

CITY COUNCIL CLOSED SESSION
CITY OF FRUITLAND PARK, FLORIDA

* * * * *

SHADE MEETING
CONFIDENTIAL AND SEALED
SESSION BEFORE THE CITY COUNCIL OF
THE CITY OF FRUITLAND PARK

DATE TAKEN: FEBRUARY 21, 2013

TIME: BEGINNING AT 6:02 P.M.
CONCLUDING AT 7:11 P.M.

PLACE: FRUITLAND PARK CITY COUNCIL CHAMBERS
506 WEST BERCKMAN STREET
FRUITLAND PARK, FLORIDA

REPORTED BY: BETH J. BREESE, FPR
COURT REPORTER AND NOTARY
PUBLIC, STATE OF FLORIDA
AT LARGE

* * * * *

1 BEFORE:

2

MAYOR CHRISTOPHER J. BELL
VICE MAYOR SHARON KELLY
COMMISSIONER JOHN L. GUNTER, JR.
COMMISSIONER CHRISTOPHER CHESHIRE
COMMISSIONER AL GOLDBERG

5

INTERIM CITY MANAGER STEPHEN COTTRELL

6

SCOTT A. GERKEN, ESQUIRE, ATTORNEY FOR THE CITY

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 * * * * *

3 MAYOR BELL: Present for the closed meeting
4 will be Vice Mayor Sharon Kelly, Commissioner John
5 Gunter, Mayor Chris Bell, City Manage -- Interim City
6 Manager?

7 INTERIM CITY MANAGER COTTRELL: Whatever you
8 prefer. I know what I am.

9 MAYOR BELL: Stephen...

10 INTERIM CITY MANAGER COTTRELL: Cottrell.

11 MAYOR BELL: Cottrell. I'll get that right
12 yet.

13 INTERIM CITY MANAGER COTTRELL: Doesn't matter.
14 Easy-going guy.

15 MAYOR BELL: And Commissioner Chris Cheshire,
16 Commissioner Al Goldberg, and our city attorney,
17 Scott Gerken. And the court reporter...

18 THE REPORTER: Beth Breese.

19 MR. GERKEN: Thank you, Beth.

20 MAYOR BELL: Thank you.

21 All right. So with that, we'll recess.

22 MR. GERKEN: The estimated -- the elevated
23 length of the meeting, I would think, would be
24 approximately a half-hour, give or take.

25 MAYOR BELL: Sounds good.

1 (All persons excluding the above-mentioned left
2 the council chambers.)

3 MR. GERKEN: Shall we convene the
4 attorney-client session, otherwise known as a shade
5 meeting and -- what we typically call it?

6 As I -- as you know, at the last city
7 commission meeting, I requested that we have this
8 meeting seeking your advice and direction regarding
9 where we're going in this litigation.

10 Just to remind you -- and I did confirm with
11 Diane this evening -- that this was advertised and
12 the names of the participants were advertised. So
13 we're here tonight.

14 As you know, the Sunshine law doesn't typically
15 allow meetings without the public, but we can do so
16 for limited purposes. And this is one of those
17 limited purposes that we can do. But by law, we're
18 the only ones that are allowed to be here.

19 Also by law, just so you-all are aware, the --
20 the scope of what we can discuss tonight is limited
21 to the litigation. And, in fact, I'd like to read
22 this. My arms aren't long enough.

23 The subject matter of the meeting shall be
24 confined to settlement negotiations or strategy
25 sessions related to litigation expenditures.

1 Basically, we can talk about the litigation and
2 strategy sessions related to expenditures on the
3 litigation and potential -- I don't think we're
4 really talking about settlement negotiations at this
5 time -- but those type of issues. We can't -- and
6 you -- we can't go afield of that. So just keep it
7 with regards to the -- to the litigation.

8 The other thing is that we are not allowed by
9 the statute, for whatever it's worth, to make any
10 kind of final decisions or take any votes at this
11 meeting. It, literally, is just what you think it
12 is. I'm seeking your advice to talk about how you'd
13 like us to proceed and how you'd like -- looking how
14 you'd like to see things handled. I'm going to tell
15 you what we see coming, what we're intending to do.
16 And let me know if you have any issues with any of
17 those things. And that's really what we're here for.

18 The other thing is -- obviously, as you know,
19 Beth's here. We have a court reporter. There will
20 be a verbatim transcript taken of this meeting this
21 evening. That transcript -- we went through this in
22 the Wicks litigation -- that transcript is sealed
23 until the conclusion of the litigation.

24 So -- but then that's made public, and anybody
25 who was -- particularly anybody who was excluded from

1 the evening -- this evening's meeting -- or anybody
2 could read that transcript and hear what you have to
3 say.

4 So I was talking to somebody the other day that
5 said that they always tell people, don't say anything
6 at shade meetings. But I don't -- that wouldn't
7 accomplish much, if you didn't say anything. So --
8 because I am looking for your advice, so...

9 You all should have a copy of the complaint.
10 This was a complaint that was filed here in the Lake
11 County Circuit Court, our local circuit court -- Jim
12 Richardson, both individually and as a proposed class
13 representative.

14 It is a two-count complaint. The first count
15 is the 19 -- federal 1983 action. And this is,
16 essentially, the one where he feels that we as a
17 city, through various things, have retaliated against
18 his Constitutional rights in a whole litany of
19 things. There's no need for us to go through all
20 those things this evening, what he said, she said,
21 all of this. But that's the gist of -- of what he
22 said.

23 The second count is a class action -- well,
24 proposed to be a class action lawsuit, challenging
25 the fire and police service fees that we enacted some

1 four years ago. And they are seeking to have those
2 declared as an illegal tax, want us to stop doing
3 them in the future, and are seeking a refund of those
4 fees that have been paid in the past.

5 I must admit that I was surprised -- as have
6 others who've looked at this -- that this -- these
7 counts were joined together and filed in the same
8 complaint. They're, obviously -- outside of having
9 Jim's name at the beginning of both counts, they're
10 largely unrelated. And, as I said, it was a surprise
11 to see that.

12 One of the things I should point out to you is
13 the insurance coverage. At the present time, we --
14 we have -- as we always do anytime we get even a
15 claim or, certainly, a lawsuit -- we send that to our
16 insurance coverage and determine -- for their
17 determination, at least initially -- whether or not
18 we have coverage for the -- the lawsuit or claim.

19 The -- what we've received so far from them is
20 that, essentially -- I mean, they always -- they
21 never say things. They're kind of like lawyers.
22 They never say things clearly. They send you a
23 six-page letter. But, essentially, they -- we have
24 coverage for the Count One, the 1983 federal action.
25 In other words, they will defend us, and they will

1 pay, in most cases, the -- any damages that might be
2 coming out of that lawsuit, subject to our
3 deductible, which I believe is \$15,000.

4 But with regards to Count Two, the fire fee
5 case, we largely don't have coverage. Typically, as
6 you can imagine, liability coverage doesn't cover
7 things like if -- like taxation issues and things
8 like that.

9 So they have at this point given us an opinion
10 that we're covered for one but not covered for the
11 second count. We are -- in the abundance of caution
12 and given the amount of monies that are involved,
13 I'll be forwarding that -- and, frankly, probably
14 already have at this point -- to, essentially, an
15 attorney expert who handles insurance coverage and
16 just ask him to double-check their opinion. And if
17 there's any argument that we have coverage on this,
18 we'd like to make it.

19 I looked at it myself and, frankly, agree. I
20 mean, they're -- typically, tax issues are not
21 covered. And there's an exclusion on the policy for
22 such matters.

23 But because these were filed together, at the
24 current time we have a little bit of a benefit,
25 because the insurance company is providing a defense

1 for the lawsuit as a whole. So they have assigned us
2 an attorney. Our present attorney is Michael Roper.
3 He's not here this evening just because, basically,
4 he didn't need to be. I was going to be talking to
5 you this evening. But we met with him -- Diane and I
6 met with him last week just to brief him on the --
7 the action.

8 Frankly, he's the same attorney that was
9 involved -- or has been involved in the Stein
10 litigation. So he already knew a little bit about
11 the city and things going on. But that's actually
12 not litigation yet, with the Stein claim.

13 But Mr. Roper has been assigned and will be
14 responding on behalf of the City for this case. And
15 at this point the -- the insurance company will be
16 paying his attorney's fees.

17 Now, what he has asked is -- because, frankly,
18 he's an insurance counsel and is mainly being
19 handled -- being hired to handle the 1983, this
20 discrimination case -- he, frankly, is not an expert
21 on municipal law, fire fees, and these type of things
22 and said he will lean heavily on me -- as sad as that
23 may sound -- and our firm to assist with the legal
24 analysis and -- with regards to that. So we would
25 still be involved with that case, regardless.

1 The next steps, as far as we have, is to let
2 you know we were served on a lawsuit. Actually, I
3 accepted service for the City a week ago today, on
4 February 14th. At the present time we would have to
5 respond to the complaint or receive some sort of an
6 extension. There's a 20-day response time. So that
7 gives us until a couple weeks from now, on March 6th.

8 The -- having said that, the first order of
9 business that -- just to let you know -- that will --
10 unless you object for some reason -- but that will
11 occur is we would propose and I highly recommend that
12 this lawsuit be removed to federal court.

13 What happens with that is because it is a
14 Federal 1983 action, founded on federal law, it's
15 unusual -- frankly, I haven't seen one of those --
16 that gets filed in a local county circuit court.
17 They're not used to seeing those kind of complaints.
18 That is something, though, that the federal courts
19 see on a daily basis and deal with thing -- these
20 things quite regularly. They're much more familiar
21 with those cases.

22 And, frankly, because they're more familiar
23 with those -- those cases, they're much more likely
24 to deal with them expediently. The possibility, for
25 instance, of getting a summary judgment in which we,

1 basically, say, there is no case here, more or
2 less -- even if you take all these facts as facts, we
3 do not believe that this is a legitimate cause of
4 action -- is much higher in a federal court than what
5 you're going to get locally.

6 Besides, it takes it to Ocala at the closest
7 and gets it out of the -- the local issues that are
8 involved with that. I think it -- it takes some of
9 the emotion out of the issues and gets it into a -- a
10 venue that is just much more proper for that type of
11 action.

12 We would -- if we would do that, we'd,
13 essentially, just file a notice of removal.
14 Actually, we wouldn't. Mr. Roper would do that. And
15 the federal court reviews it. If they find it
16 appropriate, they would just, basically, tell the
17 local court, we're taking this over and we're moving
18 it to federal court.

19 Now, with that there are some interesting
20 issues. The -- I believe that there is a very good
21 chance that the federal court won't take the whole
22 case. I think that there is a good chance that they
23 may sever off the Count Two dealing with the fees and
24 say, that's a state issue. That's a state
25 constitutional issue. And it kind of makes sense,

1 what you'd think. That's not a federal cause of
2 action. You keep that in the state court. We'll
3 deal with all the 1983, the he said, she said, all
4 the stuff that -- that they'll deal with in federal
5 court, and we'll deal with the local court. I think
6 that's fine. Frankly, I think that -- that is
7 appropriate in state court.

8 The downside of that, though, is if they -- if
9 they do sever it and that stays here, there is a good
10 chance -- we haven't been told this dispositively --
11 but that Mr. Roper will no longer be defending us.
12 We'll -- our office will be the attorney of record
13 with regards to that.

14 And they certainly have said that they will
15 continue to assist us as they would before, but they
16 wouldn't officially be the attorney of record. The
17 only reason I say that is because the insurance
18 company pays Mr. Roper's bill, and you'd lose the
19 benefit of having them do that.

20 Having said that, they've already said that
21 they want us involved and we're going to be involved
22 anyway, whether or not they're lead counsel. So I
23 don't think that's as significantly (sic) as it may
24 sound. That -- but that is a chance.

25 Now, on the same hand, there's a good chance

1 that the federal court may take it all. If they do
2 that, that's fine too. If they remove the whole
3 thing to federal court.

4 So I think it's one of those -- we're okay
5 either circumstance. If the federal court takes just
6 the 1983 case -- which I think is what they'll do --
7 that's fine, and leave the other one in state
8 court --

9 Do you want us to pause?

10 MAYOR BELL: I'll just step out for just a
11 second.

12 (Mayor Bell exited the council chambers.)

13 MR. GERKEN: For the record, the mayor had to
14 step out for just a second.

15 But if they take both of them, that's fine.
16 Either way, I think we would respect the decision and
17 go from there.

18 Now, they could request to remand that back to
19 local -- to the local court, but I think, high
20 probability, the 1983 action, which is the first one,
21 which goes through all this litany of things, goes to
22 federal court, and we'll just have the issue about
23 the fees here in state court.

24 You got a question?

25 COMMISSIONER CHESHIRE: Since this is normally

1 not done like this, is there any chance of them
2 saying, we're going to throw one out or this isn't
3 the way you do it or -- you know?

4 MR. GERKEN: Well, it -- yeah. I thought of
5 that. You know, should we move that -- we could move
6 to sever these. That, certainly, could be done, but
7 I don't know what you'd accomplish.

8 COMMISSIONER CHESHIRE: 'Cause he says, I
9 mean --

10 MR. GERKEN: Yeah.

11 COMMISSIONER CHESHIRE: I mean, this is all...

12 MR. GERKEN: You wouldn't really be able to
13 dismiss the cases.

14 (Mayor Bell entered the council chambers.)

15 MR. GERKEN: And even if you would dismiss
16 them, they could just refile them right away. And
17 it -- it doesn't -- it doesn't accomplish anything.

18 MAYOR BELL: I had an alarm go off. Sorry.

19 MR. GERKEN: Okay.

20 But no. That's a very good question. 'Cause
21 as I said, we were a little surprised when we got it
22 initially. Don't know why -- haven't asked them why
23 they attempted to file them all together. But, I
24 mean --

25 COMMISSIONER CHESHIRE: Filing fees.

1 MR. GERKEN: You know, I wouldn't think it
2 would be as simple as saving a filing fee, but that
3 could be. I mean, I have seen that in lesser cases,
4 that people combine things so they don't have to file
5 two separate lawsuits.

6 But for whatever reason, it's -- it's what
7 we've got. And -- and I don't think that will hurt
8 us anyway.

9 VICE MAYOR KELLY: What was the other suit you
10 were talking about? When you first started talking.

11 MR. GERKEN: The other suit?

12 VICE MAYOR KELLY: The Stein.

13 MR. GERKEN: Oh, Stein. That, remember, we
14 can't talk about this evening. That's the -- the
15 lawsuit with regards to the -- our employer -- our
16 employee who has sent the claim to the City that
17 supposedly Mr. Bowers had a relationship with. That
18 case. Yeah.

19 They haven't actually filed a lawsuit, but
20 they've sent a notice to the -- to the City.

21 VICE MAYOR KELLY: Okay. 'Cause I didn't know
22 what that had to do with anything.

23 MR. GERKEN: It doesn't have anything to do --

24 VICE MAYOR KELLY: Okay.

25 MR. GERKEN: It's just the same attorney. I

1 didn't mean to --

2 VICE MAYOR KELLY: Oh, all right.

3 MR. GERKEN: Just the attorney that's been
4 assigned to that case is the same attorney we got for
5 this one. So we -- we've dealt with him before.
6 He's a fine attorney out of Orlando. That -- that
7 was the only -- only reason I mentioned that. I'm
8 sorry.

9 VICE MAYOR KELLY: Okay. Okay. That threw me
10 off for a minute.

11 MR. GERKEN: With regards to all the
12 allegations in the complaint, it won't do us any good
13 tonight -- I know I've talked to several of you
14 about, you know, that didn't happen, this isn't true,
15 this kind of thing. No need to go through that this
16 evening.

17 One thing, though, I -- I should point out is
18 one of the issues that they raise in the complaint is
19 with regards to this ethics violation that we talked
20 about possibly drafting up a resolution with regards
21 to Mr. Richardson.

22 I have spoken with Michael Roper, our attorney.
23 And he has advised under the circumstances that
24 that's -- there -- he doesn't think the City should
25 move ahead at this point with regards to that ethics

1 violation. It will just be another paragraph as
2 supposedly we're retaliating. You all know you did
3 that in the best interests, but under the
4 circumstances, there's nothing gained. And he's --
5 frankly, has requested that we not move ahead with
6 that.

7 You don't have to dismiss it. You don't have
8 to say you're doing anything else at this point. But
9 we won't plan on bringing that forward at any time in
10 the near future, just to note. Just so you're aware
11 of that.

12 One of the issues with regards to the class
13 action -- it will be an interesting case. As you
14 know, the reason the -- the dominating reason why
15 these fees were imposed in the first place is because
16 you-all were looking -- at the time you felt it was
17 not fair that the burden of all the police and fire
18 fees falls on the property owners and the people
19 paying ad valorem property taxes.

20 We talked about it. We talked about the fact
21 that these fees were not a tried-and-true method. As
22 was quoted on -- I'm on the record of saying I'm not
23 a, quote, big fan. I thought that was interesting in
24 the minutes. I didn't remember. I'm not a big fan.
25 And call me a prophet -- said that these could very

1 well be challenged.

2 Well, it's taken four years, but these are
3 challenged.

4 In essence -- but the -- the gist of it,
5 though, is you were looking for a fairer way to
6 actually have the users of these services pay for
7 these fees.

8 Now, the reason I bring that up is because
9 in -- the class action will bring up some interesting
10 issues. Mr. Richardson in his complaint is proposing
11 to try to represent the entire class and feels that
12 he will fairly represent the class as a typical
13 resident of Fruitland Park.

14 We haven't gotten to this point yet. That will
15 be down the line. But if that issue comes up, I
16 think you know very well, as I do, that I do not
17 think that Mr. Richardson is a typical represent --
18 representative of Fruitland Park. The mere fact that
19 he's filed a federal cause of action on a 1983
20 discrimination questions whether or not he will be
21 able to fairly and impartially represent the class on
22 behalf of the City. I do think that we will be
23 challenging his ability to represent the class.

24 I, frankly, don't think we have a problem with
25 Mr. and Ms. Howard. They do have some familiarity,

1 but I don't -- but they, certainly, don't have the
2 same issues that Mr. Richardson has.

3 The other issue we have -- and we don't in any
4 intent desire to pit property owners versus
5 nonproperty owners. That was never the intent of the
6 thing. But with regards to this class action, where
7 you're trying to put like people together, I think
8 it's difficult to bring a class action on behalf of
9 everybody when it is -- if anybody looks at the
10 issue, it's clear that property owners versus
11 nonproperty owners in particular will have different
12 results based on how this class action goes.

13 You, certainly, have the ability to impose
14 taxes on people. And what will more than likely
15 happen is, if you can't charge fees to the actual
16 users of the services, property taxes will go up.

17 One might argue that if -- if you're a
18 property -- person paying property taxes, you should,
19 certainly, not have -- not have anything against the
20 fees. You should, frankly, like the fees because
21 they're helping to -- to have that fee shared among
22 the other people.

23 Versus if you're somebody who's not a property
24 owner, if you're a tenant or somebody in a -- in an
25 apartment building that's paying those things, you --

1 because you don't pay property taxes and you don't
2 have that risk, you may be more inclined to go
3 forward with the case.

4 The only reason I'm bringing this up is that
5 one of the issues that will probably come up in the
6 class action is whether or not it's appropriate to
7 lump everybody together in one pot or whether or not
8 there should be different classes of people.

9 That will be an issue that will ultimately be
10 decided by a judge if there is a class action. But
11 you can quickly see that -- I don't think you can
12 simply say that everybody's in the same pot together.
13 And just so you're aware of that, that probably will
14 come up down the line some -- somewhere.

15 Going forward, with regards to fees -- and this
16 gets into the nature of, you know, settlement
17 negotiations or just where the litigation ultimately
18 goes. As I said, they are requesting that we stop
19 doing these user fees, claiming that they're an
20 illegal tax. We will -- we will challenge that.

21 As I said before, it is a -- there's a chance
22 that they will prevail on that issue. Because these
23 are -- this is not a proven way of doing things, a
24 court could say that it is more a tax, not a fee.
25 We, certainly, will defend the fact that it is a fee.

1 But I think you should be prepared in the future
2 going forward, and perhaps for budgeting purposes
3 this fall, to seriously consider discontinuing these
4 fees.

5 If you want -- I mean, from a lawyer's
6 perspective, I'd rather you didn't have them. I
7 mean, it's just much easier and tried-and-true, if
8 you want my advice, to just go through the
9 traditional taxing method. And I would suggest for
10 budgeting purposes that that's the way you try to
11 make the numbers match, is to not have those fees.

12 We're not making any decisions like that at
13 this point, and I'm not asking you to make any
14 decisions like that. Just as far as thinking down
15 the line where you might want to go.

16 Refunds and things, that's something we'll deal
17 with. I mean, we're not giving out any refunds at
18 this point. There have been people who have -- a few
19 people who have asked. Just so you know, we are not
20 giving refunds right now. That will be something
21 that will be dealt with as far as the litigation, of
22 course, and -- and depending on how things go. And
23 that will be a decision for another day. So really,
24 your decision will be just moving forward.

25 I'm not asking and I don't think we should stop

1 doing the fees now or this week, but at some point in
2 the future, when we get some of these issues settled,
3 certainly, as I said, when you get into the October 1
4 fiscal year, I -- I'm probably going to be
5 suggesting -- just because -- until this issue gets
6 resolved -- that we not continue to charge the fees
7 at that point.

8 VICE MAYOR KELLY: Didn't we determine when we
9 were talking about doing the fees that it was a
10 voluntary fee?

11 MR. GERKEN: Yes.

12 VICE MAYOR KELLY: We stopped charges on him in
13 December.

14 MR. GERKEN: Yes.

15 VICE MAYOR KELLY: So how can he still be suing
16 us?

17 MR. GERKEN: Well, that's -- I mean, again,
18 that's one of those class issues. He's saying that
19 the others are. So that will be brought up.

20 Now, of course, he did pay the fee, as many
21 people did, for several years. So with regards to
22 the refund, it makes sense. But yes. Going forward,
23 he's not paying the fee.

24 I believe there's about a dozen people that
25 don't pay the fee in the city, but that's about it.

1 MAYOR BELL: And the fact that he supported the
2 fee and...

3 COMMISSIONER GUNTER: Right. That was my
4 question.

5 MR. GERKEN: Yeah. I -- I -- my recollection
6 was similar to that. I was surprised when I read in
7 the complaint that he -- he put himself forward as
8 one who seemed to be so much against it. I recall
9 he --

10 VICE MAYOR KELLY: Oh, no. He was for it.

11 MR. GERKEN: I recall, frankly, at one point,
12 he wanted to raise them higher.

13 MAYOR BELL: I think we were all given a copy
14 of the CD on that.

15 MR. GERKEN: Oh. I haven't looked into --
16 those are the issues we're going to be looking into,
17 but anyway.

18 There are some fixes, just to let you know.
19 There are -- there are some things that we could do
20 better and that we're needing to fix.

21 In the billing program, one of the things that
22 we realized that was an error is we've been,
23 apparently, charging a late fee if someone didn't pay
24 their police or fire fees. We shouldn't be doing
25 that. Under the ordinance, it says if you don't pay

1 it, you just take it off your bill at some point.

2 We've already corrected that. The -- the
3 City -- Maureen and them -- have gone back into the
4 billing system. Or Miriam. Gone back in the billing
5 system and have -- going forward, we're not charging,
6 making sure we don't do it.

7 It's not significant amounts of money, but
8 those are the kind of little fixes -- and, frankly, I
9 talked to Diane today about moving forward in the
10 coming months, if there's any other things like that
11 in how we're doing things -- notices we put on the
12 bill, whatever that might may be -- just getting
13 that -- we've never intended to be sneaky. 'Cause
14 that word has been used. That's a little annoying.
15 That's never been the intent of this. And so we're
16 trying to be as upfront as we can with anybody that
17 asks, anybody that -- that's involved.

18 So some of those things will be worked out.
19 And as people call in and ask questions, we try to
20 answer -- answer them as they do.

21 By the way, you've got a copy of this motion.
22 I'm not completely sure what that was attempting to
23 do. There was this motion to limit contact with
24 class -- potential class representatives. I don't
25 think you need to worry about that at this point.

1 I've already talked to the attorney, and we'll deal
2 with that.

3 That's -- typically, in a situation where
4 you're trying to poison the well, if you will, ahead
5 of the -- the City. It's not -- I mean, if the City
6 was going out there door to door and threatening
7 people to pay their fees, you're telling them -- that
8 would be one issue.

9 The only thing we're doing at this point is, as
10 our customers and people call in, we try to answer
11 their questions as fairly as we can. And I don't
12 know how you can avoid that. And I told their
13 attorney that, and -- and so he said, well, he'll
14 think about it. And we'll -- we'll deal with that
15 issue down the line.

16 VICE MAYOR KELLY: So if we don't charge the
17 fee --

18 MR. GERKEN: Uh-huh.

19 VICE MAYOR KELLY: -- or we charge the fee and
20 they don't pay it, voluntarily refuse to pay it, then
21 if they receive services, we can legally bill them
22 for those services?

23 MR. GERKEN: That's one of the issues that will
24 be -- that will be tried or dealt with in this case.
25 Yes. That's what our ordinance says, is if -- if --

1 now, if they don't pay the fee, we -- by the way, for
2 public safety purposes, we don't cut people off from
3 those -- those services. But we do reserve the right
4 to potentially collect for the value of those
5 services rendered in the future.

6 I think when we drafted -- when the ordinance
7 was done, it was said that that would sparingly, if
8 ever, be used. I think there was really no intention
9 that that be seen -- but if someone's abusing the
10 system -- and there are cases that you can think of
11 where somebody is -- is, you know, using our police
12 and fire services to the nth degree, we reserve the
13 right, if we can, to -- to go after that.

14 Whether or not we can do so will be one of the
15 issues that -- that can be -- that can be worked on
16 in this litigation. I mean, one of the issues that
17 will be discussed is the notion of public safety
18 functions that our police do versus other things.

19 In Fruitland Park, our police do a lot of
20 things.

21 VICE MAYOR KELLY: Yes, they do.

22 MR. GERKEN: Some of them are classic police
23 public safety purposes. Others are not. Our police
24 officers serve as code enforcement officers and deal
25 with barking dogs and uncut grass, and they serve as

1 animal control first re -- first responders, if you
2 will, going out on those issues that are not public
3 safety type of issues.

4 But the -- as I said, the police and fire
5 service fees are not a legislatively specifically
6 prescribed fee. They do allow you to charge fees for
7 services. They do allow you to -- allow you to do ad
8 valorem taxes and certain other taxes. But there is
9 no statute that specifically addresses police and
10 fire fees, which is why this has become such an -- a
11 gray area.

12 COMMISSIONER CHESHIRE: Is there any other
13 towns who've done this? I mean --

14 MR. GERKEN: There are other towns that have
15 done that. I don't -- there are no other towns in
16 Lake County that charge a user fee.

17 And, again, a user fee is not to be -- a user
18 or service fee is not to be confused with an
19 assessment. Which you'll see -- there are several
20 towns in Lake County that do assessments for fire.

21 You'll notice you won't see a police
22 assessment. That's because the courts have said you
23 can't do an assessment for police because it -- let
24 me back up just a little bit.

25 And it's probably good for you, just as you

1 hear people talking about it, to have a two-minute
2 discussion on the difference between a tax, a user
3 fee, and an assessment. Those are the three kind of
4 ways that local government often -- often collects
5 money.

6 A tax, as you know, is something -- is
7 something that our constitution specifically allows
8 us, to do certain taxes, an ad valorem tax. But what
9 the constitution says, our state constitution, is
10 that you cannot do a tax unless it is specifically
11 allowed by the legislature or our constitution.

12 So ad valorem taxes, business license taxes,
13 utility taxes -- these are all taxes that are -- that
14 are out there. But if -- the way on taxes -- unless
15 there's something that says you can tax somebody that
16 way, that -- you're limited to those specific things.
17 So that is a tax.

18 A -- an assessment, like this fire assessment
19 that you have -- and you'll see assessments -- the
20 classic assessment is someone putting a sidewalk out
21 in front of your house. And they assess the -- any
22 people that -- that are on that street for the cost
23 of that sidewalk. The notion is that it specially
24 benefits that property, and so those are -- should be
25 the people that pay for it.

1 And what the law has allowed is for fire --
2 traditional fire services; not EMS services.
3 Traditional fire services. They will allow a local
4 government -- or in our case, the County does one of
5 these too -- to do a non-ad valorem assessment for
6 the cost of that fire protection services. Because
7 the courts have said, well, that's close enough to
8 benefiting the property.

9 They don't believe that EMS and other things
10 benefit the property as much as they do people. And
11 they haven't allowed assessments for police services
12 because they don't specific -- specially -- I mean,
13 people -- benefit the property.

14 Now, why a certain amount of police services
15 wouldn't specially benefit the property when fire --
16 that's a good question. And -- and I've often
17 wondered -- and I think there, certainly, could be
18 something there. But that's the current state of the
19 law.

20 User fees, though, on the other hand, are just
21 what you think. I mean, a user fee or a service fee
22 is the people using the service pay a fee
23 commensurate with the service that is rendered.

24 The user fees need to be voluntary; thus, the
25 voluntaryness (sic) of our fee. In other words, it's

1 a service that the government provides, that people
2 can choose to use. And in this case, the user fees
3 are done for a -- a variety of -- of things that you
4 have in governmental services and on all those things
5 that you, typically, see.

6 Now, one of the areas that user fees have been
7 allowed in recent years is for stormwater.
8 Stormwater is a user fee, that fee that's on our
9 bill. But the courts have allowed that as a valid
10 user fee.

11 And there's a number of other fees. The fee
12 has to be fair. It has to be in line with the -- the
13 services rendered.

14 But, again, user fees have been specifically
15 allowed through the courts in a variety of areas.
16 But they haven't specifically allowed user fees for
17 police or fire services. And that's where this comes
18 in.

19 So most cities have just gone the traditional
20 route, the safe route, to pay for those services
21 either through assessments for fire or for ad valorem
22 taxes or anything else.

23 COMMISSIONER GUNTER: Well, the -- the
24 assessment on fire has already been challenged by the
25 court; correct?

1 MR. GERKEN: Yes. Challenged -- they went
2 through lawsuits like this for assessments, spent
3 years -- in fact, originally, Lake County was
4 involved in one of those. They were one of the
5 first --

6 COMMISSIONER GUNTER: I think Tavares has got
7 \$11 on their --

8 MR. GERKEN: On their -- yes. It's on their
9 utility bill and -- and --

10 COMMISSIONER GUNTER: For fire.

11 MR. GERKEN: So that's an assessment. That's
12 not a fee.

13 COMMISSIONER GUNTER: You should have
14 recommended that to us.

15 COMMISSIONER GOLDBERG: Change the wording.

16 MR. GERKEN: Well -- well -- interesting.
17 We --

18 COMMISSIONER GOLDBERG: That's what it sounds
19 like to me.

20 MR. GERKEN: Well, you can't just change the
21 wording. The -- the problem -- and with regards to
22 the assessment -- is, one, police is our big number
23 that we have, and you can't do the assessment for
24 police.

25 And with regard to fire, the assessment figure

1 is just for traditional fire services. Because we
2 have a voluntary fire department and limited things,
3 there -- the number -- the fire aspect of our number
4 is not that large. And so -- plus the -- and that
5 was one of the reasons that we decided not to go the
6 assessment route.

7 And, frankly, four years ago -- it's strange
8 the way these tides turn -- assessments were kind of
9 a -- things people didn't like. And fees were deemed
10 more user-friendly, I guess is what you would call
11 it.

12 There are -- to answer your question also --
13 there are other cities that have -- that charge these
14 user fees. I've got a call in to some of the
15 attorneys for some of them just to see where they are
16 at the moment, whether there are any problems with
17 them. And I'm waiting to hear back.

18 COMMISSIONER GUNTER: I'm sure they will after
19 this.

20 MR. GERKEN: Yeah. And actually, it's -- it's
21 interesting. When -- you know, making no bones about
22 it, Wildwood has historically had these fees. And
23 they are fees. And when -- they had theirs before we
24 had ours. And their fees are higher. And they've
25 been doing them longer. And I -- I called Jerri

1 Blair recently and left a message to talk to her
2 about it.

3 She shared with me that they had the same
4 concerns, but, apparently, they have not been
5 challenged. They may very well be challenged going
6 forward.

7 VICE MAYOR KELLY: Currently challenged right
8 now? I believe they are.

9 MR. GERKEN: I -- well, that's what I said. I
10 don't know. I was calling her to see if there's been
11 anything going on with regards to that. If they're
12 still even charging them. I don't know.

13 COMMISSIONER CHESHIRE: So there's no case law
14 on this? I mean --

15 MR. GERKEN: There's tons of case law -- and
16 that's what we'll all be arguing -- about user fees
17 and assessments and taxes. There's, literally, books
18 written on the subject that'll bore you to death.
19 But there isn't a case right on point with regards to
20 can you have a police and -- or a fire user fee.
21 That's -- that's where we're heading. At least not
22 in Florida, so...

23 I don't like to make law, though. I don't like
24 for our city to have to do that. And that -- that's,
25 again, the reason why --

1 COMMISSIONER GUNTER: Well (inaudible).

2 MR. GERKEN: (Inaudible.) You know,
3 particularly -- particularly, you did this to try to
4 be fair and to try to respond to --

5 COMMISSIONER GUNTER: That's exactly what it
6 was.

7 MR. GERKEN: And --

8 COMMISSIONER GUNTER: To be fair to everybody.

9 MR. GERKEN: And if it's not appreciated and
10 people think you're trying to do something sneaky or
11 it's not being fair, well, at some point you question
12 why you do it and say, well, if the people don't want
13 us to do it in this manner -- I mean, you do the
14 traditional ad valorem assessments. You go that
15 route. At least until it gets resolved.

16 MAYOR BELL: When the -- when the assessments
17 are billed on the utility bill, you're billing
18 utility customers.

19 MR. GERKEN: I don't know how they're doing it.
20 That's a -- it's a very good question, actually.

21 Usually, fire assessments are not billed on the
22 utility bill. And, in fact, Tavares has --

23 COMMISSIONER GUNTER: Tavares --

24 MR. GERKEN: -- has been out on the edge a
25 little bit on that by doing that method. They got an

1 opinion from a highfalutin law firm that said they
2 could do that. Because they wanted to do it that way
3 'cause they get the money quicker and it's easier and
4 it's all right there. They don't have to go through
5 the tax office and all that.

6 I mean, I kind of wondered myself how -- if the
7 utility bill is going to an occupant -- I think
8 they've just got it tied in to the system. But I
9 have friends that live in Tavares and, oddly enough,
10 when -- sadly, when they read the newspaper
11 article -- called me and said, hey, I'm paying one of
12 those fire taxes too. And I don't even live in
13 Fruitland. And I had to explain to them, well,
14 that's not a fire tax. Not a fire --

15 COMMISSIONER GUNTER: Yeah. My brother-in-law
16 called me and said --

17 MR. GERKEN: We pay those.

18 COMMISSIONER GUNTER: Let me (inaudible). Then
19 he flips it over and it did say fire assessment on
20 the other side.

21 MAYOR BELL: But if it's -- but if it's not
22 billed directly to the property owner, though,
23 it's -- it's more --

24 MR. GERKEN: I don't know. As I said, I don't
25 know how -- that is an assessment, though, no doubt.

1 They went the assessment route. But they're charging
2 it on their utility bill. That's the method of
3 collection they use.

4 COMMISSIONER GUNTER: Now, are they charging
5 citywide eleven twenty-four? He said he's paying
6 eleven twenty-four, I believe is what he said.

7 MR. GERKEN: On the assessment?

8 COMMISSIONER GUNTER: Eleven dollars.

9 MR. GERKEN: I think what they did --

10 COMMISSIONER GUNTER: (Inaudible.)

11 MR. GERKEN: What they did, which I -- I know,
12 you know, Minneola has one of these. Typically, what
13 they do is residences, single-family residences, all
14 pay the same, whatever that number is --

15 COMMISSIONER GUNTER: Okay.

16 MR. GERKEN: -- \$11.24. But businesses -- and
17 in Tavares cases, hospitals and things like that --
18 pay, typically, on a square footage basis.

19 COMMISSIONER GUNTER: Okay.

20 MR. GERKEN: And they may even have their
21 different codes based on the type of use.

22 COMMISSIONER GUNTER: The reason I ask that is
23 in this suit, it had questioned that we did not do a
24 study.

25 MR. GERKEN: Uh-huh.

1 COMMISSIONER GUNTER: And how do you determine
2 that if a house --

3 MR. GERKEN: Yes.

4 COMMISSIONER GUNTER: -- that they're putting
5 the figures in there. But anyway, how do you
6 determine a house is worth \$40,000 and is paying
7 the -- the \$4 a month as opposed to a house worth
8 \$300,000 --

9 MR. GERKEN: Right.

10 COMMISSIONER GUNTER: -- is paying \$4 a month?

11 MR. GERKEN: Right.

12 COMMISSIONER GUNTER: So that's why I was
13 wondering about the fire assessment in Tavares. Is
14 it straight across-the-board money or --

15 MR. GERKEN: Yes.

16 COMMISSIONER GUNTER: -- are they --

17 MR. GERKEN: And, again, the courts -- that's
18 been something that was argued about. And the courts
19 have said with regards to assessments, those fire
20 assessments, that they have deemed it fair to charge
21 all single-family residences, be it big or small, the
22 same flat rate. There -- that was challenged, that
23 very issue. And that's been held down. The study is
24 almost always done.

25 Now, there -- those studies -- typically, it's

1 a \$40,000-plus study that you pay to have the --
2 this -- determine the appropriate rate.

3 COMMISSIONER GUNTER: All right.

4 MR. GERKEN: The law doesn't actually say you
5 have to have a professional study done. But it does
6 say you have to have legitimate basis and findings.
7 And, again, the tried-and-true method is to pay a
8 consultant to have a study so you've got that there.

9 But, again, that's the assessment route.
10 That's really more with regards to that. And that's
11 where you hear those cases talked about.

12 With regard to the user fee, we do have to show
13 that it's a -- a legitimate fee service that's tied
14 to what they're getting. But it's a different kind
15 of an animal.

16 MAYOR BELL: Well, the -- the fee that we've
17 charged --

18 MR. GERKEN: Uh-huh.

19 VICE MAYOR KELLY: -- now, the
20 \$11-and-something assessment, was that to cover the
21 total cost of the service?

22 MR. GERKEN: I think it's actually just a
23 small -- they did a percentage. In other words --
24 and, again, I'm not completely familiar with what
25 Tavares did. But I can't imagine they can pay for

1 fire on 11 bucks per house. Yeah.

2 What most -- for instance, Minneola just did
3 the same thing. They were doing it right along
4 with -- with Tavares. Same -- I think the same
5 company might have done the -- the study.

6 They -- the study -- and I'm rounding
7 numbers -- determined that the total cost of fire,
8 when you put everything in it, was, like, \$200 per
9 year, per house. But they chose, for a variety of
10 reasons, some of which are, frankly, just because the
11 people have to get used to this concept -- they
12 charged -- to only charge 25 percent of that number
13 starting out.

14 So they did an assessment -- I believe it's of
15 about \$50 -- per year. Which ends up being, you
16 know, four bucks a month or something like that.

17 Tavares, though, for -- if it's \$11 a month,
18 that may come close to being most of it. That's a
19 pretty aggressive opening assessment to put on that
20 bill every month. But that's -- that's what that
21 would be.

22 But, again, those are done -- every house pays
23 the same, big or small. But they, typically -- in
24 those cases, they usually have a different route for
25 commercial.

1 In our case, we have a standard user fee
2 throughout for all utility customers. Frankly, at
3 the time, I believe Chief Isom testified as to the
4 occupancy and the services and, frankly, felt that
5 businesses and those -- that there really wasn't an
6 advanced level of law enforcement that was with --
7 protecting a business as there was a house. And
8 based on all that, we kept just a uniform rate.

9 Again, that's something else that would need to
10 be -- not determined at this time. Yes. It would be
11 wonderful if we had a \$100,000 study that completely
12 analyzed every dime of our police services and what
13 they do and how they are. But it was a much more
14 simplistic route at the time, saying our budget is a
15 million. Four dollars is a pittance of what that --
16 that charge is. They're, certainly, getting \$4 worth
17 of police and fire services each month.

18 That's an oversimplification, but the -- the --
19 that was the logic on that.

20 VICE MAYOR KELLY: We did some kind of a study
21 or something like that on -- somewhere, in the area
22 of this issue going --

23 MAYOR BELL: For stormwater.

24 MR. GERKEN: Yeah. Stormwater can be
25 charged -- if everybody gets the same amount for

1 stormwater --

2 VICE MAYOR KELLY: Yeah.

3 MR. GERKEN: -- you can. Everybody on a
4 residential basis.

5 VICE MAYOR KELLY: So we had people question
6 whether or not it should be done by square footage
7 because Wal-Mart is paying the same as somebody
8 that's got a small house.

9 COMMISSIONER CHESHIRE: I believe there's a
10 multiplier.

11 MR. GERKEN: Yeah.

12 COMMISSIONER CHESHIRE: In most cases it's a
13 multiplier.

14 MR. GERKEN: On -- on the commercial, they --
15 they allow -- on ours or what they did -- when you're
16 first setting it up, I think he charges a dollar.
17 And it was just, literally, for, like, the
18 administrative costs when they -- and they said,
19 well, for that -- well, once you get up into higher
20 dollars, then, frankly, you start doing it on a
21 multiplier and square footage.

22 And people -- again, stormwater --
23 theoretically, people can opt out of that service by
24 providing on-site retention. Then they -- if you --
25 everybody here -- it's in that ordinance -- can --

1 can provide, if you can somehow do it -- most people
2 can't. But if you could somehow retain all your
3 stormwater and show you're not using our stormwater
4 system at all --

5 COMMISSIONER GUNTER: I can't, 'cause my water
6 goes downhill.

7 MR. GERKEN: If you can do that, and establish
8 that for the record --

9 COMMISSIONER GUNTER: (Inaudible.)

10 MR. GERKEN: Well, exactly. That's -- and most
11 people can't retrofit their property to do it. But
12 if you were coming along and can do that, you,
13 theoretically, could get a reduced or completely
14 eliminate your stormwater.

15 COMMISSIONER GUNTER: As I recall, when we set
16 that stormwater fee -- and somebody was pushing us to
17 put it in. Either Tallahassee or the feds or
18 somebody.

19 MR. GERKEN: St. Johns more than likely as
20 well.

21 COMMISSIONER GUNTER: Yeah.

22 MR. GERKEN: And the stormwater is something
23 that there used to not even -- never even heard about
24 stormwater. And then it's -- there's a statutory
25 revision that addresses stormwater utilities now.

1 And there are stormwater fees that have been --
2 there's a whole line of cases on the stormwater fees
3 that went through this whole battle for --

4 COMMISSIONER GUNTER: And that's something else
5 that we're fairly cheap in. My -- my son over there
6 in Ponce Inlet -- theirs is \$15 a month. Between 12
7 and \$15 a month for the stormwater fee.

8 MAYOR BELL: What do we charge now?

9 VICE MAYOR KELLY: Dollar and a half.

10 COMMISSIONER GUNTER: Two dollars.

11 MR. GERKEN: But -- no. We can't get off the
12 subject of the -- the litigation. But -- but yes.
13 They're all valid points.

14 MAYOR BELL: Thank you.

15 COMMISSIONER CHESHIRE: Can I ask you a quick
16 question?

17 MR. GERKEN: Yes.

18 COMMISSIONER CHESHIRE: What's with the class?
19 And I think this is brought about by a small, fringe
20 in Fruitland Park. I think most people don't mind
21 paying the fee. Is there a threshold where ten
22 percent of the people have to file? Or is this one
23 of the things where, like, I get a notice from
24 Netflix that I've joined a class action lawsuit --

25 MR. GERKEN: Uh-huh.

1 COMMISSIONER CHESHIRE: -- and not even know
2 it?

3 MR. GERKEN: That's a very good question.
4 People will have to be given the option of joining
5 in -- opting in or opting out of the class, one way
6 or another. And that's all how -- in the
7 maneuverings of how things are set up.

8 Typically, what happens is when you go through
9 the class action proc -- class action procedure -- at
10 some point in time the Court will have to determine
11 whether or not the proposed individual is an
12 appropriate class representative.

13 If they're not and they get somebody to be an
14 appropriate class -- is it appropriate to even have
15 all these people in the same class? Do you -- is the
16 whole thing even appropriate to have as a class
17 action? Is there typicality, commonality?

18 There's this big test on whether or not all
19 these issues are --

20 COMMISSIONER CHESHIRE: If there's not enough
21 people...

22 MR. GERKEN: Well, if they can establish that
23 there's enough people -- potential class
24 representatives, they can have it certified as a
25 class. But then they have to go out and send notices

1 to all these people and give them the -- tell them
2 what this is all about and give them the opportunity
3 to join in or out. They have to be given the chance
4 to not be in the class.

5 Frankly, one of the interesting issues will be
6 you-all will be potential class representatives. You
7 all live in the city and pay -- pay the fee
8 yourselves. So you would get the notice yourself and
9 get to see it. That's an interesting issue in the
10 whole lawsuit. But --

11 MAYOR BELL: Yeah. That would be kind of...

12 MR. GERKEN: Whether you'd be a class unto
13 yourself or something else. Whether you opt in or
14 out --

15 MAYOR BELL: Yeah. Well, he's no longer --

16 COMMISSIONER GOLDBERG: He was okay when he was
17 sitting here.

18 MR. GERKEN: I understand.

19 COMMISSIONER GOLDBERG: But now that he's not
20 sitting here, he's not okay with it.

21 MR. GERKEN: Yeah.

22 COMMISSIONER GUNTER: So if -- if they win,
23 from their side, the ones that signed up for the
24 class --

25 MR. GERKEN: Yes.

1 COMMISSIONER GUNTER: -- they'll get the rebate
2 over the past four years or however long we've
3 been...

4 MR. GERKEN: If they win, I mean -- and
5 that's -- this is serious stuff. I mean, if they win
6 and they're successful in establishing that this is
7 an invalid tax and if they -- now, we have arguments
8 that even if -- even if the Court were to say this is
9 an invalid tax, we don't think it's appropriate to
10 give a refund of all the monies they've paid over the
11 last four years.

12 But let's say, worst-case scenario, the Court
13 says they -- it's an illegal tax and everybody should
14 get a refund. Let's say they get what they asked
15 for. Normally, what the Court does -- kind of like
16 the Blockbuster class action or something to that --
17 is they will require the City to set up a fund in
18 which to pay class claimants from.

19 So the people would have to establish I've paid
20 \$4 a month for -- or, you know, for --

21 COMMISSIONER GUNTER: So -- so they --

22 MR. GERKEN: -- so many years --

23 COMMISSIONER GUNTER: -- have to come to the
24 City and tell us what they've paid?

25 MR. GERKEN: Well, no. I mean -- but keep in

1 mind -- again, it's interesting 'cause we're a city.
2 They can make a public records request and make us
3 establish what's been paid. So it's --

4 MAYOR BELL: And then --

5 MR. GERKEN: -- for us --

6 MAYOR BELL: Then for us to pay -- to establish
7 this fund --

8 MR. GERKEN: Uh-huh.

9 MAYOR BELL: -- where is this fund money coming
10 from?

11 MR. GERKEN: Well, it would have to come from
12 the City's coffers in some manner.

13 VICE MAYOR KELLY: Out of our ad valorem fund.

14 MR. GERKEN: Yeah. Exactly.

15 MAYOR BELL: Out of our ad valorem fund.

16 MR. GERKEN: Yeah. It's not a happy thought.

17 I know. That's why I said this is serious stuff.

18 COMMISSIONER CHESHIRE: (Inaudible) want us to
19 pay for (inaudible).

20 MR. GERKEN: Yeah.

21 COMMISSIONER CHESHIRE: So --

22 MR. GERKEN: And then -- yes. You're
23 thinking -- exactly. Where do you get those monies?
24 You would have to tax the people to get the monies to
25 pay for this.

1 COMMISSIONER CHESHIRE: They're suing
2 themselves.

3 MR. GERKEN: Yes.

4 VICE MAYOR KELLY: So they'd be paying for
5 their own --

6 MR. GERKEN: Yeah.

7 VICE MAYOR KELLY: Yeah.

8 MR. GERKEN: And that's what I said before. If
9 you're not a property tax owner and you're somebody
10 who's -- who's -- you'd have a different attitude
11 about that versus if you're somebody who's going to
12 have to foot the bill to pay the lawsuit. Yes.

13 And with all due respect, in -- in
14 Mr. Richardson's case or as a property owner, you
15 are -- if you win, you're hitting -- you're hurting
16 your city, is what you're doing. You're hurting your
17 city with a bill that they have to pay, that the City
18 would have to raise taxes -- that's the only way you
19 could pay it, ultimately, to pay that bill.

20 COMMISSIONER CHESHIRE: Wouldn't the
21 beneficiaries be burdened by the same tax, though?
22 They're not going to be excluded from the tax.

23 MR. GERKEN: Correct. No. Absolute -- you
24 can't pick and choose who pays the ad valor -- you're
25 right.

1 COMMISSIONER GOLDBERG: They don't understand
2 that.

3 MR. GERKEN: And that's the thing --

4 COMMISSIONER GOLDBERG: There's no way to win.

5 INTERIM CITY MANAGER COTTRELL: I think
6 lose-lose.

7 MAYOR BELL: I think our treasurer -- our
8 treasurer actually ran a little thing --

9 MR. GERKEN: She did.

10 MAYOR BELL: -- that's -- that shows the -- the
11 impact.

12 MR. GERKEN: And that will be something come
13 budget time.

14 MAYOR BELL: For some -- for some of these
15 houses in Wingspread, you're talking \$500 versus the
16 96 they're paying right now.

17 MR. GERKEN: Yes. For -- the higher-valued
18 homes would get hit the hardest because they would be
19 above any exemptions and would get hit with the
20 lion's share of any tax increase.

21 COMMISSIONER CHESHIRE: We're -- we're not
22 allowed to explain this to people because he's saying
23 that we're --

24 MR. GERKEN: That is just a motion. You are
25 not under any restrictions at this point. Obviously,

1 you have to be truthful with people. And I don't
2 advise you to go out and -- and be preaching to
3 folks --

4 COMMISSIONER CHESHIRE: Well, you're not going
5 to go out and solicit anybody, but if somebody --
6 people ask you --

7 MR. GERKEN: Yes.

8 COMMISSIONER CHESHIRE: -- you're allowed to
9 say --

10 MR. GERKEN: You are -- you're public
11 officials. You represent the people. You wouldn't
12 be doing your job to talk to your constituents --

13 MAYOR BELL: We've had about -- I think we've
14 had about a dozen people wanting to opt out of -- out
15 of the --

16 MR. GERKEN: I think it's 12 or 13 that have
17 opted out.

18 COMMISSIONER CHESHIRE: How many -- how many
19 pay it? Like, 1500?

20 MR. GERKEN: Eighteen hundred or so.

21 MAYOR BELL: But these 12 people that have
22 opt -- 12 or 13 that have opted out, can we give them
23 a phone call?

24 MR. GERKEN: No. I wouldn't do that. I don't
25 recommend -- I -- I would just leave well enough

1 alone on those issues. No. Don't -- don't contact
2 them.

3 COMMISSIONER GOLDBERG: Geographically, do we
4 know where they're from?

5 MR. GERKEN: I have no idea, nor do I want to
6 know.

7 COMMISSIONER GOLDBERG: Yeah. Yeah. I was
8 just asking.

9 MR. GERKEN: I would not give anybody -- I
10 mean, I think it's a -- as was pointed out, I -- I
11 think if you knew the whole story and how it all
12 works, it's a short-term gain at best.

13 COMMISSIONER GOLDBERG: And a long-term loss
14 for every property owner who's taxed in the City of
15 Fruitland Park.

16 MR. GERKEN: Yes. If -- you know, if
17 successful.

18 We -- and I guess the unfortunate thing is even
19 if -- just the fact that we have to defend this suit
20 is going to cost the City money. And these are
21 complicated lawsuits.

22 COMMISSIONER CHESHIRE: The only one making
23 money on this is you.

24 MR. GERKEN: In a sense, yes. Exactly. Trust
25 me. I don't want this lawsuit. I don't like being

1 in a lawsuit.

2 COMMISSIONER GOLDBERG: You don't want to win
3 it this way.

4 MR. GERKEN: I -- yeah. I don't like it when
5 my -- you know, it's a common joke among lawyers
6 that -- oh, it was a great day; my client got sued.
7 I've never felt that way. I don't like my clients to
8 be in the paper like we've seen recently. I don't
9 like to see that.

10 And, frankly, Fruitland Park -- we've -- we,
11 frankly, have -- particularly recently -- enjoyed the
12 thought of being -- getting back to a cordial, let's
13 accomplish things for the City. This is not
14 accomplishing anything for the City of Fruitland
15 Park.

16 And that's why -- I mean, this lawsuit is not
17 productive for you as a City. I think -- and that's
18 why I think as -- as going forward, I do think when
19 we get to budget time, it -- it's probably going to
20 be something -- I don't think we should rely on these
21 fees going forward until this issue is resolved.

22 You don't have to admit to anything. You don't
23 have to admit that it's illegal or anything like
24 that. But I just think, going forward, it's -- I
25 would pretty much plan on not -- on not assessing

1 these fees in the future. For -- at least for a
2 period of time.

3 Yes.

4 INTERIM CITY MANAGER COTTRELL: Would you
5 recommend or posit the notion of us adopting a more
6 palatable and legal approach, like a special
7 assessment and/or, as I've mentioned to some of you,
8 indirect cost study and adopting a rate structure
9 that is --

10 MR. GERKEN: Uh-huh.

11 INTERIM CITY MANAGER COTTRELL: -- sufficient?

12 MR. GERKEN: There are other revenue sources --
13 and that's a very good idea -- is -- that can be
14 looked at with regards to the City. And -- I
15 wouldn't say another legal source. We're not saying
16 this is illegal. But a more tried-and-true --

17 INTERIM CITY MANAGER COTTRELL: Right.

18 MR. GERKEN: -- source, like an assessment.
19 We, certainly, could do an assessment.

20 I don't know -- you know, we'd have to probably
21 even talk to somebody to see whether or not -- what
22 kind of numbers would be established by an
23 assessment. But yes. I think an assessment --

24 INTERIM CITY MANAGER COTTRELL: Well, that
25 would only be partially --

1 MR. GERKEN: Yeah.

2 INTERIM CITY MANAGER COTTRELL: -- a recovery
3 because an assessment would be fire only, but...

4 MR. GERKEN: Yeah. Wouldn't cover the police
5 side of things, at least at this time. Unless you
6 wanted to try that.

7 MAYOR BELL: Well, I mean, we'd be assessing --

8 COMMISSIONER GUNTER: We won't be cutting
9 (inaudible).

10 MR. GERKEN: Police assessments. Yeah.

11 So feel free to call me as you have questions
12 in the future or you need to hear something or need
13 some clarification. There's a lot of talk going
14 around, a lot of misinformation out there. That's
15 unfortunate.

16 But hopefully that'll get cleaned out in the
17 coming months, at least.

18 VICE MAYOR KELLY: So, actually, you're more
19 concerned with the class action lawsuit than you are
20 with the other one?

21 MR. GERKEN: Yes.

22 VICE MAYOR KELLY: Okay.

23 MR. GERKEN: The 1983 action -- I'm not an
24 expert on 1983 actions, but I do not -- you never
25 know what'll happen in court, but I do not think

1 that'll be a significant liability to the City.

2 Plus, we have insur -- coverage -- insurance
3 coverage to cover that as well.

4 I think that that will be something that will
5 need to be dealt with for a period of time, but I do
6 not have --

7 VICE MAYOR KELLY: I'd rather not use our
8 insurance monies for this kind of stuff.

9 MR. GERKEN: No.

10 VICE MAYOR KELLY: No.

11 MR. GERKEN: And I -- you know, I -- we have
12 no -- no intention of, oh, heck, it's the insurance
13 money; we'll go ahead and pay. That's not the desire
14 at all on -- on that lawsuit, I can assure you.

15 MAYOR BELL: The -- Scott, the -- the cost for
16 the plaintiff in filing a class action --

17 MR. GERKEN: Yes.

18 MAYOR BELL: -- what's -- what's an estimate?
19 I mean, how does that work?

20 MR. GERKEN: I don't know. I can only
21 speculate. We don't know what the fee arrangement is
22 there. It is -- but, I can speculate, 'cause I
23 thought of it myself. It is probably being done on a
24 contingency fee basis.

25 COMMISSIONER GOLDBERG: Yeah. I was -- I don't

1 know.

2 MR. GERKEN: I would be surprised if it was
3 anything else.

4 MAYOR BELL: But, I mean, as -- as it gets into
5 the -- the lawsuit, I mean, is there not going to
6 have to have...

7 MR. GERKEN: The expenses? There'll be costs
8 and expenses.

9 MAYOR BELL: I mean, that's -- I mean,
10 certainly, somewhere along the line you've got to get
11 some -- some experts to testify or --

12 MR. GERKEN: Yes. There'll be --

13 MAYOR BELL: -- some studies or --

14 MR. GERKEN: There'll be costs. And that will
15 be an issue.

16 That's not really our worry, as far as what
17 their costs might be, but, you know -- I mean,
18 there's just costs involved -- class actions are not
19 cheap. I mean, filing a class action -- just the --
20 when you think about it, just simply sending notices
21 to all the 15 or 1800 people that are potential class
22 members -- if not more than that, 'cause there are
23 people that used to pay the fee that are no longer --
24 you know, that aren't paying anymore. I don't know
25 how many potential --

1 COMMISSIONER GOLDBERG: How would you track the
2 people who -- I mean, that don't even live in the
3 city anymore? They -- for a rental property.

4 MR. GERKEN: Correct.

5 MAYOR BELL: So your opinion is that the -- the
6 attorney is covering all those costs at this point?

7 MR. GERKEN: I -- I don't know about the costs.
8 I can tell you, normally, in those type of
9 arrangements -- well, there is no normal.

10 Sometimes -- sometimes the attorneys would
11 require that the costs -- there be a costs deposit
12 up-front or that the client cover the costs but
13 they'll do the rest on a contingency.

14 Other times, attorneys will cover the costs.
15 That's not unusual in a -- personal injury type of
16 matters, for the plaintiff's attorney to front a
17 portion of the costs and then take it out of the
18 potential recovery.

19 Now, they -- in those cases, though, they
20 almost always require -- I think it may even be a
21 requirement -- that they'll front the costs, but if
22 they're unsuccessful, the client has to pay them back
23 for the costs.

24 COMMISSIONER GUNTER: But isn't on a personal
25 injury like that --

1 MR. GERKEN: Uh-huh.

2 COMMISSIONER GUNTER: -- the attorney's getting
3 a certain percentage of the --

4 MR. GERKEN: Yes.

5 COMMISSIONER GUNTER: -- settlement?

6 MR. GERKEN: Yes.

7 COMMISSIONER GUNTER: Okay. On this -- and the
8 figure I saw, it was \$500,000. Now, he's not going
9 to get a percentage of the 500,000, is he? Or is he
10 going to get a percentage -- I mean, if we're handing
11 out rebates to the -- the citizens out there --

12 MR. GERKEN: Uh-huh.

13 COMMISSIONER GUNTER: -- whatever they paid for
14 the last four years and no more than that --

15 MR. GERKEN: Uh-huh.

16 COMMISSIONER GUNTER: -- where -- where does he
17 get his --

18 MR. GERKEN: No. That's a very -- it -- it's
19 not like a personal injury settlement when they get,
20 like, 30 percent of the recovery.

21 COMMISSIONER GUNTER: Right.

22 MR. GERKEN: But the attorney gets -- in a
23 class action lawsuit, typically, gets paid out of the
24 recovery fund.

25 VICE MAYOR KELLY: Yeah.

1 MR. GERKEN: So if it's, let's say, \$500,000
2 and the attorney can establish they've got umpteen
3 hours and all this time and it was a really difficult
4 issue so they should get a multiplier and this and
5 that, this may very well --

6 VICE MAYOR KELLY: They don't get a flat
7 40 percent?

8 MR. GERKEN: No.

9 VICE MAYOR KELLY: Isn't that, like -- no?

10 MR. GERKEN: No. They, typically, have to
11 establish their hours and what they did and -- and
12 there's a whole other argument on what's an
13 appropriate or reasonable attorney's fee.

14 But they, typically, get paid out of the fund.
15 So let's say there's a \$500,000 fund. The attorneys
16 may say, well, we should get \$150,000 of that. So,
17 again, that takes away from the recovery that the
18 people -- it's not, by the way, tacked on to the
19 fund. It's -- it comes out of the fund.

20 COMMISSIONER GOLDBERG: So it's got to be part
21 of the total fund.

22 MR. GERKEN: So when you -- the classic
23 thing -- I was in the Blockbuster class action. I
24 got my coupon at the end of the day for a free
25 rental. I mean, the attorneys made, you know --

1 COMMISSIONER CHESHIRE: So you can actually
2 give a free hot dog at Fruitland Park Day or
3 something?

4 MR. GERKEN: Well, no.

5 But no. Those -- but the fees are, typically,
6 paid out of the recovery fund. It's not a flat
7 percentage. But it comes from the -- and that all
8 has to be approved by the Court. And, typically,
9 there are --

10 COMMISSIONER GUNTER: And who -- who sets the
11 amount in the recovery fund?

12 MR. GERKEN: The judge.

13 COMMISSIONER GUNTER: The judge sets that?

14 MR. GERKEN: The judge will set the amount of
15 the recovery fund. And, again, they've asked --
16 well, we don't know. There's a claim for a jury
17 trial.

18 COMMISSIONER GOLDBERG: There's nothing in here
19 about --

20 MR. GERKEN: But that appeared to be just on
21 the 1983 case -- which is usual -- but not on the
22 class action. So, typically, the judge would
23 defend -- would determine the appropriate fund or
24 damages, if that is, and also what's the appropriate
25 fee to come from that fund.

1 And -- and if you -- if you ever read one of
2 those class action settlements you get sometimes,
3 usually there's a settlement proposal that comes
4 along. And it will say, there is a fund set up of X.
5 And, typically, you'll notice the attorneys are
6 getting paid X, and that comes from the fund and
7 blah, blah, blah.

8 COMMISSIONER GUNTER: If -- if the judge sets
9 this -- this fund up, is it a possibility that he
10 sets it for less than the 500,000 we've collected for
11 the last four years? And now the people say, okay,
12 well, I paid in \$122 the last four years. Well, the
13 judge set it at --

14 MR. GERKEN: I mean --

15 COMMISSIONER GUNTER: -- \$100,000. So --
16 well --

17 MR. GERKEN: It's possible. There's a lot
18 of -- we get into the area of speculation. It's very
19 possible -- in fact, I don't think it's probable --
20 that not everybody's going to come -- well, it's not
21 practical for everybody that's paid this thing is
22 going to come forward to collect it. So yes.

23 And I -- I think we would ask that as a city --
24 we're not going anywhere. There's really no need for
25 the City to take an amount of money and put it in a

1 fund. And if the City is found liable, it'll find a
2 way to pay its debts. As much as that stings.

3 COMMISSIONER GOLDBERG: We'll -- yeah. We'll
4 just increase their bill by \$4 a month.

5 MR. GERKEN: Yeah. But -- but yes. That'll --
6 that all would be -- and that's way, way down the
7 pipe.

8 COMMISSIONER GUNTER: Okay. You said way down
9 the line. That's the next question. Is this going
10 to be a four-year thing?

11 MR. GERKEN: I don't know. I honestly don't
12 know. It could -- yes. It could very well go on for
13 several years. I have no desire to see that for the
14 City, but we also have no desire to just cave in to
15 something either.

16 COMMISSIONER GUNTER: Right.

17 MR. GERKEN: Again, my hope -- and I've got the
18 initial note -- my note was, what are you trying to
19 do? How does this benefit the City of Fruitland
20 Park? I don't get it. Is there something we can
21 work out that -- that benefits the City, that saves
22 us all from paying all this money for lawyers and --
23 and possibly causing taxes to go up?

24 We haven't reached that point yet.

25 COMMISSIONER GUNTER: I think you hit it right

1 on the head right then.

2 MR. GERKEN: Uh-huh.

3 COMMISSIONER GUNTER: If the taxes goes up, I
4 think at the next election, whoever's running for the
5 seats up here is going to say, they all voted to
6 raise the taxes.

7 MR. GERKEN: Uh-huh. Yeah. I -- I don't know.

8 COMMISSIONER GOLDBERG: You think -- this man,
9 right here (indicates) --

10 COMMISSIONER GUNTER: Exactly.

11 COMMISSIONER GOLDBERG: -- this is the guy who
12 sat here and said, we don't want to raise taxes.
13 Let's -- let's talk about raising utility -- or the
14 usage fees. He did say, why don't we make it \$10.

15 MR. GERKEN: He did vote against the potential
16 increase, I think, the last time or two it came up.
17 But that was prior to that.

18 MAYOR BELL: But it wasn't going high then.

19 MR. GERKEN: No. Well...

20 But, again, those are issues. There's -- there
21 sometimes are emotions that are going to be in this
22 case. I would just ask you to please put those aside
23 and just -- and just try to deal with things as
24 they -- they come up.

25 MAYOR BELL: Well, this -- this is my question

1 now.

2 Going forward from this meeting --

3 MR. GERKEN: Uh-huh.

4 MAYOR BELL: -- how much are -- if -- if a
5 resident calls us up --

6 MR. GERKEN: Uh-huh.

7 MAYOR BELL: -- how much are we supposed to
8 talk to that resident regarding what we've discussed
9 here tonight?

10 MR. GERKEN: At this point right now, you're
11 free to talk to that resident as -- you know, as you
12 deem appropriate. I -- I don't really -- I say that
13 and I immediately take it back. I don't really like
14 the notion of talking about pending litigation. You
15 know I've always said that.

16 It's difficult, though, for an elected
17 official, when your constituent calls you and is
18 looking for advice and has their input. I mean, I --
19 I think I would encourage you to listen more than
20 talk, if that's possible. Hear what the people say.

21 And particularly if the people are telling you,
22 look, this looks bad for the City. I don't want you
23 to charge this fee going forward. I mean, I -- I
24 think that's all good information for you-all to know
25 making your decisions down the line. And so -- you

1 know, and I would keep it to just the basic facts if
2 you do respond.

3 But you, certainly, can talk to people.
4 There's nothing prohibiting you from talking to the
5 people.

6 MAYOR BELL: So Lauren Ritchie calls each one
7 of us up tomorrow --

8 MR. GERKEN: Don't talk -- I wouldn't recommend
9 you talk to the paper or the press or Channel Nine or
10 any of these other folks. That's --

11 COMMISSIONER GOLDBERG: But then -- but then
12 those people you talked to can go to them and say,
13 hey, I talked to this commissioner, and this is what
14 they told me.

15 MR. GERKEN: It is -- you can't control that.
16 I -- I failed once again to -- to communicate with
17 Ms. Ritchie, and she chose to --

18 COMMISSIONER CHESHIRE: Write whatever she
19 chose to write.

20 MR. GERKEN: -- take part of it --

21 COMMISSIONER CHESHIRE: Yeah.

22 MR. GERKEN: -- and not the rest. So I --

23 MAYOR BELL: She's good at that.

24 MR. GERKEN: -- I -- you know, that's just the
25 way these things work. I think --

1 COMMISSIONER GUNTER: So you're -- you're
2 called -- and then called Hillbilly Bill.

3 MAYOR BELL: (Inaudible.)

4 MR. GERKEN: Yeah. And we're -- we're imposing
5 a hillbilly tax. And then that -- I, certainly,
6 don't --

7 COMMISSIONER CHESHIRE: Well --

8 MR. GERKEN: -- use those words anyway.

9 COMMISSIONER CHESHIRE: Well, that -- that's
10 probably part of the person who's initiated this
11 whole situation.

12 MR. GERKEN: Well, yeah. I --

13 COMMISSIONER GOLDBERG: I'd feel more
14 comfortable not -- if -- if they had questions
15 directly, you know -- I mean, I'm not going to say
16 one way or the other. I'll say, we'll take that
17 under advisement.

18 MR. GERKEN: I think that's --

19 COMMISSIONER GOLDBERG: I hear what you're
20 saying. We'll take that under advisement. Because
21 if we say anything to them, who's to say how far it
22 goes back to certain people?

23 MR. GERKEN: I -- again, I would -- it's going
24 to be hard, though -- and, again, I'm here if you've
25 got questions. They asked me this; can I say that?

1 Please call. I -- I'm here. That's what I'm -- why
2 I'm here.

3 Those calls, by the way, I don't even charge
4 for. That's part of your -- I've never charged for
5 you-all calling and asking questions, so...

6 COMMISSIONER GUNTER: It -- it --

7 MR. GERKEN: You may strain that in this
8 litigation, but...

9 VICE MAYOR KELLY: How much is this going to
10 cost us?

11 MR. GERKEN: It's -- the bills are not going to
12 be good going forward. I'm not going to run anything
13 up, but it's -- we're going to exceed the attorney's
14 fees budget.

15 I don't like that. Believe it or not, I do not
16 like that. I don't like municipal bills for high
17 attorney's bills.

18 But going forward to strategies down the line,
19 I think one of the issues is -- for instance, if we
20 just stop charging the fee but we don't have to give
21 refunds to people that we're just going to end up
22 paying out of taxes anyway, can we just move on
23 and -- and start doing stuff for the City?

24 I -- I'm not saying that's what we're -- where
25 we're going. I don't know what the response would

1 be. But --

2 VICE MAYOR KELLY: And if we stop --

3 MR. GERKEN: -- frankly --

4 VICE MAYOR KELLY: -- we stop charging like
5 you're suggesting and we find out in -- what, two
6 years from now -- it was okay to be charging it --

7 MR. GERKEN: Could happen.

8 VICE MAYOR KELLY: -- and we've lost all that
9 money.

10 MR. GERKEN: Well, perhaps.

11 VICE MAYOR KELLY: Yeah.

12 MR. GERKEN: Yeah. No. I know that.

13 That's -- that's all -- trust me. Before you have to
14 make that final decision, we'll no doubt have more
15 meetings and discussions and have all sorts of fun.

16 MAYOR BELL: Well, certainly, it take -- it
17 takes X number of dollars from the City.

18 VICE MAYOR KELLY: Indirectly.

19 MAYOR BELL: And, you know, if we can't do it
20 in fees, we're going to have to do it --

21 MR. GERKEN: It's got to come from someplace.
22 You thought, I think, that this was an attempt to do
23 this in a fair and more equitable way, but that has
24 been scoffed at by some people. And...

25 MAYOR BELL: Well...

1 MR. GERKEN: Exactly. So we'll -- we'll have
2 to address that issue down the way and figure out the
3 way to pay it.

4 And no one, by the way, is accusing -- it's not
5 like we're taking these fees and running off to
6 Cancun. These are paying the bills to -- for our
7 police and fire.

8 As you know -- and one of the quotes you'll see
9 is doesn't ad valorem taxes pay for it? Well, just
10 look at the numbers. Our ad valorem taxes aren't
11 even half of what the police budget is. Much less --

12 VICE MAYOR KELLY: Everything.

13 MR. GERKEN: Oh, yeah. Not even half. That's
14 how --

15 VICE MAYOR KELLY: Yeah.

16 MR. GERKEN: Much less everything else you have
17 to run a city. So that's just a -- that's the kind
18 of misinformation -- oh, I'm paying for that with my
19 property taxes. No, you're not. Yeah. You pay a
20 part of it, but not nearly all.

21 COMMISSIONER GOLDBERG: A small part.

22 MR. GERKEN: Yes. So anyway. We've gone
23 beyond our -- the estimated half-hour. We need to
24 wrap this up unless -- and, again, call anytime if
25 there's questions.

1 We'll be seeking the removal, probably -- maybe
2 even tomorrow.

3 VICE MAYOR KELLY: Okay.

4 MR. GERKEN: And that should happen very
5 quickly. And then I'll let you know just -- once we
6 get the -- the federal court will act. They'll let
7 us know whether they took the whole thing, part of
8 the thing, or none of it. And I'll let you know what
9 happens with regards to that. And then we'll move
10 on.

11 They could take a look at it and say, we're
12 going to throw it out.

13 They wouldn't just throw it out. They would
14 just say, we're -- we're not going to do it. I -- I
15 think, again, they'll take the 1983. I don't know
16 and, frankly, doubt they'll take the second count,
17 but they could. We'll just have to see what they --
18 what the federal court decides.

19 MAYOR BELL: So the fact that they're lumped in
20 together might make a difference to them?

21 MR. GERKEN: Yeah. Again, they're -- they're
22 probably going to look at this and say they're counts
23 that aren't really related. As I said, normally,
24 they would just take a case. They don't normally
25 pick and choose. But I don't know how they'll deal

1 with it. It will be interesting.

2 But I -- I would think they -- they may take it
3 all initially and then remand back part of it. It --
4 it's -- it'll be interesting.

5 But at this point, we'll request that they
6 remove the whole thing and deal with it. We'd rather
7 have it, probably, in one court. But the 1983 needs
8 to be in the federal court. And if they take the
9 other one with it to accomplish that, fine.

10 But -- or if it goes back in the local court,
11 that's okay too. We'll deal with that as well. We
12 have good judges in Lake County.

13 VICE MAYOR KELLY: Isn't it more expensive in a
14 federal court?

15 MR. GERKEN: Not really. Keep in mind, the
16 federal court action is being defended by our
17 insurance company. And so that's the -- they're --
18 they're going to be charging them.

19 I don't practice -- although I'm admitted in
20 federal court, I don't practice regularly in federal
21 court. That's not my -- my venue I'm comfortable
22 with. So I'll let them take the lead on that -- that
23 area, so...

24 MAYOR BELL: All right.

25 MR. GERKEN: All right.

1 MAYOR BELL: With that, we'll return to our
2 regular meeting.

3 Is Diane still here?

4 MR. GERKEN: She is. She's been poking --
5 poking her head through the hallway down there.

6 (Mayor Bell exited the council chambers and
7 returned.)

8 MAYOR BELL: She's all the way outside.

9 (Other individuals entered the council
10 chambers.)

11 MR. GERKEN: Welcome back.

12 MAYOR BELL: All right. Now we'll return to
13 our regular meeting.

14 Scott, is there something you need say or...

15 MR. GERKEN: No. We'll just -- I guess you'll
16 be terminating that session, returning to the regular
17 meeting, and nothing further for us, from my end.

18 MAYOR BELL: I didn't know if there was a
19 closing.

20 MR. GERKEN: No. Unh-unh. No action required
21 in anything.

22 THE REPORTER: Mr. Gerken, you needed to order
23 this?

24 MR. GERKEN: Yeah. We need to have it.

25 THE REPORTER: Sealed?

1 MR. GERKEN: Yes. Like the last time. You can
2 actually send the bill to Janine, the City Treasurer.
3 Or you can send it to me. I'll forward it. It's
4 easier that way.

5 (The proceedings were concluded at 7:10 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE

2

3 STATE OF FLORIDA

4 COUNTY OF LAKE

5

6 I, BETH J. BREESE, Florida Professional Reporter and
7 Notary Public, hereby certify that I was authorized to and did
8 stenographically report the foregoing proceedings and that the
9 transcript, Pages 3 through 73, is a true and complete record
10 of my stenographic notes.

11 I FURTHER CERTIFY that I am not a relative, employee,
12 attorney, or counsel of any of the parties, nor am I a
13 relative or employee of any of the parties' attorneys or
14 counsel connected with the action, nor am I financially
15 interested in the action.

16 The certification does not apply to any reproduction
17 of the same by any means unless under the direct control
18 and/or direction of the Reporter.

19 Dated this 3rd day of MARCH, 2013.

20

21


Beth J. Breese
Florida Professional Reporter

22

23

24

25