.

CHAIRMAN FRYER: All right.

MR. FRANTZ: So we have a number of speakers who have either left the Zoom meeting or rejoined. And we're just going to read through this list slowly, and if you can just all bear with us as we figure out who's actually online.

CHAIRMAN FRYER: Fair enough.

MR. FRANTZ: Our first speaker is going to be Lynn Martin. Lynn, are you there?

MS. MARTIN: Yes, thank you.

MR. FRANTZ: Okay. You have five minutes.

CHAIRMAN FRYER: Ms. Martin, you have five minutes, please.

MS. MARTIN: Thank you.

Good afternoon, Commissioners. My name is Lynn Martin, and I'm a member of the environmental committee of the League of Women Voters.

Last week Ms. Nycklemoe mentioned that we would be providing additional comments on the proposed new Policy 4.75 for affordable housing. The League of Women Voters supports the policy laid out by the county housing experts in the March 2020 draft amendments, and we support the comments about affordable housing by Chairman Fryer on September 3rd.

The August 2020 draft amendments allow affordable housing to be built outside the boundaries of the SRA, which is contrary to the intent and provisions of the RLSA overlay programs. In addition, the amendment transfers to the county the responsibility for building the housing which puts the cost burden on the county taxpayers and violates the RLSA requirement for fiscal neutrality.

As an alternative, developers have the right and the ability to propose their own affordable housing scheme which might involve locating the housing away from the community requiring employees to live elsewhere and travel long distances to work.

The Land Development Code for the RLSA requires that towns and villages provide a diverse range of housing types and price levels to accommodate diverse ages and incomes. This includes housing for employees that work in the community. An affordable housing requirement should be consistent with the requirement intent of the RLSA and provide a full range of housing alternatives for a mix of employees and income levels in the town or village, not outside.

In the March 2020 draft amendments, county housing staff required that a minimum of 15 percent of the overall residential units in each village and town should be affordable housing with at least 50 percent of the affordable units provided to households with incomes of less than 80 percent of the area median income.

Furthermore, a housing analysis was required to assure a wide range of housing types and price points and to accommodate the needed workforce within the SRA and essential personnel. These requirements are consistent with the county housing staff's request for affordable housing in Hyde Park. In Hyde Park, the developer's economic assessment indicated housing prices that would fall within the county's affordability ranges at low, moderate, and gap levels, but the developer was unwilling to commit to build at those prices. Why? Because the economic assessment is a projection, not a commitment. Affordable housing needs to be a requirement.

We ask you to require that the developers build affordable housing in the SRA, to require a housing analysis to assure housing accommodates the workforce and essential workers, and we ask you to return the affordable housing provision of the March 2020 draft to the amendments.

Thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt?

COMMISSIONER SCHMITT: Yeah. And I'm going to -- I may have to ask this question of staff. And I recall reading this, but I need clarity on it.

By the statement of "transfer the responsibility to the county," what are we transferring, saying to the county, here's money, go build housing? Is that what we're referring to? And I would ask Ms. Martin if she has an answer to that, because I really am not clear -- I've heard this before -- what are we transferring and to whom? Does that go to Cormac's staff? And under what policy is there that the developer can simply just transfer the requirement to the county? I'm confused. So is that a -- can staff clarify that or, Ms. Martin, if you could.

CHAIRMAN FRYER: Ms. Martin, are you still on?

MS. MARTIN: It says -- yes. I'm looking at No. 1A, which talks about reserving one or more sites within or within proximal. That's outside of the -- with density and development standards that accommodate affordable housing residential uses at a minimum density of 10 units per acre for acquisition by either Collier County, a community land trust, a private developer, or any other affordable housing provider. That is the provision -- Cormac can perhaps answer this better.

COMMISSIONER SCHMITT: But that's not a cost to the taxpayer.

(Simultaneous crosstalk.)

MS. MARTIN: Well, if it's -- if Collier County is providing it, then that's the taxpayer. There's no one else here.

COMMISSIONER SCHMITT: I'll wait for clarification. Mr. Cohen.

MR. COHEN: Thaddeus Cohen, for the record, Department Head, Growth Management.

As I review the language that we believe that we want to support, there's not a transfer to the county to do anything, and we want to be able to address a lot of these issues when we have an opportunity to speak. So I reserve the right and my time.

COMMISSIONER SCHMITT: Very good.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: But I want to make sure we're going to address it sometime, because when we get to the affordable housing -- I don't need Cormac to talk now, but it will come up. I want to -- when we deliberate, because I have some questions on affordable housing, which is the best way to go about it. It may be just let the market deal with it, because of all the other encumbrances. And, Cormac, just to be prepared, because of the other encumbrances that may come about with the affordability housing requirements, it may be just simply easier, if the price point is right, just to sell it outright rather than all of the second and third mortgages and all the other type of things that are associated.

MR. COHEN: We'll be able to explain why we arrived where we are.

COMMISSIONER SCHMITT: All right. Good. Thanks.

CHAIRMAN FRYER: Thank you.

Next speaker, please?

MR. FRANTZ: The next speaker is Gaylene Vasaturo. Gaylene, are you there?

MS. VASATURO: Yes.

MR. FRANTZ: You have five minutes.

MS. VASATURO: Thank you.

Good afternoon, Commissioners. I'm Gaylene Vasaturo. I am a member of the League of Women Voters, but I'm here on my own behalf.

The draft amendments are almost entirely the 2009 Five-Year Review Committee recommendations. By putting just these four, the county ignores what we've learned since 2009. Among other things, we've learned that the draft amendments should include an aggregation requirement or similar provision, one that makes clear that the county cannot and should not approve an application for a village where the applicant is attempting to circumvent town requirements and infrastructure costs.

In the March -- as you know, in the March 2020 draft amendments, county staff proposed a requirement to aggregate two or more neighboring villages under common or related ownership. The landowners opposed this, and staff dropped the aggregation requirement from these amendments.

As you know, Collier Enterprises proposed the town of Rural Lands West, and in early 2019, they withdrew their application saying they were moving to villages to avoid infrastructure costs for a town.

Now Collier Enterprises proposes three adjacent villages in the same area: Rivergrass, Longwater, and Bellmar. Together, these three villages will provide 7,800 homes for 16- to 19,000 new residents, a project the size of a town but one that falls far short of the RLSA requirements for a town.

Compare for yourself the town and village requirements in Appendix C of the overlay. This proposal also enables Collier Enterprises to avoid paying infrastructure costs such as paying for Big Cypress Parkway and schools, which will be needed to serve 19,000 new residents. Instead, Collier Enterprises is selling the land for Big Cypress Parkway and the schools to the county in return for impact fee credits. Growth is not paying for growth.

If an applicant is allowed to split a town into villages, the burden of paying for infrastructure in the RLSA will be on Collier County citizens.

Commissioner Fryer, there is nothing in these draft amendments that address the issue of town versus village.

I also wanted to address three comments that were made earlier today in the time I have. Repealed Rule 9J2 doesn't have a monopoly on the term or concept of aggregation. Where facts show a landowner is attempting to circumvent RLSA requirements, the government can consider some form of aggregation to address this.

Secondly, I agree with an earlier speaker. Please require flowway management plans as part of an SRA. I'd add to her comments that SRAs need to contribute to needed maintenance of flowways to relieve the downstream impacts of their discharges as a matter of fiscal neutrality.

And I agree with Florida Wildlife Federation's concern about Draft Policy 4.9, which will remove all protections for Water Retention Areas. Water Retention Areas are so important for water quality, water quantity, and recharge of our aquifers.

Please don't approve this revision. That's it. Thank you.

CHAIRMAN FRYER: Thank you very much, ma'am.

Next speaker.

MR. FRANTZ: The next speaker is Elena Mola. Elena, are you there? You have five minutes.

MS. MOLA: Yes, I am. Thank you very much.

This is Elena Mola. I am not a member of the Conservancy or any environmental group. I am not a member of the League of Women Voters. I am not anti developer. As a matter of fact, I am an infrastructure attorney who has spent over 25 years in the development and financing of multimillion-dollar infrastructure projects, but I am here as a concerned Collier County taxpayer whose voices are, unfortunately, missing in all of these discussions to ensure that county officials do not ignore and strictly abide by the requirements that, number one, private landowners should fund and pay for their own infrastructure within their own private lands. County taxpayers should not be burdened by the cost of development of private lands and its impact -- economic impact on levels of service, infrastructure maintenance costs, as well as the costs and consequences of providing limited natural resources to service such development, such as water must not be ignored.

Secondly, Florida Statutes permitted stewardship districts such as the Big Cypress Stewardship District located within the RLSA and where Rivergrass/Longwater villages are proposed to be constructed, to be owned, managed, and administered by its private landowners for two primary reasons. First, to provide those landowners with the ability to finance the construction and acquisition of infrastructure for developments within the boundaries of their own private lands through the issuance of revenue bonds without financially burdening the county, government, or its taxpayers.

The terms that govern the RLSA also require that any developments within the RLSA be economically beneficial or fiscally neutral to county taxpayers.

The landowners and developers should not be allowed to change the fundamental narrative and, frankly, ignore legal requirements and public policy. Yes, private landowners have rights to develop their lands, but the exercise of such rights should not result in the burdening of Collier County taxpayers, most of whom are retired and live on fixed income.

The county's determination of economic impact assessment to the taxpayers from private developments within the RLSA or that such are located in the Big Cypress Stewardship District or not should, under no circumstances, be relegated to but one questionable assessment of economic impact, which is the developer's proprietary nonstandardized untested fiscal neutrality model which cannot be openly evaluated by the taxpayers and, I would contend, contains methodologies, formulas, data, and assumptions which may not be accurate or applicable to the RLSA and may contain errors in, for example, per capita predictions.

The county should not base or make any financial determination or undertake any approvals on whether the RLSA's economic impact assessment or fiscal neutrality requirements have been met on developers' proprietary fiscal neutrality models which ignore, among other things:

One, that the methodologies and calculations contained therein are not applicable for rural developments with no existing infrastructure.

Secondly, that they do not take into consideration that's a significant cost to the taxpayers on a year-over-year or long-term basis.

Three, that they ignore the very real impact on levels of service, assume conditioned levels of expenditures and the resultant very real rate fee increases to residents of all the county.

Similarly, the county should not approve expenditures to any county taxpayer funds -- of any taxpayers' funds for the construction of any infrastructure required for developments within the boundaries of the privately owned, privately managed and administered to Big Cypress Stewardship District.

I have spent close to 12 months reviewing the county budget, impact fee studies, the fiscal neutrality studies presented by the county by private developers for the recent projects to be located within the privately owned and privately managed Big Cypress Stewardship District, which is part of the RLSA.

My conclusion is that if the proposed projects in their RLSA, approved by the county, ignoring the fundamental state legislative requirements and protections afforded to both landowners and taxpayers by the Stewardship District Act and, B, under the same weak and non-fiscally transparent economic impact assessment parameters which the county has inappropriately and exclusively regulated to the developer's fiscal impact analysis, the fiscal impact to the county and its taxpayers on a year-over-year basis in the long term and, yes, at buildout, are dire.

Thank you.

CHAIRMAN FRYER: Thank you very much.

Next speaker, please.

MR. FRANTZ: The next speaker is Gordon Brumwell. Gordon, are you there?

MR. BRUMWELL: I am. Can you hear me?

MR. FRANTZ: We can hear you. You have five minutes.

MR. BRUMWELL: This is a technical detail. I'm going to try to get it out of the way quickly. I know someone who was registered to speak at the last meeting, and they assumed that that would carry over to this meeting. It's just one data point. Maybe they lost the new link to speak at this meeting, but it raises the possibility that anyone registered to speak at the last meeting is unable to speak at this meeting. Just something to consider.

CHAIRMAN FRYER: Thank you. Please proceed with your comment.

MR. BRUMWELL: I'm not representing any group, but I have been investing since seventh grade. I literally had a broker in high school, and I have a Ph.D. in biology, so I might have a balanced view here.

First, thank you for your time. This is a long meeting. Lots of details so far. Let's zoom out. Around 1950, we entered the great acceleration. Essentially, our footprint exploded. Results include an extension rate between 100 and 1,000 times baseline.

In North America, we have three billion -- that's with a b -- fewer birds than in 1970s, and a quarter of global mammals are at risk of extinction. This is accelerating.

Since 1980, some types of giraffe, lion, gorilla, and elephant have suffered population decreases of 50 percent or more. The list goes on. Maybe pro-expansion folk think there's a lot of nature out there and we don't really have to worry. They're dead wrong.

If you think this is hyperbole, consider this: In 2000, if you dried us all out and desiccated

us, the dry mass of humans and all of our domesticated animals would total 425 million tons, while the dry mass of all wild vertebrates totaled just 10 million tons. This is a somewhat different way of looking at things than I think maybe people are used to.

To resay that, what people usually think of when they think of wild animals, which is vertebrates, now only makes up 2 percent of the total global vertebrate population while we and our ag animals comprise 98 percent.

Each at-risk species is an investment in a diversified portfolio. Malaria treatment from the quinine tree, antimicrobial film based on shark skin, these would not have been found if the quinine tree or sharks were extinct.

A charismatic species or a lesser known species could be the next cure for cancer. The point of a diversified portfolio is we don't know what's going to pop. If we -- okay. Development at the expense of these species is unsophisticated, all eggs in one basket, shortsighted investing. If we love our country, we'll do our part to slow that great acceleration by maximizing the likelihood panthers and other threatened species in the RLSA become going concerns. This will contribute to the portfolio rebalancing needed to leave future Americans the diversified natural resources we inherited.

Thank you again for your time.

CHAIRMAN FRYER: Thank you, sir. I don't see anyone lit up.

Mr. Frantz, question for you, sir. How many more electronic speakers do we have?

MR. FRANTZ: It looks like we have about six or seven more.

CHAIRMAN FRYER: Okay. Thank you.

Ms. Lewis, how are you doing?

THE COURT REPORTER: I could use a break.

CHAIRMAN FRYER: Okay. Planning Commission, we will stand in recess for 10 minutes, and that will take us to 2:47, please. Thank you.

(A brief recess was had from 2:47 p.m. to 2:57 p.m.)

MR. FRANTZ: You have a live mic, sir.

CHAIRMAN FRYER: Thank you very much. We will continue with speakers. Jeremy.

MR. FRANTZ: Our next speaker is Anne Li? Anne, are you there?

MS. LI: Yes, I'm here. Good afternoon.

MR. FRANTZ: You have five minutes.

MS. LI: Thank you. My name is Anne Li, and I'm a member of the Conservancy, the Naples Botanical Garden, and St. Peter Apostle Parish on Rattlesnake Hammock, but today I'm speaking for myself.

My husband and I became permanent residents here five years ago after annual visits for over 20 years. We were attracted to this area not only by its great beauty but also by the sense that good governance and managed growth that is balanced, protective of the environment, and equitable, including housings that is affordable at all income levels, are valued here.

The original principles of the RLSA exemplified those values, which mean so much to me and to many of my neighbors.

As clearly outlined by the testimonies of the Conservancy and the League of Women Voters, however, the proposed amendments now being considered greatly weaken and betray those values.

As Chairman Fry stated on September 3rd, the amendments are, quote, seriously deficient, unquote, and should not be adopted. Rather, the recommendations of the Conservancy, the League, and Chairman Fry should be followed. Take the time to do it right, painful though that may be, even if it involves a moratorium on new applications. Doing anything less will betray the trusts and interests of current and future residents of Collier County.

Thank you.

CHAIRMAN FRYER: Thank you, Ms. Lee.

Next speaker?

MR. FRANTZ: The next speaker is Van Williams. Van, are you there?

MR. WILLIAMS: I am.

MR. FRANTZ: You have five minutes.

MR. WILLIAMS: Thank you.

Thank you, ladies and gentlemen. I admire your stamina. I'm Van Williams, board chair for the Conservancy of Southwest Florida.

As you know, we represent residents in our county who are concerned about our water, our wildlife, and our land use, and you also know we have a deep and longstanding concern about development in the RLSA and elsewhere in the county.

My own experience includes an avocational interest in land use and planning that goes back nearly 50 years. Way back in the '70s as a planning board chair, I worked to change development in our town in New Jersey to favor smart growth concepts instead of sprawl. Not all were successful, but our community worked collaboratively with developers to make changes during the review process.

From this experience I learned an important lesson. When developers and smart growth advocates in the public and decision-makers work together in an open and transparent way, everyone gets a win.

The Conservancy, as you know, has advocated smart growth for decades. We were pleased when, in 2001, the Community Character Plan was approved by the county. The RLSA program, created around the same time as the Community Character Plan, also included policies that incorporate smart growth standards.

As examples, the whole SRA is required to be compact, walkable, and mixed use. Smart growth concepts continue to be supported by a large number of our citizens and our members; however, the county continues to approve developments that are dominated by single-family homes on large lots with little multifamily for viable workforce housing included. Moreover, projects are rarely interconnected, leaving very little sense of neighborhood or community.

My plea is that we recognize now the need for a more collaborative team approach between the county and the developers to create vibrant connected communities (unintelligible) with code that use smart growth strategies to integrate housing types, parks, recreation opportunities, commercial services, business opportunities, and interconnectivity with current and/or future developments being done elsewhere in Florida and the rest of the country. It's in the law. It's part of the code. And while it takes work on all sides to meet those requirements, it will make Collier a better place for folks to live, work, and raise families.

When a development proposal is submitted to the Planning Commission, it should include smart growth concepts, including where road interconnections will occur. It is not enough for a development proposal to include only a plan for the major roadways.

Also, when a project proposal is submitted, the developer and the county intended to evaluate the proposal in isolation instead of looking at the broader community-wide impact, including realistic assessments at buildout, fiscal neutrality, and traffic patterns. This isolated individualized proposal approach does not create a feeling that we're all in this community together.

Within the RLSA now there are already a huge number of potential new residents just within the existing projects, and we know that several other projects are currently pending.

I also urge the county, as others have earlier, to hit the pause button, stop its apparent rush to approve new projects. By pausing, they can review the information submitted at the hearing today, ask ourselves, working together, what kind of a community do we wish to leave for our children and our grandchildren? Plans approved now will set the pattern for the years to come

and, unfortunately, unless we change, we'll continue to encourage sprawl throughout the balance of the county. We must really re-think our planning and approval process now before the opportunity passes us by.

Thank you, all, for your time and consideration.

CHAIRMAN FRYER: Thank you, Mr. Williams.

Next speaker?

MR. FRANTZ: Our next speaker is Ted Raia. Ted, are you there?

CHAIRMAN FRYER: Oh, I'm sorry, Joe.

COMMISSIONER SCHMITT: I did have a question to Mr. Williamson [sic]. Was he representing the Conservancy?

CHAIRMAN FRYER: Yes. He's the chair of the board. Mr. Williamson, did the Conservancy approve the amendments in 2009? At least did they reach consensus to move forward to the Board in 2009?

MR. WILLIAMS: I'm afraid I can't answer that question because I wasn't involved with the Conservancy at that time.

COMMISSIONER SCHMITT: Nicole is raising her hand.

MR. WILLIAMS: I suspect Nicole Johnson or April Olson, who are still in the audience, might be able to respond to that.

CHAIRMAN FRYER: I'm going to ask one of them to come up.

COMMISSIONER SCHMITT: Yeah. Can Nicole -- or April, if you would come up.

MR. RAIA: Hello?

CHAIRMAN FRYER: Yes, sir. Ms. Johnson's coming up.

MR. RAIA: Thank you, Chairman Fryer and Commissioners, for this opportunity to address.

COMMISSIONER SCHMITT: Yeah. Stand by, sir. We're talking to -- we're trying to get a question answered.

MR. RAIA: Oh, I'm sorry.

CHAIRMAN FRYER: That's all right. We'll get to you.

MR. JOHNSON: Oh, it is nice to get that mask off.

Good afternoon. For the record, Nicole Johnson here on behalf of the Conservancy of Southwest Florida, and I am registered as a speaker. This was one of the issues that I was going to address, so I'll address this now and then leave the remainder of my comments for when my turn is called.

In 2009, during the -- and the Conservancy was part of the five-year review, and one of the things that the Conservancy really emphasized is that the RLSA was based on best available science in the year 2000. That was what they had when they started the process.

And it was always anticipated that new science would complement the RLSA map, the overlay. The overlay was not meant to be static to where new best available science would not be incorporated.

And to that end, the Conservancy created our vision map. I think we initially created it probably in 2008, and it has remained pretty much the same for the past decade or more. And what our vision map proposes is to remove development of SRAs from the area that now best available science says is important to retain for the panther, and that's Primary Panther Habitat.

So on our vision map, which has been out on the record for more than a decade, we have been suggesting that the areas that we've shaded in yellow, which are now open lands, be converted to some sort of either an HSA or an agricultural credit area but that SRAs be precluded from those areas and the development then be restricted to the areas remaining in pink. It's about 39,000 or so acres.

And we believe that this is beneficial for the panther, for other wildlife, it consolidates



development, and it also could lessen the cost of some of the infrastructure.

What Mr. McElwaine, on the record, stated in the April 2009 meeting was that the Conservancy was amenable to a credit cap and an acreage cap, but neither of those statements precluded the fact that our vision map remained.

And so when we're talking about a credit cap and acreage cap, it's in the context of our vision map. Nowhere did President McElwaine say our vision map is out the door. So I want to get that on the record because that's a very important point. The development still and always needed to be, from the Conservancy's perspective, directed away from Primary Panther Habitat. Our vision map does that. If there's some sort of cap or credits or acreages that can go along with that, we're open to discussion. The unfortunate thing is, we know that the landowners are not willing to consider this sort of map. We have that from the Habitat conservation plan mapping so, therefore, as we're advocating for this map, we really think the county needs to take a close look and implement this.

COMMISSIONER SCHMITT: And I'll follow with a question, then. But this would require a reevaluation of the entire scoring process; is that correct?

MS. JOHNSON: Correct.

COMMISSIONER SCHMITT: The layers, scoring of the layers, and the entire reevaluation of the entire process.

MS. JOHNSON: Yes. It would require a reevaluation of the natural index value.

COMMISSIONER SCHMITT: Yes.

MS. JOHNSON: And it would require a reevaluation of the credit system, all of which were considered when the program was adopted as options on the table at the Planning Commission adoption hearing -- I believe it was the adoption hearing -- when Chairman Strain was asking about, what if we get it wrong? What if there's too much development coming out of this program? And the county's outside legal counsel said, you can always go in and adjust -- tweak the credits. The credits aren't entitlements. So you can always tweak the credits to do a better job. And the Conservancy believes you can also convert the Primary Panther Habitat not already in a WRA, FSA, or HSA to maybe make it part of the HSA or some sort of ag preservation category that precludes SRAs from being developed there.

COMMISSIONER SCHMITT: Okay. Well, that answers the question.

CHAIRMAN FRYER: Thank you, Ms. Johnson.

You'll be back shortly, I think.

COMMISSIONER SCHMITT: You'll be back, but you answered one question. Good.

CHAIRMAN FRYER: Our next speaker, please.

MR. FRANTZ: I think that takes us back to Ted Raia.

CHAIRMAN FRYER: Oh, Mr. Ryan [sic]?

MR. RAIA: Okay. I'm on.

CHAIRMAN FRYER: Okay. Sir, please go ahead.

MR. RAIA: Thank you, again.

CHAIRMAN FRYER: Sorry for the false start. Go right ahead.

MR. RAIA: Okay. My name is Ted Raia, and I serve on the boards of Mangrove Action Group and the Pelican Bay Property Owners Associations, which I represent here.

The RLSA of 180,000 acres is zoned for one unit per five acres, even if it's wetlands, and would allow for 36,000 housing units; however, by transfer of credits, the original 16,800-acre plan would allow for 67,000 housing units. Now, this has morphed into 45,000 acres with a total of 180,000 housing units, doubling our population.

We totally believe in protecting the rights of property owners. The rights of the RLSA owners are limited to one housing unit per five acres. They have no more rights than those unless we, the people, through our elected representatives, grant them more rights. They are free to use

the other credits that run with their land, observing all the other existing county codes, state and federal laws.

It is difficult to believe that our staff and government are operating in the interest of the people when the owners, by use of credit transfers, plan to double our population.

Two basic considerations in the plan are adequate potable water and surface water management. Excess runoff into our protected Rookery Bay and mangrove islands endanger the mangroves and the fish hatcheries dependent on them. You are also depriving the aquifers of necessary replenishment. By the way, one of our aquifers is already being desalinated; this is a violation of both state law and Collier County Master Plan.

Adequate sewage treatment for the population will also add to surface runoff and pollutants. This should not be a question between a billion dollars or we're going to double your population.

There ought to be another solution in between that, a reasonable solution. But I don't think doubling our population is in anybody's interest. There's only one road that leads there, and that's Immokalee Road, and it's -- it can never -- consider the population that we have now and the traffic problems we have, and here they're going to add double that population with only one major road out there.

Well, that's all I would have to say at this time. Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker, please.

MR. FRANTZ: Our next speaker is Isabella Brumwell. Isabella, are you there?

(No response.)

MR. FRANTZ: Isabella, are you there?

MS. BRUMWELL: Here. I just unmuted.

CHAIRMAN FRYER: Okay. You have five minutes.

MS. BRUMWELL: Can you hear me now?

CHAIRMAN FRYER: Oh, yeah.

MS. BRUMWELL: Okay. I'm Isabella Brumwell. I belong to the Conservancy, Botanical Garden, the zoo. I love it here. But I don't represent anybody. I'm officially a very concerned citizen.

I have watched Florida get built up. In the '40s, there was huge pine tree forests. Some friends and I played with an injured panther using a mop until it was able to go back into the wild.

We took a sand trail to the other side of 41 to a swimming hole. Now there is barely any big space left for wildlife.

I sort of see what the county is trying to do from reading the Conservancy's summary. It's a good step in the right direction. But we've covered so much land with housing and farms with no thought for wildlife habitat that we should go now in the other direction.

If you choose not to stop building, you should reduce it with some major goals in mind. Expanding panther habitat is a no-brainer because there's only about 200 left, and we are in charge of seeing if they go extinct or not. It doesn't take a genius to figure out this means smaller and fewer towns, fewer roads, because each male panther needs 200 square miles of habitat.

The conservation [sic] recommendations also includes the small houses, the small towns, and less sprawl. Obviously, the panthers and other wildlife should have corridors to other large habitats.

Goal 2, we need to keep new towns from affecting habitat areas. This is in the Conservancy's Sub (unintelligible) also. We should have parks around the towns with native plants required to be planted. This requires far less water for maintenance.

Goal 3, we should be requiring new buildings to be more efficient. My family right now is retrofitting a couple of homes from our efficiency. Low-flow toilets will decrease water use and

waste processing, air sealing and better insulation in new buildings so that people can air condition just the inside of their house and not the outside, and requiring homes to be built solar ready so people can more easily put the sun in the Sunshine State to work.

There is so little left of what was here 75 years ago. Let's include the Conservancy's recommendations in the plans so we can keep and expand what's left of Florida's nature.

Thank you.

CHAIRMAN FRYER: Thank you, ma'am.

Next speaker, please.

MR. FRANTZ: Our last speaker on Zoom has a phone number that ends in 3170. We do not know their name. Are you there?

MS. POOLE: Hello?

CHAIRMAN FRYER: Phone number 3170, is that you?

MS. POOLE: I believe so.

CHAIRMAN FRYER: Okay. Please proceed for five minutes.

MS. POOLE: This is -- my name is Jane Poole. Good afternoon. And today I'm speaking from the heart on behalf of what we all stand to lose here and is most likely irreplaceable resources, also as a small property owner and resident whose family drove all over Florida before choosing to move to Collier for its lively and level unspoiled natural beauty and small-town classy personality. That was six years ago.

Wanting, as many of us do, to get away from the stressful qualities-of-life issues that come with endless housing, overdevelopment, high-rises, urban sprawl communities, cookie-cutter and unfriendly-to-natural inhabiting development.

There are many who also love nature and would say that this huge RLSA level of proposed destruction in the name of community is a horrible and devastating idea, especially when our entire environment is in such a point of peril.

You know, the world has changed much in the last decade and much more in the last year. Should we be encouraging such an acceleration and sprawling of dense growth or sprawl here? Our county and planet are already facing compounding heated consequences of losing the benefit of thousands upon thousands of natural acres of air-cleansing oxygen-producing pollution-absorbing and water-purifying nature and life-sustaining trees and water, I'll say it again, losing space for its citizen animals, birds, panthers, bears, butterflies, and a multitude of unique creatures, big and small, many on the brink of extinction, much like the ecosystem of our collective selves could be said.

We, as humans, can and should nurture these alive natural sites that nature calls home and we use as our green and cleaning spaces. Our health and well-being is tied to its well-being and its suffering.

Nature is much of what has made Collier a great place for us for many natural places of refuge surrounding and cleansing the urban sprawl, the magic of the Everglades, including the wetlands, that is a unique place here on Earth. Collier has had a balance which seems as rapidly shifting as surrounding wild forests, and places are ravaged, diminished -- this diminishes the air and the water and the beaches and the quality of life for all residents and visitors.

So why does development have to equal such destruction, I've often asked myself? Does even passing a natural space ease all of our stress and tensions just a little? How about the value and benefits of the forest even in walking through it or bike ridings by it? Who can -- who can drive by and witness the clear cutting of large scales that we've seen lately here without a knot in their stomach and a lump in their throat? Are our lives here just about selling out to profit? Chop and drop at the expense of many? Are there -- or are those knots and lumps also because our roads are increasingly crowded, our intense climate temperatures and tempers both rising, our water supply and quality dwindling, our beaches and oceans drowning in pollutions of chemical runoff?

All the quality of life here is degraded as our taxes and infrastructure burdens seem to be increasing. Isn't it simple supply and demand? More houses, more pollution, less nature in turn makes all existing property less valuable. Are we choking on our own greed, or can we now make intelligent choices that benefit all current and future residents, animal and humans, before we reach that tipping point here and become another Broward or Miami-Dade West or anywhere, for that matter, and lose everything about our unique environment?

CHAIRMAN FRYER: Ma'am, please begin to wrap it up, if you would, please.

MS. POOLE: Sure. Bear with me just a minute.

Anyone who's considering this, I would say, should spend at least a whole day experiencing the driving and breathing issues in those environments before voting to advance such here. Our family moved here for the natural balance, the harmonious and refreshing peaceful way of life. Growth that was balanced with wild [sic] land protection, that's what made it unique here.

I like to think, instead of contributing to our own extinction and -- as both a unique place and species, that we can learn from and avoid creating a similar path here for all our sakes, for all our residents' sakes, for all our children's sakes, let's stop the madness and readdress the RLSA development to rewrite the program and to protect the current taxpayers and landowners.

CHAIRMAN FRYER: Thank you very much, ma'am.

Next speaker.

MS. JENKINS: Are you done with Zoom?

MR. FRANTZ: That was your last Zoom speaker.

CHAIRMAN FRYER: Are there any other registered speakers in the room?

MS. JENKINS: I have one more speaker slip for Nicole Johnson.

CHAIRMAN FRYER: Ms. Johnson.

MS. JENKINS: And while Nicole's coming up, if -- Mr. John Harney, I think he was going to register with Zoom. He had to leave earlier. Did he register, Jeremy; John Harney?

MR. FRANTZ: He had registered and was on the Zoom meeting for a time but has dropped off.

MS. JENKINS: Thank you.

CHAIRMAN FRYER: Okay. Ms. Johnson, go ahead.

MS. JENKINS: Great, thank you. Good afternoon again. Nicole Johnson, here on behalf of the Conservancy of Southwest Florida.

I'm not going to talk about the Conservancy's recommendation. You had a presentation two weeks ago by my colleague, April Olson. If you have questions on that, she's certainly here to address them.

But I did want to address some of the comments and questions that have been raised about the Conservancy during the meeting today and in a recent opinion piece in the *Naples Daily News*. It does seem like everyone is going back to what did we think we were getting in 2002?

And the Conservancy's all about taking the program that we have and moving forward; however, we believe it's important to understand the context of what we thought we were getting in 2002.

So, bear with me, because I do want to reiterate just a couple points on this. First of all, the Conservancy was not aware that the RLSA program, when adopted in October of 2002, that it would result in the amount of development that we currently have. The idea that somehow everyone knew that the RLSA in 2002 would allow for 300,000-plus additional people I don't believe is accurate.

I was looking back through my files, and there was a press release from 2003 from the Barron Collier Companies when Ave Maria was first getting up and going, and it states, ultimately, the Rural Lands Stewardship Program could protect 90 percent of uplands and wetlands and 80 percent of all agricultural resources in the study area while requiring approximately 10 percent

of the development footprint allowed through the conventional five-acre zoning.

So to me, everyone was on the same page. Clearly, that's not the case today, and that's okay. But I do think we need to understand where people honestly were in 2002 and what we thought we were getting.

So moving forward, and how do we improve upon the RLSA program? We're not going to go back to 16,800 acres of development; we know that. And the Conservancy has acknowledged that, and that was the vision map that I showed you earlier. That's not a 16,800-acres worth of development footprint. It's on the magnitude of somewhere around 40,000 acres, I believe. But it's better located and, of course, needs to have the right type of smart growth and planning for any of those future SRAs.

Now, there's been some talk about the Smart Growth America report that was done for the Conservancy. That report is not the end-all and be-all. It was never intended to be. In fact, it had a number of caveats within it. For example, it did not include the impact fees or developer contribution agreements.

The point of that study was to show that more spread-out, low-density dispersed development costs the county and the taxpayers more than more consolidated higher density impact development, and that's a study that the Conservancy actually has been asking for the county to do.

It's interesting back when the RLSA was going through its transmittal and approval process, the only RLSA-wide fiscal impact analysis that I'm aware of was done by Fishkind & Associates, and in their report dated May 15th, 2002, when Fishkind looked at baseline versus what the RLSA was intended to do, they, and I quote, according to Fishkind, both the baseline and stewardship options were assumed to accommodate the same population.

So in the Conservancy's opinion, the county -- nobody has really done an RLSA-wide economic assessment of what the true costs are going to be. That's important, because you're not going to get those larger infrastructure projects captured in individual SRA application fiscal impact studies. It's not going to talk about if you need to six-lane a road or if you need to add more roads to the network.

So if you don't like the Smart Growth America analysis -- and we agree it's not the end-all and be-all -- we're encouraging the county, take a look, have a third party do that for the county so that we can find out what those true costs are going to be. I don't believe that it's been done.

So with that, I'm here to answer any questions that you have, but we do want to look forward. That's what our amendments are about, but we need to do that in the context of where we started, and we need to look at where we want to be at buildout.

CHAIRMAN FRYER: Thank you, Ms. Johnson. Nobody is lit up, so...

COMMISSIONER FRY: I'll light up.

CHAIRMAN FRYER: Oh, okay.

COMMISSIONER FRY: Hi, Ms. Johnson.

So I guess I've been operating from the -- more the basis that we're starting from the 2009 direction that was more or less approved by the Board of the 404,000 credits, 45,000 acres not going -- so I haven't really been looking back at the 2002 what was agreed then. I felt like there was a second chapter based on everything that I've heard that really is our starting point for looking at this and that that was, what, 11 years ago. So here we are.

So I guess my question is: You have an overlay that you've developed. It would allow 39,000 acres developed.

MS. JOHNSON: More or less, yes.

COMMISSIONER FRY: Right. But I notice it's not incorporated into the plans. I just wondered, why hasn't -- I mean, I think we're all united, would love to see everything built on areas that are not Primary Panther Habitat. I think we're aligned, right? And I'm just up here -- we're all up here trying to do, I think, the right thing by the county, weigh everything that's thrown at us,

and come out with some kind of a judicious step forward.

I'm personally not in favor of stopping the process and starting over when we're -- at the worst case we're preserving 75 percent of -- we're not developing 75 percent of that 180,000 acres.

So why hasn't that plan gotten more traction and become part of the county's overlay for the RLSA?

MS. JOHNSON: Great question. We did propose that during the five-year review amendments. As I said, I believe that our vision map was initially created in 2008. So it's been out there the entire time. It isn't something that the county or the landowners are interested in agreeing to.

You know, I will say that parallel to the RLSA, the landowners have a Habitat Conservation Plan application, which is the federal permitting side for an incidental take permit -- a 50-year-long incidental take permit, and on that permit application there's a map showing where the ECPO landowners would like to develop.

And one of the alternative options that was discussed as part of the alternatives analysis in that Habitat Conservancy Plan take permit analysis was, well, maybe could you -- could you pull some of the development out of the Primary Panther Habitat? Could you consolidate? And I'm paraphrasing, but the response was, that doesn't follow the landowner property boundaries in a manner that's acceptable. We have always had our vision map out there. We would love for it to get traction. We've been trying for it to get traction, but it's not something that I believe the landowners are willing to agree to, so...

COMMISSIONER FRY: Nor has the staff pressed for it to be part of the plan. Maybe Anita -- speak.

CHAIRMAN FRYER: May I just --

COMMISSIONER FRY: I know, we're running out of time, aren't we?

CHAIRMAN FRYER: We are. But the question I have is when Mr. Reynolds spoke, he was willing to own the statement that as of 2009 the number was 315,000 and however many acres that would develop. And I think you mentioned 404,000. And I just want to know what the right number was as of 2009.

MS. JOHNSON: As of 2009, according to WilsonMiller/Stantec, it was -- I believe 315,000 credits. The proposal in 2009 was to take it up to 404,000 credits through the agricultural stewardship credits and some other credits shifting. You know, one of the concerns is that a lot has happened since 2009. A lot more SSAs have come online, so I'm not -- it's still a little unclear how many credits are out there and then could be out there under these new provisions. But that's the difference between the 315- and the 404-.

CHAIRMAN FRYER: Okay. Thank you. I'm sorry.

COMMISSIONER FRY: And I realize -- we have a 3:30 time-certain for another matter; is that correct?

CHAIRMAN FRYER: We do, and I told Ms. Jenkins that I was going to try to give staff an opportunity to say some summarizing words, and she kindly acknowledged that it might be more important to continue with the public.

But, Anita, what should we do at this point?

MS. JENKINS: Yeah. We're going to need to continue with the staff's comments at our next meeting, and we'll stop right now.

But I will respond, Mr. Fry, to your question about the Conservancy's plan. And all of the NGOs that were participating through the five-year review process did that through two years, 15-member committee. So we feel like everyone was fairly heard through that process. And when the recommendations from that process were taken to the Board for consideration, it was the Board that directed staff to bring back the amendments with 404,000 stewardship credits and 45,000 acres of SRA.

COMMISSIONER FRY: And the overlay map that we see today was developed different from what the Conservancy proposed.

(Simultaneous crosstalk.)

COMMISSIONER FRY: Was that the result of consensus of all of those meetings and staff and --

MS. JENKINS: Yeah. The overlay map that you see today is the one that was originally adopted, yes.

COMMISSIONER FRY: Originally --

MS. JENKINS: Originally adopted. That's the only one that we have right now.

COMMISSIONER FRY: 2002?

MS. JENKINS: Yes, 2002. And the one that is the proposed is -- the lines are the same as 2002. What you see today is the implementation of SSAs on that map and SRAs on that map, and the Florida panther corridor's indicated on that map.

COMMISSIONER FRY: Okay.

COMMISSIONER SCHMITT: And also the ag preservation areas as well, right?

MS. JENKINS: The ag preservation areas would be indicated as open on the map, but the ag preservation is by policy. So you wouldn't have any map change for that.

COMMISSIONER FRY: So even with the addition of panther corridor credits that have been -- that are added now and it looks like contiguous areas for habitat areas, that's still not, in your opinion, supportive of the panther's survival and thriving?

MS. JOHNSON: From the Conservancy's perspective, no, because what we find is that when those agricultural areas that are critical for panther habitat, panther usage are impacted, it not only impacts the footprint area, but it degrades the value of adjacent wetlands and other habitat areas. And so the corridors -- the Conservancy had commented on the proposed corridors. They're too narrow. The northern corridor, I don't believe, is really in the best location. So it's not just about corridors. It's about saving the habitat necessary and, by doing that, you then save and preserve the integrity of the currently used panther corridors.

COMMISSIONER FRY: But the Conservancy is not the only organization that cares about the panther.

MR. JOHNSON: No.

COMMISSIONER FRY: And we did have Audubon and Florida Wildlife Federation stand here largely in support of this, with some tweaks, saying they felt it did a pretty good job of supporting the panther. So I guess where I scratch my head in trying to make sense of this all is how are you -- how are you arriving at such different conclusions when you really have the same end goal in mind?

MS. JOHNSON: All I can speak for is the Conservancy, and we based our vision map on best available science. I'm not a panther scientist, so I'm going to rely on those that are the panther scientists and the best available science that is utilized by the agencies, and right now that is the Kautz, et al, which identifies primary panther habitat as the habitat that needs to be retained in its entirety in order -- in the existing uses in order to allow for the survival of the panther. So the Conservancy is basing our position on the best available science out there, and that is what informed our vision map.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Any other questions or comments? Okay. Thank you, Ms. Johnson.

MS. JOHNSON: Thank you.

CHAIRMAN FRYER: Let's see. It's -- next speaker, if any?

(No response.)

CHAIRMAN FRYER: Okay. Are there any people in the room who haven't registered

but wish to speak on this matter?

(No response.)

CHAIRMAN FRYER: I see no hands raised. So we will put this no matter in recess to be continued on the 25th -- the 25th of September, and we'll begin at that time with staff's --

COMMISSIONER SCHMITT: At that meeting, that will begin with staff?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER SCHMITT: Okay.

COMMISSIONER FRY: May I ask a procedural question?

CHAIRMAN FRYER: Of course.

COMMISSIONER FRY: So there are a number of recommendations. You have done some review on your own.

CHAIRMAN FRYER: I have.

COMMISSIONER FRY: So I guess there's lots of areas of reviewing at a line-item-by-line-item level, policy-by-policy level. How do you foresee that process rolling out to get to any kind of a destination here?

CHAIRMAN FRYER: Thank you. Good question. Thank you. How I see it -- and I want to find out what the Planning Commission wants to do. But I see that staff give its response or presentation. I'm not sure exactly what it is -- or maybe to address the public comments. And I don't know how long that would take, but certainly staff should have a reasonable amount of time within which to do that.

Then I would like to turn to the August 3rd official staff proposed amendments and go through those item by item, and that will be the official document we'll be working off.

I have furnished a copy of a redliner to every member of the Planning Commission and staff and to the Office of the County Attorney. I just offer that, because those are the very points that I'm going to raise, and that would give you the benefit of seeing those points in black and white as I raised them. But we'll start at the beginning and we'll go through, and we'll consider my points and everyone else's points.

Now, what I don't know and would like some guidance on is whether we would be best served by trying to take a vote on every major issue that comes up or deliberate or discuss every issue that comes up as it comes up, or should we wait until the end? What -- does any planning commissioner have an observation or guidance on that?

COMMISSIONER SCHMITT: I'll comment. Well, this is a GMP amendment and, as such, unless staff -- this is again, my opinion. Unless staff is going to make changes as we go through the process, it is -- it is either all or nothing. It's not where we vote on each policy. It's not -- that's not how it was advertised. That's not how it was presented. It -- and I know, Commissioner Fryer, you had -- you had opening comments, or you certainly rendered your opinion, which it's clear, at least from the first meeting, the way you're going to vote unless you decide to change your mind. So you pretty much laid out your opinion already, which was -- I got to say, it was somewhat unusual because we never do that until we hear public opinion and staff presentation. So you've already -- you've already defined where you are on this.

And I'm not in favor in any way, shape, or form to go through this line by line to attempt to rewrite this during a public hearing, something that has taken 23 meetings with numerous committee members and numerous participants and agencies, and I don't think it's our job as a body, a deliberative body, to sit here and rewrite something unless, of course, those other entities are involved. And I think we owe it to them to be involved, and if that's the case, then we just send this back and tell the staff to start over again. But I don't have any interest in going through this to rewrite this. This was presented to us as a whole, and I think that's the way it should be voted on.

CHAIRMAN FRYER: Okay. Any other observations?



COMMISSIONER FRY: Both points well taken. And I took Chairman Fryer's comments in the first meeting to be an introduction to concerns that he had and an attempt that he would make to invest some time to come up with a more palatable version of it that we could approve, we could review and approve.

But I guess my thought is, you know, I can't imagine -- we routinely run into conditions. We add conditions as we go through the meeting. We express concerns. We add conditions to approval of things. In this case that would be modifications to the particular amendments, and maybe it's, you know, putting it --

COMMISSIONER SCHMITT: And I'm sorry I'm interrupting.

COMMISSIONER FRY: No, go ahead.

COMMISSIONER SCHMITT: But we typically do that in concert with the applicant and staff. In this case, there are many stakeholders, some of whom are not here or not represented in a meeting, and I think we owe it to all the stakeholders involved to have an input. So if we want to have some kind of a public meeting where we go through this line by line with everyone concerned and everybody impacted, then, yes, then we can sit and rewrite the legislation. But I think it's a disservice to the staff and to the people who participated in these years of meetings to now attempt to rewrite something that now they're not a participant in.

CHAIRMAN FRYER: Okay. I'm going to exercise a prerogative of the Chair, and I thank you for your comments.

COMMISSIONER SCHMITT: Yeah.

CHAIRMAN FRYER: This will be a Planning Commission decision how we go; whether we go all or nothing or whether we go line by line, and we'll make that decision on the 25th, and we'll proceed in that way. And having said that -- and I owe it to Mr. Davies to bring this to a recess at this time so that we can take up the matter that we've allocated him 30 minutes for.

COMMISSIONER HOMIAK: May I just say one thing?

CHAIRMAN FRYER: I'm sorry. Of course.

COMMISSIONER HOMIAK: This has already gone through the Planning Commission line by line --

COMMISSIONER SCHMITT: Yes.

COMMISSIONER HOMIAK: -- at one time, and most -- the majority of it is still the same.

CHAIRMAN FRYER: Yeah. Well --

COMMISSIONER HOMIAK: So --

CHAIRMAN FRYER: This is going to be a Planning Commission decision.

COMMISSIONER HOMIAK: You want us to vote for it altogether?

CHAIRMAN FRYER: You know, I will make my views known in a thorough manner to the Board of County Commissioners whether it's just as an individual or however. But that will be a Planning Commission decision when the time comes.

Unless there's anything else, I want Mr. Davies to begin.

COMMISSIONER FRY: Which item is this?

CHAIRMAN FRYER: \*\*\*This is, I think, 4. And we're continuing on Item PL20160000221, Immokalee Road Estates commercial subdistrict, large-scale Growth Management Plan transmittal hearing.

Mr. Davies.

MR. DAVIES: Well, thank you, Mr. Chairman. Good afternoon, Commissioners.

I know you've had a very long day, but I think this one will go quickly given the efforts we've made with staff since we were last in front of you.

We have worked nearly everything out with your staff since we were here last month. For a refresher, this is the Barron Collier project at the intersection of Immokalee Road and Orangetree

Boulevard. You'll see an aerial on your screens.

You'll recall last time there were several discussion points raised. We did add the interconnection language that was mentioned last time, which staff is in support of. We also significantly reduced our use list, and staff is now in full support of the requested uses.

And the only item of disagreement with staff is the square footage. We're requesting 200,000 square feet of commercial, and staff is at 178,000 square feet. So a difference of only 22,000.

This is the applicant's revised subdistrict language, which has been approved by both the County Attorney's Office staff, and will contain a reference to either the 178,000 or the 200,000 square feet depending on your recommendation today.

That is my very brief overview, Mr. Chairman. The full team is here today to answer your questions, and that's all I have to start. Thank you.

CHAIRMAN FRYER: Okay. Thank you. Any questions for the applicant?

(No response.)

CHAIRMAN FRYER: All right. Well, I'll maybe say a thing or two.

MR. DAVIES: Yes, sir.

CHAIRMAN FRYER: I appreciate the efforts that have been made by the applicant and by staff to close open issues and to work together and try to resolve.

There are one or two things that remain of concern to me that I want to express, and the first one has to do with the economic feasibility study that was prepared in support of the Growth Management Plan amendment, and your consultant referred to staff's required methodology as flawed. I believe that was the word that was used, because it did not, on the supply side, take account of properly zoned but undeveloped property.

And I think staff came up to their -- staff's calculations were derived from including not only what is out there and already developed but also what has been properly zoned and is available for development, and that's how they came to the 178,000.

And it seems to me that we should adhere to that number unless we're telling staff that we don't support its policy, its methodology of including properly zoned but undeveloped land. And I'm not willing to tell staff that. So that's where I am on that point. And also -- well, I'll let it go at that.

Anybody else have any comments?

COMMISSIONER SCHMITT: I just want to wait till staff gives its presentation, because that's a point of discussion.

CHAIRMAN FRYER: Okay.

MR. DAVIES: If I may, Mr. Chairman.

CHAIRMAN FRYER: Yes.

MR. DAVIES: And Mr. Weyer is here to answer specific questions on the study or the addenda. In the interest of time, however, to clarify, so staff is in support of the 178,000 square feet of the commercial uses and is in support, since last time, of the changes we made and the modifications and reductions to our use list. If it is the discretion, we're -- with the discretion of the Commissioners today, if a motion is made with respect to the 178,000, certainly that is your prerogative. Today our request is for 200-, but we certainly wouldn't stand in the way of a motion with respect to the 178-, so I just wanted to make that point. Thank you.

CHAIRMAN FRYER: Thank you.

Staff?

MS. JENKINS: Good afternoon. Anita Jenkins, interim zoning director, for the record.

Staff has continued to work with the petitioner and reviewed additional market analysis, and we are in agreement with their petition with the exception of the differences of acreage, and staff is supporting 178,000.

CHAIRMAN FRYER: Thank you. Any questions at this time?

(No response.)

CHAIRMAN FRYER: We also -- we also heard from the public a fair amount with respect to compatibility with traditional Estates zoning, and I appreciate the applicant withdrawing its request to have access to 4th Street --

MR. DAVIES: Northeast.

CHAIRMAN FRYER: -- Northeast.

MR. DAVIES: Yes.

CHAIRMAN FRYER: That went a significant way toward removing one of the objections that I had. But, nonetheless, there was still concern expressed that compatibility, when it had been looked at by the planners, staff planners, that the area for this level of development was, I believe, to be south of where you are; that that's where they saw this kind of development taking place. And I think part of their reasoning was compatibility. So I do have some concern about that, and I just wanted to go on record with it.

Do we have any members of the public or any speakers?

MS. JENKINS: I have no -- I believe Rae Ann Burton.

CHAIRMAN FRYER: Okay.

MS. JENKINS: Yes. I have Rae Ann Burton.

CHAIRMAN FRYER: Mr. Davies, were you ready to -- did you want to respond to me or to say anything further before we go to public speakers?

MR. DAVIES: Nothing further. I can respond after the public.

CHAIRMAN FRYER: Okay. Thank you. Who do we have from the public?

MS. JENKINS: We have one registered speaker, which was Rae Ann Burton. I'm not sure that she's still here.

CHAIRMAN FRYER: Okay. Well --

COMMISSIONER FRY: She spoke on the last issue.

CHAIRMAN FRYER: That may be what she intended.

MS. JENKINS: No, she wanted to speak on both.

CHAIRMAN FRYER: Oh, she did. Okay. All right. Well, unfortunately, she's not here.

Any member of the public who hasn't registered wish to speak on this matter?

(No response.)

CHAIRMAN FRYER: If not, okay. You know, I neglected to swear people in, and if we can try to fix that.

MR. KLATZKOW: I swore that I told the truth before?

CHAIRMAN FRYER: Yes. We've had -- we've had two speakers -- and this is my fault, and I apologize. It's perhaps the late hour of the afternoon. But, Mr. Davies and Ms. Jenkins, would you raise your hand and consider this in the past tense, please, for the testimony that you've given.

THE COURT REPORTER: Do you swear or affirm that the testimony you gave was the truth, whole truth, and nothing but the truth?

MS. JENKINS: It was.

MR. DAVIES: I do.

CHAIRMAN FRYER: Thank you very much. And my apologies again.

Also, disclosures as respects things that have happened since this applicant was last before us, starting with Secretary Fry.

COMMISSIONER FRY: No additional disclosures outside public record, emails.

CHAIRMAN FRYER: Okay. I've had further discussions with staff and with the applicant's agents.

COMMISSIONER HOMIAK: Just emails.

COMMISSIONER SCHMITT: I did have discussions with the applicant, Noel, and Wayne so -- Wayne Arnold. So after -- between -- well, prior to this meeting, yes.

CHAIRMAN FRYER: Okay. Very well. Does anyone wish to either speak on this or make a motion?

COMMISSIONER SCHMITT: I'll open for discussion. The dispute primarily looks right now -- because I believe one of the other things -- and I can't remember what. I thought we had some issue with water retention on this site, but that's all been resolved, correct?

MS. JENKINS: Yes.

COMMISSIONER SCHMITT: And so the dispute is whether it's 178,000 or 200,000. And if -- I think if we could make it a nice round number, 180,000, go with that, and see if we can move forward with that. Does that sound like something we could do?

CHAIRMAN FRYER: That's your motion?

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: All right. Is there a second?

COMMISSIONER HOMIAK: I'll second.

CHAIRMAN FRYER: Okay. Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously. And this, of course, was on transmittal.

This is a large scale.

MR. DAVIES: Yes, sir.

CHAIRMAN FRYER: Okay. Thank you very much.

MR. DAVIES: Thank you, Mr. Chairman. Thank you, Commissioners.

CHAIRMAN FRYER: Thank you. Well, my goodness.

COMMISSIONER SCHMITT: Well, let's go back and have --

CHAIRMAN FRYER: So that was approved at 180,000.

COMMISSIONER SCHMITT: 180-

MS. JENKINS: Yes, sir.

COMMISSIONER SCHMITT: A nice even number for Noel to work with.

CHAIRMAN FRYER: Yeah, yeah. All right.

Okay. We don't have any old business or new business.

COMMISSIONER SCHMITT: Let me just bring up --

CHAIRMAN FRYER: Please, go ahead.

COMMISSIONER SCHMITT: Just -- we'll go back about -- I would like to go page by page, though, like we normally do with the GMP amendments if there's wordsmithing that has to be done, and I think that's valuable. So I'm willing -- I mean, I want to go through that. But I'm not sure -- and we'll defer -- maybe we can confer and let the County Attorney -- but to vote by -- policy by policy may be very cumbersome.

CHAIRMAN FRYER: I think that may be right. That sounds like a good --

COMMISSIONER SCHMITT: But I'm -- I need to hear from staff, because I -- this is staff's proposals, and I want staff to address clearly and refute any of these. I know Mr. Cohen is going to do that as well. Thaddeus wants to approach this from a standpoint of we need to

understand where staff is willing to compromise but without offending any of the people who are involved in this, because there's a lot of people that were involved in this.

CHAIRMAN FRYER: Yeah. And I think that's a pretty good solution, Joe.

Mr. Cohen, did you want to speak, sir?

Ms. Jenkins?

MS. JENKINS: No. We're going to address that on the 25th with you.

COMMISSIONER FRY: I'm still left slightly confused in that I've been documenting a number of questions for staff in terms of addressing some of the concerns.

COMMISSIONER SCHMITT: Well, if you're confused, you can't come back.

COMMISSIONER FRY: I would never have shown up -- but I guess, and those will affect -- so if asked after those concerns, if there are a few of those things I'd like to see incorporated, minor changes, whatever, beyond wordsmithing, I guess my predicament is, am I then in a position of voting no because I don't like the exact wordage of the current amendments, or is there -- what is the leeway for us to agree on some changes to the content?

CHAIRMAN FRYER: How about --

COMMISSIONER SCHMITT: I think we would need all parties impacted to agree.

CHAIRMAN FRYER: Let's say that we're not going to pause and vote individually on everything. We'll go through it page by page. Then at the end, after that discussion, we may have a clearer idea where we are apart, and then it might be appropriate to bifurcate or trifurcate or somehow separate various major points that find their way into the specific language, such as "encourage," "discourage" versus "require" and "prohibit."

We may find that we have four, six items like that that we could split out at the end of all of that and proceed in that fashion, if that would work for everybody.

COMMISSIONER FRY: If there are changes made, does it then require the staff to go back and talk with the stakeholders and get consensus?

CHAIRMAN FRYER: I don't think so. And I am counseled wisely by our County Attorney who has clarified that, you know, planning belongs to us. We're the Planning Commission. This is our role. And we have every right to put forth -- oh, and also that the Growth Management Plan is something that is within our purview, our spot --

COMMISSIONER SCHMITT: That's our responsibility.

CHAIRMAN FRYER: That is ours. So we have a right to put forth specific language. Of course, we can -- that doesn't mean that staff has to agree with it or accept it or can't put forth their own suggestion. And at the end of the day, as we all know, it's going to be up to the Board of County Commissioners to decide, because they're the real owners of this stuff.

But I believe that it's appropriate for us to take ownership of the GMP and to do what we feel ought to be done as we pass it on to the Board of County Commissioners, and I'm sure staff's going to do the same.

COMMISSIONER FRY: So I take that to mean that we could agree on changes, and they could be incorporated into what we approve?

CHAIRMAN FRYER: What we approve, and that doesn't bind staff.

COMMISSIONER FRY: Is that accurate, Jeff?

MR. KLATZKOW: Yes. The Planning -- the Comprehensive Plan is under your wings. You're the local planning agency. By statute, you're responsible for the Comprehensive Plan and all amendments.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Karl, again, we're caught between to evaluate -- as you pointed out, we have the Conservancy in one camp, and we've got Wildlife Federation, Audubon in another. So we've got Conservancy and League of Women Voters, and Wildlife Federation, so, you know, those are the kind of things we need to consider.

MR. KLATZKOW: I will give you another wrinkle.

COMMISSIONER HOMIAK: Property owners.

COMMISSIONER SCHMITT: Yes, and the property owners.

MR. KLATZKOW: There are --

COMMISSIONER SCHMITT: Which 86 percent of the property is -- or almost 96 percent of the property out there is privately owned.

Go ahead, Jeff. Sorry.

MR. KLATZKOW: Assuming the Board of County Commissioners approves these items, there will be two new Planning Commissions starting October 1st. Are we going to be finished with this at the next meeting, or is this going to bleed over?

MS. JENKINS: I'm hopeful we'll finish at the next meeting, September 25th.

MR. KLATZKOW: Okay. Because not having a vote and then putting two people on who have never been a part of this before and then asking them to vote, it would be difficult.

CHAIRMAN FRYER: Good point.

Ms. Jenkins, we had a conversation on Monday about the timing, and I don't remember exactly what you said, but there was a -- there was a date that you put out that was the earliest that the Board of County Commissioners could hear this. What was that date? Was it in November?

MS. JENKINS: November 10th, yes.

CHAIRMAN FRYER: 10 November? And so what's the latest that we could talk about this and still be faithful to that agenda item for the big board?

MS. JENKINS: I would have to rely on our staff to tell me advertising requirements. We have to back up pretty far to get our items into the Board's agenda packet and to get the item advertised. So I can't imagine that we could go much past September 25th to maintain that date.

CHAIRMAN FRYER: Okay. All right. Well, it seems to me, then, in following up on the County Attorney's point, that -- let's all try to get this wrapped up on the 25th, but if for some unforeseen reason we can't, we may have to have a special meeting before October 1 or see if we can develop a quorum, because it really doesn't make sense to bring two new people on and expect them to be able to make an informed decision.

So I'll just put that out there earnestly hoping that we don't have to add yet another meeting. But those are the constraints that we're operating within.

Anybody else want to comment on that?

(No response.)

CHAIRMAN FRYER: If not, then, without objection, we're adjourned.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 3:49 p.m.

COLLIER COUNTY PLANNING COMMISSION

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EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on \_\_\_\_\_, as presented \_\_\_\_\_ or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF U.S. LEGAL SUPPORT, INC., BY TERRI LEWIS,  
COURT REPORTER AND NOTARY PUBLIC.