

MINUTES

INDEPENDENT TRANSPORTATION SURTAX OVERSIGHT BOARD

October 13, 2022

MEMBERS PRESENT:

Phil Allen, Retired, Finance

Deborah Madden, Environmental Sciences, Florida Energy Policy Attorney,
Southern Alliance for Clean Energy

Douglas Coolman, Vice Chair, Retired, Land Use and Urban Planning

Ronald Frazier, Architecture

Alan Hooper, Chair, Engineering/Construction Management, General
Contractor and Real Estate Re-developer, Hooper Construction, Inc., and a
founding member of Urban Street Development.

Dr. Consuelo Kelley, Resident Consumer of Public Transportation

Anthea Pennant, District Director of the Broward College Office of Supplier
Relations and Diversity, via telephone

MEMBERS ABSENT:

Allyson C. Love, Former City or County Manager, Assistant City Manager,
City of Delray Beach

Shea Smith, Accounting, Director of Audit and Attest Services, Berkowitz
Pollack Brant Advisors and Accountants

Also Present:

Angela Wallace, Surtax General Counsel

Gretchen Cassini, Board Coordinator

Ray Burnette, Administrative Support Specialist

Tashauna Williams-Wilson, Public Information Specialist

Laura Rogers, County Auditor's Office

Tony Hui, Deputy Director, Public Works Department

Tim Garling, Deputy General Manager, Broward County Transportation
Department

Andrew Meyers, Broward County Attorney

Bryan Caletka, Director of Transportation and Human Resources, Broward
County MPO

Todd Brauer, Whitehouse Group

Miriam Brighton, The Laws Group

A meeting of the Independent Transportation Surtax Oversight Board,
Broward County, Florida, was held at Room 430, Broward County
Government Center, 115 South Andrews Avenue, Fort Lauderdale, Florida at
1:30 p.m., Thursday, October 13, 2022.

(The following is a near-verbatim transcript of the meeting.)

CALL TO ORDER - CHAIR HOOPER

MR. HOOPER: Okay. We're going to call the meeting to order. It's the Oversight Board special meeting, Thursday, October 13th.

ROLL CALL - ROY BURNETT

MR. HOOPER: Start with our -- our roll call, please.

MR. BURNETT: Hi. Good afternoon, everybody.

MR. HOOPER: Good afternoon.

MR. BURNETT: Alan Hooper.

MR. HOOPER: Here.

MR. BURNETT: Douglas Coolman.

MR. COOLMAN: Here.

MR. BURNETT: Thank you.

Phil Allen.

MR. ALLEN: Here.

MR. BURNETT: Ronald Frazier.

MR. FRAZIER: Here.

MR. BURNETT: Debbie Madden.

MS. MADDEN: Here.

MR. BURNETT: Anthea Pennant is on the phone virtually.

If you could --

MS. CASSINI: Call her name.

MR. BURNETT: -- indicate your presence, Ms. Pennant.

I think she's on mute.

MS. CASSINI: Ms. Pennant, can you un-mute and indicate that you are participating virtually, please?

You can continue and come back to her.

MR. BURNETT: Okay.

And Shea Smith and Allyson Love will be absent today.

MR. HOOPER: Okay. Thank you, Mr. Burnett.

MR. BURNETT: You're welcome.

MS. PENNANT: Hello, this is Anthea.

MR. HOOPER: Ah, there she is. Okay. How are you, Anthea?

PUBLIC PARTICIPATION

MR. HOOPER: Okay. So we allow for public participation.

Did we have anybody registered that would like to speak to the board?

MS. CASSINI: No, we don't.

MR. HOOPER: Okay. All right. And during the action items, if anybody registered to speak, they could at each item.

ACTION ITEMS

1 - APPROVAL OF MINUTES, MEETING OF AUGUST 19, 2022

MR. HOOPER: All right. Let's go to our motion to approve Item Number 1, the minutes of the -- of the August 19th meeting.

MR. ALLEN: **Move** approval.

MR. FRAZIER: You'd already started.

MR. HOOPER: Huh?

MR. FRAZIER: I said, you had already started. I'll second his motion.

MR. HOOPER: Okay.

(Laughter.)

MR. HOOPER: Thank you, Mr. Frazier.

We got a -- a motion to approve from Mr. Allen.

All right. All those in favor?

Those opposed?

Okay. The minutes are approved.

VOTE PASSES UNANIMOUSLY.

**2 - MOTION TO APPROVE AS STATUTORILY ELIGIBLE, PROPOSED
SURTAX EXPENDITURES FOR THE COUNTY'S CONTRIBUTION TO
ROADWAY IMPROVEMENTS ON LOXAHATCHEE ROAD**

MR. HOOPER: Okay. So the next one, do we -- do you guys want to address the -- these next three items?

MS. CASSINI: Yes.

MR. HOOPER: Okay. Thank you.

MS. CASSINI: Thank you, Mr. Chair.

Actually, Mr. Hui's going to be coming up to talk to Action Item Number 2.

MR. HUI: Good morning -- or good afternoon, I should say, Mr. Chair and members of the board.

I'm here to speak about Action Item Number 2. Action Item Number 2 is a motion to approve as statutorily eligible proposed surtax expenditures in the amount of \$5,300,984 for roadway improvements on Loxahatchee Road

from State Road 7 to the road's terminus at the levee which is also the Arthur Marshall Loxahatchee Refuge.

And, now, members of the board, you have seen this project before as a municipal project, and this is an additional request that is coming in.

But let me just sort of set the background for everyone again and just gives you a little bit of background in terms of where the project is located and what the project is and so forth.

On here, on the -- on your left of the screen is a map of the location of the project, Loxahatchee Road, in the northwestern part of the County in the City of Parkland.

The start of the project, if you take a look at the right-hand side, that's State Road 7, traveling sort of in the diagonal up to the end of it, it is the refuge on the left-hand side of the screen.

The road itself is approximately -- is a divided ownership of the roadway. About 25 percent of it is owned by the City of Parkland, city's jurisdiction, and the remaining approximately 75 percent or so is the -- is under County jurisdiction.

Over there on the top, the photograph is a current condition of the roadway. You see that there's a canal on the -- on -- on the -- we're looking at the roadway from the west looking east on the road.

And a canal in the north. Some guardrails there. And there's a two-lane roadway, just -- just as it is set up.

What the bottom of it is is the typical section that we intend to

construct as part of this project.

And what the typical road section is going to look like is, also looking in the same direction, we will be adding a buffer bike lane, a -- a travel lane, a median with varying -- varying lengths throughout the -- the roadway, depending upon available right of way and so forth.

Again, also, the eastbound travel lane, and then also a bike lane on -- on the other side.

And what this project will do is it'll -- it will greatly enhance safety of the roadway, it will greatly enhance conduct -- connectivity, multi-modal transportation.

It's a great project, and I think that's the reason the board has seen it before and approved it.

And so -- and with that, let me go to the next slide.

And this is what you have seen before. Back in 2021, the project went through a couple iteration and was -- yeah, please.

MS. CASSINI: Excuse me, Mr. Chair. Anthea Pennant just raised her hand for a question.

MR. HOOPER: Oh, go ahead, Ms. Pennant.

MS. PENNANT: The audio's not working.

MR. HOOPER: It works now. I can hear you. Oh, you can't hear us. Maybe she can't hear us.

UNIDENTIFIED SPEAKER: Sorry. Sorry, Tony.

MR. HUI: It's okay.

MR. HOOPER: Can we wait a second and try to get that fixed?

MS. CASSINI: They're working on it.

MR. FRAZIER: Mr. Chair, I have a question before he goes into that.

MR. HOOPER: Do you think --

MR. FRAZIER: Once you get the audio.

MR. HOOPER: Oh, sure. For sure.

UNIDENTIFIED SPEAKERS: (Inaudible.)

UNIDENTIFIED SPEAKER: Yeah.

MS. CASSINI: You see how it's muted? Do you think that's the issue?

MS. WILLIAMS-WILSON: Ms. Pennant, can you confirm that you hear us now?

MS. PENNANT: I can hear you now.

MS. WILLIAMS-WILSON: Okay. Great. So proceed with your comment.

MR. HOOPER: Thank you.

Mr. Frazier, did you have any questions?

MR. FRAZIER: Yeah, I was looking at the --

MR. HOOPER: Oh, I'm -- I'm sorry.

MR. FRAZIER: -- the drawing --

MR. HOOPER: Did Ms. Pennant -- is Ms. Pennant -- oh.

MS. CASSINI: No, she was just trying --

MR. HOOPER: Oh.

MS. CASSINI: -- to let us --

MR. HOOPER: Oh, okay.

MS. CASSINI: -- know she could hear us.

MR. HOOPER: Go ahead, Mr. Frazier.

MR. FRAZIER: No, I was looking at the drawing, and I see an existing sidewalk, but I don't see it on this picture.

MR. HUI: Oh, let me -- let me get back.

MS. CASSINI: Is it not working again?

UNIDENTIFIED SPEAKERS: (Inaudible.)

MR. FRAZIER: Oh, thank you.

UNIDENTIFIED SPEAKER: No problem.

MR. FRAZIER: The drawing at the bottom --

MR. HUI: Yeah.

MR. FRAZIER: -- shows an existing --

MR. HUI: It --

MR. FRAZIER: -- sidewalk.

MR. HUI: -- shows an existing sidewalk. Let me -- let me point to the picture. What -- where the sidewalk's located, it's -- it's past the swale area here, and it's on the other side of it.

MR. FRAZIER: Oh.

MR. HUI: And this swale area here that -- that is shown in the diagram is this area right in here.

MR. FRAZIER: Thank you.

MR. COOLMAN: I have a question.

MR. HOOPER: Yeah, go ahead, Mr. Coolman.

MR. COOLMAN: I have a question, Tony.

It looks like they're going to be using the old current condition as one of the lanes; is that correct?

MR. HUI: Mr. Coolman, can you repeat that again, please?

MR. COOLMAN: On your section, it shows some dashed lines on the left side. I assume that's the existing roadway that they're reusing.

UNIDENTIFIED SPEAKER: Uh-huh.

MR. COOLMAN: Then they're adding a median in the green area --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. COOLMAN: -- and then they're adding a whole new roadway to the right; is that correct?

MR. HUI: It's -- you mean the --

MR. COOLMAN: The guardrail that's there is existing.

MR. HUI: Right. Existing.

MR. COOLMAN: The two lanes that are existing, they're going to reuse those and make them one way, the other way.

MR. HUI: Yeah. It's -- when the -- when the road is -- when the -- when the road is going to be rebuilt, it's essentially you can use the -- use the guardrails as a starting point is is that it will be rebuilt starting from the guardrail, add a bike lane in there, shift the lane over, and utilize the full existing (inaudible) --

MR. COOLMAN: Yeah. So you're using the old roadway as one of the two --

UNIDENTIFIED SPEAKER: Uh-huh.

MR. COOLMAN: -- new lanes.

MR. HUI: Using the space of the -- of the existing roadway, because the road in its entirety is going to be rebuilt.

MR. COOLMAN: You're tearing it all out.

MR. HUI: Yeah. Uh-huh. Yeah. Uh-huh. It's just that -- it's just that the road condition and -- and adding the lane in there, it just -- it's just a requirement to --

MR. COOLMAN: Okay.

MR. HUI: -- rebuilt it in the same --

MR. COOLMAN: Thank you.

MR. HUI: -- (inaudible). Uh-huh.

MR. HOOPER: And do you -- you're providing safety for -- who are you providing safety for?

MR. HUI: It -- it's safety for bicyclists, vehicles. It's a straight-shot roadway.

And as part of this road, we're also going to be -- it's not shown in here because it's enough degree of details, but there's going to be three roundabouts in the project that helps to also facilitate slowing down traffic as you go.

And so it'll be providing safety for both vehicles, bicyclists, and, to a

lesser degree, pedestrians. You know, they -- they have the walkway existing on the side.

So it does -- you know, it does provide that type of safety for vehicles and bicyclists.

MR. HOOPER: Because right now, really all we're doing is we're not increasing any traffic or making traffic faster. As a matter of fact, you're adding roundabouts --

MR. HUI: Right. Uh-huh.

MR. HOOPER: -- so you're actually slowing it down. But you're giving an opportunity to bicyclists --

MR. HUI: Yeah. Uh-huh.

MR. HOOPER: -- in this particular --

MR. HUI: Uh-huh.

MR. HOOPER: -- (inaudible).

(Reverberation sound.)

MR. HOOPER: Okay. I hope I didn't do that.

So -- so we're adding lanes for bicycles. So that seems to be a priority in this project.

MR. HUI: Yeah.

MR. HOOPER: Okay.

MR. HUI: And vehicles have also -- vehicle counts have also been increasing along this roadway because of development and so forth.

MR. HOOPER: Right.

MR. HUI: Uh-huh.

MR. HOOPER: Right.

MR. HUI: Yeah.

MR. HOOPER: Okay. You can keep going.

MR. HUI: Good. Thank you.

So when -- when the board last saw it, this is sort of some of the -- just a quick representation on how strongly supported this project is.

Multiple partners in this project. Great support from everyone. Lot of funding leverage with -- you know, utilizing the surtax and so forth.

If you take a look at the top row, this is -- the top row's the project cost.

Construction cost is approximately \$29,000,000. And then the CEI, which is the construction, engineering, inspection, and the post-design services and that type of thing is about little 3.4 million dollars or so.

And how we will support it in terms of funding, and you can use this diagram to see, you know, all of these strong supports that it has, is is that the MPO, who's the lead agency in this, is actually utilizing federal and state funding in the amount of close to 23 ½ million dollars to fund this project.

And the Broward County gas tax was chipping in 3.25 million dollars.

And this is where the -- you, the Oversight Board, had previously approved it as the Park dash 002 project in the amount of 2.3 million dollars.

Those funding makes up for the construction cost of approximately \$29,000,000.

MR. HOOPER: Okay.

MR. HUI: And then on a separate note, FDOT, who is the agency that's in charge of implementing the project, both from the design and construction standpoint, is putting in -- in addition to the management work they're doing, they're also paying for the 3.4 million dollars for the CEI and post-construction costs.

So this is how the project was set up and this is how the funding was set up when the board last saw it.

MR. HOOPER: Okay.

MR. COOLMAN: Alan?

MR. HOOPER: Go ahead, Mr. Coolman.

MR. COOLMAN: Tony, another question. The Broward County gas tax, how much a year is being collected and spent, typically, from gas taxes?

MS. CASSINI: I'd have to look.

MR. HUI: Yeah, I -- yeah, Mr. Coolman, we'll --

MS. CASSINI: I --

MR. HUI: -- have to look.

MS. CASSINI: -- I will have to look into the budget book and into our audit. Can you give me a few minutes?

MR. COOLMAN: The reasons I'm asking the question, it looks like we're going to be discussion three or \$4,000,000 worth of ineligible sidewalk projects, but it may be the way we solve that is pay them with gas tax. So I'm just curious how much is in the fund.

We need to fix that problem one way or the other.

Thank you.

MR. HOOPER: Interesting.

MR. HUI: Okay. So since then, this is the current status. The design of the project has been completed. FDOT has finished design for it. And the construction is scheduled to start in the first quarter of next year.

Recently, we received notice from the MPO and FDOT that, given the volatile market conditions that we have talked about before in the past, that additional funds are needed in -- for the project.

And this additional funds is -- is due to an increase of about 7.2 million dollars. And of that, there's really two components associated with it.

One is about two and a half million dollars for escalation that we've been -- you know, we've been -- we've been talking about over the last couple months or so.

And then the remaining portion, about four -- can you guys here me?

MR. HOOPER: Uh-huh.

MR. HUI: Is -- okay. So the remain -- and the remaining portion, about 4.7 million dollars or so, is to establish a contingency fund of about approximately 15 percent, just because of basing on the current uncertainty that's associated with the market conditions.

So given that, this is kind of where we're at right now. If you -- if -- it is a similar structure, same figure that I've shown.

And -- and if you add the -- the additional amount of money that -- that I've just talked about, that total number, again on the first row, equates now

to 36.3 million dollars for the current construction costs, and then the same amount of cost -- the same amount of dollars for the CEI and so forth that I previously mentioned.

Below is a breakdown of all of the funds that are available.

The first line is MPO. They have been able to go back and kind of look -- take a look at the numbers, and was able to increase the funding by a small amount, up to 23.6 million dollars.

The gas tax amount that Broward County was going to contribute stays the same.

The surtax amount that you approved, 2.33, stays the same.

The next line item here is the surtax cost escalation of about 11.9 -- excuse me -- 11.9 percent. That equates to \$278,000. That's been approved as a standard escalation or the maximum escalation on -- on the municipal projects.

Now, in this case, because of the additional funding, the City of Parkland is -- from their General Fund, is going to be contributing 1.78 -- approximately 1.8 million dollars as part of the construction.

So you subtract all of those numbers out. The remaining portion that is still needed in order to construct the project in full is about little over \$5,000,000. And that's the reason and this is the motion to request the board for the statutory eligibility determination.

So that's the \$5,000,000.

Same thing on the construction side is that there's no change to it.

FDOT is going to continue to fund that.

So that's the breakdown on the cost and the reason that we're asking for this additional amount.

And then these are the additional funding that we're requesting above-beyond what you have seen before in the past.

MR. COOLMAN: (Inaudible.)

MR. HUI: So the subject motion, that has certain benefit -- or have a number of benefits, actually.

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HUI: Number one is is that it allows the project to continue as it is currently designed, without further delay and then without potentially facing higher costs going forth into the future.

Alternative to that is that if we don't have the additional money, the project could conceivably be shortened to some degree in order to cut-out certain portion of it.

But what happens with that is is that what it will do is that it will require a redesign of the project to cut it out, and that would obviously cause a delay to the project because of the redesign, facing potential higher costs due to the delay.

And what you get left with that is that at some point in the future, if you don't do it, you're going to have to do it at some point in the future, and we're going to be facing the same question again at a later point.

So that's kind of the -- the impact of it.

And it -- next point is is that it minimize construction impact to residents.

And then the last point, I think it's also important just to know this, is that a large part of the money that is being requested for is to make sure that there's enough contingency in the project to be able to cover any unexpected circumstances as they occur.

Once the project -- once construction start, it's difficult to delay it and -- if you have funding issues and so forth.

But if that contingency amount is not needed, it does get returned back to the County, back to the surtax.

So this is the -- this is sort of like the -- the -- the amount that's being requested is the maximum liability, and if there's any money that's not used, in our agreement that we're going to be developing with FDOT and so forth, is is that that funding will return to the surtax.

So that's the -- a quick summary of the project. And I'll be happy to entertain any of the questions that you may have.

MR. HOOPER: Mr. Coolman.

MR. COOLMAN: Yeah, Tony, I think this is an ideal project, the type we like to see, because you've really grown our funds.

For clarification, the City of Parkland's putting up 1.8 million dollars.

The municipal surtax of 2.3 million, is that previous -- that's previously approved surtax money we approved, correct?

MR. HUI: Uh-huh. Yeah.

MR. COOLMAN: And this is -- is it considered a County or municipal project?

MR. HUI: Yes. The -- the amount that was previously approved by the board was a -- was a municipal surtax project.

MR. COOLMAN: That's fine.

MR. HUI: (Inaudible.)

MR. COOLMAN: Is this considered a municipal or a County project?

MR. HUI: I would consider that as a municipal project, because you have already approved it as a municipal project.

MR. COOLMAN: So will the funds that we are allocating, will that go against Parkland's allocation?

MR. HUI: Okay. So I -- I think -- I think I may have been speaking from a different perspective.

The amount that was approved, 2.338, previously, municipal surtax project.

MR. COOLMAN: Okay.

MR. HUI: But the amount that we're requesting, the 5.3 million dollars, we're requesting from the County surtax side of the ledger.

I think is that the right way to put it, Gretchen?

MR. COOLMAN: Okay. So that Parkland is being tapped for 2.3 of their surtax dollars, plus they're putting up another almost 1.8.

MR. HUI: Right. Uh-huh.

MR. COOLMAN: Congratulations.

MR. HUI: Yeah. Uh-huh.

MR. HOOPER: Anybody else?

I have some questions. Okay. You're saying that we could get some of the 5,000,000 back.

MR. HUI: Yeah. Uh-huh.

MR. HOOPER: Is that what you said?

MR. HUI: Yes, I did.

MR. HOOPER: Okay. All right. When's the job start?

MR. HUI: When does it start?

MR. HOOPER: Uh-huh.

MR. HUI: They're planning on bidding it in the first quarter of next year.

MR. HOOPER: So we haven't -- there hasn't been a job buy-out. We haven't bid it yet.

MR. HUI: It hasn't been bid. Yeah. It has not.

MR. HOOPER: So we don't know for sure where the number's coming in on it.

MR. HUI: It -- yes, that is correct.

MR. HOOPER: You shouldn't say that until --

MR. HUI: (Inaudible.)

MR. HOOPER: -- until you get your bids back. Okay? Don't tell people we're getting our 5,000,000 or the -- there could be a part of it coming back until you get your bids back, because --

MR. HUI: (Inaudible.)

MR. HOOPER: -- right now, it's a very unpredictable market.

So -- but that being said, yeah, I -- we've got a big project. I -- what I would like is that the -- the County gets credit for supporting a municipal project to the tune of another 5,000,000 bucks, because, really, that municipal project wouldn't have happened if there wasn't more money to keep it going. Or some of these other partners would have had to pony up some more cash.

MR. HUI: Yeah. Uh-huh.

MR. HOOPER: So --

MR. COOLMAN: Even Parkland.

MR. HOOPER: -- I think -- I think -- yeah. It's just like, you know, here's a -- here's a -- an opportunity. Here's an example of the County coming to the table and finishing out a municipal project, because that's what it is, at the end of the day.

MR. COOLMAN: Are we going to move on each one --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: Huh?

MR. COOLMAN: -- independently?

MR. HOOPER: It's not?

MS. WALLACE: Right. I'd like to clarify. So a portion of the road is a County road, and a portion of the road is a city road. And it's the -- so the project has been combined, because there's Federal Highway Administration

money that has come through the MPO to fund the whole project.

So it's a collaboration (inaudible) --

MR. HOOPER: I totally get it.

MS. WALLACE: Oh, okay.

MR. HOOPER: I totally get that.

MS. WALLACE: So --

MR. HOOPER: But -- but --

MS. WALLACE: -- part of it is a County road.

MR. HOOPER: -- but all I hear in the --

UNIDENTIFIED SPEAKER: Right.

MR. HOOPER: -- the chatter out in the world is how the County's not investing money in a bunch of projects around the city and -- around the County, which impacts cities. Okay?

And this original project had no County surtax money. It had municipal surtax money.

And, yes, it had the MPO that ponied up. It had the Broward County gas tax as well.

But at the end of the day, again, we're supporting putting more support into a project that was Parkland 002 municipal project.

I just think there should be, you know, a little bit of -- highlight that a little bit so that we understand that, and that -- you know, here we -- we're -- we've got a great project that's ready to tee up. Let's tee it up.

MR. COOLMAN: Is this ready for a motion?

MR. HOOPER: You got some --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: -- you know, for someone that usually talks more than anybody else, you know?

MR. COOLMAN: I'm --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. COOLMAN: -- well, if it's --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. COOLMAN: -- ready.

MR. HOOPER: All right. Go for it.

MR. COOLMAN: If it's ready, I'm --

MR. HOOPER: Go for it.

MR. COOLMAN: -- I'm ready to make a --

MR. HOOPER: You know, the --

MR. COOLMAN: -- motion for approval.

MR. HOOPER: -- easiest way to shut me up is --

UNIDENTIFIED SPEAKER: Let's move it.

MR. HOOPER: -- to just go ahead and move it.

MR. COOLMAN: I make a **motion** for approval of this project.

UNIDENTIFIED SPEAKERS: (Inaudible.)

MR. HUI: So this is the approval (inaudible) --

UNIDENTIFIED SPEAKERS: (Inaudible.)

UNIDENTIFIED SPEAKER: No?

MR. HOOPER: He made a motion. You don't want to hear anybody else.

UNIDENTIFIED SPEAKERS: (Inaudible.)

MR. FRAZIER: I just want to hear (inaudible) the lawyer's statement on the statutory eligibility, for the record.

MR. HOOPER: Is that --

MS. WALLACE: Sure.

MR. HOOPER: Okay. Thank you.

MS. WALLACE: Thank you, Mr. Frazier.

Yes, it's -- it's the road -- pursuant to 212.05 Florida Statutes, the transportation surtax proceeds can be used for the planning, development, construction, operations and maintenance of roads and bridges.

And this project involves reconstruction of Loxahatchee Road, and I recommend it as eligible for surtax proceeds, the -- the additional funding.

MR. HOOPER: That's great.

MR. FRAZIER: I'll second the motion.

MR. ALLEN: Mr. Chairman? There's a --

MR. HOOPER: Mr. Allen.

MR. ALLEN: -- there's a note down below that says it's -- the language has been amended. Can you tell us what that amendment was?

MS. WALLACE: So this -- the Statute itself has just been kind of re-lettered and -- and renumbered. That's all.

Effective October 1, it was -- the numbering and lettering was

reorganized, but, substantively, it says the same thing.

MR. ALLEN: Oh.

MS. WALLACE: That's all. And I think the previous version of the -- of the slides included the version of the statute that was effective prior to October 1. That's the only update.

But substantively, the statute says the same. Oa?

MR. ALLEN: So there was an amendment to the statute during this session, during the past session?

MS. CASSINI: No. Actually, it was from 2019, but it became effective October 1st of 2020.

UNIDENTIFIED SPEAKER: (Inaudible.)

MS. CASSINI: Sorry. 2022.

MR. HOOPER: Okay. Any other questions?

Okay. All those in favor -- we have a motion and a second.

All those in favor?

Those opposed?

Okay. Go to the next one. Here we thought we were just going to do a workshop special meeting. We're getting work done today.

UNIDENTIFIED SPEAKER: (Inaudible.)

VOTE PASSES UNANIMOUSLY.

3 - MOTION TO APPROVE AS STATUTORILY ELIGIBLE, PROPOSED

SURTAX PROJECT AND EXPENDITURES FOR RAIL GENERAL

ENGINEERING SERVICES

MR. GARLING: Okay. Good afternoon.

MR. HOOPER: Good afternoon.

MR. GARLING: Okay. I'm Tim Garling, Deputy General Manager of the Broward County Transportation Department, and we're here today to talk about Action Item Number 3.

This is a motion to approve as statutorily eligible proposed surtax expenditures in the amount of \$25,000,000 for rail general engineering services for Broward County Transportation Department rail projects, including Broward commuter rail, the Broward commuter rail south project, which we've talked about, and future light rail projects.

So the paragraph below provides some explanation and I'll -- I'll sort of add to that.

But this contract will provide services in a wide range of areas that are for projects of substantially similar nature for rail.

And they're things like planning, engineering, architectural, construction engineering and inspection, CEI, surveying, technical management, administrative services, those things necessary to prepare and deliver and execute projects.

As we went through and we talked about the budget, you know, looking ahead for the five years, if -- if we think about what's coming with commuter rail south, which may be a construction project in the neighborhood of \$300,000,000, and at least what we budgeted, as we're thinking ahead, just setting money aside for the first light rail corridor, we're

talking in terms of, in this five-year program, having almost \$1,000,000,000 or more than a billion dollars of construction activity, construction money.

So what this really does is this provides an ability for us to deal with unforeseen circumstances that arise when you're doing these major corridor projects.

So an example of that, you know, as you do a big corridor and you're trying to put a light rail system in or whatever, some of the things are unforeseen, despite our best efforts to design projects and -- and to, you know, really articulate all the things that we need.

Utilities are an enormous wild card, right? They're not in the -- you know, the -- the diagrams are not in the right place, it -- it may be that we're asked to replace or remove a substation, things of that nature.

What this does, it gives us an opportunity to quickly provide engineering services and provide a design to resolve a problem to keep the project moving.

Because ultimately, when you have these big corridor projects, time is money. And anything that ends up delaying the construction activity, going to cost you money, right? You have big mobilization costs and things like that.

So anything that makes the schedule go along provides a risk that this is attempting to mitigate.

And -- and the other -- the other point I would make, too, is we're just embarking on the rail program ourselves. We're really standing up our -- our organization.

And in the early stages, you know, having accessibility of staffing to do all these various engineering tasks, probably we're not going to have everything that we need. This allows us to pull in those -- those specific skill sets and things that we would need to resolve a problem.

As you go through, as we would implement this procurement, we are looking to award up to three individual vendors. So it will kind of spread this work around.

The work would be assigned on a Work Order basis. You know, as the need came up, we would assign that work.

And there would also be a -- a 30 percent CBE goal.

So that's kind of a thumbnail of sort of the big picture.

I think this is a good thing. It indicates sort of like we're moving into this next phase of getting ready to start implementation, right, to start getting things into design and to start constructing.

This is a tool that most major transit agencies use as a way to sort of mitigate the risk and ensure that the project can move forward.

And with that, I'd be happy to answer any questions.

MR. ALLEN: Mr. Chairman.

MR. HOOPER: Mr. Allen.

MR. ALLEN: You're in the process of identifying corridors and routes and projects. Is this premature to be spending or committing engineering funds to projects that have not been yet approved?

MR. GARLING: Well, and -- and so the -- the way I see it, there's a

couple things going on.

One, we've got a locally preferred alternative for the commuter rail south project. So that's kind of a hard target. We know that that's coming.

We're -- made the request to the FTA to get in PD and E, Project Development and Environmental. We hope to get a positive determination on that soon.

So we'll be starting activities on the commuter rail corridor.

The other things that we're doing is what we -- we call our PREMO plan, but developing these major light rail corridors.

The next step of determining light rail and bus rapid transit corridors, we really expect to be occurring over the winter, really in a few months, where we are going to start to determine what our network is going to be and, from that, get a locally preferred alternative to get projects that we progress.

So since this is a -- sort of -- sort of like a -- like an on-call, like we'll -- we'll use those consultants as we need them, we know that those opportunities or those needs may occur very quickly for commuter rail, and maybe not as quick for, you know, the other projects you're talking about.

But to have everybody, to have the bench, to have the ability to do it, setting aside this procurement to be ready, we could support PD and E and design activities and things that -- that may come up to help keep these projects on course.

So we think now's the time to do it for all those various reasons.

But with commuter rail coming, you know, we may be able to use this contract right away.

MR. ALLEN: The procurement of the engineering services, will that be in accordance with federal standards?

MR. GARLING: I -- I'm not sure I understood the question.

MR. ALLEN: Well, many times with the grant programs that I assume will be funding significant parts of your corridor studies and final project completions --

MR. GARLING: I understand.

MR. ALLEN: -- you can use local dollars to advance those projects with engineering and things like that that can eventually be counted as part of your -- the County's share, but you have to do that procurement in accordance with federal standards rather than local standards.

MR. GARLING: Right. For this -- for -- for this particular procurement and our view of it is this is something that we would be using local funds for.

When we do the full granting -- grant agreement for a corridor, then we would be looking for the design activities, being able to reimburse those, and also the construction activities.

But right now, since we are a ways away from getting those full funding grant agreements, and there's a limited number of those discretionary grants available, we think for this particular procurement, it make sense that we use local funds and have that as an ability to progress the project and not be -- not be dependent or determinant on future federal

funds.

MR. HOOPER: Is this -- are we trying to -- are we approving something that is for the five-year budget, or are we moving something -- where are we moving it from and where are we putting it into.

MR. GARLING: Okay. So we actually have PD and E and design monies already approved --

MR. HOOPER: Right.

MR. GARLING: -- previously. So there's some 31 -- I think it's 31.28 million dollars --

MR. HOOPER: Right.

MR. GARLING: -- already approved for those -- for those services.

So since, you know, again, we're trying to move forward, right, and, you know, we've got future budgets and looking the long-term, we would like to use that -- are proposing to use 25,000,000 out of that 31 that's already been approved for those exact same activities.

This is just a way of -- of procuring those activities so we can have access.

MR. FRAZIER: I -- I have a question.

MR. HOOPER: Yes, sir.

MR. FRAZIER: Could you give me an example of the type of engineering services that would be required, as well as architectural services? Since we're talking about a rail, I'm trying to visualize what the architect will be doing for a rail that (inaudible).

MR. GARLING: So -- right. So, you know, if you're doing, say, a light rail project, there are a -- a number of aspects of a rail project.

So one of them is designing the stations, would be kind of more civil type work. You know, what the station would look like, the construction of -- of a station.

Then there's the infrastructure. You know, you have to design the rail itself, right? The track bed and the switches and all those things.

Then you have signaling that you have to put into place to keep the -- the trains safe and -- and separate and to be assigned to the right track. So there's signaling work.

Rail systems also have electrical -- one -- one way or another, it could be battery powered, but likely there would be some overhead electrical component. That means you need electrical engineers and substation components.

So there's a number for a rail project.

What -- what's sort of interesting, compared to a lot of things we work on in -- in Transit, you're actually building your entire infrastructure. Usually, we just purchase a bus and we run it down the city streets.

In this case, we have to build our entire infrastructure. And we're also building it over a long -- a long stretch. It might be, you know, five miles, might be ten miles, might be 15 miles.

And as much as we try to define the project and design the project as we procure it, I just know from experience there's always something that's

kind of unforeseen that comes up.

And what you don't want to do is when that unforeseen item comes up, you don't want to have to go out into a procurement process that could take nine months, 12 months, and then delay the project.

That gets back to my -- my original point about this is -- this is really a way to help mitigate the -- the risk of project delays and overruns.

MR. FRAZIER: That leads to my second question, and that is when you put this RFP together, will the small business department participate in that?

I'm not talking about percentages. I'm talking about identification of the various types of engineering services, just like you just enumerated, and architectural services.

Will that be described in the RFP for procurement?

MR. GARLING: Yes, it will be described in the RFP. We've got the -- the 30 percent goal, but the opportunity that we have, the -- the RFP details all of these various types of tasks, right, so -- so one can see them.

And I think one of the interesting things, in -- in my experience of growing rail systems, is that, you know, you've got to start someplace. But as you start to build, your -- the companies that work with you also develop expertise.

So what's exciting to me is by having our CBE goals, our local firms are going to be sort of on the ground floor with us, building these projects from -- from the very beginning, building expertise.

Because we've got maybe 25 to 30 miles of light rail to build over maybe 25 years' time period. So by starting and getting CBE firms, it's an opportunity for them to work with the prime and to develop those specific sort of rail sets of expertise that they may not necessarily have.

They may have the engineering skill sets, but those skill sets applied to rail also make those companies available and useful to do national rail projects.

You know, there aren't that many rail projects that go on in the country. It creates a great opportunity.

MR. FRAZIER: My last is not a question, but a comment, because what you just described is very important. And my experience has been is that the big, big guy's always in control of these engineering service, you know. And they carry with them a number of little guys, and allow those little guys (inaudible) not small businesses that we're thinking about as it relates to that.

And that's why I asked those questions as it relates to procurement, because you could write it in such a way and the big guy already has his team, and the local people are just out there watching it. Just a --

MR. GARLING: Yeah.

MR. FRAZIER: -- comment.

MR. GARLING: Okay.

MR. HOOPER: So to go back to my question, the 25 is coming out of the 31?

MR. GARLING: Yes, that's what we're proposing.

MR. HOOPER: Okay.

MR. GARLING: But which is already the previous fiscal year, right?

So --

MR. HOOPER: So you're just kind of allocating it at this point.

MR. GARLING: Starting to make the money move, yes.

MR. HOOPER: Okay. Sounds good.

Anybody have any other questions?

Do we want to have a motion on this item?

MR. COOLMAN: She has to read the eligibility.

MR. HOOPER: Oh, I'm sorry. I always cut you off on that. Sorry about that.

MS. WALLACE: Thank you, Mr. Coolman.

So pursuant to Section 212.055 Florida Statutes, the proceeds from the transportation surtax can be used for the development, expansion, operations and maintenance of bus and fixed guideway systems.

Rail is a fixed guideway system, and so the engineering services associated with rail projects is recommended as eligible under the statute.

MR. FRAZIER: So **move**, Mr. Chairman.

MR. COOLMAN: Second.

MR. HOOPER: Okay. All those in favor, say aye.

Those opposed?

Okay. Thank you.

MR. GARLING: Oh, thank you.

VOTE PASSES UNANIMOUSLY.

4 - MOTION TO APPROVE AS STATUTORILY ELIGIBLE, PROPOSED PROJECT AND EXPENDITURES IN THE AMOUNT OF 2.366 MILLION DOLLARS AS THE LOCAL CONTRIBUTION FOR A FEDERAL RAILROAD ADMINISTRATION (FRA) CROSSING SAFETY GRANT

MR. HOOPER: We have one more.

MR. GARLING: Okay. Moving to Action Item 4.

This is a motion to approve as eligible 2.366 million contribution towards a Federal Railroad Administration, FRA, crossing safety grant.

The Broward County Sealed Corridor Project is what it's called, is requesting -- the overall grant will be 23.68 million dollars, of which 80 percent, 18.944, would be federal funds.

So what we're requesting is the approval of surtax funding equivalent to what would turn out to be a 20 percent match for that part of the project that would relate to us, and I'll kind of talk about that -- that in a moment, that we could harden or improve the crossing safety along the FEC railroad.

So a couple of aspects of this, I think, to -- to talk about.

As we are getting ready to progress the commuter rail south project, the County actually then we will have a specific responsibility to make sure that that corridor operates in a safe manner.

I had the opportunity, actually, a couple months ago to attend a meeting that Miami-Dade was running with the FRA and the FTA. And one of

the -- one of the aspects the FRA, the Federal Railroad Administration, really emphasizes is that you're doing a safety hazard analysis of any line that you build, and that your project defines mitigations to make sure that it runs safely, right?

And so in the corridor that -- that's been running, I think everyone's aware, Quiet Zone issues, and everybody's aware of the safety challenges that we've had in that corridor.

So as we go forward with our commuter rail south project, it will be a requirement of that project that we are mitigating those safety -- those safety issues along that stretch.

So this is an opportunity to sort of make a down payment on commuter rail, because this grant is an 80/20 grant, it's available now.

The hardening of those crossings, the protection, the separation of those crossings from the railroad is something that we could work on now, that we can fund with 80 percent federal match or -- and a 20 percent local match, 80 percent federal, 20 percent local, and we could implement now.

And that's kind of like a down payment, because if we don't do it now, we're going to have to do it when we do that other project, and a Small Starts grant is likely to be a 50/50 match.

So just in that one standpoint, it's a good deal.

But it's also money available right now to help mitigate a safety problem.

So if we look at the southern part of the County, that part that we're

going to put that commuter rail south in, that is an area of particular interest to us.

And then to the north, there's about three other crossings that -- County roads that we would also be interested in providing the local match to.

So the grantee itself is -- is our Broward MPO. So they're taking the lead in doing the grant. And they're soliciting support from the municipalities that are along the route to, you know, sort of pay their -- their share of it.

So ultimately what this does is it gives us, you know, our -- our -- roughly our 20 percent match for our portion. Municipalities are going to put their share in. It's going to be a 24 -- 23, \$24,000,000 endeavor, and it's going to be this grant application that we hope is going to be successful.

Now, this application was submitted on October 11th, just a few days ago. But the way those grants work, you really don't need to show up with the money and the local commitment of the money until you get the grant.

What we feel, since this project is coming, we thought this is a good opportunity to bring it to you, because then we can supplement our grant application and say that we've got, you know, money that -- that we can allocate to it so as they're considering that grant, it gives them more to consider.

And that gets back to the value of having the surtax and having the locals get into the game as we go to try to get those matches.

So I think this is a timely project, it's an important safety project. It

puts us in an position, as you look to the future, where we're going to be rail operators and we're going to have to -- we're going to have to deal with those safety issues.

And I think, you know, we need to deal with those safety issues anyway, and this just checks all of those boxes.

So I think this commitment of the surtax funds is really terrific for this project.

MR. HOOPER: Doug?

MR. COOLMAN: Question. Will this improve the Brightline safety situation we have?

MR. GARLING: Yes. I don't see how it -- it can help but improve it, right? It's -- it's really trying to make the -- less likely for automobiles and pedestrians to cross in front of trains --

MR. COOLMAN: Thank you.

MR. GARLING: -- and to harden that. So it -- that helps immediately helps in the long-term, helps both.

MR. HOOPER: Mr. Allen.

MR. ALLEN: What -- what commitment do you have from the -- the cities?

MR. GARLING: So the MPO is working on the cities. I believe at this point, they've got commitments from seven of eight municipalities along the way to provide the grant. That's (inaudible), but I don't know, Gretchen, if you've got a -- an update of that or --

MS. CASSINI: Yes. You're -- you're correct.

MR. GARLING: Okay.

MR. HOOPER: So you've got crossings at -- all along the County, and I heard you say County roads.

MR. GARLING: Yes.

MR. HOOPER: When the Coastal Link is finally finished, I would imagine that every crossing has to be -- has to meet that requirement.

MR. GARLING: Well --

MR. HOOPER: So how do we find it for all the roads --

MR. GARLING: -- well --

MR. HOOPER: -- or --

MR. GARLING: -- so that's actually what's happening here, right?

MR. HOOPER: Okay.

MR. GARLING: They're trying to get the entire County onto the north. So this is a comprehensive project of --

MR. HOOPER: Right.

MR. GARLING: -- \$24,000,000. I was kind of emphasizing -- I was emphasizing sort of our -- our portion of it that relates to sort of our interest, but for -- from the countywide, you know, the protection of people and protection along the railroad is, you know, from one end of the County to the other --

MR. HOOPER: Awesome.

MR. GARLING: -- and it protects all the -- and protects the crossings

and continues to harden them.

And from my point of view, you do these kind of projects, I think they've got some good techniques and things that help.

If that doesn't work, do something else, right? You know, these safety issues that we have are going to be things that are really the responsibility and, as we run rail systems, our responsibility to do something --

MR. HOOPER: For sure.

MR. GARLING: -- about and to make sure our system is safe for the public.

MR. HOOPER: I -- I think it's fantastic.

The other thing that I've always scratched my head about is, you know, all over the County, throughout the tri-county, you can cross the railroad at any mid -- mid-point, you know, just walk across the --

MR. GARLING: Yeah.

MR. HOOPER: -- the right of way. And I don't know how you don't have at least a chain link fence the entire length.

I -- otherwise, you know, that's how the -- how the individuals -- pedestrians get hurt, for sure.

MR. GARLING: Yeah.

MR. HOOPER: So, anyway. We'll see how that all plays out.

But --

MR. FRAZIER: Yeah, I have --

MR. HOOPER: -- I think it's great.

MR. FRAZIER: -- a question.

MR. HOOPER: Mr. Frazier.

MR. FRAZIER: We -- we're talking about all the railroad crossings, or basically the I-95 corridor where -- where the --

MR. GARLING: The --

MR. FRAZIER: -- Brightline runs or what?

MR. GARLING: -- right. The FEC corridor where -- where Brightline currently runs.

MR. FRAZIER: Okay.

MR. GARLING: Which will be the same corridor where we would be implementing commuter rail south, at least from, you know, the Aventura station to the -- the Fort Lauderdale on --

MR. FRAZIER: Right.

MR. GARLING: -- on this side of the --

MR. FRAZIER: Well, I know that --

MR. GARLING: -- New River.

MR. FRAZIER: -- the railroad runs through a lot of inner city neighborhoods, so how do you prioritize these crossings?

MR. GARLING: Well, I think this is -- this is doing -- there's been a number of projects to do crossings, and this is kind of supplementing and fixing the (inaudible) crossings.

I also think this grant doesn't sort of cover that, but there are, you know, also outreach and -- and things to continue.

I know that Brightline is making safety messages. I -- you know, I see those in -- in media, in social medial.

So continued awareness, as well as the -- the hardening, those -- protecting those areas that you can protect, you'll help make the -- the safety of the railroad.

MR. HOOPER: All right. Any other questions?

Do you have any more to present? You're -- you're good.

MR. GARLING: That's it.

MR. HOOPER: All right. Would you -- anybody want to make a motion?

MR. GARLING: Oh, I'm sorry. I'm sorry. One more slide. There we go.

MR. HOOPER: But we already heard that? No? We haven't heard it?

MS. WALLACE: No, not (inaudible).

MR. HOOPER: Do it again.

MS. CASSINI: No, Anthea has a question.

MR. HOOPER: Okay. Ms. Pennant?

MS. PENNANT: Yes. I wanted to know what data you're currently using to track safety so we can establish a baseline so later on, as we start this investment, we'll be able to see exactly how we're improving.

MR. GARLING: And I don't have specific information on that myself, but we can certainly find out, because I know that it's being tracked, and we

can provide that information.

MS. CASSINI: In fact, the last sentence of the previous slide indicated that if we are successful with this grant, we are going to come back to you and -- and provide you with the details of the 27 crossings, what those improvements are going to be, where they are, and what, you know, safety improvements are expected, what the results of those safety improvements are expected to be.

MR. HOOPER: Great. Okay. Do I have a motion from anybody?

MR. FRAZIER: So **move**, Mr. Chairman.

MR. HOOPER: Thank you.

MR. COOLMAN: Second.

MR. HOOPER: All right. We have a motion and a second for approval.

All those in favor?

MR. ALLEN: You jumped ahead --

MR. HOOPER: I did?

MR. ALLEN: -- of our counsel?

MR. HOOPER: Oh. You didn't -- I thought we just did that. I -- I see it on the --

MR. COOLMAN: You've got to do it for each one, Alan.

MR. HOOPER: Can we just do one at the beginning of every meeting? Just kidding.

MS. WALLACE: Well, since you're taking separate action on each

item, it's important to put on the record the elements of the item and what the -- what portion of the --

MR. HOOPER: Okay.

MS. WALLACE: -- the Statute applies to that particular item.

So this item includes improvements to both the roads that cross -- and some of them are owned -- some of them are municipal roads, some of them are County roads -- and the actual rail safety improvements that protect the road and those who traverse the road.

So from -- for -- as fixed guideway improvements and road improvements, this particular project and the expenditures are eligible under 212.055 Florida Statutes.

MR. HOOPER: All right. So we have a motion and a second.

All those in favor?

Those opposed?

Okay. That motion is approved.

Thank you.

MR. GARLING: Thank you very much.

MR. HOOPER: Have a great day.

VOTE PASSES UNANIMOUSLY.

DISCUSSION ITEM

STATUTORY ELIGIBILITY OF PROJECTS AND EXPENDITURES

MR. HOOPER: We're done with those, right? Okay. So we're going to get into our special meeting, and we're going to talk about the statutory

eligibility of projects and expenditures.

And our pro here knows what all of them are. The one -- one that I know Doug Coolman has heartburn over is the bicycles, you know.

So I thought we'd just open it up and start talking about any of the ineligible parts to our ordinance that any of our members have an issue with and is there a way where we can potentially help cities, the County figure their way through this so that we can end up with more projects like the Loxahatchee project where bicycles become more of a priority and the pedestrian is also looked after through the surtax financing?

So anybody want to start?

MS. WALLACE: If I may, I would like to introduce the County Attorney to those who are not aware of who he is.

This is Andrew Meyers. He's the County Attorney, and he's here to I guess participate in the discussion and answer any questions you all might have.

I'm not sure whether he wants to make a statement.

MR. MEYERS: Hello, everyone. I -- I've met a number of you -- sorry. I've met a number of you before, but not all of you.

As Angela said, I'm Andrew Meyers. I go by Drew.

I know there have been some discussions on this issue. I was invited to be here today, so I'd like to participate.

I'm not an expert on all of these issues. I can read a statute pretty well, but we -- we tend to rely on our experts on them.

And on this on in particular, we've done some additional vetting, but we do have some recommendations --

MR. HOOPER: Oh, good.

MR. MEYERS: -- on this that -- excuse me -- might help us advance the issue.

I'm happy to cover that.

I do not know the specifics of your projects, so if you're going to get into a detailed discussion of your projects and why particular elements may be eligible or not, I won't be able to add any value, nor would I be able to stay, because I've got a 3:00 o'clock meeting.

But in terms of generalities, what our office's position is, why we think that's the position that's appropriate, how we might be able to move forward on this to perhaps get a more definitive position, or nothing definitive absent a court ruling or a statutory change, but something that may assist us in providing guidance on this.

But we're happy to certainly discuss that right now.

MR. HOOPER: So if you guys don't mind, Drew, I wouldn't mind hearing some of your thoughts that you've already put together, especially since your time is so valuable.

MR. MEYERS: Thank you very much, Mr. Chair. I appreciate that.

And please stop me at any time if I'm off track. I don't want to waste your time. And I know you're here providing a great service. And I don't have any extra time myself, so I don't want to go --

MR. HOOPER: No.

MR. MEYERS: -- onto a tangent and then have you say, you haven't addressed it at all. But --

MR. HOOPER: Okay.

MR. MEYERS: -- as I understand it, Angela has given the opinion that standalone sidewalk and standalone bicycle paths are not eligible. So projects that only provide for that, they're not eligible under the statute.

I understand that there are procedural concerns and there are also substantive concerns here.

With regard to procedure, as you know, I'm the County Attorney. I deal with motions all the time.

Before I became County Attorney, for 18 years I was the County's Chief Appellate Counsel. So I understand how important it is to have a -- a good record on things.

Sometimes we remember things one way, and we go back and we look at the record and it's not as clear as we would like for it to be.

I think Angela would acknowledge, because we've had some conversations, that some projects that she has ended up opining were not eligible for surtax funding were approved perhaps without sufficient clarity in terms of those projects being conditioned, the approval being conditioned upon further review.

And some of her role is very difficult, because I've seen the list of projects. Again, I haven't gotten into a lot of the details, but some things may

be called sidewalk projects but they also involve improvements to the roadway. Others may not.

So, you know, Angela's going to go back and she's going to look at the record, and if there are things that need to be clarified or corrected, because it's important that we do that, whether it involved proceedings before this body or before the County Commission, we're going to go ahead and do that.

With regard to the substance, we all know it -- what Angela's opinion has been on this. But I also get letters. I got the letter from Ms. Landy (phonetic), I think it was, and I speak to many of the municipal attorneys about many different issues.

I also hear from my Mayor and Vice Mayor and Commissioners when they hear from the municipal folks, elected officials who would prefer that certain things be made eligible or determined to be eligible.

So when I saw this controversy brewing, I also brought in a number of attorneys in my office who are pretty darned good at analyzing things and -- and researching things. I used to be really good at that, but I think my skills atrophy over time. So I took a look at it, as well, but I rely heavily on these people for some of our most important analysis that goes -- goes into the -- on in the office.

These attorneys concur with Angela.

It doesn't mean that we're -- we're right. You know, lawyers have opinions. Court issue -- courts issue rulings. You know the old joke about you get seven lawyers in a room, you wind up with eight opinions. So

opinions are worth something and rulings are worth another.

But this is our objective opinion on it.

So I just wanted to confirm that after plenty of analysis by some really good people, the opinion, as I understand it, that Angela rendered, is, in fact, the opinion of the office.

That said, I asked my lawyers to come up with some creative arguments that could perhaps be raised to -- to fund these issues and to find them eligible.

We -- I'm not going to talk about how strong we think the arguments are, because we put those into a proposed request for an opinion letter from the Attorney General, which does get to opine on these issues.

I have to tell you, I'm normally very reluctant to seek Attorney General opinions. They're only persuasive. They're not binding. But we think that they -- an opinion from the Attorney General could be helpful here.

I want to explain to you that when we issue our opinions here and we - - and we perform our analysis, our concern is not just that we're right. Of course, we want to be right. We should never be telling you that it's our opinion that something is eligible if we really don't think it is.

But the concern also is that there's exposure here and potential claw backs that are involved.

And under our agreements with the municipalities, if, despite what this Oversight Board does, despite what the County Commission does, and despite any opinion that we may have that something may be eligible, they

might be required to repay funds out of general revenue that they thought they were going to be able to use surtax funds.

And that -- that has real world consequences.

So there's a reason why we're somewhat conservative with these things, although our opinion on this is pretty objective.

I know there's been some discussion also of the ballot question that's gone on.

We don't -- we understand the assertions and the position regarding the ballot question.

We don't read the question to be inconsistent with our opinion on this, but let's assume that the question could have been framed better. And I think you all know we litigated that question. It was -- somebody took the approach -- actually, a number of municipalities, that it was misleading for various reasons.

I handled the trial work even though I'm a -- an appellate lawyer, and someone else -- one of the lawyers who looked at this opinion also -- handled the appellate work on it.

And we prevailed, hands down, very easily on that.

But -- yes, sir.

MR. COOLMAN: Did you -- I'm not sure I understood what you said. You litigated with some of the cities the ballot language that includes sidewalks and -- and they were -- and they -- you prevailed that they're -- they're not eligible?

MR. MEYERS: No. No, sir. Let me -- let me make sure I clarify that. Using a little bit of shorthand here.

There's a time to litigate ballot questions. They can be litigated -- generally, the preferred approach by courts is you litigate them before they get on the ballot. Sometimes, for a short window, you can do it after they get on the ballot.

MR. COOLMAN: Okay.

MR. MEYERS: Here, they tried to litigate it before. They didn't raise the specific issue with -- with --

MR. COOLMAN: Okay.

MR. MEYERS: -- sidewalks. They took the position that -- that it was misleading because, frankly, they, you know, weren't -- you know --

MR. COOLMAN: I understand now where you are. Thank you.

MR. MEYERS: Yeah. Yeah.

So, in any case -- and, also, let me be clear. And I'm -- I'm trying to think back. I don't know if it was the precise ballot question. It was authority relating to the ballot question that we litigated with them.

But the timing of ballot questions is -- in terms of challenges, it's time limited.

At this point, this board is charged with interpreting the statute, not with the ballot question.

I haven't gone back through the ordinance in detail, but I skimmed it a little bit.

And I know that you're asking for recommendations, and I have a script that you have counsel read to say under the statute, this is what -- what's eligible.

If the question could have been framed better, and, you know, arguments can be made about that. Maybe people read it one way and they could have theoretically read it another, at this point, I don't know what there is to do about that.

But what I'm confident we shouldn't do is to compound any problem by approving projects that are statutorily ineligible.

And so, at this point, you know, just very simply, what we would recommend doing, if there is an interest in doing it, the opinion letter that we had -- request for an opinion letter that we had done dated October 7th -- we had been kicking it around for a while, but we decided to hold off until today, because you may have really good examples that we can put in here, we do raise the technical arguments that we've come up with that, you know, maybe could support a determination that these things are eligible.

If we're wrong, fantastic. I mean, it gives us, you know, way more latitude.

It doesn't reduce the risk for the municipalities if a court subsequently comes back and says we disagree with what you did and we disagree with the Attorney General, because it's only persuasive. It's not binding.

So forgive me for -- and thank you for stopping me on that, because I was detouring onto it, but an issue that was just a side issue, point out to you

that just timing-wise, the time to challenge the ballot question or worry about those issues is gone.

And while I understand the argument, I think we need to focus on the statutory authority and the precise language of the statute, which, unfortunately, is not fantastic.

And one of the problems with it is that they used the word roads when we think maybe they intend roadways. They have very different technical definitions.

And I know that our Board also, you know, is very big supporters of the Complete Streets and -- you know, and having -- I -- I bicycle all the time. I'm on the greenways. I -- you know, whatever is there, I would absolutely love to see enhanced.

So there -- there's no intransigence on our part based upon any prejudice against these things. It's just an objective reading of the statute.

So that -- that's about all I have.

MR. ALLEN: Who is requesting -- I'm sorry. Who is requesting the -- would request the Attorney General's opinion? Would it be this board or the County Commission?

MR. MEYERS: Yeah, it would actually -- this is coming from me. It could be anybody on behalf of the County. And it would generally be from a lawyer or an elected official normally.

I -- I'm not sure that the statute limits it to that.

And we're -- we already are going to clean it up a little bit. But if you

would have any interest in seeing a draft of it, as long as you understand it's a draft, I will leave this hear. We can make one, two, three, four, five-plus copies of it. Night school's paying off with my counting. And then we'll -- we'll take it from there.

But, again, I want you to know, we -- I've never done this before. I don't seek Attorney General opinions, because they are just persuasive.

You know, the Department of Revenue has power on certain tax issues. Division of Elections has a power on elections issues.

Here, it's just, hey, are we being too conservative here?

And by the way, we make, we think, as strong a case as can be made for it to be eligible. I don't want you to necessarily think that, you know, there isn't a little bit of, you know, policy or advocacy going on in there.

Objectively, our opinion remains the same.

MR. HOOPER: Okay. Go ahead, Mr. Coolman.

MR. COOLMAN: How much time do you have before you have to leave us?

MR. MEYERS: Someone's going to come and get me at 3:00 o'clock for a --

MR. COOLMAN: Okay.

MR. MEYERS: -- for a meeting with a -- yeah, and I told them to push back a 2:45. I thought I was starting at 1:45. But, anyway, yeah, I -- I could do 3:00 or --

MR. COOLMAN: All right.

MR. MEYERS: -- maybe stretch it a couple of minutes thereafter.

MR. COOLMAN: I just want to summarize a couple things from my side, or we talked about it in general.

But, first of all, the ballot language in 2018 I think is what's causing the cities to feel slighted, because it's very clear. It says -- I'm going to -- I'm going to take a few minutes and just read it.

Shall the countywide -- shall the countywide transportation improvements -- shall the countywide transportation improvements to reduce traffic congestion, improve roads and bridges, enhance traffic signal synchronization, develop safe sidewalks and bicycle pathways -- very critical -- expand and operate bus and special needs transportation, implement road -- implement rail along approved corridors, and implement emerging technologies be funded by levying a one percent sales tax paid by residents and visitors with the proceeds held in a newly created trust fund and all expenditures overseen by an independent Oversight Board.

That's what the constituents voted for. That's why this issue of sidewalks and bikeways not being allowed for surtax dollars, in my opinion, is absurd.

That's what's causing the problem. That's what they voted for.

So with this as a starting point, this board -- the Oversight Board shall review and approve all proposed expenditures of transportation surtax proceeds to ensure consistency with the requirements of Section 212.055(1)(d) Florida Statutes.

That's what we read every time.

We understand that we have to comply with the statute, although the statute in itself is fairly vague.

And I appreciate us trying -- one way we talked about it was trying to do what you're doing here today, to see if we can change it without totally opening up Pandora's box, which is another alternative.

In light of those comments, I asked Gretchen, there's, I guess, a couple other cities that are doing something similar to a surtax. And she put together a -- I guess a Marianna Price (phonetic) put together a list of all other cities and where they're spending their money on bicycle ways and sidewalks and things of that nature.

Now, I don't know what the requirements are for how their money was approved or not approved, but it seems to me that today, a road or a roadway is entirely different from what it was in the 1800s.

A road or a roadway exists between the right of way lines, and anything in there should be considered. That's a nomenclature that's current. I mean, in the 1800s, it was a dirt path. Nothing else. Today, it's got -- everything between the right of way is considered a road or roadway.

And you mentioned it yourself, well, it didn't say road, but it said roads. It didn't say roadway. Well, it didn't exclude roadway.

The other thing is I find nothing in any of this that said they couldn't be standalone. All of a sudden, it's, oh, they've got to be related to a road -- roads.

Well, that I think is open for certainly discussion.

So this little piece of paper gave me more belief that we should be doing what the ballot language said, and we should be approving these project.

Now, with that said, I think we're here to find a solution. What -- this letter might help us. And don't right now open up Pandora's box and go back, although, to be honest with you, I don't really understand what we're worried about.

I know you guys are worried about opening it up, but I'm not saying we should do that.

But maybe the solution -- the amount of -- I think there were six projects in the first set that we denied ineligible that were sidewalk projects. That correct, Gretchen? More or less.

MS. CASSINI: There were originally eight --

MR. COOLMAN: Okay. How many --

MS. CASSINI: -- and now it's down to six.

MR. COOLMAN: -- how many million dollars are we talking about? Three or four? Five?

MS. WALLACE: About five.

MR. COOLMAN: Okay.

MS. WALLACE: Uh-huh.

MR. COOLMAN: Why -- why don't we solve the immediate problem, which is take the money from the tax -- gas tax and fix that problem and

educate the cities to go ahead and, in their future applications -- because here's another thing I find on page 23 of our -- of our backup0.

The Oversight Board shall issue its written notice regarding statutory eligibility of proposed projects and expenditures no later than 30 days after the meeting during which the proposed project and proposed expeditions [sic] were considered for, or resubmittal projects reconsidered.

It means like these things were considered and then you can't even bring them back up again. And so we have this problem of these projects are denied -- were first approved, then denied for eligibility, and then, if they resubmit, it takes longer and maybe you can do that, maybe you can fix them.

I don't know. I think -- I looked at the six projects that were in here, and all but one of them seemed like they just -- they didn't have the proper language to go with it.

But in hindsight, if we're talking about \$5,000,000 -- and we just okayed I don't know how many million here today that needed to be fixed -- this is a problem that needs to be fixed.

So why don't we fix it with gas tax, if we can, and then work with the cities to make their applications in the future conform to what's in the statute today if we don't get changed or the -- or this letter doesn't?

That's my two cents.

MR. HOOPER: Mr. Meyers --

UNIDENTIFIED SPEAKER: Mr. Chair.

MR. HOOPER: -- go ahead.

MR. MEYERS: Thank you, Vice Chair. You make, you know, good points. You know, you obviously believe in that position, and you presented it very well.

The -- you know, we -- we're just going to have to respectfully disagree in terms of the ballot question that it's the province of this board to base decisions based upon the ballot question.

I just don't think it is. And maybe in your -- your presentation you can - - you have something that says something to the contrary. I am -- I haven't seen it, and I'm not aware of it.

MR. COOLMAN: I'm a little confused. When you say -- the ballot wording is pretty specific, why -- why am I wrong in interpreting that sidewalks and bike paths can't be paid for with surtax dollars?

MR. MEYERS: Well, actually, I think they can be paid for with surtax dollars, but the opinion is that not as part of a standalone project.

And I don't think the -- the ballot question, while, you know, people can certainly read it various ways, it also is transportation improvements. It has a lot of things. The public understands what the Statute says.

As you pointed out, the Statute isn't written with model clarity, which is why we're all just sort of guessing, in an educated sense, here.

I also wanted to mention to you, I didn't know that you were collecting projects from other areas. I did see yesterday something come through late. I think it's some projects from Miami-Dade County, which is also operating

under a surtax under the same statutory provision.

I know -- I asked Angela what she knew about the projects. I asked her to speak with her contemporary down there. I think she can tell you what she found out, although it's just preliminary.

But there is risk here. And the risk is -- is really directly borne by the municipalities. You know, aside from the fact that I'm charged under the Charter, and Angela, you know, her name may be on things, but I'm responsible. The buck stops with me. We can't approve things that we don't think are eligible.

We would look for a way, and you focused on it as well, and impressively, you know, the distinction between roads and roadways is something you'll see in this letter that we address.

We think it's a strong technical argument, and, as an appellate lawyer, I know if the Legislature used a certain word, that's what they intended to use. Unless they didn't. Unless they didn't.

And, again, we -- we're going to try to get this done.

Now, as far as gas tax, that could be a recommendation by you. It's not something that -- that, obviously, this board makes decisions on, right, the gas tax. It's only on the transportation surtax.

But maybe there is a way to do it.

And maybe these things are -- are definitional in scope.

I agree with you that it's unfortunate that there may be delays because of people -- and we bear responsibility also for this -- people not

understanding what may be eligible, what may not be.

But eventually, these things get fixed. And to the extent these things can be fixed through a careful analysis and definition of the scope, that's certainly an easy way to do it. Time consuming, but easy.

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: Let me say -- you know, the one thing I usually always go with what's written in legal language, and you've got to try to stick with what -- what'll win in court.

But in this particular case, I believe that this Oversight Board was put in its place to protect and to oversee the expenditures. And it's in the ballot language.

And I understand we're not -- you can't -- you can't argue the ballot language later on or in the future.

But at the end of the day, it -- it's almost like we're here to protect the constituents of our County and follow the -- what they thought they voted on. And now we're being told -- and now we have to follow a statute that's not aligned with what this ballot said.

Bicycle pathways, to me, does not -- does not necessarily say bicycle lane in a roadway. And sidewalks, yes, sidewalks are usually walkways on the side of a road. So that's pretty straightforward.

But it also says that -- that this funding will -- will create a new board that will oversee this -- these expenditures.

And we could certainly vote -- we can take recommendations from our

counsel, but, I mean, when things come up, you can vote the way your heart feels and we're either right or wrong.

But at the end of the day, I think we have to figure out a way to pursue bicycle pathways if that's what the voters thought they were voting on.

And we need to figure out how to fix this, because that's what the voter figured they were voting on.

They didn't -- they didn't -- this -- this (indicating) was what was in the -- the ballot when they voted. This here, the statute, was not.

And so Joe Voter thinks they voted for this (indicating) and we should figure out how to amend or do whatever we have to do to make sure that Joe Voter gets this (indicating).

And -- and that's -- that's not legal. That's just kind of right or wrong.

And I know you guys see it that way, too. You're a bicycle rider. I get all that.

But, to me, as an Oversight Board member, I'm almost inclined to -- to vote yes when a city comes forward, because I feel like I'm responsible to what the voter voted for and what they thought they were getting.

And -- and this voter thought I was getting this (indicating).

So -- and then the other question I have is what is the definition of roads in the Statute? What is the -- do we know that?

MS. WALLACE: The surtax Statute doesn't define what a road is.

The Statute says that the proceeds shall be used for the purposes enumerated in the Statute.

And so -- and it does not enumerate a bike path or a sidewalk.

MR. HOOPER: But I didn't ask about that.

MS. WALLACE: Right.

MR. HOOPER: What does roads mean?

MS. WALLACE: Road is not defined in 212.055.

UNIDENTIFIED SPEAKER: Yeah.

MR. COOLMAN: Mr. Chair, according to Webster, it's the area that your vehicle travels on. But I even looked it up to try to get --

MR. HOOPER: No, that's -- that's --

MR. MEYERS: It's -- no, it's interesting. I mean, you're -- you'll read this afterwards, but you'll see this is the distinction and we try to drill down on we think that this -- and I haven't looked at this in a little bit, either, but we think this -- you know, if you take the definition of roads from other statutory sections, you could argue that -- that this is included.

Is that right, Angela? I mean, maybe I should have distributed this beforehand so you could have seen it --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. MEYERS: -- but -- but we're --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. MEYERS: -- pressing that distinction.

And we would like your feedback on this, because, you know, again, we -- yes, we -- we -- you know, and I have a slightly broader view of the ballot question because we've litigated ballot cases and -- but I can see how,

you know, voters may look at it one way.

You have 75 words. None of these things are perfect. In hindsight, would it have been better maybe to say but not -- you know, in parentheses, but not freestanding X or Y if that was our clear opinion? Sure. And what else would have come out of there.

So it's always a balance with -- with ballot questions and, you know, we didn't, obviously, lead with bicycle paths and sidewalks. It -- it dealt with other elements.

MR. HOOPER: I -- I know, but, Drew, bicycle -- okay.

MR. MEYERS: Yeah.

MR. HOOPER: You say the words bicycle pathway to me, and I close my eyes, I -- this is what I think about. When you say a bike lane, I think about I'm up aside of a -- of trucks and cars.

So -- so bicycle -- I -- sidewalks, I can't argue. I -- I believe that that's probably next to a road.

But bicycle pathways, when I read this, I think this could be me in a park riding a bicycle. That's --

MR. COOLMAN: That's making better connectivity.

MR. HOOPER: -- and then not having a definition for roads. To me, I don't understand why they don't have a definition.

UNIDENTIFIED SPEAKER: I'm in a meeting. I'll have to call you back.

MR. MEYERS: I -- I think the Vice Chair also hit on it before. I mean,

the definition probably has evolved somewhat since the 1800s or the early 1900s. I mean, you know, I'm in a park. I -- I run and walk in a park, and, you know, half the time I'm trying to get out of the way of these one-wheels and other people coming up on me, you know, and these --

MR. HOOPER: Right.

MR. MEYERS: -- motorized things. And I'm never sure if they're supposed to be in there.

So, you know, all of this is -- is changing. You would think that the -- the Statute would keep up with it. Maybe it needs to be refreshed by the Legislature. Maybe the Attorney General is more enlightened than we are in our interpretation of it.

And we're not offended by that prospect. If that's true, that gives us more flexibility. And --

MR. HOOPER: Right.

MR. MEYERS: -- and it's unfortunate that you find yourself in this position. You know, we -- it's unfortunate we find ourselves in this position also.

But, ultimately, on these -- these deals, there's concern, and all of us are responsible to try to make sure that something fits within the statutory parameters.

We're giving you our best opinion as to whether it does or it doesn't.

Maybe -- you know, I understand it's -- perhaps, you know, seemed to have meandered somewhat, but I'm -- I'm sitting here with you, and I'm

telling you what it is.

And if it were -- excuse me -- otherwise, I would let you know that, too.

MR. HOOPER: I -- I know. But in a document, typically a -- every -- every word that has weight is defined. Typically. And even if it's somewhere in the statutes of the -- of Florida law.

But a road, to me, could be a road for a golf cart as much as it could be a road for a scooter as much as it could be a road for a road -- for a -- a car.

So if we don't have that defined, then -- then doesn't that provide us with the flexibility we're looking for, and should we be so stringent and not take it that way?

UNIDENTIFIED SPEAKER: Let's put it --

MR. FRAZIER: Mr. Chairman?

MR. HOOPER: Yes, Mr. Frazier.

MR. FRAZIER: I -- I have some different kinds of comments, because I've been involved in a lot of bonds projects, and municipal bond projects in Miami-Dade County.

And it's very interesting that we're arguing over the wording and this language, because, as the Black citizen here, we used to argue in Miami-Dade County, City of Miami, all the language all the time. Unfortunately, we always lost, because the areas that we thought we were going to get help in, mysteriously disappeared.

And I think you understand what I'm talking about. And I'm talking

about, you know, City of Miami had a park bond, and get out to the (inaudible). You know? And -- and that money just disappeared, and we didn't see one park out of that.

The only one that I've had any success with is the Miami-Dade County school bond program, only because I was involved in some of the implement -- implementation as -- as -- as a citizen.

And I understand your frustration, because in that bond, they listed every school and they said this is what we're going to do, and this is how much it's going to cost for all these schools. And they had a budget and the whole bit.

And once that bond passed, no one can find those papers anymore. Except for me, because I made copies of them. Everything disappeared off the website and what have you.

And when those schools came up, the scope that was intended somehow got reduced. And they said, well, the money wasn't there and we had to reduce the money.

And then when these projects got ready to go under construction, they had another review and went out and looked at the schools, and they said, oh, God, we've got more problems than we ever anticipated.

Scope reduced again.

The end product was not recognizable based on what was promised.

And what I learned from that process is first we have to understand the rules of engagement. And that is the language that's in the statute, you

know. And I got that reading from a number of attorneys. Yeah, Frazier, we understand what the bond said, but this is how it's going to be implemented. You know, the time that you should have protested or if you had a conflict was when that language was there, because there was an opportunity to say, we don't like that language, change the whole bit.

So from my standpoint, there appears not to be an alternate dispute resolution process here.

So from -- from you as the main legal counsel, what is our statutory responsibility? I know what we would like to do, but what is our statute -- statutory responsibility in terms of making decisions here?

MR. MEYERS: And -- and thank you, sir. I knew -- know exactly what you're talking about.

And, you know, your responsibility under the -- the ordinance, and it was referenced in the ballot question, which, you know, took a certain number of words also --

(Laughter.)

MR. MEYERS: -- and it was important, and what you do is absolutely critical.

Your responsibility -- excuse me -- is to determine eligibility based upon the statute itself.

I'm sorry, I -- I'm speaking all week here and losing my voice a little bit. Give me one second, please.

But -- but it -- it's to find eligible based upon what the Statute actually

allows, not necessarily what we say it allows. We make allowance for our own fallibility here.

You know, we could be wrong. Sometimes we're wrong. We think we're right, and everything that's been said here, I don't know if we somehow listened to these meetings without -- without knowing we were doing it, but we're tracking a lot of what you all are saying, and saying technically we think it's -- it fits within this. We just don't know.

We write this as though we see reasonable grounds to make the determination that freestanding sidewalks and bicycle path projects are eligible. We know that they're eligible if there's a component with work on the road.

UNIDENTIFIED SPEAKER: Uh-huh.

MR. MEYERS: But for these few projects that are out there that -- where the scope accurately reflects that there's no part of the -- of the actual area where vehicles travel, however you define that, that's being impacted, we make a case here for even including those projects.

Your responsibility, sir, as -- as Angela as your counsel and County Attorney's Office is -- is counsel here, I'll tell you the same thing that I tell my Board members.

You're always -- if you're acting in good faith, you're doing your due diligence, you're always protected if -- if you're heeding what sounds to be reasonable advice of counsel.

If counsel's telling you something that sounds like nonsense, you

know, then that's a different discussion we ought to be having.

But if it's reasonable, you ought to question it if you disagree with it, which is exactly what you're doing. You ought to challenge it. You ought to try to push it if you think it ought to be pushed and it's too narrow.

And I know you've done all of those things.

And then, as a result of those things, we ourselves are going to try to see if our interpretation is too narrow, get somebody objective who can look at this.

And, by the way, if they say we're right, that doesn't end the inquiry, either. I mean, somebody could take the position, seek some sort of declaratory judgment, theoretically, and get a court to rule on it. I mean, because, again, the Attorney General here is just persuasive, it's not binding.

But I would recommend that you focus on the statute and not on the ballot, and that your best approach would be to follow the wise counsel of the person who sits here the whole time.

And when we're wrong, we're going to tell you.

So thank you, sir.

MR. HOOPER: So Debbie and then --

MR. ALLEN: Well --

MR. HOOPER: -- Phil.

MR. ALLEN: -- 25 years of experience in -- in this organization and -- and interface with Drew and the other attorneys in the office, I mean, there are two approaches to legal interpretation.

There's you can do what is specifically in the statute, which gives you permission to expend money for certain things, or you can take a viewpoint that says, well, I -- it says I can't -- or it doesn't say I can't do it.

And the position of the County more often than not is unless it is specifically mentioned in the statute, then it is not permissible to expend the monies in those -- in that fashion, rather than saying, well, it doesn't say I can't do it, and, therefore, you reach the conclusion that, well, yeah, we can do that.

And the last time, Drew, that you came before this board as we were discussing our operating procedures going forth in the original implementation, and we got into the discussion of the independence of -- of this board and its position relative -- vis-à-vis the County Commission, we -- we talked about, and -- and, at one point in time, there was a draft of our operating procedures that said that -- basically, that we had to follow the directions of our counsel.

And then it says -- then it was -- and -- and with Drew's assistance, we got that changed to consider the input of -- of the counsel --

MR. HOOPER: Uh-huh.

MR. ALLEN: -- to the board.

I believe that some of the cities or some of the feedback that I hear is they don't want us to pursue an Attorney General opinion on this matter.

I don't know why. I don't know why they take that position if that helps us clarify our position. But some of the cities are just saying, well, you ought

to just go -- since the statute doesn't say you can't do it, therefore, you can do it.

And, you know, the -- the backup that we got yesterday appears to be that -- that Miami-Dade, in their transportation surtax fund, are taking that other position, is it doesn't say we can't do it, therefore, we're -- we're building sidewalks.

I don't know.

And we -- we just talked -- we just spent, what, \$25,000,000 on engineering services for rail, for light rail, and another project that we just approved. And we talked about pedestrian safety as part of the implementation.

You know, a sidewalk does provide, whether it's, you know, abutting a roadway or a railroad, it -- keeping the people walking on the sidewalk versus walking in the middle of the street, you know, that, to me, is a road -- roadway project.

And I get lost in this interpretation of a road is not a roadway or a roadway is not a road. I don't know.

So I --

MR. HOOPER: It --

MR. ALLEN: -- just my input.

MR. HOOPER: -- I -- I just want to say something. Ms. Madden probably wants to say something that she wants you to hear, but go ahead and answer Mr. --

MR. MEYERS: (Inaudible) and there are only about 12 lawyers on a call. They can wait a little bit.

(Laughter.)

MR. MEYERS: It's okay. Mike Kerr has come in here to --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. MEYERS: -- to grab me.

And, Mr. Allen, I remember working with you quite a bit when you were, you know, one of the great folks we had at -- at the County.

We -- we take the position that we -- you know, generally, Home Rule power exists unless the statute says, you know, you can't do it. You know, unless -- where -- unless there's a field preemption of some sort that says you can't regulate in this area, or a direct conflict.

And I've litigated a number of those cases.

So we don't disagree.

My good friend Jamie Cole always starts with, we can do it unless it says you can't. And -- and I -- Jamie and I largely agree with each other on that.

But the question is trying to interpret it as to whether it's saying you can't. Is it saying it directly? Is it saying it indirectly? There -- I'll throw around a little Latin, you know, *expressio unius*, whatever they -- however that ends, Ms. Madden. It's -- you know, so when -- when you list things and you delineate things, is it inclusive, is it exclusive.

There are all of these rules of statutory construction, and we're

wrestling with those.

But I don't disagree with the notion, and we've taken this approach, and, frankly, we've won some and we've lost some, that if it doesn't say clearly you can't do it, you -- you can do it as a matter of Home Rule, because there's no preemption.

We think it's a tougher case here. Perhaps that's why the municipalities prefer grey area here than maybe trying to go to the Attorney General.

I understand, you know, that politics are at play. Not just at this -- at the local level, but at the -- at the state level. There's a certain orientation with taxes at the state level that we may not have quite as much -- although everyone is very cognizant of these things.

So everyone's here in -- in good faith. The cities are here in good faith. Everyone wants flexibility. Everyone wants the projects funded to meet the needs of the community.

So we don't quarrel with anyone. Our goal is to get on the same page with everyone.

I just wanted you to know that, at least for me, and I have my 30 years in now, so I can -- I can say almost anything, more or less, it'll never be my position that, you know, unless the statute says we can do it, that we can't do it. I will never say that.

It's -- it's just interpreting it globally. And reasonable minds can differ as to what it means.

MR. HOOPER: Thank you.

Ms. Madden.

MS. MADDEN: Thanks.

I had -- I was wondering, with the changes from 2019, I hadn't really studied these as closely, does Section 2 apply to this County? Not at all? Or not a -- 125.001?

MR. MEYERS: That's probably Miami-Dade.

MS. CASSINI: Miami-Dade, Hillsborough, (inaudible).

MR. MEYERS: Yeah, there's some legacy counties --

MS. MADDEN: Okay.

MR. MEYERS: -- under the 1885 Constitution --

MS. MADDEN: Okay. So --

MR. MEYERS: -- I guess.

MS. MADDEN: -- maybe -- I don't know what their -- my thought, the -
- I'll just share, and since it doesn't apply, it doesn't apply.

But the -- there's a line that says each -- additionally, each municipality may use surtax -- surtax proceeds for transit systems within the municipality.

And I didn't -- anyway, it doesn't matter.

But I didn't know if transit systems was defined in the statute and whether sidewalks and bike paths that connect bus stops could be considered part of a transit system in a way that would be helpful.

But it doesn't sound applicable.

UNIDENTIFIED SPEAKER: Uh-uh.

MR. MEYERS: But even the conversation that we're hearing today is going to help us refine this somewhat, because you -- you think about these things all the time, and I think about them sometimes.

But, Mr. Chair -- and I've got to take my leave in just a minute -- but my -- I know Angela reached out to her contemporary down in Miami-Dade County, and I just want her to at least state one thing that might be preliminary but might be helpful.

MR. HOOPER: Okay.

MS. WALLACE: Yes. Thank you.

So I was made aware of this list yesterday afternoon. And, upon receiving it, because the list indicates that it's from someone -- the executive secretary for the Citizens Independent Transportation Trust, which is their -- your counterpart in Miami-Dade County, I reached out to my counterpart in Miami-Dade County and asked the specific question regarding Miami-Dade County's interpretation of whether freestanding or standalone sidewalk projects and greenway projects were eligible for surtax proceeds.

And he told me no, and that he has given the opinion that they are not, based upon the fact that the statute says that can be used for the uses enumerated in the statute, and that that opinion has been given to the cities and to Miami-Dade County staff.

I took a look at this list, and I shared the list with him, and we're going to go through it when we have an opportunity, but the list is not clear with regard to whether this is just funding that was a part of a larger project and

these are components of a larger project or whether they were standalone, because some of them references roads and some of them don't.

But, you know, the position that we -- and the approach to these projects that we have taken is that, like the Loxahatchee Road project that's on the agenda today, if you have a road improvement project, we are reconstructing that road and we are doing improvements within the right of way that include the roadway drainage and the sidewalks, and so the sidewalks as part of that roadway project are eligible.

If they wanted to make it wider and make it a multi-use path within the right of way so that it's wide enough -- wider than a standard sidewalk, they can do that as part of a road improvement project.

We fund transit for the municipalities with surtax funds. We have separate agreements for community shuttle service with municipalities that is funded with the transportation surtax.

There are projects that were approved for municipalities that have community shuttle service to install ADA improvements, bus shelters, and the like at their transit stops for their community shuttle.

So we're doing that.

The only question is with regard to projects that are standalone, freestanding sidewalk or bike path projects, which are not enumerated in the statute.

MR. HOOPER: The word --

UNIDENTIFIED SPEAKER: Can I say something?

MR. HOOPER: No. Ms. Pennant may.

UNIDENTIFIED SPEAKER: Okay.

MR. HOOPER: Ms. Pennant?

MS. PENNANT: Sorry. Yes, could you repeat -- could you repeat, please?

MR. HOOPER: No, I -- did you want to speak? You had your hand up.

MS. PENNANT: No. No. I -- I lowered my hand. Sorry.

MR. HOOPER: Oh, okay. Sorry about that. Okay.

MS. PENNANT: (Inaudible.) I -- I had a question earlier, but --

MR. HOOPER: Are you still --

MS. PENNANT: -- someone addressed it.

MR. HOOPER: -- are you --

MS. MADDEN: Just -- I'm sorry. Before you have to go, I was wondering if your office has a recommendation on the procedural aspects, too. And Angela could probably handle it, but I just want to make sure.

MR. MEYERS: It's -- you may not find it satisfactory, because it's not detailed enough, but it's to fix them. If there -- there were things that were approved without the requisite qualifications, then I think we need to fix them.

So it -- it may involve, theoretically, some reconsiderations or just noting for the records for your -- you know, your official proceedings record, but something, just so that everything is very clear as to what's happened.

And I -- and I don't know the -- the details on it. I know that on -- I

think on some of them, it was -- there was a lot of clarity, and on others, less clarity.

And that's something we're going to, you know, make sure that is -- is handled very well going forward.

MR. HOOPER: (Inaudible.)

MR. MEYERS: So I'm -- I'm going to go. I -- I want to just thank you for everything that you do. And -- and --

MR. HOOPER: Thank you.

MR. MEYERS: -- you and I had a chance to meet --

MR. HOOPER: Yes.

MR. MEYERS: -- on a couple of occasions, but only a couple of times.

If there's anything that I can do for you -- you may not like what -- what I say, but I think you're always going to get my honest opinion on it.

MR. HOOPER: Yeah.

MR. MEYERS: And sometimes I'm wrong. And you -- when I am wrong, I'll tell you.

And if I'm wrong here, I'll -- I'll walk in here and smile and tell you that, too. So --

MR. HOOPER: I think in this case, these guys would like to hear you're wrong from somebody else.

(Laughter.)

MR. MEYERS: I'd like to hear it, too.

MR. HOOPER: Thank you very much.

MR. MEYERS: Not my wife, though.

MR. HOOPER: Thank you very much --

MR. COOLMAN: Thank -- thank you.

MR. HOOPER: -- for your time. We really appreciate it.

MR. MEYERS: Thank you very much, everybody. Be well.

UNIDENTIFIED SPEAKER: Thank you.

MR. HOOPER: Yes.

MR. COOLMAN: To kind of put a -- maybe a bow, if we can, around this. First of all, I'd like to see this letter finalized. Whether we send it out is yet to be determined.

It looks like you guys are going to do some more work. I think it needs to come back to us to take a look at it.

I think it was kind of intriguing to see that some of the cities don't want us to send it.

We haven't decided to send it yet, either, right? But I think we need to finish what we started there.

Second of all, this -- this list, I asked -- I think he was under the impression that I talked to these people. I didn't talk to any of these people, but I asked staff to.

I mentioned earlier that I think we have to fix the application format, because when I looked at five of those six projects, I'm convinced that every one of them had associated improvements in the road.

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. COOLMAN: Specifically when they have to make ADA improvements, the sidewalk is interfacing with the road.

So I believe five of those six should have been submitted differently.

What I'm hearing, though, is they can't just fix it now and resubmit because they don't allow that.

So, therefore, I think we have to find a solution for those five or six. That, to me, is can we use gas tax dollars? Can we recommend that the city, County Commission, use gas tax dollars?

Two, I think we need to change our educational system with these cities so that in the future, we don't run into this same problem.

And I -- and I really believe -- you know, I know we're doing a lot of education on their applications, but we need -- it seems to me we need to do more, because we need to comply with the intent of what the voters.

And if that means educating the cities on how to fill out a form, then we need to do more of it.

So I have -- I'd like to see the letter continued. I'd like to see us consider a recommendation to the County Commission to fund these five or six that we can't go back and change. Educate better.

And then, as a last thing, I raise a question. This second amendment has seemed to do some things that I find somewhat contrary to the benefit of the cities.

Maybe we need a third amendment. And the third amendment may

help suggest some changes here.

We did two. Maybe we need to do three, and fix this problem.

MR. HOOPER: So I -- I just have a couple more things to say, too, is I -- I don't think -- I think we -- I think that the word road is broad. And -- but at the same time, if you -- if you argue that that doesn't give you license, then how are we arguing that bikes can be part of a road?

Because nowhere does it say that bikes can be -- it doesn't have the word bicycle or bikes anywhere on this statute of lists of things you can do.

So how can we do bikes as part of a road project when it doesn't say we can do bike paths?

Unless a road is a bike path.

It -- there's no word here that says -- I'm sorry. There's nothing in the statute that speaks to bicycles. At least, I'm not seeing it in this list of things.

But it does say roads. And so I think we have to potentially figure that out.

One other thing. This is a totally different subject, but it's in the list. Supportive services. I think we just recently had an issue with marketing; is that correct? Why is marketing not a supportive service? Just out of curiosity.

MS. WALLACE: I'm -- I need more information regarding what you're saying. So I --

MR. HOOPER: Okay.

MS. WALLACE: -- I received a question with regard to sponsorship of

an environmental event, and spending \$10,000 on a sponsorship of an environmental event.

And I would have actually brought the documentation with me if I had been informed that this was going to be an issue.

MR. HOOPER: I -- I just read --

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: -- supportive -- so I was going through looking for bicycles, and then I remembered that there was an issue with a marketing event, which was -- which might have been that, or it -- how does -- how does the rest of our program get effected by just dicing words?

Can we be affected in how we're operating our -- our program now?

UNIDENTIFIED SPEAKER: So --

MR. HOOPER: Can we lose funding for certain parts of our -- if we don't fit perfectly in the statute, could we lose funding for parts of our staff or - or other things because they're not fitting perfectly in the statute? Question.

MS. CASSINI: So we have had elements of our staffing and the supportive services, and we've talked about it openly here. The greenways master plan, the staff member that was associated with the master plan, the (inaudible) near miss.

There were several projects that were deemed ineligible and the staff associated with managing those projects was also deemed ineligible.

With respect to the decision with -- on the sponsorship, what I'm going to do moving forward is I'm going to bring to you in the highest level of detail

every single thing that we plan to do, because sponsorships of events was something that was brought to you in 2019 by the Office of Economic and Small Business Development in detail, with the dollar values. And they've been doing it.

So my understanding was that it was fine. And we had some leftover money. And there were several Oversight Board members that indicated that they wanted to attend the Resiliency Conference.

And by sponsoring it, we got a table, we got the opportunity to show a video, we got prime -- prime location. And we knew that there were going to be elected officials, there were going to be people from the region, and we were going to be highlighting all of the resiliency projects that we've already completed and that we are going to be doing over the next five years.

So my bad on that, because I had not specifically brought that to you in -- when we did the outreach and educational plan. We did a five-year plan, and we brought it to you and you all blessed it, and then we put the money in our budget based on the work in that plan.

But because I have not brought you every single thing that we plan to do within each category of our budget, it created some eligibility concerns.

MR. HOOPER: Okay. Well, so supportive services, to me, is pretty broad. And --

MS. CASSINI: I see Anthea has another question.

MR. HOOPER: Okay. It's pretty broad. And if we have staff -- if we have budgeted within the staff whatever those things are to support our

business, then it meets the -- in my opinion, looking at this, and I guess I have to -- I should ask my counsel, so I'm sorry.

But supportive services, it's hard to argue that that doesn't include things that support or that market or that highlight our program. So -- or -- or -- and that support the program.

So I just want to -- I want to bring that out. We might have another -- because I know you all just sat down to probably talk about the prior subject.

So let's go there, and then we may bring this up again (inaudible).

MS. WALLACE: Chair, if I might?

MR. HOOPER: Yes.

MS. WALLACE: I think one thing that needs to be clarified is these matters, in order for me to do my job and advise this board, I need the information in advance.

So if I don't get it in advance, I don't get it until later, I can't opine until I have the specifics.

With regard to that -- that event, I did not have the specifics until recently. And so my question was what is the nexus to the statute?

And so there are certain things that we can do. There is outreach. And so part of supportive services are -- you know, and -- and -- and public outreach, we -- you have to do it with regard to transit projects and road improvement projects. You have to reach out to the public. You have to get public input --

MR. HOOPER: Sure.

MS. WALLACE: -- regarding whatever the planned project is.

So this environmental event, whatever it is, is not that type of public outreach event that, you know, has something to do with a project.

And we have to be careful with -- with public funds and advertising.

So there's a limit to what we can do. We are not a commercial enterprise. This is public funds. And the --

MR. HOOPER: (Inaudible.)

MS. WALLACE: -- the extent to which we can advertise and promote has to fall within the law.

And the only way that I can analyze these things and advise you in accordance with the law is if I have it in advance. And I did not have that.

There are a lot of things that I did not have in advance. And it's not until I get them that I can analyze them properly.

So what needs to happen is the information not just put in a presentation that's submitted to the Oversight Board and then, you know, documentation, letter.

It needs to be vetted before it comes to you. Then I can properly inform you with regard to its content and my legal opinion.

Otherwise, I can't do that.

But I have a legal obligation to ensure that we comply with the statute. And so when it comes to me, I'm going to look at it, and at whatever time that is, I'm going to give my legal opinion with regard to whether it's eligible.

And I cannot legally prepare an agreement for something that I believe

is legally impermissible under the statute.

So process-wise, there's some work that needs to be done with regard to what comes to you and when it comes to you with regard to internal vetting.

MR. HOOPER: Okay. Sounds -- that sounds like a good plan.

Okay. Ms. Pennant, did you have something you'd like to say?

MS. PENNANT: Yes, I do. I -- I just kind of want to go back a little bit to the defining of roadways and -- and, you know, walkways.

Is it possible for us to -- to get an amendment done? Because I think it's really important that we have clarifying language that speaks to what a road is.

Because I -- I -- I'm always concerned about how things are interpreted in the future. And so much of what we do in these early years can create a precedent that, down the road, may not be so amenable to what we're hoping to accomplish for our citizens.

Is that possible, to -- to get some language in there --

UNIDENTIFIED SPEAKER: (Inaudible.)

MS. PENNANT: -- an amended statute or some -- some way to have it clarified?

MS. CASSINI: This is a statute that has a lot of different elements to it. So the transportation sales surtax is only one component of a larger statute that has a lot of local option sales surtaxes in it.

As recently as last session, there was an amendment related to -- I

can't remember the name of it, the school surtax.

So it's obviously an option. And, you know, I know that I have, you know, encouraged you in the -- in the past to consider other avenues, because there are a lot of Charter counties that are poised to go after a transportation sales surtax over the next five to six years, and that should there be something that went wrong, or where the statute actually was narrowed rather than expanded, that we would be seen as the catalyst for that and, you know, perhaps putting our sister counties in a bad situation.

But absolutely we can take the temperature of leadership. We can see whether or not there are some other allies.

I will tell you that there are some other entities that are interested in opening up the statute for other reasons. Private sector.

So, you know, we -- we wouldn't necessarily have to be out there on our own.

And we can assess that and bring something back to you. In fact, we have already planned to talk to you in November about some other legislative aspects, as we generally do during our retreats.

And we'll see if that's something that the other counties that are looking to do a ballot referendum in -- in the next six years, maybe they want to join us if there are other aspects of this that they're looking to amend or get some clarification around, and we'll report back to you.

The ultimate decision is -- rests with our County Commission. They set the policy, they set our legislative program. They decide what we can

and can't advocate for and lobby for.

MR. HOOPER: Yeah. I -- okay. Who's next? Ms. Pennant, you have any other questions? Okay.

MS. PENNANT: I do. Regarding the marketing question and, I mean, is (inaudible) issue with appearing at the event at the Signature Grand. I mean, does the over- -- doesn't the administration of -- of -- the MAP Administration itself have some wiggle room in terms of how they spend to -- to market and inform the community?

I mean, we often say to them that we want to see more marketing, we want more for the community, but as the administrative arm of the program, shouldn't they have some flexibility to be able to share information with the public in forums like that where you have over 800-plus individuals attending?

MS. WALLACE: If I may?

MR. HOOPER: Sure.

MS. WALLACE: So attending the event and distributing information, or having materials regarding the program is -- is -- is a possibility. That's an option.

I've never said that, you know, sharing information or having the information available for distribution at the event was an issue. That's not.

Paying \$10,000 to sponsor an environmental event that has nothing to do with projects was the issue.

And so I was for the statutory nexus for that event in the statute.

I did not say that materials could not be distributed at that event.

So I think the -- the --

MS. PENNANT: (Inaudible.)

MS. WALLACE: -- the details matter.

MR. HOOPER: Okay.

MS. PENNANT: Okay. Thank you. I -- I got it now.

MR. HOOPER: I -- I'm -- I don't -- I think it's going to be hard for us -- first of all, I can understand where some folks might say roads are broad, leave it alone. Because if we go and ask, we might not be happy with the answer we get. Okay?

But I have another -- I struggle, because I don't know how we're going to fix this, because we are driven by a statute, and it's going to be read in a variety of ways. And then do you -- you know, it's almost like do you break the law? Well, no, you don't break the law.

Well, what -- what if you bend it a little? You know, that's where things start to get really weird.

And so I'm of the opinion that we should not have put on the ballot something that we did not intend to build. And -- and now that it's on -- and if I were a -- if I were in the public watching this on TV or listening to it or whatever, or hearing about it, I probably -- I hear from -- by the way, I hear from citizens who send me emails, long ones, and I don't know why, but they send me emails about their problems in their neighborhoods with roads and sidewalks and safety and all this.

And they do not feel like we are answering their -- their prayers, okay?

And if they hear this stuff and then they say, you mean we didn't get what we got in the ballot, they're going to be pissed. Okay?

And so I'm just like if we can't fix it this way, then the County and all of us together should figure out how to fix it some way else, and if that means gas tax or whatever.

I think the County Commission should hear this and should understand that there's some angst about it.

And maybe -- maybe they can figure it out. Maybe they can come up with different sources of revenue that could pay for it.

Because you really aren't talking about -- how many bike pathways, freestanding, are there going to be? You know, so we just need to -- I really have a problem with this ballot. I really do, that we did this and we -- we didn't lay out the -- the groundwork for delivering exactly what that thing said -- or very damned close to it.

All right. So are we going to hear from some other folks or?

MS. CASSINI: So I invited the MPO and the Surtax Services, Mr. Brauer and Mr. Caletka to come and talk about some opportunities for process improvement in future cycles.

I know many of you heard from municipalities that weren't specific to the eligibility issues for Cycle 1, where they were more concerned about dealing with this in the future, dealing with Cycle 2, 3, and beyond.

So I thought that it would be important for you all to hear from them.

MR. CALETKA: Good afternoon, Mr. Chair. Bryan Caletka, Broward MPO. Thank you for having us.

Just to address Vice Chair Coolman's concerns about the cities needing help, you know, the very first thing that we did with this new contract with Mr. Brauer being the consultant with us is we started an educational campaign.

We listened to the concerns that they had based on Cycle 1.

We made those changes. We made a change to the application.

And even though the second cycle didn't have funding because it all went to Cycle 1, this year's round, there were eight projects that were funded off of the list. And the list was extensive. It had a hundred projects.

And based on the education, based on working with MAP counsel, MAP Administration, I am very certain -- you know, I heard what the attorney said. We're never a hundred percent, but I'm very certain that we're going to have zero of the problems that we're facing with these five or six projects that were remaining in Cycle 1.

And that's just based on the way that we adopted the application.

And we do go to the cities, either virtually or in person, and help them develop their projects. So we do provide those services to make sure that everything that they input is eligible as possible. It's built in for that reason, so you don't have any angst in the hindsight of it.

And then second, you know, if there is a third amendment, you know, we don't take an official position on it, but we're more than willing to help

administration, counsel, and the municipalities develop the best amendment possible.

We remain available.

MR. HOOPER: Great. I mean, if they know how to apply, like I said, how many of the projects are going to be out there that are freestanding anyway. Then if they figure out how to apply and you help them get through.

The other thing is those four or five that didn't make it through, the \$5,000,000, how do we get them in the -- in the cycle expediently?

MR. BRAUER: Yeah. So the good news on that -- and to reiterate -- now, and I kind of see this as summarizing three real issues, right? And you're pointing one of them out.

Cycle 1 has five projects that were deemed ineligible that are standalone bike or pedestrian.

MR. HOOPER: Uh-huh.

MR. BRAUER: Then you have the ability to fund bikeways that would be separate from roadway.

Then you have what have we done from an educational standpoint in the application to ensure a project doesn't get to that point.

MR. HOOPER: Uh-huh.

MR. BRAUER: As Mr. Caletka --

MR. COOLMAN: Can I interrupt for a second? I'm not convinced those five of those six were standalone sidewalks. I think they might have been perceived or presented that way, but for me looking at them, cursory,

knowing it's a sidewalk, and it touches a road, and it's got ADA in it, it has to be (inaudible) --

MR. BRAUER: Well, I have good news for you, then.

MR. COOLMAN: Huh?

MR. BRAUER: Because I have good news to share with you then.

And that's why I wanted to work backwards from this.

MR. HOOPER: Yeah, that one.

MR. BRAUER: Is because that part of the education in the new application, nothing that got through, nothing that was ranked didn't have a preliminary eligibility review done with counsel. We worked together per the second amendment to ensure everything was able to get through and that it was ranked and approved.

The good news, too, is one of those projects -- and this was Coral Springs. It was a larger, kind of thinking about sidewalks globally. We worked with them to say, do you have a section that you've actually developed further along that also has some roadway? They actually wanted to do some traffic calming with the sidewalks.

That project got through and was ranked.

Now, it wasn't recommended, but -- because it was a lower ranked one, but we actually got that one through.

So we saw huge success with that process going through.

So, for the most part, we think that we've resolved those issues about the five that you currently have.

Now, that doesn't solve all five of them, right, but we did work with one city to say, okay, you've developed this, let's get that through, and it did go through the preliminary eligibility, it was ranked, and it could be recommended.

So that -- that is the good news on that is we've actually solved that issue.

And I know, again, not a hundred percent, but we were a hundred percent --

MR. COOLMAN: Well --

MR. BRAUER: -- all of those projects that were ranked.

MR. COOLMAN: -- the good news, it looks like we're moving forward in a very positive direction.

MR. BRAUER: Absolutely.

MR. COOLMAN: It looks like we have some options to fix these others. And I would hope that if we can't fix them with surtax dollars, can we fix them with gas tax. Can we make -- can we make a recommendation, yea or nay, or am I -- am I crazy?

MR. HOOPER: It's not our --

MS. CASSINI: You can make a recommendation. You have the ability to recommend during -- in your transmittal letters.

But, you know, it's -- it's a conversation that needs to be had with the County Administrator and the Office of Management and Budget --

MR. COOLMAN: Well, that's a --

MS. CASSINI: -- to understand exactly --

MR. COOLMAN: -- that's a (inaudible).

MS. CASSINI: -- what constitutional gas tax is actually available, what -- what's already been encumbered.

So I --

MR. ALLEN: The uses --

MS. CASSINI: -- I can have the conversation.

MR. ALLEN: -- but the uses of the funds are the same, are they not?

MS. WALLACE: No.

MR. ALLEN: They're different --

MS. CASSINI: So we're using --

MR. ALLEN: -- different statute?

MS. CASSINI: -- the constitutional gas tax, as I mentioned to you all -- I can't remember exactly when we had this conversation, but the greenways master plan. I think many of you will recall there were many, many, many, many miles of greenways that were in the original surtax plan and the educational materials during the campaign.

And the determination that those would be ineligible for the surtax had us go back and find another funding source, which Angela was able to identify as constitutional gas tax.

So the constitutional gas tax is paying for the actual master plan.

And then, you know, what happens when it comes time to actually have to design and construct the many, many, many miles of greenways that

were contemplated as part of the 30-year plan. You know, we're going to have to cross that bridge, that greenway, when we get to it.

MR. ALLEN: Is it fair to assume that you are still trying to get these five projects or whatever there are refined so that maybe we -- they can be paid with surtax dollars?

MR. BRAUER: Yeah, we're definitely working with them to see if that's a possibility. We haven't gotten through all five, but, like I said --

MR. COOLMAN: Okay. Because --

MR. BRAUER: -- we've already had success --

MR. COOLMAN: -- I'm very -- I looked at them, and, in general, I figured they had to tie to a roadway in some way, especially when they're making ADA improvements, which are only made when the sidewalk intersects with the road and it -- and it goes across the road.

UNIDENTIFIED SPEAKER: Yeah.

MR. HOOPER: Yeah.

MR. COOLMAN: So, to me, it was like someone just didn't fill out the form right.

Now, this one that seems like a standalone sidewalk has a bridge in it. Well, bridges are approved. Doesn't say it has to be a vehicle bridge.

So as far as I'm concerned, it's approvable. But that's me.

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. COOLMAN: Anyway, thank you.

MR. HOOPER: Angela, what's a bridge?

MR. COOLMAN: You're smiling.

MS. WALLACE: That's a sidewalk bridge. That's a bridge over a canal. It has nothing to do with the road, even next to the canal bank.

MR. COOLMAN: It's a bridge. It doesn't say a railroad bridge. Doesn't say a vehicle bridge.

MR. HOOPER: That's true.

MR. COOLMAN: Doesn't say a pedestrian. It says bridge.

MR. HOOPER: That's -- I mean, it says bridge.

MR. COOLMAN: That's all it says.

UNIDENTIFIED SPEAKER: (Inaudible.)

MR. HOOPER: Well, okay. Anything else? Do we have anything else to discuss on this matter?

MR. COOLMAN: I mentioned as an alternative if we can't work through these whether we need a third amendment. I don't know, but I would like you to think about it.

MS. WALLACE: That requires --

MS. CASSINI: So --

MS. WALLACE: -- that requires consensus among the parties to the agreement.

MR. COOLMAN: You mean the cities.

UNIDENTIFIED SPEAKER: No.

MS. WALLACE: Well, there are three -- there are 29 participating municipalities.

MR. COOLMAN: Yeah.

MS. WALLACE: There's the MPO.

MR. COOLMAN: Yeah.

MS. WALLACE: And the County. So all of the parties, the participating parties to the agreement, have to approve, have to agree to, have to want to amend it, and have to come to a consensus --

MR. COOLMAN: I --

MS. WALLACE: -- regarding how it would be amended.

MR. COOLMAN: -- I understand that. But if we're putting on the table every option, it's got to be an option.

MR. HOOPER: But why is that an option? I mean, what do you -- what does an amendment do as it relates to the --

MR. COOLMAN: If --

MR. HOOPER: -- wait -- as it relates to the statute and --

MS. CASSINI: Correct.

MR. HOOPER: -- and tell me what that does.

MR. COOLMAN: Well, they put some wording in these amendments, and I -- I'll -- I'll look into it further, but my point was I think we're on the road to fixing it, but why would we not think about maybe an amendment can fix it. I don't know.

MR. HOOPER: Here's my -- let me just say one more thing.

MR. COOLMAN: Okay.

MR. HOOPER: Here's my take. Gretchen just mentioned the

greenways. They used constitutional gas tax to design it.

The -- clearly, the County has a -- has a objective and a goal to build bicycle paths on greenways. They're going to figure out how to find the money. And it may not be from the surtax. But it's going to get built.

They're fixing the application issue.

I'm starting to feel like this thing's becoming less and less of an issue here.

And to drive a third amendment out there to where it may not even fix what you're talking about, so if the cities start to follow a plan where they're going to add roadway improvements with their side- -- I mean, at the end of the day, we're going to get to the -- we're going to get it done. So --

MR. COOLMAN: Alan, I'm not --

MR. HOOPER: -- at some point --

MR. COOLMAN: -- advocating a third amendment. I'm advocating if we can't fix it, and it sounds like we are, don't need one. But if we can't fix it, maybe we need one. I don't know.

I mean, I'm just -- you know, when you look at a problem, you say, okay, there's ten solutions. What's the best?

Well, the best is what we're doing over here, I think.

The second best may be this letter. We may not need that letter.

MR. HOOPER: What I've gotten out of this meeting today is, one, I still don't know what the definition of the word road is. And now I don't even know the definition of the word bridge, okay?

(Laughter.)

MR. HOOPER: No, seriously. Seriously, because whenever -- and I -- I argue with tenants and with other real estate people, and every agreement I have has a definition for almost every word in the darn agreement. Okay?

So I always look to the definition. And in this particular case, there's no definition.

So a bridge is a bridge, and a road is a road. That's very broad, okay? It's not defined.

So if we run into this issue again, we are going to listen to what our counsel says to us. We're going to consider what she says. And then you guys can vote however you want to vote. Okay?

And then that'll go to the County, and they can do -- they'll take our recommendation, and they'll do whatever they're going to do as it relates to that particular project.

MR. COOLMAN: That's fine. The reason for me even bringing up the third amendment, in the second amendment, you define street lighting, drainage, sound walls, fiber, (inaudible) did a lot of things that weren't there before. That's all the reason I brought it up.

Maybe that's where you stick sidewalks. I don't know.

MR. HOOPER: Maybe.

MR. COOLMAN: I just -- you know, I'm open minded.

MS. CASSINI: Mr. Chair, might I -- I wanted to just bring to your attention, for those of you that did not receive it. I'm not sure who got it and

who didn't, the Broward County City Managers Association, the BCCMA. I think -- I know for sure they sent it to the Chair -- sent a letter detailing a series of issues with the surtax processes, many of which, just like the cost escalation request, if you'll recall from last year, can be handled administratively, one of which was specific to eligibility.

At our meeting in -- on November 18th, hopefully we will have a draft of a response, or perhaps a response will have already gone, that we can share with you about what the County plans to do with respect to the request from the cities.

And, you know, again, just augmenting the discussion here today as far as how we can improve things, how we can move forward. And I'm sure, you know, Legal's going to have an opportunity to weigh in on all of that as well, because there are some aspects that I think are very legal in nature.

So I just wanted to make sure on the record that everyone was aware that that's also happening behind the scenes at the same time.

MR. HOOPER: Okay. Thank you.

MR. ALLEN: And --

MR. HOOPER: Anybody else?

MR. ALLEN: -- can we have copies of that letter, please?

UNIDENTIFIED SPEAKERS: (Inaudible.)

MR. ALLEN: Could you distribute that to the board members?

And also, Drew said we'd get copies of the draft --

MS. WALLACE: Uh-huh.

MR. ALLEN: -- stamped draft.

MS. WALLACE: So the -- the BCCMA letter and the draft --

MR. ALLEN: Right.

MS. WALLACE: -- AG opinion letter.

MR. HOOPER: Okay. Well, I don't know if we have anything else to discuss. Let me just go to my agenda.

NON-AGENDA

MEMBER REPORTS

MR. HOOPER: All right. Does -- are there any member reports that anybody has?

GENERAL COUNSEL REPORT

MR. HOOPER: Okay. General Counsel, do you have anything else you'd like to add?

MS. WALLACE: No, Chair, I don't have anything else to add.

Thank you.

MR. HOOPER: Thank you.

BOARD COORDINATOR REPORT

MR. HOOPER: Board Coordinator Report.

MS. CASSINI: I've received all of the letters indicating willingness or unwillingness to continue serving.

So we will be meeting with the Appointing Authority on the 26th, and if there's any follow up information that's necessary, I'll be sure to reach out to you with that.

ADJOURN

MR. HOOPER: Okay. Well, thank you, everybody. I appreciate it.

And with that, we'll adjourn the meeting.

Thank you.

(The meeting concluded at 3:41 p.m.)