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BOARD OF SUPERVISOR'S MEETING
PINE TREE WATER CONTROL DISTRICT

HELD TUESDAY, JANUARY 10, 2023

6:51 - 8:08 O'CLOCK P.M.

AT THE VILLAGE OF ROYAL PALM BEACH
PARKS & RECREATION DEPARTMENT
CULTURAL CENTER
151 CIVIC CENTER WAY
ROYAL PALM BEACH, FLORIDA 33411

IN ATTENDANCE:

Kerry Hitt, Chairman
Philip McLellan, Supervisor
Ruben Ferrazzano, Supervisor

The Markarian Group
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1 BE IT REMEMBERED that the following proceedings were
 2 had and adduced at 151 Civic Center Way, Royal Palm
 3 Beach, Florida, beginning at the hour of 6:51 o'clock
 4 p.m., on January 10, 2023, with appearances as
 5 hereinabove noted, to wit:

6 ** *** **

7 P R O C E E D I N G S

8 ** *** **

9 CHAIRMAN HITT: We'll call the meeting to
 10 order -- the shade meeting to order. And I don't know.
 11 Are there any legal things you need to say?

12 MR. MARKARIAN: There's no -- no special
 13 words I need to say --

14 CHAIRMAN HITT: Okay.

15 MR. MARKARIAN: -- except that --

16 MR. FERRAZZANO: Do I second?

17 MR. MARKARIAN: No. We've called this shade
 18 meeting because we want to make sure that all questions
 19 of the elected officials are answered by their counsel
 20 in a manner that it would -- our advice would remain
 21 privileged and our discussions would remain privileged,
 22 keeping in mind that, once this is over, the transcript
 23 would be available for everybody, including the public,
 24 so that they're confident that their elected officials
 25 are doing their job and that we're representing their

1 interest zealously.

2 SUPERVISOR FERRAZZANO: It's the same for
3 Wellington --

4 MR. MARKARIAN: Yes, sir.

5 SUPERVISOR FERRAZZANO: -- their public
6 records too?

7 MR. MARKARIAN: Yeah. Yeah. Yes, sir.

8 So, if it's okay, Mr. Hitt, has met with me
9 twice, once one-on-one, once with the new engineer. And
10 I guess we've exchanged e-mails and some phone calls.
11 And he's given me a list of things he asked me to
12 analyze and expressed some concerns. And one of those
13 concerns is a concern that you raised, sir, that I
14 thought I would address first, if that's okay, which
15 isn't exactly why we're here. But I don't feel
16 comfortable advising you unless we get that one behind
17 us and you're comfortable. Okay?

18 SUPERVISOR FERRAZZANO: That's fine.

19 MR. MARKARIAN: So the question was: Did I
20 have a conflict of interest in the -- did I have a
21 conflict of interest in showing up at the mediation
22 where one of the representatives for Wellington was
23 married to a candidate for office that I had hosted a
24 fundraiser for about two years before. So I've done my
25 research, which is the -- which is available for any

1 lawyer. But I also called the Florida Bar because I
2 wanted to get their advice.

3 So the rules of the -- so the answer is that
4 I don't believe I had a conflict of interest --

5 SUPERVISOR FERRAZZANO: Right.

6 MR. MARKARIAN: -- but I want to make sure
7 that you're comfortable that I didn't or that the
8 circumstances were such that there was -- there wasn't
9 anything -- I didn't lose your trust, and I didn't
10 betray your confidence or betray your trust.

11 So let me give you a hypothetical. If I
12 knew on the day you hired me and you said, we're going
13 to go to a mediation tomorrow, and the person on the
14 other side is going to be -- what's his name? John?

15 CHAIRMAN HITT: John McGovern.

16 MR. MARKARIAN: McGovern.

17 SUPERVISOR FERRAZZANO: McGovern, yeah.

18 MR. MARKARIAN: Then it would have been
19 incumbent upon me to say to you guys, well, okay, I'd
20 love to work for you, but I'd want you to know that two
21 years before I hosted a fundraiser for his wife who is
22 running for office.

23 What actually happens at a mediation is
24 there's always a lawyer on each side. There's a
25 mediator. And then the two parties decide who's going

1 to be the representative at the mediation. I didn't
2 know who was going to be there for them, but they didn't
3 have just one. They had three, as I recall. They had
4 two lawyers. One was the city attorney. One was their
5 private lawyer. And then the -- the city manager --

6 CHAIRMAN HITT: City manager was in --

7 MR. MARKARIAN: -- and then one elected
8 official, which is this fellow. So I just wanted you
9 guys to know -- because maybe you wouldn't have been at
10 a mediation before -- the way this is conducted. I
11 don't have access to the other side. They're in their
12 own room or, in this case, they were in their own video.
13 And I didn't communicate with the other side either by
14 phone or text or verbally. All communications go
15 through the mediator. And that's how this was
16 conducted.

17 So, when I was engaged, there was no way for
18 me to even know that we would end up at a mediation, let
19 alone who would attend for them. Normally, an elected
20 official wouldn't even show up at a mediation. It would
21 be some, you know, person that's employed by the city
22 that's not elected. But, in any event, he was
23 completely shielded from me. And I just want you to
24 know further I've never had a meal with these people,
25 either husband or wife. I've never been in their house.

1 They've never been in my house. I don't have his phone
2 number. He and I have never spoken by phone.

3 And I'm -- in a mediation, I'm not the
4 decisionmaker. My job is to represent the board
5 zealously, argue for our case, and just give whatever
6 advice to the board is appropriate. So I did all that
7 on my own, and then I called the Bar. And here's the
8 additional advice. If -- oh, one more thing. I think
9 this is implicit. But I've not been promised any work
10 or money from Wellington, no future engagement. They
11 haven't hired me. There's no thought of them hiring me.
12 And, moreover, if they ever did try to hire me, I
13 believe under the rules that govern me, representing
14 Wellington would put me in adverse -- directly adverse
15 to my duties here.

16 Here's what the Bar says. The Bar says
17 that, if I get in a situation that I believe limits --
18 causes a substantial risk that I can't represent you
19 zealously, then I have to come to you and say, I've got
20 this situation where I can't represent you zealously.
21 And then you, gentlemen, can either waive, you can give
22 me the right to go forward anyway, or I have to
23 withdraw. But I never saw this type of interaction as
24 limiting my ability or creating what the law says
25 substantial risk that I couldn't represent you

1 zealously.

2 And to be honest, Rubin -- sorry. Sir?

3 SUPERVISOR FERRAZZANO: No, no, no, no.

4 MR. MARKARIAN: Until you mentioned it, it
5 never dawned on me that it would strike you as an issue
6 of concern.

7 SUPERVISOR FERRAZZANO: Well, and it was, to
8 be honest with you. And I think I had every right to --

9 THE STENOGRAPHER: I'm having a hard time
10 hearing.

11 MR. MARKARIAN: Why don't you come over --
12 do you mind?

13 (Discussion with stenographer)

14 MR. MARKARIAN: I think you have every right
15 to raise concerns like that, and I hope I've responded
16 appropriately --

17 SUPERVISOR FERRAZZANO: I think you have.

18 MR. MARKARIAN: -- and made you comfortable
19 then. You don't know me very well, but the last thing
20 in the world that I would ever do is betray a client's
21 confidence because that's -- they kind of -- they train
22 us and they wire us. It's like being in the military.
23 You have a duty --

24 SUPERVISOR FERRAZZANO: It's always got a
25 screw up in the military.

1 MR. MARKARIAN: No, but --

2 SUPERVISOR FERRAZZANO: Not that I'm saying
3 you're the screw up. But you do have screw-ups in the
4 military who would screw everybody else up. You know?

5 MR. MARKARIAN: But it's more like a duty.

6 SUPERVISOR FERRAZZANO: Yeah, yeah. No, no.
7 Yeah, I hear you.

8 MR. MARKARIAN: It's, like, I have a duty to
9 you.

10 SUPERVISOR FERRAZZANO: I hear you.

11 MR. MARKARIAN: Okay. So if we're good with
12 that issue?

13 SUPERVISOR FERRAZZANO: I'm comfortable.

14 MR. MARKARIAN: Okay, good, because Kerry
15 wanted me -- I'm sorry. Mr. Hitt wanted me to make sure
16 I did all my research and came back and told you. And
17 I'm not charging anything for that analysis. It's my
18 pleasure to do it right.

19 (Designated confidential)

20 MR. MARKARIAN: The next thing that I was
21 asked to look at was whether we could defend the records
22 case. So there's two -- I think you-all understand what
23 I told them, and I want to maybe repeat it. There's two
24 parts -- we've got a roads case that's on appeal. This
25 case has two parts, records and taxation. I don't feel

1 good about the ability to win the records case. I have
2 also been given transcripts of prior meetings before we
3 were your counsel. I've reviewed those. And --

4 CHAIRMAN HITT: Actually, I have more.
5 But --

6 MR. MARKARIAN: Right. I only reviewed --
7 really, I reviewed the --

8 CHAIRMAN HITT: There's two.

9 MR. MARKARIAN: -- the one of March 9th and
10 the one of October 14th of 2021. And I -- I don't feel
11 that I can advise you that you will prevail on the
12 records case. And I was -- and it seems pretty clear to
13 me that, with regard to the taxation case, based upon my
14 review of a transcript from October 14, 2021, this board
15 was not advised of its exposure to legal fees for the
16 tax part of the case. It's pretty clear that the lawyer
17 that was on duty then has admitted that in this
18 transcript.

19 Now, you have been working on some things
20 that seems to me to be the most important issue because,
21 if we -- and that is leveraging the tax -- sorry -- the
22 gas tax monies that are now being collected by
23 Wellington and going to Wellington. And I believe your
24 investigation provides an avenue where those funds can
25 be --

1 CHAIRMAN HITT: May I clarify that?

2 MR. MARKARIAN: Yes.

3 CHAIRMAN HITT: I think what you said is not
4 quite correct.

5 MR. MARKARIAN: And, for the record, I
6 believe we need to mark this part of the transcript
7 because this part of the transcript -- if we are going
8 to resolve that lawsuit, this part of the transcript
9 should remain privileged beyond that resolution. That
10 is, any discussion about gas tax funds and road
11 maintenance should remain privileged beyond any
12 resolution of the lawsuit settlement issue that we're
13 going to vote on -- that you're going to vote on. Okay?

14 CHAIRMAN HITT: Okay.

15 MR. MARKARIAN: So everything that you're
16 about to say --

17 CHAIRMAN HITT: Okay.

18 MR. MARKARIAN: -- and everything that went
19 on in about the last five minutes we'll keep contained.

20 CHAIRMAN HITT: Okay. So Wellington is not
21 currently collecting monies for gas tax money. Okay?
22 They're not currently collecting it. They had collected
23 it for 14 years. How many years --

24 SUPERVISOR FERRAZZANO: I've managed to get
25 the records for 2013, '16, '17 and '18. And -- I mean,

1 they were way behind. And they sent me a letter telling
2 me, oh, we have a '19, '20, '21 and '22. But that's not
3 what I requested. I requested from 2004 to 2018. So I
4 want to get that information now, and then I'm going to
5 re-request from 2004, '5, '6, '7, '8, '9, '10, what the
6 ones that we're missing. And there should be records of
7 it. They just don't want to --

8 CHAIRMAN HITT: Have they --

9 SUPERVISOR FERRAZZANO: Oh, my God, yeah. I
10 requested this December 1st.

11 MR. MARKARIAN: Sir, what -- could you just
12 repeat. You got the years '16, '17 --

13 SUPERVISOR FERRAZZANO: I don't have it yet.
14 What they're willing to give me is '13, '16, '17 and
15 '18. And then they sent me another letter saying they
16 will hand over '19, '20, '21 and '22.

17 CHAIRMAN HITT: They're not even -- they're
18 not even an issue.

19 SUPERVISOR FERRAZZANO: Well, right. Right.
20 That wasn't in my request.

21 CHAIRMAN HITT: Right, right.

22 SUPERVISOR FERRAZZANO: So I'm going to
23 re-request everything but these years again.

24 CHAIRMAN HITT: So I want to make sure --

25 SUPERVISOR FERRAZZANO: And the problem is

1 they have to hunt the thing down. And this is what the
2 guy told me. You know? We're not sure where it's at.
3 We don't know who had the case at the time. We don't
4 know where the maps are. I mean, it has to be archived.
5 It's just a matter of spending time going into archives
6 and finding it.

7 CHAIRMAN HITT: Don't they have a time frame
8 that they have to --

9 SUPERVISOR FERRAZZANO: They said 10 days at
10 first when they told me.

11 CHAIRMAN HITT: And they're beyond that?

12 SUPERVISOR FERRAZZANO: Oh, I didn't get my
13 information until -- and I still haven't gotten until
14 the 12th all of it. I did get a letter from -- what was
15 her name? Lee. What the hell is her name?

16 -- saying that she has the '13, '16, '17 and
17 '18. I think it will work in here.

18 SUPERVISOR McLELLAN: She has it but you
19 don't have it?

20 SUPERVISOR FERRAZZANO: I have nothing.

21 CHAIRMAN HITT: You have nothing yet?

22 SUPERVISOR FERRAZZANO: I have nothing yet.
23 Tammy Lee.

24 MR. MARKARIAN: Those were requested in your
25 name, sir?

1 SUPERVISOR FERRAZZANO: Yes.

2 MR. MARKARIAN: As an individual?

3 SUPERVISOR FERRAZZANO: Yes.

4 CHAIRMAN HITT: Do you need to request it?

5 MR. MARKARIAN: No.

6 SUPERVISOR FERRAZZANO: While representing
7 Pine Tree Water Control District. That's who I told
8 them I was.

9 MR. MARKARIAN: Oh, you did?

10 SUPERVISOR FERRAZZANO: Yes.

11 MR. MARKARIAN: Oh, good. Then you can seek
12 attorney's fees from them then.

13 SUPERVISOR FERRAZZANO: Uhm?

14 MR. MARKARIAN: You can seek attorney's fees
15 from them. Yeah. You would have to file suit, or
16 whatever, but you can actually make that claim.

17 CHAIRMAN HITT: Okay.

18 SUPERVISOR FERRAZZANO: They know exactly
19 who I was, who I represented, and what I was looking
20 for.

21 MR. MARKARIAN: Did you keep a form that you
22 filled out, or did you just give it to them?

23 SUPERVISOR FERRAZZANO: This is the weird
24 part about it. They don't have a form. And I'm saying,
25 you should have a form. Every other department has a

1 form. This department apparently does not have a form.
2 They work off of e-mail.

3 MR. MARKARIAN: But you have a letter that
4 they sent you back that you would --

5 SUPERVISOR FERRAZZANO: Under Pine Tree
6 Water Control.

7 MR. MARKARIAN: Okay. Perfect.

8 SUPERVISOR FERRAZZANO: And, you know, I
9 went under R. Ferrazzano, Pine Tree Water Control
10 District. Everything that I have is under Pine Tree
11 Water Control District.

12 MR. MARKARIAN: Perfect.

13 SUPERVISOR FERRAZZANO: Any interaction --

14 MR. MARKARIAN: And the letter they sent you
15 back was directed to you care of --

16 SUPERVISOR FERRAZZANO: Through --

17 CHAIRMAN HITT: Through Pine Tree?

18 SUPERVISOR FERRAZZANO: Right.

19 CHAIRMAN HITT: Okay.

20 SUPERVISOR FERRAZZANO: Yeah, yeah, yeah.

21 MR. MARKARIAN: So yes, sir. The answer is
22 we can put some teeth into that.

23 CHAIRMAN HITT: Okay. Good.

24 So here's my concern just talking about the
25 gas tax, and this is where it just -- it gets to be a

1 can of worms. They had been collecting gas tax for the
2 past 14 years. They admit to that. I know they've done
3 that. Or maybe more than 14. At least 14 years. Okay?

4 SUPERVISOR FERRAZZANO: Well, we're pulling
5 enough records to --

6 CHAIRMAN HITT: And there are gas tax maps
7 that they have turned in. And, in turning those gas tax
8 maps in, they claimed those roads as being their roads.
9 In reality, they're private roads. This is where this
10 whole thing gets rather convoluted because, as I
11 understand it, technically, you're not allowed to
12 collect money on gas tax -- gas tax money on private
13 roads.

14 Now, we didn't push this that hard because I
15 was hoping we could come up with a resolution with
16 Wellington. And they could go back and do the same
17 thing again and be granted gas tax money on our roads.
18 And I think it's legitimate because the residents pay
19 gas tax. So these are monies that technically are being
20 given for the roads that the residents drive on.

21 MR. MARKARIAN: Is there any doubt in your
22 gentlemen's minds that the residents are paying gas tax?

23 CHAIRMAN HITT: Every time you fill your
24 tank you get --

25 SUPERVISOR FERRAZZANO: Yeah, of course.

1 CHAIRMAN HITT: -- you get gas you pay tax,
2 do you not?

3 SUPERVISOR FERRAZZANO: To the county.

4 CHAIRMAN HITT: To the county, yeah.

5 I mean, it's --

6 SUPERVISOR FERRAZZANO: According --

7 CHAIRMAN HITT: The gas -- they get gas tax
8 -- they get money from gas -- tax money from gas. And
9 then they divvy it out. And they divvy it out --

10 SUPERVISOR FERRAZZANO: Through population.

11 CHAIRMAN HITT: Yeah.

12 SUPERVISOR FERRAZZANO: And that's how they
13 figure it all out, how the population is. In other
14 words, we can't collect it.

15 CHAIRMAN HITT: Right.

16 SUPERVISOR FERRAZZANO: Pine Tree can't
17 collect gas tax because we're not a municipality, for
18 one, and just -- and it works off population.

19 CHAIRMAN HITT: There is a -- I'm sorry. I
20 need to choose my words.

21 There is -- the gas tax monies that are
22 collected and have been applied for by Wellington and
23 have been paid to Wellington I believe has been able to
24 be done because there is an interlocal agreement between
25 the gas -- between the taxing authority and the

1 municipalities. I think it's like a -- if there's such
2 a thing as a blanket interlocal agreement. But there
3 needs to be --

4 SUPERVISOR FERRAZZANO: That's exactly what
5 it is.

6 CHAIRMAN HITT: -- an interlocal agreement
7 between two government entities in order for them to
8 work together. So I believe that's how it's done.

9 Now, Pine Tree is technically a government
10 entity, but it's not a -- it's not a municipality.

11 SUPERVISOR FERRAZZANO: Back in 1995, they
12 created an interlocal agreement with all the cities.

13 CHAIRMAN HITT: The gas tax.

14 SUPERVISOR FERRAZZANO: And this is what he
15 sent me, which is just statements showing that this
16 particular city, Atlantis or whatever city we're in,
17 Palm Beach County, they had entered into a local
18 agreement -- interlocal agreement. So they're able to
19 collect the tax --

20 CHAIRMAN HITT: Here's the question.

21 SUPERVISOR FERRAZZANO: -- money.

22 CHAIRMAN HITT: Here's the question.

23 Can Pine Tree enter into a local agreement,
24 not being a municipality, because Pine Tree has been
25 ordered by the Court to take care of the same roads that

1 the municipality took care of and collect the tax money
2 on? And, if that's the case, then it would be simply
3 directly going to them and getting gas tax money to do
4 the roads, continue to do the roads and put our overall
5 solution to this debacle to rest and make it -- not put
6 the solution to rest -- make the solution work to this
7 whole thing, take on doing the roads. If we get the
8 same amount of gas tax money that Wellington got for the
9 roads, then it's a no-brainer. Puts us in a position
10 to -- I think in a position to negotiate by dropping the
11 lawsuit on the roads and using that, hopefully, as a
12 bargaining chip to -- to walk away from this with --
13 you're saying no?

14 MR. MARKARIAN: No. I'm thinking that's a
15 really smart idea.

16 CHAIRMAN HITT: Okay.

17 MR. MARKARIAN: I was shaking my head
18 that's --

19 CHAIRMAN HITT: Okay. Okay. All right.

20 So, if we can do that, then this is
21 resolved. We'd have to negotiate this, and we'd have to
22 give it to Wellington. But I would like to -- is there
23 a way that I can address the board not in a shade
24 meeting and not in a public meeting?

25 MR. MARKARIAN: Which board?

1 CHAIRMAN HITT: The board -- Wellington's
2 board.

3 Request -- I want to go in there and sit
4 down and roll up your sleeves and say, okay guys,
5 let's --

6 MR. MARKARIAN: I think you can do it in a
7 public meeting. I think you can do it with a nonelected
8 official, directly with Wellington.

9 CHAIRMAN HITT: I can do it -- yeah.

10 MR. MARKARIAN: Here's the problem for them
11 as I see it. I don't have an answer as to whether you
12 can collect the gas tax.

13 SUPERVISOR McLELLAN: Do we find that answer
14 first and then show them our cards?

15 CHAIRMAN HITT: Yeah. Yeah.

16 SUPERVISOR McLELLAN: We don't want to play
17 our hand.

18 MR. MARKARIAN: But here's what I can tell
19 you --

20 CHAIRMAN HITT: No, we don't want to play
21 our hand.

22 MR. MARKARIAN: One thing I can tell you.
23 If they're collecting gas tax money, which we've been
24 told they have and you believe they have --

25 CHAIRMAN HITT: Oh, they have.

1 MR. MARKARIAN: -- and there are gas tax
2 maps, then that's a problem --

3 CHAIRMAN HITT: For them.

4 MR. MARKARIAN: -- for them.

5 CHAIRMAN HITT: For 98.361.

6 SUPERVISOR FERRAZZANO: They're just saying
7 they can't find it. I mean, Wellington is a pretty
8 strong --

9 MR. HITT: We question --

10 SUPERVISOR FERRAZZANO: -- city, you know,
11 even to the county, I would think. You know? They can
12 push the county around, I believe.

13 CHAIRMAN HITT: It's ironic these maps have
14 disappeared.

15 SUPERVISOR FERRAZZANO: Right, right. We
16 can't locate them. Come on. It's public record. It
17 has to be in archives.

18 MR. MARKARIAN: But we know there are gas
19 tax maps?

20 CHAIRMAN HITT: We know there are gas tax
21 maps.

22 MR. MARKARIAN: Labeled those --

23 CHAIRMAN HITT: They admit to them. They
24 admit to them. And the ones that they say that they
25 have, they mark them. They mark them. And, when they

1 mark them, they basically claim them as being their
2 roads.

3 SUPERVISOR FERRAZZANO: And I don't -- I
4 haven't seen the gas map. I don't even know if they're
5 collecting gas taxes on other private roads.

6 MR. MARKARIAN: And there's got to be --

7 CHAIRMAN HITT: Well, they are. They are --

8 SUPERVISOR FERRAZZANO: On other private
9 roads.

10 CHAIRMAN HITT: That's right. They are.
11 They are collecting gas tax money on other private roads
12 in Wellington.

13 MR. MARKARIAN: That they're not
14 maintaining?

15 CHAIRMAN HITT: That they are maintaining.
16 They are maintaining them.

17 SUPERVISOR McLELLAN: But they're still
18 private roads.

19 CHAIRMAN HITT: They're private roads, yeah.
20 So we can't get a straight answer as can gas
21 tax money be used on private roads. If the answer is
22 yes, well, then okay. If the answer is no, then we're
23 running --

24 SUPERVISOR FERRAZZANO: I mean, did they
25 drop us because they can't figure out they couldn't take

1 our roads without going through certain channels because
2 we've become a nonconforming lot?

3 CHAIRMAN HITT: Yes.

4 SUPERVISOR FERRAZZANO: And a nonconforming
5 lot limits what you can and can't do on a nonconforming
6 lot.

7 CHAIRMAN HITT: Here is the problem that I
8 see -- that I believe Wellington has in trying to absorb
9 this over the last couple years is if -- and I think
10 this was a key to them doing what they've done even
11 though they were working with an interlocal agreement.
12 And there may -- there may be the issue because there
13 was the interlocal agreement. They may have looked at
14 it as the shield.

15 So we have to find out if that interlocal
16 agreement did shield them from the 98.361 taking of the
17 roads because, if they have to take the roads, that puts
18 them in for a tremendous liability because they take the
19 roads. They make most of the lots in the area
20 nonconforming lots.

21 SUPERVISOR FERRAZZANO: They've already said
22 that.

23 CHAIRMAN HITT: They know that. Well,
24 they --

25 SUPERVISOR FERRAZZANO: They've already said

1 that --

2 CHAIRMAN HITT: Yeah, they know that. Yeah.

3 SUPERVISOR FERRAZZANO: -- at meetings.

4 CHAIRMAN HITT: So that's what I think
5 kicked this whole thing off. I think somebody woke up
6 one day and said, oh my, you realize --

7 SUPERVISOR FERRAZZANO: What are we doing?

8 CHAIRMAN HITT: Yeah, yeah.

9 So, if Pine Tree does that and starts
10 maintaining the roads, does that put Pine Tree in the
11 same situation? If we maintain the roads for more than
12 seven years, is Pine Tree responsible for taking it
13 over?

14 MR. MARKARIAN: If they maintain which roads
15 for seven years?

16 CHAIRMAN HITT: Well, the -- are you
17 familiar with 98.361, taking of the roads?

18 MR. MARKARIAN: I am.

19 CHAIRMAN HITT: Okay. So, if Pine Tree is
20 taking care of the roads for more than seven years, does
21 Pine Tree become responsible for taking the roads and
22 maintaining them? And does that put Pine Tree in the
23 same situation as Wellington does? And, if it does, is
24 that when we want to make it dependent? No. I'm
25 just --

1 SUPERVISOR McLELLAN: Is that why Wellington
2 walked away from the roads, do you think?

3 CHAIRMAN HITT: I think --

4 SUPERVISOR FERRAZZANO: I think it was.

5 CHAIRMAN HITT: I think that had a huge deal
6 with it.

7 SUPERVISOR FERRAZZANO: Yeah. I think they
8 made a huge mistake.

9 SUPERVISOR McLELLAN: They woke up one day
10 realizing what mistake they made?

11 SUPERVISOR FERRAZZANO: Yeah.

12 CHAIRMAN HITT: It's plausible. It makes
13 sense that that's what is happening. That's the only
14 thing that makes sense because they were making money.
15 They got \$55,000 a year in gas tax. And they've
16 admitted to it costing \$30,000 to do it -- or 32,000.
17 So they make 15, \$18,000 --

18 SUPERVISOR McLELLAN: On us, yeah.

19 CHAIRMAN HITT: -- on us. They made money
20 on us.

21 SUPERVISOR McLELLAN: Then they walked away
22 from it.

23 CHAIRMAN HITT: So why would they walk away
24 from it?

25 SUPERVISOR FERRAZZANO: Well, I think the

1 taking of the roads, one is the nonconforming lot. The
2 one other is they'd have to go through the county
3 stamps, the surveys, everything else that gets tied up
4 into that. And that would cost --

5 CHAIRMAN HITT: It would be a nightmare.

6 SUPERVISOR FERRAZZANO: -- millions.

7 CHAIRMAN HITT: It would be a nightmare and
8 cost them millions of dollars.

9 SUPERVISOR FERRAZZANO: That's what I think.
10 And -- you know? And that's why they said oh, no, no,
11 no, no, no --

12 CHAIRMAN HITT: So I'm thinking --

13 SUPERVISOR FERRAZZANO: -- we don't want to
14 do this.

15 CHAIRMAN HITT: Yeah.

16 SUPERVISOR FERRAZZANO: That's my personal
17 opinion.

18 CHAIRMAN HITT: So that's how I'm thinking
19 about the roads.

20 Now, the tax thing, I don't know. They had
21 been wanting to get their portion of section -- or they
22 wanted the entire section 24, which they then backed off
23 and said just the property that they own in section 24,
24 which is part of the resolution that we're going to vote
25 on here.

1 SUPERVISOR FERRAZZANO: I don't want to lose
2 section 24 --

3 CHAIRMAN HITT: No, no. We --

4 SUPERVISOR FERRAZZANO: -- because we're
5 going to lose everything south of that.

6 CHAIRMAN HITT: And we can certainly write
7 an agreement that they'll stop taxing. You know? We
8 just -- the gas tax money is the key. If we can get the
9 money to do the roads -- and the other thing we need to
10 look at is 98.361. That is the right statute, isn't it,
11 yeah, 98.361? Yeah.

12 SUPERVISOR FERRAZZANO: I think it is.

13 CHAIRMAN HITT: The taking of the roads.

14 MR. MARKARIAN: Right.

15 CHAIRMAN HITT: I can't -- there's no way
16 that Pine Tree could take the roads. There's no way.
17 There's no money there to do that. And maybe because
18 we're not a municipality or maybe there can be an
19 agreement done.

20 SUPERVISOR FERRAZZANO: Will that force us
21 into an HOA?

22 CHAIRMAN HITT: No, no. I don't think we
23 want an HOA.

24 SUPERVISOR FERRAZZANO: I don't want it any
25 -- I don't want one anyway but --

1 SUPERVISOR McLELLAN: No.

2 CHAIRMAN HITT: I don't think --

3 SUPERVISOR FERRAZZANO: -- is that the

4 pathway --

5 CHAIRMAN HITT: No.

6 SUPERVISOR FERRAZZANO: -- we lead into?

7 CHAIRMAN HITT: No.

8 SUPERVISOR McLELLAN: Who do we talk to

9 about -- is that what the lawyer's job is going to be to

10 talk to somebody about this gas -- how do we --

11 SUPERVISOR FERRAZZANO: I'm trying to get

12 the maps.

13 CHAIRMAN HITT: If he gets -- yeah --

14 SUPERVISOR FERRAZZANO: I'm trying to get

15 the maps --

16 CHAIRMAN HITT: -- if he gets the maps --

17 SUPERVISOR FERRAZZANO: -- and they're

18 delaying it. They're delaying it. And I know, by law,

19 they have a certain amount of time to do it.

20 SUPERVISOR McLELLAN: Is that why we're

21 getting him involved to speed this up or --

22 CHAIRMAN HITT: Well, we haven't -- we

23 haven't yet --

24 (Interruption by the stenographer)

25 MR. MARKARIAN: Could I make a

1 recommendation?

2 CHAIRMAN HITT: Yeah.

3 SUPERVISOR FERRAZZANO: Yeah.

4 MR. MARKARIAN: Why don't you gentlemen
5 decide on your course of conduct, first, then decide who
6 you want to do what because there are -- you can use
7 nonlawyers to get a lot of this done, and you only need
8 lawyers for probably a piece of it, if any.

9 CHAIRMAN HITT: Yeah.

10 SUPERVISOR McLELLAN: Well, if Ruben is
11 doing this, I -- I -- Ruben, I think that's great.

12 CHAIRMAN HITT: The only downside to that is
13 we can't -- you know --

14 SUPERVISOR FERRAZZANO: Yeah. We can't talk
15 about it.

16 CHAIRMAN HITT: -- how we're going to -- if
17 he can communicate through Betty? Can that work? He
18 can let her know?

19 SUPERVISOR FERRAZZANO: She can be a
20 conduit?

21 MR. MARKARIAN: Here's what we can do. We
22 can always notice a shade meeting and do this. We can
23 do it by video.

24 CHAIRMAN HITT: Okay. Don't we have to
25 start a -- well, we can start a public meeting by video

1 and stop it and then --

2 MR. MARKARIAN: Correct. And we can have
3 our reporter appear by video. But the four of us can be
4 on a video --

5 CHAIRMAN HITT: Okay.

6 MR. MARKARIAN: -- and have these
7 conversations as they move along --

8 CHAIRMAN HITT: Okay.

9 MR. MARKARIAN: -- and protect those under
10 privilege.

11 CHAIRMAN HITT: Okay.

12 MR. MARKARIAN: I don't know that there's a
13 way for us -- I don't know that there's a way for us to
14 not vote on the settlement.

15 CHAIRMAN HITT: Yeah. We want to do that.
16 I think we want to do that.

17 MR. MARKARIAN: But it seems to me that, if
18 you -- if you are -- you have equipment that will
19 adequately maintain the roads and you even have --
20 sounds like you even have a tractor that can help ease
21 the burden.

22 CHAIRMAN HITT: That's what's going start --
23 yeah. And then we're going to look at getting into a
24 lease, everything --

25 MR. MARKARIAN: And then resolution takes

1 two forms. First, either you have the ability to gain
2 advantage and use the tax money or you're at least not
3 burning dollars. You're not burning through cash that
4 you could otherwise use for the appropriate maintenance
5 of Pine Tree.

6 CHAIRMAN HITT: Yeah.

7 MR. MARKARIAN: And it avoids the risk of
8 these fees that they're going to try to, you know, grab.
9 And, as you can see, in a month where we don't have
10 litigation and contention, our bills are -- the legal
11 bills are minuscule. It is the litigation --

12 CHAIRMAN HITT: Yeah.

13 MR. MARKARIAN: -- stuff that's so expensive
14 because the system bleeds the client.

15 CHAIRMAN HITT: Yeah, it does. No question
16 about it.

17 MR. MARKARIAN: You know?

18 So I love the ability to free yourself from
19 Wellington and to be self determinative, meaning, run
20 your own show --

21 SUPERVISOR FERRAZZANO: Yeah.

22 MR. MARKARIAN: -- when it comes to what I
23 perceive to be one of the most important issues for the
24 residents of Pine Tree.

25 CHAIRMAN HITT: Yeah.

1 SUPERVISOR McLELLAN: We still have to free
2 ourselves from Wellington without any -- for unseen
3 backlashes too. You know? This is --

4 MR. MARKARIAN: Where you're --

5 SUPERVISOR FERRAZZANO: In other words, cash
6 out? Is that what you're saying? Just cash out the --

7 SUPERVISOR McLELLAN: I don't know really
8 what I'm trying to say. Is --

9 SUPERVISOR FERRAZZANO: The attorney fees
10 and pay the attorney fees?

11 CHAIRMAN HITT: I don't know. I think what
12 -- I think what you're saying is we don't know what
13 Wellington -- we have become accustomed to Wellington
14 nickel and diming us. They never let go. They always
15 -- they're always twisting us.

16 SUPERVISOR McLELLAN: Right. That's what I
17 meant by backlashes.

18 CHAIRMAN HITT: Yeah. So --

19 SUPERVISOR McLELLAN: What's next?

20 CHAIRMAN HITT: Yeah. What's next?

21 SUPERVISOR McLELLAN: We give into this, and
22 what's next?

23 SUPERVISOR FERRAZZANO: I don't think we
24 should give into them this whole thing --

25 CHAIRMAN HITT: No, I don't think we --

1 SUPERVISOR FERRAZZANO: -- that they want.

2 CHAIRMAN HITT: -- give them -- give into
3 them.

4 So let me ask --

5 SUPERVISOR McLELLAN: So we have to vote on
6 -- what are we voting on exactly?

7 MR. MARKARIAN: What I think --

8 SUPERVISOR FERRAZZANO: Their demands.

9 MR. MARKARIAN: I think your vote is whether
10 you approve the settlement that was conditionally
11 reached at the mediation.

12 SUPERVISOR FERRAZZANO: You had a copy of
13 that, right?

14 SUPERVISOR McLELLAN: Yeah.

15 CHAIRMAN HITT: Can we do a
16 counter-resolution to --

17 MR. MARKARIAN: So --

18 SUPERVISOR FERRAZZANO: They have the right
19 to vote?

20 MR. MARKARIAN: They voted and approved it.

21 SUPERVISOR FERRAZZANO: No, no, no, no. As
22 far as the --

23 CHAIRMAN HITT: You're talking about --
24 yeah.

25 SUPERVISOR FERRAZZANO: -- vote here for us.

1 CHAIRMAN HITT: For the property that they
2 have.

3 MR. MARKARIAN: I'm missing the question.
4 I'm sorry.

5 CHAIRMAN HITT: You're allowed one vote --
6 (Interruption by the stenographer)

7 SUPERVISOR FERRAZZANO: The board member
8 wants to run. Wellington has the right to put their
9 votes in or they don't.

10 CHAIRMAN HITT: So they can stack the deck.

11 SUPERVISOR FERRAZZANO: So the resident --
12 yeah. And what I want to do is what Chris said a long
13 time ago is can we pass a resolution where you have to
14 have at least two members from --

15 CHAIRMAN HITT: From the community?

16 SUPERVISOR FERRAZZANO: -- from the
17 community? So one can be on the outside. If Wellington
18 does decide they want to step in, they can step in, but
19 they can't override the other two members. Is that
20 something that we can create?

21 MR. MARKARIAN: I think so.

22 SUPERVISOR FERRAZZANO: Can we create that?
23 Otherwise, if they have the right to it, all of a sudden
24 you're done, all of a sudden I'm gone, you've got two
25 Wellingtons here. Now let's close up Pine Tree.

1 SUPERVISOR McLELLAN: They're running the
2 show.

3 CHAIRMAN HITT: Yeah.

4 SUPERVISOR FERRAZZANO: So, if we could pass
5 some type of resolution or some type of form that two
6 members have to stay -- and that includes, you know, Big
7 Blue and -- McCarthy? What's his name? McCarthy?

8 SUPERVISOR McLELLAN: No. Sheldon --

9 SUPERVISOR FERRAZZANO: Mickelson.

10 And Mickelson's place.

11 MR. MARKARIAN: I'd have to research that.

12 But I believe that the solution would be to pass an
13 amendment to the foundational documents, the bylaws,
14 that make it clear that the representation has to always
15 be among those people who are residing there.

16 SUPERVISOR FERRAZZANO: Right.

17 SUPERVISOR McLELLAN: The owners. Yeah,
18 landowners.

19 CHAIRMAN HITT: Landowners. Not residing
20 there. Yeah, yeah. You're right, it should be
21 landowners.

22 MR. MARKARIAN: The question I didn't
23 answer. I don't know that there's a way for you to
24 counter without -- you're going to basically reject the
25 resolution. So I'm wondering, can you accept this, and

1 is there a way that you can engineer a win-win? So I
2 believe that -- I believe, and I need to confirm, that
3 you can amend the bylaws to maintain control. I believe
4 that you can wrestle, or at least attempt to wrestle,
5 the tax funds away from Wellington.

6 CHAIRMAN HITT: Tax funds?

7 MR. MARKARIAN: The tax gas funds --

8 CHAIRMAN HITT: The gas tax, yeah, yeah.

9 MR. MARKARIAN: -- away from them because,
10 if they're not using the gas tax funds to maintain roads
11 that they're claiming gas tax --

12 CHAIRMAN HITT: Well, they're not doing it
13 now. They're not doing it currently.

14 MR. MARKARIAN: And we know that?

15 CHAIRMAN HITT: Yeah, yeah.

16 SUPERVISOR FERRAZZANO: Well, we will know
17 it on the maps.

18 CHAIRMAN HITT: We'll know it on the maps.

19 But --

20 SUPERVISOR FERRAZZANO: We're assuming
21 they're --

22 CHAIRMAN HITT: I'm saying it's not because,
23 when I talked to Jim Barns and we thought that we had
24 the entire program resolved, what he wanted to do --
25 what he did do is he put in for the gas tax, but we

1 missed the deadline to get in so we weren't able to do
2 it for that particular year, which I think was '21.
3 '21.

4 SUPERVISOR McLELLAN: We want to put in --
5 we want to do our own gas tax?

6 CHAIRMAN HITT: Well, that's what I'd
7 like -- if we can, that's what I'd like to do, if we can
8 just put in for the gas tax money and collect it. If we
9 can do that.

10 SUPERVISOR McLELLAN: Right.

11 CHAIRMAN HITT: That would be -- that would
12 be the way to go. The other possibility is, if it takes
13 a municipality -- there's three parts to this. The
14 second one, if it takes a municipality to get the gas
15 tax, then have part of the agreement with Wellington is
16 come up with a resolution. They get the gas tax money.
17 And, with the gas tax money, we have an interlocal
18 agreement that we do the roads but we get paid to do the
19 roads. That would be -- yeah.

20 But then the third part of it -- and this is
21 the oddball -- is do we -- we don't want to poke the
22 bear if the roads are private roads and if gas tax money
23 can't be used on private roads. So I guess that's the
24 one thing to find out.

25 You know, if that's something you could look

1 at doing easily? Or could you have one of your
2 paralegals or somebody?

3 MR. MARKARIAN: We will. Would you mind
4 e-mailing me that in --

5 SUPERVISOR FERRAZZANO: Do you want me to
6 e-mail you everything that I've been doing with Palm
7 Beach County revenue? I guess that's their revenue
8 department --

9 MR. MARKARIAN: Sure.

10 SUPERVISOR FERRAZZANO: -- which is
11 correspondence with Tammy Lee --

12 MR. MARKARIAN: What I'd love is what you
13 just had up on your phone --

14 SUPERVISOR FERRAZZANO: -- Steve Carrier.

15 MR. MARKARIAN: -- and anything -- that
16 interlocal agreement --

17 CHAIRMAN HITT: Yeah.

18 MR. MARKARIAN: -- anything else you want to
19 send me, plus the letter that they sent you back.

20 SUPERVISOR FERRAZZANO: Okay.

21 MR. MARKARIAN: Remember where they said
22 Rubin care of Pine Tree?

23 SUPERVISOR FERRAZZANO: Yeah.

24 SUPERVISOR McLELLAN: So we'll agree to
25 these terms if we can amend three or four of these

1 different things. We'll agree to these terms if we
2 can --

3 CHAIRMAN HITT: I don't think we can agree
4 to all of the terms because part of that is --

5 SUPERVISOR FERRAZZANO: No, we can't.

6 CHAIRMAN HITT: -- giving section 24 --
7 their land in section 24 to them.

8 SUPERVISOR McLELLAN: Well, that's part of
9 the part. We don't want to give that back.

10 CHAIRMAN HITT: Oh, I see what you're
11 saying. Yeah. Yeah.

12 SUPERVISOR McLELLAN: So we don't want to
13 give that back. We want to make sure we can get our gas
14 tax --

15 CHAIRMAN HITT: Yeah.

16 SUPERVISOR McLELLAN: -- and we'll agree to
17 it. If these things don't happen, then we don't agree.

18 CHAIRMAN HITT: Then the other -- then the
19 other thing is is we have to start look -- we have to
20 look at the document. The document is part of the case.
21 And do we just cash out and pay them that --

22 SUPERVISOR McLELLAN: Sure.

23 CHAIRMAN HITT: -- and then not pay them
24 back the 19,000 that they want for the taxes that they
25 paid? Because if we do that, then now we're down to --

1 you said it was 90. Now we're down to 70 that we would
2 pay them.

3 But didn't -- we had discussed the
4 possibility of going in and requesting that the Court
5 look at this and show -- basically, plead our case, show
6 what we have here, show the letter that I sent to the
7 Court, show that we were in a situation that was
8 impossible for us to do anything because we had no
9 attorney to represent us.

10 MR. MARKARIAN: I don't think there's -- I
11 don't think there's a way to prevail on the records
12 case, and here's why. It was five months and a little
13 bit longer.

14 SUPERVISOR McLELLAN: We can't use the
15 pandemic as an excuse?

16 CHAIRMAN HITT: That's a thought.

17 MR. MARKARIAN: No. I mean --

18 CHAIRMAN HITT: It's been used for every
19 other excuse in the world.

20 SUPERVISOR McLELLAN: Everybody else uses
21 it.

22 CHAIRMAN HITT: Was it 2020?

23 MR. MARKARIAN: No. It was 2021. So...

24 SUPERVISOR McLELLAN: We were still involved
25 in that.

1 MR. MARKARIAN: The records case is
2 problematic because it was five months and 25 days
3 between the request and when we delivered the documents.
4 So I don't see any way that's -- we're going to prevail
5 there. And if you reject -- if you reject any portion
6 of the settlement, the case goes on.

7 CHAIRMAN HITT: Yeah. Okay.

8 MR. MARKARIAN: You certainly can counter or
9 try to work with them, but this is almost like yes or
10 no. So I'm wondering is there --

11 SUPERVISOR McLELLAN: Exactly. Exactly.

12 And we're not happy with yes or no. We're
13 happy with, yes, we'll do it with some adjustments.

14 CHAIRMAN HITT: Okay. I think maybe I'm
15 misunderstanding you. What he means is the records case
16 is yes or no.

17 SUPERVISOR McLELLAN: Oh.

18 CHAIRMAN HITT: We either say, okay, belly
19 up and pay the 90 grand. We're guilty. Plead guilty is
20 basically what you're saying; is that right?

21 MR. MARKARIAN: So I don't -- so let me make
22 sure that we're clear. The \$90,000 is both the records
23 and the tax case.

24 CHAIRMAN HITT: Oh.

25 MR. MARKARIAN: It's both combined. We

1 don't know how much is records versus tax.

2 CHAIRMAN HITT: Okay.

3 MR. MARKARIAN: What Mr. Compagno admitted
4 in the transcript of October 14th is that he didn't
5 disclose to you that you could have attorney's fees from
6 the tax part of the case.

7 CHAIRMAN HITT: Yeah.

8 MR. MARKARIAN: Now, the fact that he didn't
9 tell you that you could be dinged with attorney's fees
10 on the tax part of the case isn't a defense. It just
11 means you can turn around and go after him.

12 CHAIRMAN HITT: Go after him for what we --
13 is that part of the strategy?

14 MR. MARKARIAN: Right. But what -- what
15 will happen -- so let's talk about scenarios. Scenario
16 one is accept the settlement. Scenario two would be
17 that we -- you know, you respond in whichever way you
18 want to that anything short of accepting the settlement
19 puts us in a position where we have to go back to the
20 Court and say we accept responsibility on the records
21 part of the case --

22 CHAIRMAN HITT: Yes, and how much.

23 MR. MARKARIAN: -- and then set that amount.

24 CHAIRMAN HITT: And the Court sets that
25 amount.

1 MR. MARKARIAN: We would go to hearing and
2 set that amount.

3 CHAIRMAN HITT: Okay.

4 MR. MARKARIAN: But there's a second part of
5 that where the taxation case would continue, and we
6 would have to win that.

7 CHAIRMAN HITT: Right. Okay.

8 MR. MARKARIAN: Because, if we don't win
9 that, they're going to also say we owe them fees for
10 that. So the only way --

11 CHAIRMAN HITT: We talk to Patrick.

12 MR. MARKARIAN: -- to avoid future risk of
13 attorney's fees is to accept the settlement that's been
14 proposed.

15 CHAIRMAN HITT: Okay.

16 MR. MARKARIAN: The minute you don't do
17 that, then you've got these other -- you know, you've
18 got these other obstacles in the way.

19 CHAIRMAN HITT: Okay. Let's say step one we
20 go to the court, have them determine what the portion of
21 these attorney fees are document related. Okay? It's
22 going to be -- and we know that they've done a lot of
23 stuff on the tax -- you know, the depositions have
24 basically -- I'm thinking that the majority of that --
25 let's call it 90,000. The majority of that 90,000 has

1 been spent on the tax case, not the documents case. How
2 could they rack up that kind of money?

3 MR. MARKARIAN: I think that's -- I think
4 it's at least a fair assumption --

5 CHAIRMAN HITT: Yeah.

6 MR. MARKARIAN: -- that less than 50 percent
7 of those fees are due to the records case.

8 CHAIRMAN HITT: Okay. So if we -- that's
9 step one. If we go to step one and we look at admitting
10 to not turning over the documents and establishing a
11 cost, then step two, I think that Patrick may have a lot
12 to do with that.

13 What is your -- what's your feeling after
14 talking to him in terms -- if I'm -- if I'm correct,
15 what we need to do is show that there's benefit. And
16 the benefit would be -- the benefit -- it's \$3,600? Is
17 that what they're being paid? And it's not about the
18 money. It's about the principal of the thing.

19 So the \$3,600, if we show that we have
20 enough benefit to cover that -- or if, in the
21 documentation we have here and the FOIA Act information
22 that Michael admits to finding in here -- and it's in
23 here also that -- that they, Wellington they, were --
24 they looked at -- they set their tax as an
25 administrative fee and not necessarily -- they said

1 nothing about benefits back then at all. There was no
2 talk about benefits. It was administrative fee, and
3 that was what the \$10 per acre was determined on.

4 So, based on that information, wouldn't it
5 be that all we really have to prove, that they have
6 \$3,600 worth of administration fee -- they have benefits
7 that are worth the \$3,600 administration fees. I think
8 I said that right.

9 MR. MARKARIAN: So I think, in order to
10 prevail on the tax case, there might be four things to
11 prove: Whether or not there's a benefit. My meetings
12 with the engineer -- meeting, one meeting, with the
13 engineer makes me pretty comfortable that he's going to
14 be a very effective witness for the benefit that they've
15 incurred.

16 The three remaining issues are: Is the
17 water control plan adequate in terms of what it has to
18 say? I'd like to amend it again.

19 CHAIRMAN HITT: We can. Yeah, we can.

20 MR. MARKARIAN: We talked about that.

21 CHAIRMAN HITT: Yeah.

22 MR. MARKARIAN: And the third and fourth
23 issues we haven't looked at because I only suspect
24 they're going to raise them. And you might need a tax
25 expert. They're going to argue did we impose the tax

1 correctly to begin with and did we -- is it a fair --
2 are we -- were we then interfering with the effort to
3 impose penalties on these other people tells us that
4 they're going to fight about, well, did we fairly impose
5 those fees.

6 CHAIRMAN HITT: Okay.

7 MR. MARKARIAN: So I --

8 CHAIRMAN HITT: Would the fact that they've
9 already pre-agreed to the administration fee and they
10 set the fees themselves while they were in charge?

11 MR. MARKARIAN: Did we find that they
12 actually agreed to that --

13 CHAIRMAN HITT: Yes.

14 MR. MARKARIAN: -- someplace --

15 CHAIRMAN HITT: Yeah. Well, yeah.

16 MR. MARKARIAN: -- because we looked for a
17 tape that did not have that in that -- in there.

18 CHAIRMAN HITT: I heard it. I heard it with
19 my own ears. That tape -- if what you got didn't have
20 it in there, it's been changed because I heard it with
21 my own ears.

22 MR. MARKARIAN: I didn't listen to it, but a
23 member of my firm did, and it wasn't in -- on the tape.
24 So I don't have it -- we don't have any evidence right
25 now that that occurred.

1 But let me ask you a question. How much --
2 how much are you earning per year from this -- from this
3 tax?

4 CHAIRMAN HITT: Well, I'm not necessarily
5 looking at what we're earning per year. But they want
6 us to go back and pay the 20,000 back taxes that they've
7 already paid. So it's a number -- it's \$3,600 a year.
8 And what I would like to do is use that as a bargaining
9 chip and say, okay, we're not going to pay you back the
10 money that you paid, but we're not going to charge you
11 anything forward. And we can have some sort of a
12 resolution to that. I mean, if you guys agree to it.
13 Let me just kind of put the steps down.

14 SUPERVISOR McLELLAN: If we can get the gas
15 tax.

16 CHAIRMAN HITT: If we can get the gas tax
17 money, we will do the roads. We will pay the portion of
18 the tax -- of the -- not tax. I'm sorry. Of the
19 documents case, okay, whatever that portion is --

20 SUPERVISOR McLELLAN: Yep. Yep.

21 CHAIRMAN HITT: -- okay?

22 And, basically, if we do the roads and we
23 drop the tax, then there's almost no reason to go ahead
24 and continue with the tax case from their standpoint
25 because we've already -- we're going to drop the tax,

1 except if they want to spend the extra money to try to
2 get that 19 or -- 19,000 back.

3 SUPERVISOR McLELLAN: 20 grand back?

4 CHAIRMAN HITT: Yeah. And we can move on.

5 MR. MARKARIAN: But you also don't want
6 to --

7 CHAIRMAN HITT: Don't want to give them
8 section -- their land in section 24, no. No.

9 MR. MARKARIAN: So, more likely than not,
10 this is just going to put us back at war with them. So
11 just be prepared for that.

12 CHAIRMAN HITT: Okay.

13 MR. MARKARIAN: And the problem that I see
14 -- and it's entirely your decision -- is that those fees
15 are going to continue to creep up. And --

16 CHAIRMAN HITT: But not the taxation fee?

17 MR. MARKARIAN: Sure. Both --

18 CHAIRMAN HITT: I'm sorry, not --

19 MR. MARKARIAN: Not the records fee.

20 CHAIRMAN HITT: Not the records fee, yeah.
21 Yeah.

22 MR. MARKARIAN: But you're going to have --
23 you know, you're going to have depositions and a trial.
24 And what --

25 CHAIRMAN HITT: One of my notes in the

1 e-mail to you: Are we set up to -- can we -- we had
2 asked about this earlier. Can we get attorney fees if
3 we win?

4 MR. MARKARIAN: So there's no way that you
5 can get attorney's fees on the records case --

6 CHAIRMAN HITT: No. No.

7 MR. MARKARIAN: -- I don't think.

8 CHAIRMAN HITT: No.

9 MR. MARKARIAN: And the only way you can get
10 attorney's fees on the tax case.

11 CHAIRMAN HITT: That was brought up.

12 MR. MARKARIAN: I know. I just don't know
13 that there's a way --

14 CHAIRMAN HITT: Well, how can they come
15 after attorney's fees for us on the tax case --

16 MR. MARKARIAN: Because that is what
17 Michael Compagno failed to tell you is they -- when they
18 sent you a letter back in -- I'll get the date. But
19 they sent a letter that had we responded and gone to
20 a --

21 CHAIRMAN HITT: A mediation.

22 MR. MARKARIAN: -- a mediation --

23 CHAIRMAN HITT: Yeah.

24 MR. MARKARIAN: -- they couldn't get fees,
25 but we didn't do that. And you guys --

1 CHAIRMAN HITT: And that wasn't for the
2 documents case. That was for the tax --

3 MR. MARKARIAN: That was for the tax part of
4 the case.

5 CHAIRMAN HITT: Okay.

6 MR. MARKARIAN: So those fees are going to
7 continue. And that is what Compagno admitted that he
8 didn't tell you that ignoring that letter asking you to
9 sit down would cause you to incur fees.

10 CHAIRMAN HITT: But he also -- and I saw
11 this today -- said that, if we win, we get the attorney
12 fees. He told us that in the meeting.

13 MR. MARKARIAN: Well, let's look at that
14 after --

15 CHAIRMAN HITT: Yeah.

16 MR. MARKARIAN: -- our meeting if you want
17 to. But I personally don't --

18 SUPERVISOR FERRAZZANO: So what are you
19 saying? It's better to pay them?

20 MR. MARKARIAN: I'm not saying that. I'm
21 saying that --

22 SUPERVISOR FERRAZZANO: Well, is that one
23 option?

24 MR. MARKARIAN: I'm wondering if there's a
25 way -- this is what I'm going to ask you to consider.

1 Is there a way that we get what we want while still
2 agreeing to the settlement?

3 CHAIRMAN HITT: We don't -- that settlement
4 doesn't give us anything.

5 MR. MARKARIAN: Well, the big thing -- well,
6 let me ask you this. Is there a way that we can gain
7 control of the gas tax fees to use them for maintenance
8 and still accept this settlement and you move forward?

9 CHAIRMAN HITT: No.

10 MR. MARKARIAN: I don't think so because
11 you're not -- you're not comfortable with giving up
12 section 24.

13 SUPERVISOR McLELLAN: Correct.

14 CHAIRMAN HITT: There's a reasoning behind
15 that because and I think what that is -- this has been a
16 methodical long-term thing with Wellington. They have
17 wanted that land for --

18 SUPERVISOR FERRAZZANO: What they actually
19 wanted --

20 CHAIRMAN HITT: They wanted part of Acme.
21 They wanted control of that land. But what that does is
22 that splits our district in half. And the major
23 development that is going to be going on down at the
24 tree farm, I think that just puts them one step closer
25 to going to the legislature and --

1 SUPERVISOR FERRAZZANO: Just getting rid --

2 CHAIRMAN HITT: -- taking that land --

3 SUPERVISOR FERRAZZANO: Yeah.

4 SUPERVISOR McLELLAN: Pushing us --

5 CHAIRMAN HITT: -- and just pushing it.

6 Do you remember that they would not agree to
7 basically not proceeding coming after Pine Tree?

8 MR. MARKARIAN: Of course not.

9 CHAIRMAN HITT: They wouldn't agree.

10 MR. MARKARIAN: Yeah. The language that
11 they agreed to was the parties -- Wellington confirms
12 that neither Wellington, nor any member of the
13 Wellington council, have any present intent to eliminate
14 Pine Tree as an independent district or convert
15 Pine Tree into a dependent district of Wellington.

16 And you wanted something more than that.

17 CHAIRMAN HITT: Yeah.

18 MR. MARKARIAN: You wanted something
19 stronger than that --

20 CHAIRMAN HITT: Yeah.

21 MR. MARKARIAN: -- and they wouldn't agree
22 to anything --

23 CHAIRMAN HITT: They wouldn't agree with it.

24 MR. MARKARIAN: -- stronger than that.

25 CHAIRMAN HITT: And I think they did say

1 but, in order to do that --

2 SUPERVISOR FERRAZZANO: Well, that tells --

3 CHAIRMAN HITT: Huh?

4 In order to do that, they would need --
5 there would have to be a vote for people to vote it in
6 anyway. But I --

7 MR. MARKARIAN: That's right. The next
8 thing that it says: Wellington acknowledges and agrees
9 that any potential effort by Wellington to convert
10 Pine Tree into a dependent district of Wellington would
11 require a referendum and the affirmative vote of a
12 majority of the eligible Pine Tree landowners.

13 They were trying to say that's a remote
14 possibility because the people in Pine Tree would never
15 vote for that. That's what they were trying to say. So
16 if you're -- I don't see a way for you to disagree with
17 the proposed settlement as it relates to section 24.
18 And -- and cap attorney's fees for the tax case. I see
19 a way to stop the bleeding and the incurring additional
20 fees on the records part of that.

21 CHAIRMAN HITT: Okay.

22 MR. MARKARIAN: So the tax case would still
23 go forward, and they're going to claim that, because we
24 didn't sit down with them, they get attorney's fees if
25 they win. It would be a have-to-win kind of a thing.

1 CHAIRMAN HITT: So what's the criteria
2 that's needed to win? They say that they don't want to
3 put the taxes because they receive no benefit. So I see
4 lots of benefit.

5 MR. MARKARIAN: They're going to make four
6 arguments, and that's one of them. And I do feel like,
7 with the new engineer, you've done a good job of --

8 CHAIRMAN HITT: We'll win that.

9 MR. MARKARIAN: -- of blocking that
10 argument.

11 CHAIRMAN HITT: Okay. So that's one.
12 The second one?

13 MR. MARKARIAN: They're going to argue that
14 the water control board doesn't adequately indicate the
15 benefits that Pine Tree is giving to Wellington. And
16 the --

17 CHAIRMAN HITT: Well, it does now, though.
18 It really does.

19 MR. MARKARIAN: We amended it.

20 CHAIRMAN HITT: I mean, what Dana did was a
21 huge change, and it was amended before the -- my
22 deposition.

23 MR. MARKARIAN: It was amended. And we --
24 my law firm wanted her to put more additional amendments
25 and disclosures in there that she would not do.

1 CHAIRMAN HITT: Okay.

2 MR. MARKARIAN: But I've asked we -- in
3 front of you, I asked the new engineer --

4 CHAIRMAN HITT: Yeah.

5 MR. MARKARIAN: -- if he would be
6 comfortable making those amendments.

7 CHAIRMAN HITT: Right. Right.

8 MR. MARKARIAN: So that's their second
9 argument.

10 And then they're going to argue did we -- we
11 don't notice -- I don't know how we noticed or imposed
12 the fee, but they'll argue that we didn't -- I mean, you
13 know how they are.

14 CHAIRMAN HITT: Yeah.

15 MR. MARKARIAN: They're going to argue we
16 didn't notice it correctly. They're going to argue that
17 the percentage that you're charging to Wellington is
18 different than the percentages you're charging to the
19 landowners.

20 CHAIRMAN HITT: So would our counter be
21 bringing up the fact that they established the tax
22 themselves?

23 MR. MARKARIAN: That would help. I just
24 haven't seen evidence of that.

25 So the other thing that I was wondering

1 is --

2 CHAIRMAN HITT: Let's say that's there, you
3 know, which it is.

4 MR. MARKARIAN: I was wondering if there was
5 a way for you to accept the settlement and go after them
6 for the gas tax money and use the money to maintain the
7 roads, and everybody separates and goes happily ever
8 after. The concern I'm hearing is the section 24
9 concession is what really doesn't --

10 CHAIRMAN HITT: Yeah.

11 MR. MARKARIAN: -- doesn't -- is an --

12 CHAIRMAN HITT: I just -- there's -- my gut
13 feeling says that's not -- that doesn't work. And a lot
14 of it is based on the lack of trust and past experience
15 that we've had with Wellington. And, you know, we want
16 to go our ways. You know? We want to -- you heard the
17 people in here. They basically want to be left alone.

18 SUPERVISOR FERRAZZANO: Well, they'll just
19 -- I think they're just going to end up closing
20 Pine Tree. We're going to implode.

21 CHAIRMAN HITT: Well, maybe.

22 SUPERVISOR FERRAZZANO: Well, if we give
23 them section 24.

24 CHAIRMAN HITT: Oh, yeah. Yeah.

25 SUPERVISOR FERRAZZANO: Originally --

1 CHAIRMAN HITT: I'm sorry. Yeah.

2 SUPERVISOR FERRAZZANO: Originally, they
3 wanted to get rid of Pine Tree because Wellington could
4 not jump over us to get water management. That was the
5 original deal. They were trying to get rid of us so
6 they could jump -- because they couldn't jump over us to
7 get to the taxation of -- because water control --

8 CHAIRMAN HITT: South Florida --

9 SUPERVISOR FERRAZZANO: -- South Florida
10 Water Management used to give us money. We used to tax
11 them also. But they said they're a government entity.
12 They don't have to give us any money. So that stopped
13 that.

14 But, originally, Wellington had said, we
15 can't jump over you. If we give them section 24, we
16 can't jump over them. So now our income is even tinier.
17 You know? I mean, how do we maintain? We don't even
18 know what they're putting into the -- what is that? The
19 "Three Mile Island" I'll call it.

20 CHAIRMAN HITT: Their swamp filter -- their
21 marsh filter, marsh filter.

22 SUPERVISOR FERRAZZANO: Do we get any info
23 off of that as far as what the quality is or anything?

24 MR. MARKARIAN: From where?

25 CHAIRMAN HITT: The marsh filter.

1 SUPERVISOR FERRAZZANO: From the marsh
2 filtration.

3 CHAIRMAN HITT: We get nothing.

4 MR. MARKARIAN: Yeah, not that I'm aware of.

5 SUPERVISOR FERRAZZANO: And they're in our
6 area.

7 CHAIRMAN HITT: Correct.

8 SUPERVISOR FERRAZZANO: And we get nothing.
9 Aren't they actually pumping in our area?

10 CHAIRMAN HITT: Well, U.S. government
11 geological surveys show that phosphorus filters, marsh
12 filters, after a certain number of years, develop a
13 phosphorus plume which would then come over into the
14 Rustic Ranches area, affect wells. So there's a whole
15 lot --

16 SUPERVISOR McLELLAN: It leaches through the
17 ground.

18 CHAIRMAN HITT: It leaches through the
19 ground, yeah. Yeah.

20 MR. MARKARIAN: The engineer mentioned --
21 the engineer addressed Ruben's question. He said that
22 there was pumping records. Didn't he tell us that? Or
23 was it the phosphorus --

24 CHAIRMAN HITT: The phosphorus -- yeah.

25 MR. MARKARIAN: -- measurements?

1 CHAIRMAN HITT: The phosphorus measurements
2 supposedly. But he didn't have -- he didn't really have
3 a -- he said the ones that he saw. So he didn't have a
4 full range of it. And we ought to be privy to that. We
5 ought to know about that.

6 MR. MARKARIAN: So what he said is that the
7 records that he's seen indicates no decrease in the
8 phosphorus levels.

9 CHAIRMAN HITT: In the phosphorus levels --
10 right, right -- which that was the intent of the entire
11 thing was to decrease the phosphorus levels. So I think
12 the records that he saw -- and that keyed into the
13 comment that their attorney made about, "Well, how do
14 you know that it even takes phosphorus out?" Do you
15 remember that? Okay.

16 MR. MARKARIAN: Yes.

17 CHAIRMAN HITT: And I -- so I don't know if
18 that's something that they're going to use or not. But
19 it --

20 MR. MARKARIAN: Expect that they're going to
21 do that.

22 CHAIRMAN HITT: Okay. All right.

23 MR. MARKARIAN: So they're going to say
24 that, "What are you talking about? The system isn't
25 working to reduce phosphorus." Our response is going to

1 be, "You did this at great expense, reconstructed these
2 mechanisms --

3 CHAIRMAN HITT: And planted the plants.

4 MR. MARKARIAN: -- in order to do it. And
5 planted the plants. And I believe there's even an
6 article that indicates the purposes for which they did
7 all of the construction.

8 CHAIRMAN HITT: Would save them millions of
9 dollars from Charlie Lynn. I'm not sure. The former
10 city manager, one of the former city managers.

11 Yeah. So we have all of that.

12 MR. MARKARIAN: So, before you vote, let me
13 just make sure I understand that -- well, I don't know
14 how you're going to vote. But the instructions, in the
15 event that you vote to reject the settlement, are that
16 we are to do whatever we need to do as lawyers to cap
17 and stop the fight about the records case?

18 CHAIRMAN HITT: Correct.

19 MR. MARKARIAN: And get that before the
20 court so that those are measured?

21 CHAIRMAN HITT: Yep.

22 MR. MARKARIAN: And then we all understand
23 that the tax case is going to continue?

24 CHAIRMAN HITT: Yeah. And how quickly can
25 we bring that to -- to --

1 SUPERVISOR McLELLAN: To a closure.

2 CHAIRMAN HITT: To closure, yeah.

3 MR. MARKARIAN: And then, separate from what
4 we were just discussing, then what's going to happen
5 next is we're going to evolve our understanding and our
6 comfort with our ability to gain control over the gas
7 tax money.

8 SUPERVISOR FERRAZZANO: We're going to try.

9 MR. MARKARIAN: Right. Okay.

10 CHAIRMAN HITT: If we can do it without
11 Wellington, that's best. We probably -- yeah.

12 SUPERVISOR McLELLAN: Otherwise, we need
13 Wellington's taxes to help us afford and maintain the
14 roads.

15 CHAIRMAN HITT: Yeah. And that's going to
16 come with a price, and you know what the price is going
17 to be.

18 SUPERVISOR McLELLAN: I know. But...

19 CHAIRMAN HITT: Yeah. But, you know, in
20 here, Michael Compagno told us -- well, Henry was here,
21 not you -- that, if we win, we get the -- we have the
22 opportunity to collect their attorney fees. That's one
23 of the things that --

24 SUPERVISOR FERRAZZANO: Well, he might have
25 said that, but he also told you to screw the letter --

1 CHAIRMAN HITT: Yeah. Oh, yeah.

2 SUPERVISOR FERRAZZANO: -- okay? So, you
3 know, his word doesn't mean anything really.

4 CHAIRMAN HITT: And the second part of the
5 that question is is if we -- if that's incorrect, then
6 do we look at going after his -- what is it -- omissions
7 and errors insurance?

8 SUPERVISOR FERRAZZANO: Do attorneys go
9 after attorneys, or is that a forbidden thing --

10 MR. MARKARIAN: I do.

11 SUPERVISOR FERRAZZANO: -- like doctors
12 against doctors.

13 MR. MARKARIAN: I do.

14 SUPERVISOR FERRAZZANO: Okay. Well, I
15 just --

16 MR. MARKARIAN: From what I have seen --

17 SUPERVISOR FERRAZZANO: Is it worth it?

18 MR. MARKARIAN: If he has insurance
19 coverage, yes. That's why he bought insurance. That's
20 why you hired him. If I didn't live up to my
21 obligations --

22 SUPERVISOR FERRAZZANO: You have insurance
23 too.

24 MR. MARKARIAN: Yes, sir.

25 And so here's what I want to tell you on

1 that. And you're not asking me this question, so I
2 shouldn't necessarily volunteer. But I'm going to tell
3 you that, even with regard to the records case where I
4 do not believe he gave you bad advice to begin with, the
5 records request comes in on March 12th of 2021. By
6 March 30th, if you hadn't -- if that hadn't -- those
7 hadn't been produced, then a competent lawyer -- you
8 would argue that a competent lawyer would have a duty to
9 say, "Hey, Pine Tree, we got this records request on the
10 12th of March. Why haven't you responded?"

11 Let me just carry that forward because he's
12 still your lawyer for seven months and five days.

13 CHAIRMAN HITT: Uh-huh.

14 MR. MARKARIAN: And so one would argue that
15 a competent lawyer who originally directed the records
16 request to Pine Tree to respond would then be saying,
17 "Where are the records? Why haven't you produced them?"

18 SUPERVISOR FERRAZZANO: Right.

19 MR. MARKARIAN: "Where are they? What's
20 going on?"

21 We got involved late December. And by
22 January 7th those records were produced. So he's
23 admitted that he didn't advise you properly as it
24 relates to the tax part of the case and the exposure. I
25 don't think that he gave you bad advice or instructions

1 on March 13th and 14th with regard to the records part
2 of the case.

3 CHAIRMAN HITT: Oh.

4 MR. MARKARIAN: So I believe, based upon
5 what I've seen, he properly advised Pine Tree on the
6 13th and 14th of March. But come April 1st, May 1st,
7 June 1st, July 1st, August 1st, September 1st, if those
8 records haven't been produced, you would have been
9 getting letters, e-mails, calls and texts from my law
10 firm saying, "What in the heck are you guys doing?"

11 SUPERVISOR FERRAZZANO: Right.

12 MR. MARKARIAN: So you kind of have -- even
13 though I think he gave you bad advice on the tax case,
14 he gave you accurate instructions on the records case,
15 but allowing that time to go by I see as a problem
16 because I believe there's some duty to say, "Hey, what's
17 going on, guys?"

18 SUPERVISOR FERRAZZANO: Yeah, yeah, yeah.

19 MR. MARKARIAN: To say to Pine Tree, "Hey,
20 what's going on guys?" Because none of you are
21 professional city managers, right? And public records
22 requests are something that lawyers know about.

23 CHAIRMAN HITT: So what is the bad advice he
24 gave us on the tax case?

25 MR. MARKARIAN: He didn't -- according to

1 the transcript of October 14th --

2 CHAIRMAN HITT: Yeah.

3 MR. MARKARIAN: -- he didn't tell you that,
4 when you ignored the letter that said let's sit down and
5 work this out, that that could impose attorney's fees on
6 you.

7 CHAIRMAN HITT: Okay. Okay. Yeah.

8 But then he also told us later on -- and
9 I've seen it in here where he told us that, if we won
10 that case, that we would get --

11 MR. MARKARIAN: I think I saw too, Kerry.
12 But I don't know that I -- I don't want to say I don't
13 agree with him.

14 CHAIRMAN HITT: He may have been wrong.

15 MR. MARKARIAN: I don't -- I can't tell you
16 he's right right this second.

17 CHAIRMAN HITT: Yeah. I gotcha.

18 MR. MARKARIAN: Now, how do you avoid
19 exposure to attorney's fees in the tax case is if you
20 win.

21 CHAIRMAN HITT: Yeah. Yeah. Okay.

22 In the tax case, yeah.

23 MR. MARKARIAN: Uh-huh.

24 CHAIRMAN HITT: Yeah.

25 MR. MARKARIAN: And we already know -- we

1 have a new engineer that gives us -- gentlemen, we've
2 met with him, and he's given us -- he gave us something
3 in writing, actually, as to --

4 CHAIRMAN HITT: Yeah.

5 MR. MARKARIAN: -- why he believes Pine Tree
6 benefited.

7 So, as an aside -- because I know that a
8 conflict is something that you're attuned to --

9 SUPERVISOR FERRAZZANO: Yeah, yeah.

10 MR. MARKARIAN: -- if that gentleman is
11 worried -- the gentleman who was in the audience is
12 worried that he's going to be -- he's going to hometown
13 us, he's going to -- you know, because he was once a
14 Wellington employee, that he's going to be disloyal to
15 us, that wasn't on display when he put his opinions
16 together.

17 CHAIRMAN HITT: Yeah. I would agree with
18 that. Yeah, they were pretty solid.

19 SUPERVISOR McLELLAN: Why did he leave
20 Wellington?

21 MR. MARKARIAN: We didn't ask him, but --

22 CHAIRMAN HITT: I know why.

23 MR. MARKARIAN: I didn't ask him.

24 CHAIRMAN HITT: He was promised -- he was
25 being groomed for the top engineer's job. He was

1 promised that. And, when that job opened up, they
2 brought somebody else in and he left. He quit.

3 SUPERVISOR McLELLAN: So he's a little
4 disgruntled then?

5 CHAIRMAN HITT: Yeah.

6 Now, that being said, he's also aware -- and
7 he disclosed this. He's also aware that he wants to be
8 very careful because he now -- there's a company that
9 he's going to basically be taking over -- that
10 Stormwater J -- he wants to make sure that he's not in a
11 position where Wellington will punish him.

12 SUPERVISOR McLELLAN: He wants to be a
13 professional.

14 CHAIRMAN HITT: He wants to be a
15 professional, exactly. Yeah. Well put.

16 So I -- I feel confident about the tax case.

17 SUPERVISOR McLELLAN: If we get the gas
18 tax -- if we negotiate with Wellington and we get this
19 gas tax going and this tax thing just doesn't work out,
20 then at least we have --

21 CHAIRMAN HITT: If we get the gas tax.

22 SUPERVISOR McLELLAN: Right.

23 CHAIRMAN HITT: If we don't get the gas
24 tax --

25 SUPERVISOR McLELLAN: Then we're going

1 backwards.

2 CHAIRMAN HITT: -- we're going backwards.

3 Here's the thing. I'm trying to think of a
4 cliché. I think it's the general consensus of opinion
5 of the people that have come to this -- these meetings
6 that they would rather go down with guns blazing than
7 just give up.

8 SUPERVISOR McLELLAN: Based on our last
9 meeting?

10 CHAIRMAN HITT: Yeah.

11 SUPERVISOR McLELLAN: Hundred percent agree.

12 CHAIRMAN HITT: Yeah. Yeah.

13 And I think -- I think that, if we give that
14 section away, we would be doing a disservice to the
15 people that are there.

16 MR. MARKARIAN: That's beyond my -- that's
17 beyond my ability to advise you. And I think you have
18 to go with whatever your thoughts are, and that's not a
19 legal issue for me. I wonder, are there any other legal
20 issues that we should discuss during the shade meeting?
21 Or do you feel like you've exhausted the --

22 CHAIRMAN HITT: I've got one more question
23 with that in terms of voting, before we vote.

24 Question: Can -- the way we pull the gas
25 tax out, that it would not be disclosed at all, can we

1 do that again for a question that I have?

2 MR. MARKARIAN: Ask me that one more time?

3 I'm sorry. I just didn't --

4 CHAIRMAN HITT: You had instructed the
5 stenographer, as I understood it, that, when we were
6 having the discussion about the gas tax, that that be
7 private, sealed forever or --

8 MR. MARKARIAN: Yeah. What I think we're
9 going to have to do, as of right now -- well, depending
10 upon your vote, it won't matter because it will stay
11 sealed. But let's designate -- you want to go back and
12 talk about the gas tax?

13 CHAIRMAN HITT: No. No. I have a question
14 in terms of voting.

15 MR. MARKARIAN: Okay. Ask me.

16 CHAIRMAN HITT: Okay. So long as -- and I'm
17 looking -- I really want to try to keep negotiation
18 open, if I can. Okay? If we vote -- if we have two
19 votes that are no, would I have to vote one way or
20 another?

21 MR. MARKARIAN: No. You do not have to vote
22 one way or the other. None of you need to vote one way
23 or another.

24 CHAIRMAN HITT: No, no, no. But, I mean --
25 and the reason is --

1 MR. MARKARIAN: I understand what your
2 reason is, I believe.

3 CHAIRMAN HITT: Okay.

4 MR. MARKARIAN: You're asking if you can
5 remain in a diplomatic mode --

6 CHAIRMAN HITT: Yes.

7 MR. MARKARIAN: -- capable of negotiating?

8 CHAIRMAN HITT: Well put.

9 MR. MARKARIAN: I don't see why that would
10 be a problem. Legally speaking, I don't see why that
11 would be a problem.

12 SUPERVISOR McLELLAN: Say it a different
13 way. I think I do, but I --

14 MR. MARKARIAN: What the gentlemen is asking
15 is: Would it be of benefit if one of the three of you
16 were perceived to have abstained from a no vote such
17 that that person who abstained has more ability to
18 continue negotiating --

19 SUPERVISOR McLELLAN: Got it.

20 MR. MARKARIAN: -- solutions. And so,
21 legally speaking -- because that's my job is to give you
22 legal advice -- I don't think there's any legal
23 prohibition in doing that. I don't think there's any
24 legal requirement that you vote yes or no. I think you
25 also have the right to vote -- you have the right to

1 vote --

2 CHAIRMAN HITT: Present.

3 MR. MARKARIAN: -- yes, no or abstain.

4 CHAIRMAN HITT: Okay.

5 MR. MARKARIAN: I think you have that right.

6 Just like what happened with the Speaker of the House.

7 SUPERVISOR McLELLAN: What's abstain?

8 MR. MARKARIAN: It just means --

9 CHAIRMAN HITT: No vote.

10 MR. MARKARIAN: -- I'm not voting.

11 SUPERVISOR FERRAZZANO: Yeah. It's a no
12 vote.

13 SUPERVISOR McLELLAN: You can do that?

14 MR. MARKARIAN: Yes.

15 CHAIRMAN HITT: Yeah.

16 SUPERVISOR McLELLAN: What happens in a
17 three-way vote if one is yes, one is no and one is
18 abstained?

19 MR. MARKARIAN: Then you would have a -- you
20 wouldn't have a --

21 CHAIRMAN HITT: Then you couldn't do it.

22 MR. MARKARIAN: You wouldn't have a
23 resolution.

24 CHAIRMAN HITT: Wouldn't have a resolution.

25 MR. MARKARIAN: You wouldn't have -- you

1 would not have a vote one way or another.

2 CHAIRMAN HITT: So, hypothetically --

3 SUPERVISOR McLELLAN: But that wouldn't
4 get --

5 CHAIRMAN HITT: So, hypothetically, if one
6 member votes no and then the second member votes no,
7 that's the majority.

8 SUPERVISOR McLELLAN: I understand that.

9 CHAIRMAN HITT: So the third member would
10 abstain and not vote because it wouldn't be necessary --
11 a majority is already achieved.

12 SUPERVISOR McLELLAN: That didn't answer my
13 question, Kerry.

14 CHAIRMAN HITT: Yes.

15 SUPERVISOR McLELLAN: If one voted no and
16 one voted yes and one abstained --

17 CHAIRMAN HITT: Oh, then it wouldn't work.

18 MR. MARKARIAN: The settlement would not
19 have been approved in that case.

20 SUPERVISOR McLELLAN: Right. It's a no
21 vote?

22 MR. MARKARIAN: Yes, sir. Another way to
23 say that is you need two votes to approve the settlement
24 or two votes to disapprove the settlement.

25 CHAIRMAN HITT: Yeah. But what he's saying

1 is, if one votes no, one votes yes, and then the third
2 abstains --

3 MR. MARKARIAN: One abstains, you have a no
4 vote. It's a no vote.

5 SUPERVISOR McLELLAN: It's a yes vote to
6 approve that?

7 MR. MARKARIAN: No, sir.

8 CHAIRMAN HITT: No.

9 MR. MARKARIAN: If one of you votes yes, one
10 of you votes no and one of you abstains, then you have
11 voted no on the settlement.

12 SUPERVISOR McLELLAN: I understand.

13 CHAIRMAN HITT: All right.

14 MR. MARKARIAN: If there's other legal
15 issues, we should entertain them. If there's not, then
16 we can end the shade meeting.

17 I'm going to have to work with you, Madam
18 Reporter, to make sure that there are certain portions
19 of this transcript that have to be treated differently
20 in the event that some day there's a settlement of the
21 current case of Wellington versus Pine Tree, case number
22 2021CA05867.

23 (Discussion with the stenographer concerning designated
24 confidential conversation)

25 MR. MARKARIAN: By the way, depending -- let

1 me say it this way. If you vote to disapprove
2 settlement, that transcript remains sealed.

3 (Interruption by staff of facility)

4 SUPERVISOR McLELLAN: Say that again.

5 MR. MARKARIAN: I think what I was saying is
6 -- oh, I know. If what results next is a no vote on the
7 settlement, then the entire transcript remains sealed.

8 SUPERVISOR McLELLAN: Okay.

9 CHAIRMAN HITT: So then should we vote?

10 MR. MARKARIAN: Mr. Hitt, I think what you
11 have to do then is call an end to the shade meeting --

12 CHAIRMAN HITT: Okay.

13 MR. MARKARIAN: So then --

14 CHAIRMAN HITT: Oh, so then we have to vote
15 in public?

16 MR. MARKARIAN: What I would do is close the
17 shade meeting. Just call an end to it.

18 CHAIRMAN HITT: Okay.

19 MR. MARKARIAN: And then, once we've ended
20 the shade meeting, call the public meeting back to
21 order.

22 CHAIRMAN HITT: Okay. All right. Make a
23 motion we call an end to the shade meeting.

24 SUPERVISOR FERRAZZANO: Second it.

25 (Proceedings concluded at 8:08 o'clock p.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

I, Rachele Lynn Cibula, Court Reporter, do hereby
certify that I was authorized to and did report the
foregoing proceedings at the time and place herein
stated, and that the foregoing is a true and correct
transcription of my stenotype notes taken during said
proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this
1st day of February, 2023.



RACHELE LYNN CIBULA
Court Reporter

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