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THE COURT: Okay, welcome back everyone.

Thank you.

Let's bring the witness in, please. If each side could designate someone to do that for us, save some time.

Mike, you can bring in the jury. Thank you.

THE BAILIFF: The jury is entering.

(Whereupon the jury entered the courtroom and the following proceedings were had:)

Welcome back everyone. Again thank you for your continued service and sacrifice. We very much appreciate it.

Ms. Gatewood, you understand you're still under oath?

THE WITNESS: Yes.

THE COURT: Thank you very much.

Mr. Mariani, you may proceed, sir.

MR. MARIANI: Thank you, Your Honor, may it please the Court.

BY MR. MARIANI:

Q. Take your time, Ms. Gatewood.

A. Sorry.

Q. If you would position the microphone so it's closer to -- your ability to speak into it.

1 A. Sure. 01:17:54

2 Q. Before lunch I was asking you some questions  
3 about the Emerson Fitipaldi and the Velocita group.  
4 Do you know whether they put together business plans  
5 for what they wanted to develop at Destiny? 01:18:09

6 A. Yes, they did, sir.

7 Q. Did you see those plans?

8 A. Yes, I did.

9 Q. Describe them generally to the jury.

10 MS. CARTWRIGHT: Objection, Your Honor,  
11 hearsay. 01:18:20

12 THE COURT: Did you see the plans?

13 MR. MARIANI: Right. And then describe  
14 them.

15 THE COURT: Okay, overruled. You can give a  
16 general description of the plans based upon your  
17 position with the company. 01:18:30

18 A. It was obviously a very typical business  
19 plan that incorporated all the different facets of  
20 course development, architecture, etc. So I think if  
21 I'm not mistaken, I think it was about close to  
22 \$900 million, was the overall project estimation. 01:18:47

23 Q. Do you know the amount of land that they  
24 were proposing to purchase if the entitlements were  
25 given? 01:19:19

1           A.     There were two -- at one point in time there  
2 was two different views on that. I think it was about  
3 1700 acres, if I recall.

01:19:21

4           Q.     Now, in respect of all their business plans  
5 or all the work they did, meetings with you, coming to  
6 the property or coming to the Destiny offices, did  
7 they pay their own expenses or were their expenses  
8 paid by Destiny?

01:19:38

9           A.     No, they paid their own expenses; to my  
10 knowledge.

01:19:56

11          Q.     You're not aware at all that anyone else  
12 paid their expenses except themselves?

13          A.     No, sir, I'm not.

14          Q.     Does the word or phrase "Earthpark" have  
15 meaning to you?

01:20:21

16          A.     Of course, yes.

17          Q.     And what does it mean to you?

18          A.     So Earthpark was a very interesting, it was  
19 an educational attraction, development, and it's sort  
20 of a little hard to explain. It's a biosphere, which  
21 is sort of a transparent dome and under, with that  
22 dome, is where there would be different types of  
23 environments. You might have a rain forest or maybe  
24 there was a desert, so it was different types of  
25 environments and all of the types of, you know, plants

01:20:36

01:20:57

1 and things that would take place under those different  
2 environments.

01:21:05

3           So it was an educational as well as I would  
4 call it entertainment, so it was to educate and also  
5 entertain the visitors. I think it was -- I can't  
6 remember, it was about two -- they were looking at  
7 about -- probably attracting about two to 3 million  
8 visitors annually to the park.

01:21:17

9           Q. Do you know the name David Oman, O-M-A-N?

10          A. Yes, I do.

01:21:37

11          Q. Who was David Oman?

12          A. He was vice president of Earthpark.

13          Q. Is Earthpark a company?

14          A. Yes.

15          Q. Where are they located?

01:21:45

16          A. So they're located out of Iowa, out of Iowa.

17          Q. Did they come to visit the Destiny offices?

18          A. Oh, yes, of course they did.

19          Q. Did they visit to the property?

20          A. I believe they did. I wasn't on it, but I

01:22:06

21 believe they had a helicopter tour if I'm not

22 mistaken.

23          Q. So you said -- if I heard you bio sphere is  
24 that the word you used?

25          A. Biosphere, yes.

01:22:25

1 Q. So what were they going to build? 01:22:26

2 A. Well, it's a dome, but it's a transparent  
3 dome and as I mentioned inside the dome there would be  
4 various different environments; from as I said a rain  
5 forest, it could be, you know, very moist environment. 01:22:38  
6 It could be desert, it could be -- I think one was the  
7 Amazon river was one of the environments so it was an  
8 a type of experiential park, but it was very much  
9 founded on education for children, for science,  
10 technology, education and math platform. 01:23:05

11 MR. MARIANI: May I approach, Your Honor.

12 THE COURT: Yes, you may.

13 Q. Let me show you this booklet and ask you if  
14 you're familiar with it?

15 MS. CARTWRIGHT: What exhibit number is it. 01:23:32

16 MR. MARIANI: It's not an exhibit. I'm just  
17 asking the witness if she's familiar with it.

18 A. Yes.

19 Q. Are you familiar with that?

20 A. Yes. 01:23:49

21 Q. Do you know who put that booklet, assembled  
22 that booklet?

23 A. I don't know if it would have been maybe  
24 Colleen Davis in our office, I don't know exactly who  
25 put it together. I would tell that you probably some 01:23:59

1 of it was materials from myself. 01:24:01

2 Q. And what's the subject matter?

3 A. So this is the overall -- overall of all the  
4 projects and maps of the location and timeline and  
5 then there was starting off of course with Earthpark 01:24:17  
6 was the first overview.

7 MS. CARTWRIGHT: Objection, Your Honor, this  
8 is not an exhibit. It's hearsay and we haven't  
9 seen it.

10 THE COURT: Show it to opposing counsel. 01:24:31

11 MR. MARIANI: I will, thank you, Your Honor.  
12 I'm not going to move its admission.

13 THE COURT: You shouldn't really be talking  
14 about something that's not an exhibit so I ask  
15 you to refrain from that please in the future. 01:24:44

16 BY MR. MARIANI:

17 Q. Was Earthpark at all about bringing animals  
18 to Florida?

19 A. No.

20 Q. No it wasn't? 01:24:56

21 A. No, it was not.

22 Q. And what was Earthpark looking to achieve?

23 A. Well --

24 Q. I'll withdraw that. Based on your  
25 interactions with the folks from Earthpark what is 01:25:16

1 your understanding of what they were trying to achieve  
2 with aligning themselves with Destiny?

01:25:18

3 MS. CARTWRIGHT: Objection, Your Honor,  
4 calls for hearsay.

5 THE COURT: Overruled. We're not talking  
6 about out of court statements simply what was  
7 your understanding of what was. You can answer.

01:25:25

8 A. Earthpark was -- had come to Florida looking  
9 for a proper location and after visiting and meeting  
10 with other projects primarily in the Osceola County  
11 area, they selected to select Destiny because we were  
12 synergistic in our view points of sustainability and  
13 really a new way of approaching education, planning  
14 and development.

01:25:48

15 Q. Did you do any calculations of how many jobs  
16 Earthpark would potentially bring to Florida to the  
17 Destiny site?

01:26:16

18 A. Yes.

19 MS. CARTWRIGHT: Objection, Your Honor,  
20 calls for speculation, hearsay.

01:26:26

21 THE COURT: Overruled.

22 THE WITNESS: I'm sorry.

23 THE COURT: I overruled the objection. I  
24 think you answered.

25 Q. You're allowed to answer?

01:26:41

1 A. Yes, I do know. I think it was 350 jobs I  
2 believe.

01:26:42

3 Q. And had you done a similar calculation of  
4 the jobs of the Velocita facilities?

5 A. Yes, that was I think close to 3,000.

01:27:01

6 Q. 3,000 jobs in respect to Earthpark. Do you  
7 know how many acres their facility revolved around?

8 A. I think it was 300 or 350.

9 Q. Acres?

10 A. Acres, I'm sorry.

01:27:26

11 MR. MARIANI: May I approach the witness.

12 THE COURT: Thank you.

13 BY MR. MARIANI:

14 Q. Ms. Gatewood I'm going to show you a  
15 two-page exhibit, it's a letter, Plaintiff's  
16 Exhibit 56 -- AVP Exhibit 56.

01:27:48

17 Do you recognize that letter?

18 A. I do I was incorrect it was 200 acres.

19 Q. Do you recognize that letter?

20 A. Yes I do.

01:28:10

21 Q. Does looking at that letter refresh your  
22 recollection about the number of acres that Earthpark  
23 was looking at in the Destiny project?

24 A. Yes I apologize I couldn't remember. Sorry  
25 it was 200 acres. I thought it was more.

01:28:28



1 Q. So this letter is addressed to Mr. Randy  
2 Johnson at Destiny, at the Destiny project?

01:28:35

3 A. Uh-huh.

4 Q. You knew Mr. Johnson?

5 A. Yes, I did, sir.

01:28:43

6 Q. This letter was received by Destiny. Was it  
7 given to you to maintain in your marketing records?

8 A. It went into my files, correct.

9 Q. And you kept it in your files since it was  
10 received by Destiny?

01:28:56

11 A. Yes, yes, sir.

12 Q. Is the letter an accurate copy of the letter  
13 you received and kept in your file?

14 A. Yes as I recall, yes.

15 Q. You mentioned that you knew and met David  
16 Omen?

01:29:10

17 A. Yes and Mr. Ted Townsend as well, who was  
18 the president of Earthpark.

19 Q. Did Mr. Owen sign this letter? Were you  
20 familiar with his signature back in January of '09?

01:29:23

21 A. I wouldn't say I could attest it to you, but  
22 David Omen signed it. I wasn't present, but --

23 MR. MARIANI: If you have. Your Honor, we  
24 move the admission of Exhibit 56 in evidence.

25 MS. CARTWRIGHT: No objection, Your Honor.

01:29:42

1 THE COURT: Then it will be stipulated in as 01:29:43  
2 56, AVP without objection. Thank you.

3 (Whereupon a document/item was marked in  
4 evidence as Plaintiff's Exhibit 56.)

5 Q. Let me ask you a few questions about the 01:29:59  
6 document, Your Honor. May we publish it?

7 THE COURT: You mean put it on the screen.

8 MR. MARIANI: On the screen.

9 Q. Could i impose on you to read the first  
10 paragraph. 01:30:13

11 A. Dear Randy I am pleased to communicate  
12 Earthpark's interest in a co-location opportunity with  
13 the 21st century Destiny project in Florida. As we  
14 have discussed, the Earthpark project in many respects  
15 could serve as an earlier, large-scale, iconic anchor 01:31:02  
16 for your sustainable community."

17 Q. And could you go down to the fourth  
18 paragraph?

19 A. Do you wish me to read that.

20 Q. Yes? 01:31:28

21 A. It is estimated that Earthpark would employ  
22 up to 300 with wages al all levels, from scientists  
23 and master teachers to people assisting guests.

24 Preliminary estimates call for an average wage of  
25 \$40,000. It is also anticipated that the full 01:31:42

1 Earthpark campus, including the report hotel and other  
2 elements such as retail and events space, could yield  
3 some 1500 additional jobs. It is estimated some 2,000  
4 construction jobs would be created over a three year  
5 plus construction period. These numbers do --

01:31:46

01:32:02

6 Q. Can you continue to the next paragraph,  
7 please.

8 A. -- do not take into account the customer  
9 ripple effect jobs engendered by large projects such  
10 as Earthpark, the Earthpark campus and all of Destiny.  
11 Many thousands of a additional jobs in construction  
12 related industries and the surrounding area would also  
13 be anticipated."

01:32:26

14 Q. And could you read the next paragraph,  
15 please.

01:32:48

16 A. "Earthpark's conservative visit models  
17 anticipate a range of two to 3 million visits per year  
18 at the Destiny location. Based on the experience of  
19 the comparable Eden project in corn wall, among the  
20 most popular destinations in the UK, overall economic  
21 impact of Earthpark could be projected at 200 to  
22 \$250 million a year or two to \$2.5 billion over a  
23 decade."

01:33:07

24 Q. Now, besides Earthpark were there other  
25 companies that expressed having a location at the

01:33:38

1 Destiny project?

01:33:42

2 A. Oh, there were many, many, many. One in  
3 particular was Day Star, which was a solar panel  
4 manufacturer from California. Green Patch which was a  
5 New York based environmentally safe asphalt, material  
6 paving for the roads.

01:34:04

7 I'm pretty sure it was a JV we had with  
8 dominion partners and that was for an energy park.  
9 That was just a few and that was a large project.

10 Q. Let me read I was few other names to see if  
11 you recognize them. If you do, fine if you don't  
12 that's fine too. Does the name alpha technologies --  
13 alpha technology?

01:34:30

14 A. Alpha technology I believe so, yes.

15 Q. Let me ask a question about the name. Did  
16 alpha technology show any interest in the Destiny  
17 project?

01:34:43

18 A. Yes they did, as did others.

19 Q. What interest did they bring?

20 A. It was to bring obviously their  
21 manufacturing or other technology to be integrated  
22 into the building of Destiny.

01:34:54

23 Q. What does alpha technologies do?

24 A. Alpha technologies I believe was algae. I  
25 can't remember which technology it was at this point.

01:35:09

1 Q. Again their interest with Destiny was to do 01:35:16  
2 what specifically?

3 A. To bring either their plant, their  
4 manufacturing facilities to be actually constructed  
5 and build in Destiny. 01:35:26

6 Q. Did they communicate with you in writing?

7 A. Yes I believe there's a letter in my file to  
8 that regard.

9 Q. Back to day star technologies I believe you  
10 said that was California company? 01:35:48

11 A. Yes, sir.

12 Q. And what was the technology they wanted to  
13 test in Florida?

14 A. So they are --

15 MS. CARTWRIGHT: Objection, Your Honor, 01:35:55  
16 relevancy, cumulative.

17 THE COURT: Overruled. You may answer.

18 A. I can answer? Day Star was a solar panel  
19 manufacturer that obviously wanted to come to Florida  
20 and wanted to be part of the Destiny project. 01:36:13

21 Q. Did they want to manufacture here?

22 A. Yes they did, sir.

23 Q. Are you familiar with the name Gel Tec  
24 GELTEC?

25 A. There's been so much. Gel Tec. It sounds 01:36:40

1 familiar, but I can't remember which. I can see the 01:36:43  
2 gentleman's face almost, but I can't -- I can't  
3 remember. Maybe it was a coating. I'm not sure. To  
4 be honest I can't remember. It's been a while.

5 Q. Do you remember any other entities that 01:36:58  
6 showed interest in being at Destiny other than the  
7 once we discussed so far?

8 A. There was zap, zap was an electric car  
9 manufacturer.

10 Q. How do you spell that? 01:37:08

11 A. ZAP.

12 Q. Is that related to a company called zap  
13 world, Inc.?

14 A. Yes.

15 Q. So what did they do? 01:37:20

16 A. So they manufactured small utility trucks,  
17 little small ones, and they were very interested in  
18 bringing a parts distribution, you know, building, etc  
19 at Destiny, to serve their other locations throughout  
20 Florida and Georgia. 01:37:42

21 Q. Any others that you recall?

22 A. Oh, gosh. As I said there was Green Patch  
23 which was the environmentally safe asphalt. Lord, oh,  
24 I would have to refresh my memory by looking at the  
25 list. 01:38:14

1 Q. International Dark Skies?

01:38:16

2 A. Yes.

3 Q. Who were they?

4 A. International Dark Skies, there is also an

5 organization that promotes to make sure that the

01:38:23

6 communities have -- do not have lights shying up into

7 the sky for sky pollution at night because quite

8 honestly, we miss what's in the stars and to be

9 able to view the sky. So there is more with the

10 lighting focused on the ground versus than having

01:38:51

11 light pollution into the sky.

12 Q. What was their interest?

13 A. They wanted Destiny to be a dark sky

14 community, where we upheld those principles.

15 Q. Were they looking to manufacture products

01:39:10

16 there?

17 A. They would, yes absolutely.

18 Q. Why were you interested in developing

19 business for Destiny?

20 A. Well, it's all about -- I mean, it's all

01:39:41

21 about bringing jobs and economic sustainability. Our

22 platform for defendant was about the environment as

23 much as it was for the economy and also for social

24 equity, but if you're not sustainable economically, it

25 obviously won't happen. So you just can't build a

01:40:02

1 residential community. It has to have jobs. So 01:40:06  
2 obviously that was very important to us to build that  
3 base of jobs to make Destiny economically sustainable  
4 and obviously very important for, you know, the  
5 entitlement of the property. 01:40:26

6 Q. Now, when did you stop working at the  
7 Destiny project?

8 A. It was when we stopped getting funded.

9 Q. When was that? Was that in August of '09?

10 A. Yes. 01:40:43

11 Q. Around that?

12 A. I can't remember. I'm very I'm very bad  
13 with dates. I sometimes can't remember what year I  
14 was born, I try to forget. Yes, it was August,  
15 September. 01:40:57

16 Q. Did the lack of funding impede the progress  
17 of going forward with Destiny?

18 MS. CARTWRIGHT: Objection, Your Honor,  
19 leading.

20 THE COURT: Overruled the question starts 01:41:07  
21 with did. You can answer.

22 A. Clearly, yes, it did.

23 Q. How did it?

24 A. Well, there was no funding to continue any  
25 of the efforts and there were many large efforts in 01:41:18



1 the works. There was environmental studies and things  
2 being done on the property. There was, you know,  
3 obviously things in Tallahassee that needed to be  
4 done, obviously things just continuing in business  
5 development.

01:41:23

01:41:42

6           Especially we had just come back from South  
7 Korea where we received the award from the Clinton  
8 Climate Initiative, so that was a very big, exciting  
9 opportunity and we had so many people were so excited  
10 that it even increased the interest level from  
11 companies, actually even around the world.

01:42:01

12           I don't know if I'm permitted to continue or  
13 not.

14           Q.    Yes.

15           A.    So when I was in South Korea, I was very  
16 fortunate that one of the supporters of Destiny was a  
17 gentleman by the name of Russell Reed who was the  
18 former chief investment officer for calipers and also  
19 an advisor to the South Korean pension fund and he was  
20 very sweet, very kind and introduced me and Craig to  
21 some very key people in South Korea.

01:42:14

01:42:34

22           So we met with manufacturing companies that  
23 wanted to come from South Korea to Destiny and they  
24 were also -- they were in LED lights so that made  
25 sense because it was conserving energy and we also met

01:42:54

1 with a group that was building a health and medical  
2 city in South Korea along with a massive developer  
3 Gale development, which is out of Boston.

01:42:57

4 So I met with -- oh, gosh, whatever. He was  
5 building a medical city and he actually came to visit  
6 us in our offices because he wanted to bring his  
7 medical city and longevity villages to Destiny.

01:43:19

8 So we were -- because of that Clinton  
9 Climate Initiative, you know, opportunity, we were  
10 starting to attract actually even international  
11 interest.

01:43:37

12 Q. Do you recall the names of any of the  
13 international companies that contacted you?

14 A. Well, there was the institute for Korean  
15 institute for regenerative -- oh, gosh -- Koreans in  
16 future for regenerative -- I forgot now. And then  
17 there was Stinwoo and I can't remember the name of the  
18 company, it was boy city or something like that. I  
19 can't remember off the top of my head. But Stinwoo  
20 came not once, but twice and he was working with the  
21 University of Miami as well as with the Smithsonian  
22 museum was very interested in the longevity  
23 videographer average we were bringing to Destiny.

01:43:54

01:44:16

24 Q. Do you have any interaction with John minute  
25 I don't of the FAA center in Miami, Florida?

01:45:13

1 A. I don't recall. 01:45:17

2 Q. If you have. I didn't know the answer to  
3 that.

4 When funding stopped at the Destiny project,  
5 were you owed a salary? 01:45:30

6 A. Yes I was.

7 Q. Were you paid that salary ultimately?

8 A. Ultimately I was owed quite honestly, there  
9 were times that we didn't get paid that maybe you  
10 would miss a month or sometimes I think it was two  
11 months was late in getting paid. 01:45:47

12 Q. Ultimately were you paid the salary?

13 A. Yes I was.

14 Q. Do you remember when?

15 A. I believe it would have been September,  
16 October, but it was afterwards. 01:46:03

17 Q. And were you paid your salary in full?

18 A. Yes I was.

19 Q. Who paid your salary?

20 A. Anthony Pugliese. 01:46:12

21 Q. Are you familiar with the artwork for food?

22 A. Yes, I am.

23 Q. Are you involved with that?

24 A. I was executive director for artwork for  
25 food. 01:46:29

1 Q. What is or was artwork for food? 01:46:29

2 A. Artwork for food is a 501(c)(3), it was  
3 established --

4 MS. CARTWRIGHT: Objection, relevance.

5 THE COURT: What is the relevance. 01:46:45

6 MR. MARIANI: Her participation in 5013C  
7 corporations.

8 THE COURT: Sustained.

9 A. Artworks -- I'm not allowed to.

10 Q. You're not supposed to talk? 01:47:01

11 A. Sorry.

12 Q. In your capacity today you still do  
13 consulting?

14 A. Yes, I do.

15 Q. And you mentioned some of the projects you  
16 are working on currently? 01:47:17

17 A. Uh-huh.

18 Q. During the period since you stopped working  
19 at Destiny, are you maintained any contacts or have  
20 you been contacted by any of the companies that you  
21 were talking about talking to when you were generating  
22 jobs at Destiny? 01:47:31

23 MS. CARTWRIGHT: Objection, Your Honor,  
24 relevance.

25 THE COURT: Overruled. 01:47:44

1 Q. You're allowed the answer that question? 01:47:47

2 A. I am contacted continually, I would say.

3 There's not many -- I would say almost every month at

4 least I'm contacted by people wanting to have Destiny

5 come back to life and companies that want to come to 01:48:01

6 Destiny and even just I was recently at a meeting last

7 Saturday on a group in regards to biomass, sweet

8 sorghum which is actually something we were testing at

9 Destiny. We were testing biomass to see how it was

10 applicable for obviously ethanol and other types of 01:48:26

11 renewable fuels.

12 Q. So you said someone contacted you last

13 Saturday?

14 A. No at meetings people ask me all the time,

15 whether it be to do aquaculture, whether it be to do 01:48:45

16 any type of bringing different types of green

17 technology, they constantly contact me.

18 Q. So let's talk about that. The sweet sorghum

19 that you referred to, what is sorghum?

20 MS. CARTWRIGHT: Objection, Your Honor, 01:49:05

21 relevancy.

22 MR. MARIANI: There is relevance, Your

23 Honor.

24 THE COURT: Quickly please.

25 A. So sweet or gum is a form of a cane crop an 01:49:12

1 it's one of the things about it is it's not  
2 necessarily having growing, producing ethanol from  
3 food crops is not what you want to do is because  
4 you're taking precious food away versus a crop that is  
5 used really more just for its surgery content and not  
6 necessarily in regular surgery.

01:49:19

01:49:33

7           So sweet or gum we were actually testing.  
8 The Destiny was the sustainable energy farm --

9           Q.    Let me ask, were you involved personally in  
10 overseeing or being involved in the planting of fields  
11 of sweet or gum on the Destiny property?

01:49:49

12          A.    Yes I was, sir.

13          Q.    Describe that to us please?

14          A.    I was working with Everglades, I think  
15 tractor company and convinced -- we had a whole group  
16 of people that were interested in what we were trying  
17 doing in trying to bring biomass and have it really  
18 become a crop that would sure plant the orange groves,  
19 because the orange groves unfortunately are suffering  
20 from greening and canker, so the point was we had so  
21 much land and we were in really a great climatic  
22 location, so we were testing all the different crops  
23 at our sustainable energy farm. There was sweet  
24 sorghum, cameline, chochocra, kenaf, and sunflower.

01:50:05

01:50:24

25          Q.    You used the phrase, biomass in your prior

01:50:49

1 answer. Explain to the jury what you mean by biomass? 01:50:52

2 A. Biomass is anything that grows really  
3 basically.

4 Q. What effort was made with that, to convert  
5 it to energy? 01:51:05

6 A. You can convert it to fuel, energy, yes.

7 Q. I forgot on my list of companies to ask you  
8 about general electric?

9 A. Yes.

10 Q. Did you interact with general electric with  
11 respect to your work at the Destiny project? 01:51:18

12 A. Yes, I did, sir.

13 Q. Explain that to the jury, sir?

14 A. So at that point in time general electric  
15 had a division called eco imagination and it was that  
16 division where we were actually they were involved  
17 with other communities, residential communities, other  
18 parts of the country, where they were trying to bring  
19 their more sustainable products; apply answers,  
20 lighting, etc. 01:51:27

21 So the idea of an eco imagination community  
22 and I was working with the eco imagination division  
23 and we had -- I think they brought 12 or 14 divisions  
24 of the eco imagination. Eco imagination came to our  
25 offices in Delray to explore how we might potentially 01:52:16

1 work together.

01:52:22

2 MR. MARIANI: Thank you no further questions  
3 at this time.

4 THE COURT: Thank you Mr. Mariani.

5 Ms. Cartwright.

01:52:40

6 CROSS EXAMINATION

7 BY MS. CARTWRIGHT:

8 Q. May it please the Court, good afternoon.  
9 Ms. Rosewood, I believe you testified that you met  
10 with velocity numerous times?

01:53:10

11 A. Yes, I do.

12 Q. And you also met with universities?

13 A. Yes, I did.

14 Q. And you also met with companies?

15 A. Yes, I did.

01:53:19

16 Q. So you spent a lot of time working with  
17 these universities and companies?

18 A. Yes, I did.

19 Q. So you knew, though, that none of these  
20 companies could build at the Yeehaw Junction property  
21 unless the Department of Community Affairs authorized  
22 the entitlements for the property?

01:53:27

23 A. That was my understanding.

24 Q. And in 2007/2008 you knew the LCOC was seek  
25 egg entitlements under the Rural Land Stewardship Act?

01:53:48



1 A. Yes.

01:53:51

2 Q. And knew Department of Community Affairs  
3 withdrew its authorization in 2008 under the Rural  
4 Land Stewardship Act?

5 A. They changed their mind, yes.

01:54:05

6 Q. So they withdrew their authorization?

7 A. From my understanding.

8 Q. And in 2009 you knew that the LCOC was  
9 seeking environments now under the new city overlay?

10 A. Yes that was my understanding.

01:54:19

11 Q. And you knew that in April of 2009 the  
12 Department of Community Affairs sent in objections  
13 with respect to the new city overlay?

14 A. I would not be necessarily directly involved  
15 in that aspect, to be honest.

01:54:39

16 Q. So you didn't know one way or the other that  
17 the Department of Community Affairs had objected to  
18 Osceola County's?

19 A. Not in detail, no.

20 Q. And you knew that the county Osceola never  
21 responded to the objections of the Department of  
22 Community Affairs?

01:54:50

23 A. That also wouldn't necessarily be in my  
24 purview.

25 Q. And did anyone tell you that Reggie

01:55:06

1 Bouthillier recommended in June of 2009 that LCOC try  
2 to cluster its existing 5,000 units in one area and  
3 not seek additional entitlements in 2009?

01:55:09

4 A. I do believe I heard something of that  
5 nature.

01:55:24

6 Q. But overall you were not involved in the  
7 entitlement process?

8 A. No, ma'am.

9 Q. Now, the companies that you mentioned,  
10 Velocita they never entered into a binding agreement  
11 with LCOC to bring jobs to the property?

01:55:40

12 A. I believe there was a JV and I don't know  
13 what was part of that JV.

14 Q. So you don't know one way or the other  
15 whether they entered into a binding agreement to bring  
16 jobs to the Destiny project?

01:55:55

17 A. I would just gather if there was a JV, that  
18 that would be meaning that they were making some type  
19 of agreement to move forward with their project.

20 Q. Was there any -- with respect to any other  
21 company, are you aware of any other company that  
22 entered into a binding company to bring jobs to the  
23 Destiny area?

01:56:13

24 A. I'm not sure if Earthpark had a JV that I  
25 would not be privy to.

01:56:32

1 Q. Were you aware of any contracts at all  
2 between LCOC, other than these 2JV that's you  
3 mentioned, that would bring jobs to the Yeehaw  
4 Junction property?

01:56:34

5 A. There was the dominion partner JV, which was  
6 for an energy park and I believe there was a JV on  
7 that. Once again I wasn't privy to the legal  
8 documents and things.

01:56:47

9 Q. Isn't it true Ms. Gatewood that no company  
10 entered into what binding commitment with respect to  
11 the Destiny project?

01:57:04

12 A. To my knowledge there were, with Velocita  
13 and I don't know about Earthpark, but there was also a  
14 JV with I believe dominion partners.

15 Q. Stilt your testimony there were binding  
16 agreements with the LCOC to bring jobs or business to  
17 the Yeehaw Junction property?

01:57:26

18 MR. MARIANI: Objection calls for a legal  
19 conclusion. This witness is not aware.

20 THE COURT: Overruled on that ground.

01:57:35

21 A. I'm sorry?

22 Q. Is it your testimony that the LCOC had  
23 binding agreements to bring either business or jobs to  
24 the Yeehaw Junction property?

25 MR. MARIANI: Objection, asked and answered.

01:57:53

1 THE COURT: Sustained.

01:57:54

2 A. Once again it was a JV with Velocita.

3 THE COURT: I sustained the objection. You  
4 don't have to answer.

5 THE WITNESS: Sorry.

01:58:01

6 THE COURT: It's okay.

7 Q. Now, you recall your testimony with respect  
8 to the Clinton Climate Initiative, correct?

9 A. Yes.

10 Q. And in that initiative, the whole focus of  
11 it was to preserve the environment, correct?

01:58:25

12 A. Well, no, not necessarily. It's also to  
13 abide by certain benchmarks when you do development.

14 Q. But you would agree with me that destroying  
15 environmentally sensitive land is inconsistent with  
16 what the Clinton climate initiative was doing?

01:58:43

17 A. Not necessarily. We're not destroying.  
18 It's that you are approaching that environment with a  
19 very light step. So you are preserving as much as  
20 possibly you can, but of course there needs to be  
21 development. So you're doing anytime a thoughtful and  
22 an environmental way.

01:59:03

23 Q. And that was the purpose of the Clinton  
24 Climate Initiative?

25 A. Was to do whatever development you were

01:59:16

1 doing, to do it in an environmentally sensitive  
2 fashion.

01:59:18

3 Q. So then destroying the habitat, such as  
4 endangering birds and animals would be inconsistent  
5 with the Clinton Climate Initiative?

01:59:29

6 A. We would never do that.

7 Q. And the Clinton Climate Initiative never  
8 resulted in any increase in the entitlements to the  
9 property?

10 A. Obviously not.

01:59:45

11 Q. And the Clinton Climate Initiative didn't  
12 change the process that LCOC had to go through in  
13 order to get entitlements to the property?

14 A. Well, we stopped doing anything when we  
15 ceased having funding, so I don't know what the  
16 outcome might have been.

01:59:59

17 Q. And until you gotten times, no one could  
18 bring any business to the project, is that correct?

19 A. Well, not necessarily, because we had  
20 35 acres that was actually I believe zoned commercial  
21 that was on the corner of 60 and 441 and there were  
22 actually plans and you know, a layout of bringing  
23 actually a component of Velocita to that corner, along  
24 with the national sustainable building institute,  
25 which was interested in coming to Destiny, and that

02:00:16

02:00:44

1 35 acres on that corner was already zoned commercial  
2 and so that was something we were exploring.

02:00:47

3 Q. You're aware that the Yeehaw Junction  
4 property had 27,410 acres, correct?

5 A. Yes, I am.

02:01:01

6 Q. And outside of the 35 acres that you just  
7 indicated, without the entitlements, Velocita couldn't  
8 build on the property; is that correct?

9 A. They could have built a small component on  
10 the 35 acres.

02:01:15

11 Q. And outside of that 35 acres, could Velocita  
12 build anywhere on the property?

13 A. Not until the entitlements of course.

14 Q. And not until the entitlements were brought  
15 to the Yeehaw Junction property, none of the companies  
16 that you testified here today could bring, could build  
17 on that property; is that correct, isn't that correct?

02:01:28

18 A. On the 35 acres they could.

19 Q. Outside of those 35 acres, Ms. Rows wood,  
20 none of the companies that you mentioned here today --  
21 general electric, alpha technology, zap world, breach  
22 patch, dominion partners, Earthpark, none of those  
23 companies could build on any of the acreage outside of  
24 the 35 acres that you testified to; isn't that  
25 correct?

02:01:43

02:02:06

1 A. Yes. 02:02:06

2 Q. And at the time that you concluded working  
3 on the Yeehaw Junction project, there were no  
4 entitlements, isn't that correct?

5 A. That's correct. 02:02:16

6 Q. And you had been working on the project for  
7 four years by that time?

8 A. Yes.

9 Q. Now, the fly over video that was shown.  
10 Part of your job was marketing, correct? 02:02:34

11 A. Correct.

12 Q. And you did brochures and videos?

13 A. Yes, I did.

14 Q. So that was a promotional video?

15 A. Yes that was an introductory to Destiny. 02:02:41

16 Q. It was a form of advertising?

17 A. Introduction. I wouldn't call it  
18 advertising -- marketing, branding.

19 Q. It was a promotional video?

20 A. Branding. 02:02:56

21 Q. And you worked on that video?

22 A. Yes, I did.

23 Q. Did you prepare a script for that video.

24 A. Yes, I did.

25 Q. And did Mr. Pugliese read that script during 02:03:01

1 the video?

02:03:05

2 A. Yes he did.

3 Q. So you're aware that the video mentioned the  
4 Rural Land Stewardship Act?

5 A. Correct.

02:03:12

6 Q. And you knew that the Department of  
7 Community Affairs did not allow LCOC to get  
8 entitlements under the Rural Land Stewardship Act?

9 A. To my knowledge, we were working under the  
10 premise that we were going to, as other developers in  
11 Florida were also working under the premise of the  
12 Rural Land Stewardship Act and then at some point the  
13 Department of Community Affairs believed -- whatever,  
14 reversed their decision.

02:03:25

15 Q. And the reversal of that decision meant that  
16 you couldn't get entitlements under the Rural Land  
17 Stewardship Act, correct?

02:03:43

18 A. To my knowledge, right.

19 Q. So you knew, therefore, that outside of the  
20 35 acres that you testified to, nothing could be built  
21 without obtaining the proper entitlements?

02:03:54

22 A. Yes.

23 Q. Now, you indicated that funding was stopped  
24 on the project?

25 A. Yes.

02:04:16



1 Q. Correct? And you weren't familiar with the 02:04:17  
2 operating agreement between AVP Destiny and FD  
3 Destiny, were you?

4 A. No.

5 Q. You never read that agreement? 02:04:26

6 A. No.

7 Q. You never reviewed it at any point in time?

8 A. No, that would not be my purview, no.

9 Q. So you weren't aware of the funding  
10 obligations then that AVP Destiny had, were you? 02:04:35

11 A. No.

12 Q. And you weren't familiar with the funding  
13 obligations that FD Destiny had?

14 A. No.

15 Q. And when you were told that funding had 02:04:44  
16 stopped, did Mr. Pugliese tell you that he stopped  
17 funding?

18 A. No, just the funds had ceased to come into  
19 the project.

20 Q. And when was it that he told you that 02:04:57  
21 funding had ceased?

22 A. Well, I can't recall exactly because there  
23 was as I mentioned before, there were times I didn't  
24 get paid. Sometimes there was, you know, intermittent  
25 so it was obviously the last time it was two months. 02:05:16

1 I think it was two months we weren't paid.

02:05:20

2 Q. So August, September of 2009?

3 A. Kin remember if it was July. I think it  
4 might have been in the summer as well.

5 Q. Did you speak to Mr. Pugliese about why you  
6 didn't get why there was no funding?

02:05:28

7 A. I'm sure I did. I don't recall precisely.  
8 I'm sure I did.

9 Q. Did Mr. Pugliese tell you that FD Destiny  
10 had learned that Mr. Pugliese was stealing money from  
11 LCOC during this time period?

02:05:41

12 A. I have absolutely no knowledge of any of  
13 that.

14 Q. Did Mr. Pugliese tell you when you were not  
15 getting paid that he had \$3 million worth of LCOC's  
16 money at that time?

02:05:52

17 MR. MARIANI: Objection, Your Honor.

18 A. No.

19 THE COURT: Excuse me, grounds.

20 MR. MARIANI: \$3 million is not an accurate  
21 number, number one. Number two, counsel is  
22 testifying.

02:06:04

23 THE COURT: Overruled. You may answer the  
24 question.

25 A. Sorry I am just so sick. I don't want to

02:06:18

1 get people sick, I'm sorry.

02:06:21

2 Q. Mr. Pugliese didn't tell you he had  
3 approximately \$3 million worth of LCOC's money when  
4 you had a discussion with him with respect to no  
5 funding for the project, did he?

02:06:32

6 A. No, absolutely not.

7 Q. And when you had not been paid for those  
8 months prior to the end of the project, Mr. Pugliese  
9 didn't tell you that he had set aside any monies in  
10 the LCOC, did he?

02:06:49

11 A. No I didn't have conversations like that,  
12 no.

13 Q. And Mr. Pugliese didn't tell you that he had  
14 taken money out of LCOC and put right the Pugliese  
15 bank accounts, did he?

02:07:01

16 A. No.

17 Q. Were you advised by Fred DeLuca, by  
18 Mr. DeLuca, that there was \$1.5 million put in escrow  
19 for the payment of employees?

20 A. I don't recall exactly, but there was an  
21 amount.

02:07:25

22 Q. You do know there was an amount?

23 A. Yes.

24 Q. Did Mr. Pugliese tell you whether he put any  
25 money in escrow for employees?

02:07:36

1 A. I don't recall that conversation.

02:07:38

2 Q. You didn't have any part in the billing and  
3 invoicing for the Pugliese Company did you?

4 A. No.

5 Q. Did you DCA take part in any of the billing  
6 or invoicing for the LCOC?

02:07:53

7 A. No.

8 Q. And the accounting job at the LCOC, was that  
9 Mr. Reamer's job?

10 A. That was under -- yes, to my knowledge.

02:08:04

11 Q. So you didn't know that Mr. Pugliese and  
12 Mr. Reamer were sending fake invoices to FD Destiny to  
13 secure payment, did you?

14 A. No.

15 Q. I think you said you started with the  
16 project after the purchase of the property?

02:08:24

17 A. Yes.

18 Q. So you weren't involved in any of the  
19 prepurchase due diligence?

20 A. No, ma'am.

02:08:34

21 Q. Your company now, Ms. Ross wood is that a  
22 Pugliese owned company?

23 A. No.

24 Q. And when was the last time that you worked  
25 for the Pugliese company?

02:08:47

1           A.     I worked for Anthony until actually -- I  
2 don't know, maybe nine months, a year. I was working  
3 on the technology. We were working on bluetooth low  
4 energy technology. So --

5           Q.     So up until --

6           A.     89 months ago probably.

7           Q.     So up until nine months ago you were working  
8 for the Pugliese Company?

9           A.     Uh-huh, I was.

10          Q.     And you worked for the Pugliese Company for  
11 a few years even before the Yeehaw Junction property  
12 was purchased?

13          A.     Oh, yes, I worked on lots of different  
14 things and I also ran the nonprofit as well, the  
15 artworks for food.

16          Q.     So a few years before 2005 you start zeroed  
17 working with the Pugliese Company?

18          A.     Yes, I did.

19          Q.     And you worked for the Pugliese Company up  
20 until nine or six months?

21          A.     Something like that.

22          Q.     Ago. And all that time, wasn't Mr. -- the  
23 Pugliese Company the sole-source of your income?

24          A.     No, I mean, I always had other small  
25 consulting things, nothing big, but -- no, most of the

1 time it was just Anthony's sustaining me. 02:09:59

2 Q. So most of the time you were there all of  
3 those years, the Pugliese Company was the sole-source  
4 of your income?

5 A. Yes, it was, yes. 02:10:08

6 MS. CARTWRIGHT: May have one minute, Your  
7 Honor.

8 THE COURT: Sure.

9 MS. CARTWRIGHT: I have no further  
10 questions. Thank you. 02:10:27

11 THE COURT: Thank you, ma'am. Mr. Mariani I  
12 redirect based on cross.

13 MR. MARIANI: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. MARIANI: 02:10:36

16 Q. Ms. Gatewood you know Mr. Pugliese spent  
17 time in prison do you not?

18 A. Yes, I do.

19 Q. And regardless of that, you went back to  
20 work for Mr. Pugliese after the Destiny project? 02:11:10

21 A. Yes, yes, I did.

22 Q. And why did you go back to work for  
23 Mr. Pugliese?

24 MS. CARTWRIGHT: Objection, Your Honor,  
25 relevance. 02:11:20

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Sustained.

02:11:21

2 Q. When you went back to work for Mr. Pugliese,  
3 were you concerned at all that he wouldn't pay you?

4 A. Wouldn't pay me?

5 MS. CARTWRIGHT: Objection, Your Honor,  
6 relevance.

02:11:44

7 THE COURT: Sustained.

8 Q. Did you meet with Mr. DeLuca about trying to  
9 get paid?

10 A. Yes, I did.

02:12:00

11 Q. When you met with Mr. DeLuca, did he tell  
12 you he would pay you the money he owed you and for  
13 your time?

14 A. No.

15 Q. Were you ever wear that Mr. DeLuca was  
16 supposed to pay a hundred percent of the funding of  
17 Destiny?

02:12:29

18 MS. CARTWRIGHT: Objection, Your Honor,  
19 leading.

20 THE COURT: Overruled.

02:12:37

21 A. No, I was not aware of any of that.

22 Q. Were you aware whether Mr. DeLuca stopped  
23 paying a hundred percent of the expenses associated  
24 with LCOC?

25 MS. CARTWRIGHT: Objection, Your Honor,

02:12:55

1 speculation.

02:12:55

2 THE COURT: Overruled. If you know, you  
3 know. If you don't, that's fine too.

4 A. Was I aware -- I really was not aware of the  
5 inner funding mechanisms.

02:13:09

6 Q. So were you aware whether Mr. DeLuca  
7 breached the agreement with Mr. Pugliese 34 times  
8 during their relationship?

9 MS. CARTWRIGHT: Objection, Your Honor,  
10 calls for a legal conclusion.

02:13:22

11 THE COURT: Sustained.

12 Q. So the record is clear, when you left  
13 Destiny, your salary was paid; is that correct?

14 A. I was made whole, correct.

15 Q. And you were made whole by Mr. Pugliese?

02:13:40

16 A. Correct.

17 MS. CARTWRIGHT: Objection, Your Honor,  
18 asked and answered, leading.

19 MR. MARIANI: No questions.

20 THE COURT: Sustained. The jury will  
21 disregard. Thank you.

02:13:47

22 Any questions from the jury?

23 Thank you, ma'am for your time. Please  
24 watch your step.

25 THE WITNESS: Thank you.

02:13:58



1 (Witness excused).

02:14:00

2 THE COURT: Next witness. We need the  
3 exhibits back, deputy.

4 Next witness please.

5 MR. MARIANI: We call Bob Basehart to the  
6 stand, please.

02:14:28

7 MR. HUTCHISON: Judge may we have one minute  
8 restroom break.

9 THE COURT: Sure. Any of our jurors need to  
10 use restroom (. 02:14:55

11 (Whereupon a recess was taken.)).

12 THE COURT: All right. If you would stand  
13 and raise your right hand, please.

14 Thereupon:

15 ROBERT BASEHART

02:18:09

16 was called as a witness and having been first duly  
17 sworn, was examined and testified as follows:

18

19 THE WITNESS: Yes, I do.

20 THE COURT: All right thank you.

02:18:13

21 Mr. Mariani you may proceed.

22 DIRECT EXAMINATION

23 BY MR. MARIANI:

24 Q. Thank you may it please the Court.

25 Good afternoon, Mr. Basehart?

02:18:21

1 A. Good afternoon.

02:18:26

2 Q. Sir, would you please state your full name  
3 and residential address for the record?

4 A. Okay, it's Robert E Basehart and I'm at 4920  
5 Lucerne lakes Boulevard west, Lake Worth, unit 103.

02:18:39

6 Q. Sir, do you work?

7 A. Yes, I do.

8 Q. By whom are you employed?

9 A. I'm employed by the village of Wellington.

10 Q. In what capacity?

02:18:56

11 A. Time village planning zoning and building  
12 director.

13 Q. What are your responsibilities in that  
14 capacity?

15 A. Well, I'm responsible for the growth  
16 management agency of Wellington which consists of five  
17 divisions. I've got the planning division, planning  
18 and zoning division, which reviewing and makes  
19 recommendations to the review committees and the city  
20 council for any applications an we also prepare  
21 planning studies and present them to council and right  
22 now one of our big project we're rewriting the entire  
23 zoning sewed. That's a project as well.

02:19:05

02:19:32

24 The building division is responsible for the  
25 acceptance of building permit applications, processing

02:19:52

1 them, reviewing them, doing all the building  
2 inspections and ultimately issuing the certificates of  
3 occupancy.

02:19:56

4 Another division is code enforcement which  
5 is the enforcement arm of the village with respect to  
6 enforcing the zoning code and subdivision code and  
7 things of that nature, and it's made up of a director  
8 and a number of code enforcement officers.

02:20:11

9 Then I've got strategic planning which is  
10 our long range planning arm in the amendments to the  
11 comprehensive plan and other long range planning  
12 documents.

02:20:36

13 Q. Sir, if I could ask you to bring the  
14 microphone a little bit closer to your mouth. I think  
15 it would be easier to hear you.

02:20:55

16 A. Okay.

17 Q. Prior to your employment with Wellington did  
18 you work on the Destiny project?

19 A. Yes, I did.

20 Q. Can you tell the jury the years which you  
21 worked on the Destiny project?

02:21:12

22 A. I worked there from the spring of 2006  
23 through November of 2009.

24 Q. Before I go into your background, when you  
25 left the Destiny project, did you immediately go to

02:21:36

1 work for Wellington?

02:21:39

2 A. Yes.

3 Q. So spring of '06 through November of '09 you  
4 were on the Destiny project and then since then you've  
5 been with Wellington; is that correct?

02:22:00

6 A. That's correct. Actually, I was employed by  
7 the Pugliese Company and worked on the Destiny  
8 project.

9 Q. Okay, thank you for that clarification.

10 Okay so let's go into your background.

02:22:19

11 What's your education?

12 A. My college education is at -- it was from  
13 the University of Miami and the State New York of New  
14 York at buffalo. I attended architecture school at  
15 the University of Miami, transferred to University of  
16 buffalo, put one more year in the architectural  
17 program and decided I didn't want to be an architect.

02:22:39

18 I ended up with two degrees, a degree in  
19 psychology and a degree in city planning.

20 Q. Then after you were degreed, did you go to  
21 work?

02:23:02

22 A. Yes actually while I was at the university I  
23 worked part-time at the university facilities'  
24 planning office, working on campus renovation projects  
25 and work willing on plans for a new campus that the

02:23:17

1 university was going to build in the town of Amhurst. 02:23:23

2           During that period of time I was asked by  
3 the town of Amhurst if I would come to work for them  
4 and I worked for the town of Amhurst, which is a  
5 suburb of buffalo, for seven years. I left there as a 02:23:36  
6 senior -- I was senior planner and to accept the  
7 position as the zoning administrator for the city of  
8 Hollywood, Florida.

9           After one year I was offered a position as  
10 zoning director for Palm Beach County and I did that 02:23:54  
11 for two years and then was promoted to executive  
12 director of planning, zoning and building. I worked  
13 for the county for about eight and a half years and  
14 left to go into the consulting business.

15           Q. When you were employed by Palm Beach County, 02:24:16  
16 Florida, were you the executive director of planning,  
17 zoning and building?

18           A. Yes.

19           Q. And how many years did you serve in that  
20 capacity? 02:24:33

21           A. About six and a half and two years as zoning  
22 director before that.

23           Q. While you were executive director of zoning  
24 planning and building for Palm Beach County, describe  
25 the types of activities, responsibilities you had 02:24:52

1 there?

02:24:55

2 MR. CHAPMAN: Objection, Your Honor,  
3 relevance.

4 THE COURT: Overruled.

5 Q. You can answer.

02:25:00

6 A. Okay. Well, the county planning zoning and  
7 building department was divided up into divisions and I  
8 had a division working under me in each of those  
9 divisions. There was the planning division, the  
10 zoning division, the code enforcement division, and we  
11 also had -- and the building division and we had  
12 contractors' licensing as well.

02:25:21

13 It was pretty much the same responsibilities  
14 that I'm currently performing for Wellington, but at  
15 the county level.

02:25:40

16 Q. And describe briefly those responsibilities.

17 A. Again, we were responsible for growth  
18 management for Palm Beach County. It involved the  
19 planning division and was the formulation and  
20 amendments to comprehensive plan and other long range  
21 planning studies and programs.

02:25:59

22 The zoning division was responsible for the  
23 enforcement of the zoning code and participated in --  
24 because there were code rewrites that we were doing  
25 all the time, but there addition to that we did review

02:26:19

1 the land development applications for rezonings -- 02:26:25  
2 rezonings, conditional uses, site plan approvals, comp  
3 plan amendments and all those kinds of things and we'd  
4 prepare staff recommendations and I would present them  
5 to the planning and zoning board and the county 02:26:43  
6 commission.

7 And then code enforcement was the same as it  
8 is in Wellington. It was enforcing the provisions of  
9 the code to maintain the quality of life for the  
10 citizenry and then of course the building division was 02:26:59  
11 the review of building permit applications, the  
12 issuance of the permits is the building inspections  
13 and ultimately the certificates of objection pains.

14 And contractor's licensing was responsible  
15 for making sure that everybody that was working as a 02:27:21  
16 contractor in Palm Beach County was properly licensed  
17 and insured.

18 Q. After you were executive director for  
19 planning zoning and bulling in Palm Beach County, you  
20 went into private employment you said? 02:27:37

21 A. Yes.

22 Q. In what capacity?

23 A. Well, initially I left because I received an  
24 offer from a company in West Palm Beach, Urban Design  
25 Studio was the name of the company. I was offered a 02:27:52

1 partnership position if I would leave the county and  
2 go to work there. In my responsibility there I was in  
3 charge of, you know, what we call entitlements, which  
4 would be making applications on behalf of developers  
5 for all those kinds of things that I discussed before.  
6 Site line approval, rezonings, conditional use, comp  
7 plan amendments and all those kinds of things.

02:27:57

02:28:19

8 I also did some expert witness work as well.

9 Q. In respect of your advice for entitlements  
10 was that limited to Palm Beach County?

02:28:44

11 A. While was at Urban Design Studio I did do  
12 other projects in other counties as well, Broward  
13 county, Martin County, St. Lucie, Indian River, even a  
14 couple of projects down in Dade County.

15 Q. So in that regard, did you have to get,  
16 become knowledgeable about different codes and  
17 different county or different approaches in different  
18 counties?

02:29:09

19 A. Absolutely, yes.

20 Q. How long were you with urban design?

02:29:21

21 A. I was there seven years, from 1986 until  
22 1992 or '93.

23 Q. And what did you do after that partnership?

24 A. I left there to start my own company for a  
25 while with partner, a woman by the name Anna Cottrell

02:29:43



1 and that last add couple of years and then just based  
2 our consulting doing the same kinds of things I had  
3 done in Urban Design Studio.

02:29:49

4 Q. So how long did you have your own company,  
5 until what year?

02:30:11

6 A. 2006.

7 Q. Now, during that period when you owned your  
8 own company, did you do any planning work and  
9 entitlement work for Anthony Pugliese or the Pugliese  
10 companies?

02:30:27

11 A. Yes, I did.

12 Q. When did you first work for, do work for,  
13 excuse me, as an independent contractor for  
14 Mr. Pugliese or his companies?

15 A. Okay. I had met Anthony, he was introduced  
16 to me while I was still at the county in probably '82  
17 or '83 and actually, I think the first work that I did  
18 for him was in '86, the year that I left the county.

02:30:39

19 Q. So is it accurate to say the 20 year period  
20 from '86 to '06, you did work from time to time for  
21 Mr. Pugliese or his companies?

02:31:16

22 A. I think I probably did 60 or 70 projects for  
23 him.

24 Q. Let me stop there for a second to ask you  
25 whether you have any professional affiliations?

02:31:37

1           A.     Yes.  I'm a certified planner, member of  
2 AICP, American society of -- I'm sorry, American  
3 institute of city planners.

02:31:42

4           Q.     What does it mean to be a certified planner?

5           A.     Well, you have to have a degree from an  
6 accredited college and you have to have I believe  
7 something like five years of experience working in the  
8 field of planning and you can pass a test.  If you  
9 pass the test you become a certified planner.

02:31:57

10          Q.     And after you pass the test is there  
11 requirements to maintain each year or every several  
12 year to maintain your certification?

02:32:13

13          A.     Yes there's a continuing education program.  
14 I have to earn 32 credits every two years.

15          Q.     In your experience working for government or  
16 otherwise, have you ever been involve in the drafting  
17 of ordinances or other provisions that deal with  
18 zoning an different items like that?

02:32:41

19          A.     Well, let me put it this way.  For all the  
20 years that I worked in government, which has been  
21 20-something years now, that's always been a part of  
22 my responsibilities.  In the private sector I often  
23 wrote proposed amendments to codes and offered them to  
24 government.

02:32:58

25          Q.     Have you served on any formal committees for

02:33:30

1 Palm Beach County, within Palm Beach County or the  
2 city of West Palm Beach?

02:33:34

3 A. Yeah, on a large number of them actually. I  
4 was -- when West Palm Beach rewrote their zoning code  
5 back I think it was in the 80s, I was on a task force  
6 that assisted them in writing the code. You know, I  
7 was -- I'm the Palm Beach County board of adjustment,  
8 which is a board that hears cases where people cannot  
9 comply or feel they cannot comply with the  
10 requirements of the code, it was an opportunity where  
11 you could seek relieve from the code, called a  
12 variance, and those types of applications are  
13 generally considered by what they call a board of  
14 adjustment and I was on the Palm Beach County board of  
15 adjustment for about 20 years. I was appointed by one  
16 of the county commissioners right after leaving the  
17 county. I was on it about 20 years. I think I was  
18 chairman of that board for about ten of those years.

02:33:51

02:34:20

02:34:38

19 Q. So when you were in private practice and  
20 doing some work for Mr. Pugliese and the Pugliese  
21 companies, did you participate in meetings at the  
22 Pugliese companies relative to projects you were  
23 working on and perhaps project that's others were  
24 working on at the Pugliese companies?

02:34:56

25 A. Yes, I did.

02:35:16

1 Q. Were their regularly scheduled meetings to  
2 discuss the different projects or properties at the  
3 Pugliese companies that were being worked on?

02:35:23

4 A. Yes, they've had what they call their real  
5 estate meeting on Tuesdays. Every Tuesday at least as  
6 far as I know, I don't know if they're doing it any  
7 more, but it was always on Tuesday and it was every  
8 week. And when I was working on projects for the  
9 company, I would typically come to those meetings to  
10 give progress reports and things like that.

02:35:35

02:35:58

11 Q. And while you were in those meetings during  
12 the period let's say 2005, 2006 before you went to  
13 work for the Pugliese companies, did you sit in or  
14 parts fate mate in meetings in which the Destiny  
15 project was discussed?

02:36:21

16 A. Yes. I mean, there were illustration boards  
17 all over the conference room. It was a constant  
18 matter of discussion. I was at a number of meetings  
19 where the project was discussed.

20 Q. So at some point did someone at the Pugliese  
21 companies offer you an in house position?

02:36:43

22 A. Yes.

23 Q. Who was that?

24 A. Anthony Pugliese.

25 Q. Did you entertain the offer?

02:36:56

1 A. Yes.

02:36:58

2 Q. Did you accept the offer?

3 A. Yes.

4 Q. Why did you accept the offer?

5 A. Well, for a number of reasons. First of  
6 all, the Destiny project is something that for someone  
7 in city planning, if you run into something anywhere  
8 near the magnitude or the quality of that type of  
9 project once in your life you're lucky, and it was an  
10 opportunity to, you know, come to work there and  
11 basically work full time on a project.

02:37:02

02:37:24

12 Q. Now, is there other reasons that you left  
13 being self-employed?

14 A. Well, after 20-something years in the  
15 business, you know, constantly having to seek work and  
16 sometimes Chase clients for money, you know, the  
17 routine of sometimes doing what I did in the private  
18 tech or the, I mean a lot of times I was at public  
19 hearings four nights a week and I was tired of it.

02:37:49

20 Q. Did you ever have to Chase Mr. Pugliese for  
21 money?

02:38:30

22 A. No.

23 Q. So when did you go to work for the Pugliese  
24 companies?

25 A. I believe it was like May of 2006.

02:38:38

1 Q. And while you were there between May of 2006  
2 and November of 2009, did you have a primary  
3 assignment?

02:38:48

4 A. Yes, the Destiny project.

5 Q. During that time period, May of '06 until  
6 November of '09, tell the jury how many hours per  
7 week, per month, you worked on the Destiny project.

02:39:14

8 A. Well, frankly, I did some other work for the  
9 Pugliese company, as I had traditionally, but my  
10 primary focus was on the Destiny project and you know  
11 I'm not a time clock time person. I generally work 50  
12 or 55 hours a week, but during the time I was at the  
13 Pugliese Company as an employee, on a given month I  
14 virtually always put in 180 or more hours on the  
15 project in a month.

02:39:38

02:40:04

16 Q. Which project?

17 A. The Destiny project.

18 Q. What did you understand your duties and  
19 responsibilities to be on the Destiny project?

20 A. My primary responsibility was to work with  
21 the various government agencies that would be involved  
22 in reviewing the project and there were tons of them.  
23 And also with the consulting team. There was a large  
24 consulting team because of the magnitude of the  
25 project, and I worked with a high percentage of the

02:40:32

02:40:54

1 team, the people that were on our consulting team. 02:40:59  
2 reviewing their work, directing them, assisting them  
3 at meetings, and being a general go-between between  
4 Anthony and them.

5 Q. When you started, the Destiny property had 02:41:32  
6 already been purchased?

7 A. Yes I believe it had been purchased in 2005.

8 Q. So how did you get up to speed from the  
9 purchase to when you started?

10 A. I learned -- as I mentioned or as you asked, 02:41:50  
11 I had been involved in a number of real estate  
12 meetings where the project was discussed. In addition  
13 it was interesting, I asked a lot of questions and  
14 once I started there, I had access to documents that  
15 showed things about the due diligence and the original 02:42:11  
16 offer and all that.

17 My recollection is it was a bid process. It  
18 wasn't something that was just for sale on the market.  
19 They took bids.

20 Q. So you referenced due diligence. Did you 02:42:35  
21 review any of the -- first of all, what is due  
22 diligence?

23 A. Due diligence is generally a period of time  
24 between when someone signs a contract or makes an  
25 offer to purchase a piece of property, there's a time 02:42:49

1 generally granted for that company or that person to  
2 do research, to look into things like what process  
3 they would have to go through to use the property the  
4 way they may intend to use it, to look at soil  
5 conditions, vegetation conditions, other physical  
6 characteristics of the property and things like that.  
7 Availability of water and sewer, drainage, all those  
8 kinds of things.

02:42:53

02:43:12

9 Q. Did you review any of those materials at the  
10 time you started or after you started, in terms of  
11 reviewing what happened?

02:43:32

12 A. Yes I saw a number of documents. I don't  
13 have them, I can't tell you what they are right now,  
14 but I know that a lot of research was done into all of  
15 those areas that I mentioned by people that were hired  
16 by the Destiny team, by the Destiny project; lawyers,  
17 engineers, surveyors, planners, environmental  
18 specialists.

02:43:51

19 Q. Did you participate in meetings with people  
20 from Osceola County, meaning the staff and other  
21 decision-makers in the county about the project?

02:44:23

22 A. Yes.

23 Q. On a frequent basis?

24 A. Regularly, yes.

25 Q. And describe what you mean by regularly?

02:44:36



1 A. It was pretty much every week. 02:44:44

2 THE COURT: Before we get too far into it  
3 why don't we take our break until 3 o'clock and  
4 we'll pick up where we left off. Is that okay  
5 you with Mr. Mariani. 02:44:58

6 MR. MARIANI: That's fine, Your Honor.

7 THE COURT: Because it will be a while  
8 I know, and that's fine.

9 So ladies and gentlemen, please don't talk  
10 about the case to anyone, don't allow anyone to 02:45:05  
11 talk to you about it. Please don't use any form  
12 of electronic devices or other means to do any  
13 research regarding any of the people involved,  
14 any of the issues involved and I look forward to  
15 seeing you back at 3 o'clock and we'll get 02:45:20  
16 started again at that time.

17 We'll be in recess until then. Thank you  
18 all thank you to our courtroom personnel. Have a  
19 good break. We'll be in recess till  
20 3 o'clock. sir, kindly don't talk about your 02:45:32  
21 testimony while on break. Please again watch  
22 your step.

23 (Whereupon a recess was taken.)

24 THE COURT: Welcome back everyone. Bring  
25 back the jury, please, deputy. 03:08:18

1 (Whereupon the jury entered the courtroom  
2 and the following proceedings were had:)

03:09:03

3 THE COURT: Ladies and gentlemen, welcome  
4 back and again let me offer my most sincere  
5 thanks for your service and sacrifice. We know  
6 it is indeed an Alaska of community service as  
7 well as a sacrifice to each one of you.

03:09:09

8 As I mentioned at the outset the inspiration  
9 that I receive, this job can get somewhat mundane  
10 after a while and for various reasons, but it's  
11 jurors who really do inspire the Court and the  
12 service that I see from seated jurors is just  
13 remarkable. So I again thank you for that and I  
14 thank you on behalf of everyone here. You may  
15 have a seat, sir. Thank you. We'll proceed and  
16 continue with the direct examination of  
17 Mr. Basehart.

03:09:29

03:09:50

18 MR. MARIANI: Thank you, Your Honor.

19 THE COURT: Mr. Mariani.

20 MR. MARIANI: May it please the Court may I  
21 approach.

03:10:19

22 THE COURT: Yes.

23 BY MR. MARIANI:

24 Q. Mr. Basehart I'm going to show what you is  
25 Exhibit 50 in evidence. Can I hand you that?

03:10:25

1 A. Sure. 03:10:28

2 Q. Do you recognize that picture?

3 A. Yes, it was a picture taken at I think the  
4 Gaylord in Orlando when the chamber through a chamber  
5 of commerce meeting where the Destiny project was 03:10:46  
6 introduced and this picture is a picture of pretty  
7 much all the picture they were on the team.

8 Q. What was the purpose of that meeting?

9 MR. CHAPMAN: Objection, Your Honor,  
10 cumulative. 03:11:02

11 THE COURT: We are getting a bit cumulative.  
12 I think we've had just about everyone testify as  
13 to the photograph. So the objection is  
14 sustained.

15 Q. Are you in the picture? 03:11:11

16 A. Yes, I am.

17 Q. Could you help me point you out to the jury?

18 A. Front row, third from the left.

19 Q. That's you there?

20 A. Yes. 03:11:22

21 Q. Can you point out any of the others  
22 consultants?

23 A. You know, it's been eight years. Some of  
24 the names are slipping by but the person on the left  
25 end is Larry Walter. 03:11:40

1 Q. Right here. What did Mr. Walters do? 03:11:41

2 A. He was a project engineer.

3 Q. Okay.

4 A. I can't remember the name of the

5 gentleman -- actually he's a former State senator. 03:11:49

6 Q. Which person is that?

7 A. Next to Larry.

8 Q. Right here?

9 A. And he was actually -- he's an attorney. He

10 was representing the Sierra club. 03:12:03

11 Q. What is the Sierra club?

12 A. It's a nongovernmental, what we call an NGO,

13 a nongovernmental organization. It's made up of --

14 Q. Speak into the microphone?

15 A. It's like the Audubon Society. It's 03:12:29

16 membership are pro environment people, environmental

17 conservation.

18 Q. Was he there to support Destiny?

19 A. Yes. The man next to him I know real well,

20 that's me. The person next to me is -- can't his name 03:12:51

21 right now, but he was our project traffic engineer.

22 Q. Was that Leftwich?

23 A. Yes Leftwich.

24 Q. That is Leftwich, okay.

25 A. The person next to that the Bob Whidden. 03:13:10

ROUGH DRAFT TRANSCRIPT

1 Q. What did Bob Whidden do? 03:13:13

2 A. He was project planner.

3 Q. And the woman next to Mr. Whidden?

4 A. Meril Stumberger.

5 Q. Is that Mr. and Mrs. Pugliese in the middle? 03:13:22

6 A. Yes.

7 Q. Do you know the gentleman to the left?

8 A. Looks like Al Quentel.

9 Q. Who was Mr. Quentel?

10 A. He was an attorney. 03:13:30

11 Q. Anyone else you recognize?

12 A. The person next to him, I can't remember his

13 name. He worked for Bob Whidden. The person next to

14 that I believe was Mr. Rohde, who owned part of the

15 property. 03:13:53

16 Q. With the white hair?

17 A. Yes.

18 Q. Okay.

19 A. And then Ros Gatewood. And then the woman

20 next to her is Colleen, works for the Pugliese 03:14:15

21 Company.

22 Go back to the other end?

23 Q. Well, let's just go any other person? I'm

24 not trying to quiz you to name everyone, just anyone

25 you can point out who was a consultant, anyone else 03:14:31

1 you can point out that was a consultant. 03:14:33

2 A. A number of them are attorneys. Can't  
3 remember the guy in the gray suit.

4 Q. This gentleman here?

5 A. No, other end. 03:14:49

6 Q. This gentleman?

7 A. Yes, he's an architect, John Zaverde. He  
8 was the lead architect. The guy on the far end can't  
9 remember his last name, Dale.

10 Q. Is that Dale Lindon? 03:15:16

11 A. Dale Lindon, yes.

12 Q. Okay you can take that back.

13 A. Did I pass?

14 Q. Do you remember Mr. Base heart whether there  
15 are any Osceola County officials there? 03:16:25

16 A. I believe there were one or two, but I can't  
17 remember.

18 Q. Do you remember what positions he held?

19 A. I believe there were a couple of county  
20 commissioners. 03:16:35

21 Q. So your understanding, they were there to  
22 support Destiny?

23 MR. CHAPMAN: Objection, Your Honor,  
24 leading.

25 THE COURT: Sustained. 03:16:44

1 Q. Do you know whether they were there to  
2 support or oppose Destiny?

03:16:44

3 A. This was a chamber event, intended to bring  
4 support to the project from the business community and  
5 in the county commission members were there to support  
6 the project.

03:16:57

7 Q. When you first were employed in May of '06  
8 by the Pugliese Company and assigned to the defendant  
9 project --

10 A. May of '06.

03:17:27

11 Q. May of '06, yes, what was the status of the  
12 goings on at that time?

13 A. Well, you know, they had closed on the  
14 property and we were beginning the work of putting the  
15 studies and programs together that would be necessary  
16 to ultimately get the project improved including their  
17 environmental analyses going on, flora and fauna.  
18 There were engineering studies they were surveying  
19 work on, there was the beginnings of the traffic work  
20 that Mr. Scott Leftwich was working on; you know, a  
21 whole lot of things.

03:17:41

03:18:07

22 Some of the initial design work for the  
23 project.

24 Q. Was there a strategy at that time of  
25 pursuing entitlements for the property, for the

03:18:27

1 project?

03:18:31

2 A. Well, actually in August of 06 we met  
3 with -- I can't remember his name, the secretary of  
4 the Department of Community Affairs -- Thaddeus Cohen  
5 it was, and the purpose of that meeting was to discuss  
6 processing the project as what they call a rural land  
7 stewardship.

03:18:54

8 Q. Let me understand. Mr. Cone was whom?

9 A. Secretary of the Department of Community  
10 Affairs.

03:19:10

11 Q. In Tallahassee?

12 A. Yes, the State planning agency.

13 Q. Who did he report to in '06?

14 A. The governor.

15 Q. So was he the number one person at DCA?

03:19:28

16 A. Yes.

17 Q. What period did he serve, do you know?

18 A. I don't know when he served, but his time  
19 ended the end of 2006, the beginning of 2007 when  
20 Governor Crist came in.

03:19:50

21 Q. And who replaced Mr. Thaddeus Cohen?

22 A. He was replaced by Tom Pelham.

23 Q. So let's go back to -- you said there was a  
24 meeting in Tallahassee?

25 A. No it was actually in West Palm Beach.

03:20:09



1 Q. Oh, I'm sorry?

03:20:15

2 A. Mr. Cohen was there at an affair in the  
3 airport Hilton and we were able to have a meeting with  
4 him had the affair was over.

5 Q. Who attended the meeting?

03:20:25

6 A. I was there, Anthony Pugliese was there,  
7 Meril Stumberger was there, I think Tom San Giacomo  
8 was there. There might have been one or two other  
9 people, and he had some staff with him, Mr. Cohen did.

10 Q. What was the topic of the meeting?

03:20:56

11 A. The approval process for the Destiny  
12 project.

13 Q. How long was the meeting?

14 A. I don't remember, maybe an hour, I'm not  
15 sure.

03:21:15

16 Q. Based on the meeting, did you have an  
17 understanding of which approach to take to attempt to  
18 get entitlements for the property?

19 A. I believe there had been some discussion  
20 with him in his office before then. I don't know if  
21 there were any previous face-to-face meetings. That  
22 was the first one I had with him. But we were  
23 interested in potentially processing the project as a  
24 rural land stewardship, which it's a program where you  
25 can I guess putting it in a nutshell, avoid the DRI

03:21:26

03:21:55

1 process by, you know, meeting the criteria for a 03:22:01  
2 stewardship and having it approved by the Department  
3 of Community Affairs.

4 Once that is approved then no DRI review is  
5 necessary and all approvals would be with the 03:22:15  
6 environmental agencies and with the local government.

7 THE COURT: Just to clarify that for a  
8 minute, Mr. Basehart if you would please for us.  
9 Talk about the rural land stewardship we heard  
10 about that. What do you mean specifically by the 03:22:33  
11 DRI.

12 THE WITNESS: DRI legislation.

13 THE COURT: What is DRI legislation.

14 THE WITNESS: I'm sorry.

15 THE COURT: That's okay. 03:22:43

16 THE WITNESS: Development of regional impact  
17 and it's a process for large project review and  
18 basically project that's trip the thresholds that  
19 require review as a DRI --

20 THE COURT: Impact are things like how are 03:23:00  
21 roads going to be impacted, how is the  
22 environment going to be impacted things of that  
23 nature.

24 THE WITNESS: Again for large projects  
25 exceeding certain thresholds, number of dwelling 03:23:13

1 units, square footage of commercial or  
2 industrial, whatever.

03:23:17

3 Yeah the DRI application process which is  
4 called an ADA, or application for development  
5 approval, requires the applicant to -- well, I  
6 guess say answer up to 34 questions. Each area  
7 of responsibility for reporting is called a  
8 question. There's environmental questions,  
9 there's traffic, drainage, you know. Some of the  
10 criteria wouldn't apply to each project. For  
11 instance there's a question for airports. If  
12 you're project didn't include an airport, you  
13 wouldn't need to do that one.

03:23:29

03:24:00

14 An there's a prescribed process where you  
15 submit your DRI, your ADA to the regional  
16 planning council in the area and it's reviewed at  
17 the local level, at the regional level an it's  
18 reviewed at the State level, the Department of  
19 Community Affairs is involved and you know many  
20 state and federal agencies are involved in the  
21 review.

03:24:17

03:24:39

22 It's a much more detailed level of review  
23 than what any normal non-DRI project would be.

24 THE COURT: Okay. Thank you very much for  
25 that explanation.

03:24:53

1 THE WITNESS: Thank you. 03:24:55

2 THE COURT: Mr. Mariani.

3 BY MR. MARIANI:

4 Q. Back to the meeting with Thaddeus Cohen, the  
5 head of the DCA at the time. As a result of that 03:25:09  
6 meeting did you have an understanding of what process  
7 the DCA expected you to pursue at that time?

8 A. Yes, it was the Rural Land Stewardship  
9 program. He believed we met all of the criteria and  
10 it was the way to go for this piece of property. 03:25:37

11 Q. That was Mr. Thaddeus Cohen thought that?

12 A. Yes.

13 Q. So as a result of that meeting, what did you  
14 do and the other planners that were working on the  
15 Destiny project? 03:25:51

16 A. Well, we started preparing the application  
17 materials necessary to submit for the rural land  
18 stewardship.

19 Q. At what point, give us a historical  
20 perspective about the Rural Land Stewardship Act and 03:26:17  
21 when it came into effect in Florida?

22 A. Offhand I'm not sure. I think it was 2004,  
23 was created by the legislature. Can't remember the  
24 section and basically the intent of the program is to  
25 conserve an preserve farm land and environmentally 03:26:43

1 significant land by allowing concentrated development  
2 on a small portion of a property. It had to be large  
3 properties. I think the initial requirement was  
4 20,000 acres. I'm not sure.

5           You know, and of course the Destiny project  
6 was 27,000 acres at that time.

7           So it met the criteria or it met the size  
8 criteria and the whole side is to cluster development  
9 on a small portion of the property and then do  
10 conservation easements over the remaining. So it  
11 remained as farm land or it remained as preserve area.

12           Q.    New over the years were there a large number  
13 of farms or properties held by individual families in  
14 the State of Florida?

15           A.    Yes there are.

16           Q.    Do you know whether any of the concern about  
17 the rural land stewardship was the breaking up of  
18 those larger farms into smaller pieces?

19           A.    That was certainly a concern. For instance,  
20 the Osceola County county comprehensive plan actually  
21 designated the property the Destiny property, as one  
22 lot per five acres. It would allow the development of  
23 the property into subdivision into five-acre lots,  
24 which is an extremely inefficient wasteful way to  
25 develop land.

1 Q. Why do you say that? 03:28:39

2 A. Because it's not efficient with respect to  
3 infrastructure provisions. It results in significant  
4 environmental features or land being cut up into small  
5 unrelated ownerships; a whole lot of reasons. But 03:28:59  
6 certainly land use efficiency is among the top of  
7 them.

8 Q. Now, I'm going to apologize, but it's the  
9 mill of the afternoon, but I need you to explain to  
10 the jury, I don't want to put anybody to sleep, but to 03:29:18  
11 talk about the Rural Land Stewardship Act, the  
12 application process, and try to give us some detail  
13 about why it takes time that this is not something  
14 that gets done in an hour.

15 Could you try to start that, please? 03:29:39

16 A. All right. I haven't dealt with it in a  
17 long time, but you know, essentially the first step is  
18 to approach the Department of Community Affairs  
19 basically and environmental agencies, State  
20 environmental agencies with the concept of doing a 03:29:57  
21 rural land stewardship and then you get a letter from  
22 the Department of Community Affairs telling you  
23 whether they think it's a fit and whether you can  
24 pursue it and in their opinion it won't work. So they  
25 can accept it or reject it at that level. 03:30:18

1           Actually in the Destiny case, we did not get  
2 a letter from Mr. Cohen before he left office, but one  
3 of the first things Tom Pelham did when he took office  
4 was sent us a letter saying we can proceed as a rural  
5 land stewardship and then it's a matter of doing your  
6 environmental studies and doing your land plan and  
7 working with the local government and with the  
8 environmental agencies, and ultimately ending up with  
9 a mechanism to preserve the rural land, whether it be  
10 farm land or whether it be environmental.

03:30:24

03:30:41

03:31:05

11           You know, that's generally done through the  
12 granting of conservation easements. A lot of the time  
13 paid for by the state.

14           Q. Let me break it down. You had had the  
15 meeting with Mr. Cohen, Mr. Thaddeus Cohen?

03:31:21

16           A. Yes.

17           Q. And as a result of that meeting you  
18 understood that the best way to proceed was under the  
19 Rural Land Stewardship Act?

20           A. Yes.

03:31:37

21           Q. So you started that process?

22           A. Yes.

23           Q. Besides writing to the Department of  
24 Community Affairs in Tallahassee, are there other  
25 governmental bodies that need to be communicated with?

03:31:47

1 A. Certainly --

03:31:58

2 Q. Could you answer that question, and if the  
3 answer is yes tell us what those agencies are?

4 A. The answer is yes and of course the local  
5 government agencies, the regional planning council and  
6 the environmental agencies as well, there's three or  
7 four State level and federal level environmental  
8 agencies.

03:32:06

9 Q. When you said State agencies do you mean at  
10 the county level?

03:32:28

11 A. Yes.

12 Q. Is there more than one agency at the county  
13 level?

14 A. Well rural land stewardship, it's intended  
15 to preserve and conserve farm land and environmentally  
16 significant land, but you're still dealing with a plan  
17 to develop a portion of the property, and that all  
18 goes through, would go through the normal government  
19 planning process.

03:32:39

20 Q. Is it accurate to say that the act is not  
21 trying to save all of the farm land, just a portion of  
22 the farm land?

03:32:54

23 A. A significant portion, yes.

24 Q. So how long after the meeting with Thaddeus  
25 Cohen were you and the others working on the

03:33:18



1 applications using the Rural Land Stewardship Act as  
2 the strategy or the focal point?

03:33:22

3 A. Several months.

4 Q. You said you didn't receive a letter from  
5 Thaddeus Cohen. That was because he left office?

03:33:43

6 A. Yes.

7 Q. And he left office why?

8 A. Because it's traditional that when a new  
9 governor is elected, that a lot of the state  
10 department heads change to be appointed by the  
11 governor.

03:33:55

12 Q. So you said he wrote you a letter. What did  
13 it say?

14 A. It said the department the approved the  
15 rural land stewardship and we should proceed.

03:34:25

16 Q. So at the time did you consider that  
17 favorable news?

18 A. Absolutely.

19 Q. And was an application filed under the Rural  
20 Land Stewardship Act?

03:34:40

21 A. No.

22 Q. Tell us why not?

23 A. Well, we received a subsequent letter from  
24 Mr. Pelham, telling us that he didn't believe that was  
25 an appropriate way for the development approval of the

03:34:50

1 property to proceed.

03:34:54

2 Q. When you received that letter were you  
3 surprised at the change in opinion?

4 A. Yes.

5 Q. Why were you surprised?

03:35:11

6 A. Well, it was definitely -- it was a complete  
7 reverse of the letter he sent us a few months earlier.

8 Q. So receiving the second letter, what did you  
9 do after receiving that letter?

10 A. Then we began to start -- well, we began  
11 looking at the other alternative ways the seek  
12 approval for the property. Effectively that became a  
13 DRI process.

03:35:29

14 Q. Before we get to the DRI process, are there  
15 or were their at that time, because we're talking  
16 about 2000 -- what year are we talking about, 2006?

03:35:53

17 A. 2007.

18 Q. 2007, okay. So if you can remember in 2007,  
19 what were the alternatives at that time that were  
20 available and then which were evaluated?

03:36:10

21 A. Well, I mean, one was the simply subdivide  
22 the property into five-acre lots and sell five-acre  
23 lots, develop a grid street system and proceed that  
24 way, which was rejected.

25 Q. Rejected by whom?

03:36:33

1           A.    Well, Anthony for sure, Anthony.  And we  
2 started looking at the other available options, which  
3 were all pretty much involved doing developments of  
4 regional impact.

5           Q.    At the time would you have recommended  
6 cutting it up into five-acre lots?

7           A.    No.

8           Q.    And why not?

9           A.    Because I guess that's the closest that you  
10 can come to raping the land.  It's totally  
11 inefficient, it's wasteful of resources.  It's  
12 horrible planning.

13          Q.    So which approach did you recommend and  
14 which approach was followed?

15          A.    Well, you know, basically -- some of the  
16 other approaches we looked at, sector planning.  The  
17 State had provisions in State law for sector planning,  
18 but there was a limit on how many sector plans could  
19 be approved.  It was a program that was, you know,  
20 initiated as kind of a trial thing by the State, and I  
21 believe that they were all used up.

22                So we didn't pursue that.  Ultimately it was  
23 decided the best route for the property would be to do  
24 a master DRI and then supplemental DRIs to go with it.  
25 In other words get an overall approval of the master

1 plan with some level of detail, but not real detailed,  
2 and then individual DRIs, supplemental DRIs on each of  
3 the Villages we were intending to develop.

03:38:15

4 Q. You used the word villages, describe what  
5 you meant.

03:38:50

6 A. More than half of it was environmentally  
7 significant, it was wetlands and you know, Anthony's  
8 approach, his idea was to develop a green city, to try  
9 the reduce the carbon footprint from what traditional  
10 development would be, to do everything that could be  
11 done to save the environmental features on the  
12 property and enhance them and then to balled project  
13 that was based on, you know, the latest green  
14 technology to conserve energy and things of that  
15 nature.

03:39:13

03:39:34

16 Did plan that we developed proposed to build  
17 the property in a section of Villages. It was such a  
18 large piece of property. The configuration of the  
19 wetland area was irregular so it lent itself to  
20 turning that into an asset to create really a premium  
21 environment by developing in the up land areas and the  
22 marginal wetland areas, but preserve about  
23 80 percent -- the objective was to preserve about  
24 80 percent of wetland areas, which is a very high  
25 percentage, and to develop the project in a series of

03:40:06

03:40:31

1 villages, each one having its team and having them all 03:40:39  
2 interconnected in an efficient roadway network.

3 Q. Let's talk about wetlands specifically. You  
4 said a significant portion was in wetlands?

5 A. Yes. 03:41:02

6 Q. What is a wetland?

7 A. A wetland is defined by the types of  
8 vegetation that are in it, the types of what they call  
9 fauna or animal life, and generally it's what some  
10 people might call swamp area. 03:41:26

11 Q. Are wetlands all of the same level of  
12 significance?

13 A. No. I mean, wetlands -- I'm not an  
14 environmental expert, but I deal with it on a lot of  
15 projects. No, wetlands have various degrees of value 03:41:43  
16 depending on how pristine they are. When invasive  
17 species take over and crowd out the native wetland  
18 vegetation it decreases the value of the wetland.  
19 Human interaction is a big thing, and you got to  
20 remember, a lot of the Destiny property was in hunting 03:42:14  
21 leases and there was a lot of human interaction there.

22 Q. Let's talk about that for a minute.

23 A. Okay.

24 Q. First in terms of the configuration of the  
25 property -- Your Honor, for illustration purposes only 03:42:37

1 can I put up a board?

03:42:43

2 THE COURT: Sure, as long as it's not that  
3 picture again.

4 MR. CHAPMAN: Your Honor, may I approach.

5 THE COURT: Sure.

03:43:01

6 MR. MARIANI: Your Honor, excuse me. May  
7 have a moment because I want the try to avoid an  
8 objection.

9 THE COURT: Why don't you meet with  
10 Mr. Mariani over there.

03:43:18

11 MR. MARIANI: I'm going to try to get  
12 another board is what I'm trying to do.

13 THE COURT: Let's see what we can do.

14 (Discussion off the record.)

15 Q. Let me try to do this for now without a  
16 board an then we'll show a board later.

03:45:27

17 A. Sure.

18 Q. Talk about -- not talk about, tell us where  
19 the project is where it goes through the southern part  
20 of Osceola County, the Turnpike, route 60, route 441?

03:45:48

21 A. The property is located, are you speaking of  
22 the original property.

23 Q. The 27,000 acres?

24 A. The 27,000 acres located on the south side  
25 of state road 60, adjacent to the west side of the

03:46:01

1 Turnpike and it's an added Turnpike entertaining known  
2 as Yeehaw Junction.

03:46:08

3 Q. State road street runs from where to where?

4 A. Runs from the east coast to the west coast.

5 Q. From Vero Beach to Tampa?

03:46:22

6 A. To Tampa, yes.

7 Q. You think we all know what the Turnpike  
8 does. And then route 441, what does route 441 do?

9 A. It's effectively a north-south road and it  
10 actually runs along the west side of the Turnpike, up  
11 in that area.

03:46:45

12 Q. So the parcel that was the Latt Maxcy  
13 parcel, the 27,000 acres, that sits below route 60 or  
14 at the edge of route 60 and below?

15 A. Yes.

03:47:00

16 Q. Now, let's talk about the Rohde property?

17 A. The Rohde property is located on the north  
18 side of route 60 from basically 441 and the Turnpike  
19 going west, the east-west mileage. I mean, it's a big  
20 property. It was about seven miles I believe, seven  
21 or eight miles from the Turnpike, which was the  
22 eastern side of the property to the western side.

03:47:28

23 Q. South of the 27,000 acres, south and perhaps  
24 to the west what exists there?

25 A. The Kissimmee river -- Kissimmee valley

03:47:55

1 preserve.

03:48:01

2 Q. And what is that?

3 A. It's a State-owned -- it's a very large  
4 piece of property. I don't remember the exact number  
5 of acres. I think it was somewhere in the 30 or  
6 35,000-acre range and it's a State-owned environmental  
7 preserve area.

03:48:11

8 Q. Owned by a State preserve?

9 A. Yes.

10 Q. And does that touch any of the Latt Maxcy  
11 property?

03:48:30

12 A. Yeah, it was adjacent to -- partially  
13 adjacent to the south side.

14 Q. So let's go back to wetlands now. In terms  
15 of the wetlands on the 27,000 acres, is there a  
16 difference in quality of the wetlands, meaning in  
17 terms of their significance environmentally?

03:48:50

18 A. Well, there were some -- hasn't man  
19 objection, Your Honor, foundation, he's not an  
20 environmental scientist.

03:49:10

21 THE COURT: Overruled. You can answer to  
22 the best of your knowledge, sir.

23 A. Thank you. Some of the areas were higher  
24 quality, had less invasion, were less interrupted you  
25 know, by human endeavor than others, but there was

03:49:23



1 effectively the southwest portion of Destiny was 03:49:32  
2 intact and adjacent to the Kissimmee Valley preserve  
3 which provided continuity of that land which is  
4 something environmentally that you should strive for,  
5 and some of the areas to the north were isolated west 03:49:58  
6 lands.

7 Q. So the hunting lease us referred to earlier,  
8 explain what is a hunting lease?

9 A. Well, that occurs a lot in central Florida  
10 and a lot of places. Large property owners that have 03:50:19  
11 land, not farm land, but vacant land, especially with  
12 environmental significance, lease lots out to people  
13 to hunt on. People get hunting licenses and a lot of  
14 them build little shacks. Some of them bring campers  
15 back, you know, they make camp sites. Some of it is 03:50:48  
16 tents, and they stay out there and they hunt.

17 In that area there's a lot of wild bore, a  
18 lot of deer and a lot of animal that's people like to  
19 hunt.

20 So people would rent or lease a five or 03:51:10  
21 ten-acre piece and then hunting on that property was  
22 restricted to them.

23 Q. Restricted to that small area?

24 A. Yes.

25 Q. And Florida various other areas were there 03:51:24

1 other lease that Latt Maxcy had allowed on the  
2 property?

03:51:26

3 A. Other than hunting leases? Yeah, there were  
4 groves.

5 Q. No, no, speaking of hunting leases. Were  
6 there multiple hunting leases?

03:51:33

7 A. There were many, yes.

8 Q. And indeed during this process were the  
9 hunting leases continuing, were people still hunting  
10 on the property in the early stages?

03:51:50

11 A. I believe so, yes.

12 Q. In respect to the wet wetlands were there  
13 were intent to use those in the plans?

14 A. Well, the basis of the whole project was,  
15 you know, the environmental agencies will tell you,  
16 the first objective that they have is that is what  
17 they call avoidance, you avoid development activity on  
18 the areas that have significance in either pristine or  
19 can be rehabilitated, and because -- I think Anthony's  
20 concept was that this was going to be a totally green  
21 city. It was going to respect the environment. We  
22 were going to save, if possible all of the wetlands,  
23 but at least 80 percent. You know, but at the same  
24 time by placing villages at the perimeter of the  
25 wetland areas you create additional value for

03:52:18

03:52:45

03:53:10

1 development because you develop premium exposure. 03:53:16

2 Q. You used the phrase rehabilitate. What do  
3 you mean by that?

4 A. There's a lot of things that people do the  
5 rehabilitate. Wetlands that have been invaded, one is 03:53:37  
6 nonnative vegetation removal, sometimes you make  
7 changes to hydrology, to help the water supply to the  
8 property. But the primary thing is to take the  
9 invasive species of plants out of the area.

10 Q. Would you get rid of any cabins and trash 03:54:11  
11 and things like that that the hunters left in their  
12 wake, would that be part of rehabilitation?

13 A. As part of development of the property, all  
14 of that stuff -- when these areas were dedicated for  
15 environmental preservation that stuff was intended to 03:54:27  
16 all go.

17 Q. So explain how you with use a wetland as an  
18 enhancing factoring in that would add value to the  
19 development?

20 A. Well, I mean, first of all, it's desirable 03:54:44  
21 to be adjacent to a wetland area. In Wellington where  
22 I work, we have the big blue Cypress swamp which is an  
23 environmentally significant area and the highest  
24 priced homes in Wellington or many of the highest  
25 priced homes at Wellington abut, rear to that area. 03:55:10

1 Nobody can ever build back there. You can see  
2 wildlife it's desirable.

03:55:14

3 Q. So Mr. Pelham came into office, he was  
4 appointed by the governor?

5 A. Yes.

03:55:35

6 Q. And he wrote the second letter. You  
7 switched gears to the other approach?

8 A. Yes.

9 Q. Let's go back to that. You used the  
10 phrase -- I'm tired, I'm sorry, the regional  
11 development --

03:55:52

12 A. DRI.

13 Q. DRI, thank you. Tell me again what those  
14 letters stand for?

15 A. Development of regional impact.

03:56:04

16 Q. And what does that mean?

17 A. It basically means -- it creates thresholds  
18 if you exceed them you are considered to have  
19 more than local impact. You have a regional impact  
20 and therefore a higher level of review is required,  
21 which not only involves normal local government  
22 review, but also includes regional and State and even  
23 federal agencies.

03:56:27

24 Q. This is how it existed in 2007; is that  
25 right?

03:56:47

1 A. Yes.

03:56:47

2 Q. What is the relationship formally between  
3 the DCA where Mr. Pelham was and the development of  
4 regional impact. Are you reporting that to the DCA or  
5 are you reporting that to others?

03:57:09

6 A. No it's to others. DCA is involved, but the  
7 actual what they call development order or final  
8 approval is granted by the local government.

9 Q. Meaning the county government?

10 A. Yes.

03:57:27

11 Q. In this case it would be Osceola County?

12 A. Yes.

13 Q. Now, you had this development in Osceola  
14 County. So explain why there's still difficulty if  
15 the county is inclined to agree with you, why is it  
16 this is not just, you know, a foul shot from the foul  
17 line?

03:57:47

18 A. Because again, you know, the Department of  
19 Community Affairs is part of the review and they look  
20 at all the issues. Remember there's somewhere around  
21 34 different areas of consideration that are involved  
22 in a DRI review. It's very comprehensive, as well as  
23 the regional planning agencies as well.

03:58:14

24 So because of the magnitude of the review  
25 agencies, the large number, it's a very long and

03:58:35

1 tedious and expensive process.

03:58:41

2 Q. As you were going through that process, was  
3 it the Destiny project or LCOC that was going the make  
4 that application?

5 A. Yes. We were going to make that  
6 application.

03:58:57

7 Q. So as you worked on that, was there a change  
8 that occurred in the approach?

9 A. Well, again, we started with the Rural Land  
10 Stewardship Act.

03:59:20

11 Q. Now, after that you got the second letter --  
12 trying to do this chronologically -- you got the  
13 second letter from Pelham?

14 A. Right.

15 Q. You started the other application process,  
16 if you will?

03:59:27

17 A. Right.

18 Q. I'm trying to have you explain to the jury  
19 what happened. Was that application made? If it was,  
20 describe it. If it wasn't, describe why it wasn't  
21 made.

03:59:37

22 A. Actually, we were working on the  
23 applications an our intent was to do actually multiple  
24 DRIs. We had met with the Department of Community  
25 Affairs and I think it was agreed that the approach

03:59:54

1 would be to do a master DRI that involved the entire  
2 41,000 acres, which would not need to be as detailed  
3 in the analysis and all the questions, because each  
4 individual because of the massive size of the property  
5 and the size of the project, each individual village  
6 then would come as an incremental DRI with the  
7 complete level of detail that you normally expect on a  
8 smaller project.

03:59:58

04:00:23

9 We had ten villages, each of which were as  
10 big as most DRIs that were processed through the  
11 state. It was a Monday mental project.

04:00:43

12 Q. So there was what master DRI and I know  
13 mental DRIs for the villages?

14 A. Yes.

15 Q. Was there another component or not?

04:01:02

16 A. Well, I mean yeah, as part of the whole  
17 application -- first of all, had a agreed to -- let me  
18 back up. There didn't seem to be a way to go where we  
19 wanted to go, so it was agreed with the county that  
20 what they needed to do was establish a new  
21 comprehensive plan and zoning provision which they  
22 called the new city overlay and then that would be the  
23 vehicle that we would use to support our project  
24 approvals.

04:01:29

25 Q. Let me stop threw for a moment, if I can.

04:01:48

1 A. Okay. 04:01:54

2 Q. The comprehensive plan that Osceola County  
3 had at the time, was it sufficient in and of itself  
4 for you to use to attempt to get entitlements for the  
5 Destiny project? 04:02:11

6 A. When we started, no.

7 Q. Explain why it wasn't?

8 A. Well, there weren't any provisions in the  
9 comprehensive plan that could deal with and  
10 accommodate a development of the size and complexity  
11 that this would be. 04:02:21

12 Q. So did there need to be a change by the  
13 county because they were in favor of Destiny, they  
14 realized they wanted to change their comprehensive  
15 plan? 04:02:39

16 MR. CHAPMAN: Objection, Your Honor, leading  
17 an counsel testifying.

18 MR. MARIANI: I'll withdraw it.

19 THE COURT: Okay, thanks.

20 Q. Why did the county rewrite it's  
21 comprehensive plan for Destiny? 04:02:45

22 A. They didn't rewrite the comprehensive plan.  
23 They did an amendment, they did a proposed amendment  
24 to the comprehensive plan to add what we called the  
25 new city overlay to the comprehensive plan to create a 04:02:58



1 vehicle that could be used to process and approve a  
2 project of the nature that we had.

04:03:04

3 Q. That phrase new city overlay is that  
4 something they created or is that phrase used in other  
5 areas?

04:03:22

6 A. You know, it's probably used other places.  
7 But it's the first time I had run into it.

8 Q. Palm Beach County for example have new city  
9 overlay?

10 A. No.

04:03:35

11 Q. Does Broward County?

12 A. No.

13 Q. So what's your understanding of what the new  
14 city overlay allowed or required for it to be allowed  
15 as an amendment?

04:03:55

16 A. Well, what it had, it had to be adopt  
17 understood the comprehensive plan. As I mentioned we  
18 were going to do the master DRI and the incremental  
19 DRIs. But that was something we were going to apply  
20 for.

04:04:15

21 The property was designated for one unit per  
22 five acres and we were going to -- well, a portion of  
23 the property was actually commercial as well. There's  
24 31 acres of commercial on the property, but we were  
25 going to -- the new city overlay would be adopted into

04:04:33

1 the comprehensive plan and then our application would  
2 seek a comprehensive plan amendment from one unit to  
3 five-acre agricultural land to new city overlay, and  
4 then there would be a zoning code provision that would  
5 regulate and provide -- well, the comp plan and the  
6 zoning code would both contain criteria that you would  
7 have to meet in order to be eligible to apply for it.

04:04:36

04:04:52

8 Q. Does the county when it seeks to amend its  
9 comprehensive plan, does it have the power to do that  
10 on its own under Florida law or does it need to seek  
11 authority or approval from someone else?

04:05:14

12 A. No.

13 Q. At that time, I'm sorry. The law might be  
14 different now. But in 2007?

15 A. In 2007, basically the local government, you  
16 know, would have to consider the changes and grant  
17 basically tentative approval and that happened here.

04:05:29

18 Actually the staff and our consultants  
19 worked with the county to prepare the new city overlay  
20 provisions and it was processed through the planning  
21 and zoning board, which recommended approval and then  
22 it went to the county commission, which gave it  
23 preliminary approval and what they had to do was on a  
24 comprehensive plan change you have to send the  
25 proposed change to the state for review and at the

04:05:58

04:06:20

1 time it was the Department of Community Affairs that  
2 would review proposed changes to the comprehensive  
3 plan.

04:06:26

4 So it was what they called transmitted to  
5 the State.

04:06:37

6 Q. That went to the Department of Community  
7 Affairs?

8 A. Yes.

9 Q. So Mr. Pelham was the head person?

10 A. Yes.

04:06:50

11 Q. So is it accurate to say that the county  
12 itself was the applicant in that proposal that went to  
13 the DCA?

14 A. Yes, it was.

15 Q. And was that proposal specifically about the  
16 Destiny project?

04:07:14

17 A. No.

18 Q. Why do you answer that way?

19 A. It would accommodate the Destiny project,  
20 but actually the county was interested in seeing some  
21 development occur in the south, in the southern  
22 portion of the county, especially the Southeastern  
23 portion of the county.

04:07:28

24 So actually the new city overlay that was  
25 drafted included -- would include potentially about

04:07:48

1 500,000 acres of land and could have accommodated  
2 several Destiny projects.

04:07:55

3 Q. So I just want to make sure the jury  
4 understands. In that application for the new city  
5 overlay, there weren't any -- were not any plans  
6 specifically about Destiny?

04:08:13

7 A. No.

8 Q. However, you and others who worked for  
9 Destiny were assisting the county in drafting its new  
10 city overlay. Was it with the hope that if that were  
11 approved it could or would apply to the Destiny  
12 project?

04:08:31

13 MR. CHAPMAN: Objection, Your Honor, leading  
14 and counsel testifying.

15 THE COURT: Sustained as to leading.

04:08:43

16 MR. MARIANI: Sustained as what.

17 THE COURT: Leading.

18 MR. MARIANI: Okay, let me rephrase.

19 Q. Why did you work with the county drafters to  
20 suggest language or edit, whatever you did, in respect  
21 of their new city overlay amendment?

04:08:58

22 A. Because from what comprehensive plan point  
23 of view it's a concept that would accommodate the kind  
24 of project that Destiny was. My recollection is that  
25 the county, they were absolute in favor of it. It

04:09:19

1 became their application, they transmitted it to the  
2 State.

04:09:27

3 But the draft -- when they drafted it they  
4 didn't want to leave Destiny as the only possible  
5 place to do something like this. So it included an  
6 opportunity on additional lands.

04:09:42

7 Q. Did you have an understanding of why they  
8 did not allow it or want it to be specific to Destiny?

9 A. Because it was a concept that they wanted in  
10 their planning portfolio or in their sheath, you know,  
11 that they could use to accommodate other development.

04:10:06

12 I don't know if you're aware of it or not or  
13 if you even want to know, but the property was  
14 purchased from the Latt Maxcy family. When we were  
15 putting our applications together, the Latt Maxcy  
16 family decided that they would like to pursue  
17 something like it and thing wanted to do a rural land  
18 stewardship too and when that failed, you know, they  
19 potentially wanted to do a new city overlay.

04:10:27

20 So that ordinance would not only have  
21 accommodate, made a vehicle for Destiny to be  
22 approved, but it could serve others as well.

04:10:47

23 Q. Was the Latt Maxcy family following  
24 Destiny's lead?

25 MR. CHAPMAN: Objection, leading.

04:11:04

1 THE COURT: Overruled. 04:11:05

2 A. It seems like it.

3 Q. Did you talk to them about that?

4 A. Well, there were a number of discussions,  
5 yeah. My feel, my gut feeling was after the Destiny 04:11:16  
6 project had started to get kicked off, I think they  
7 figured they sold the wrong piece of property, because  
8 the Destiny project was much better situated to be a  
9 successful development than there's was.

10 MR. CHAPMAN: Objection, Your Honor, that 04:11:41  
11 answer calls for speculation and I move to  
12 strike.

13 THE COURT: Overruled.

14 Q. We'll come back to the Latt Maxcy a little  
15 bit later. You had spoken to Thaddeus Cohen? 04:11:51

16 A. Yes.

17 Q. He was in West Palm Beach for a meeting. As  
18 a result of those meetings Destiny applied for a rural  
19 land stewardship designation?

20 A. We were moving in that direction. 04:12:18

21 Q. I'm sorry that's what I meant to say, moving  
22 in that direction.

23 The office changes, has a new leaders that  
24 Mr. Pelham and Mr. Pelham takes a much different  
25 approach; is that correct? 04:12:35

1           A.     Initially he sent a letter endorsing, but  
2 then he switched, yes.

04:12:36

3           Q.     And explain to the jury how he switched and  
4 what his position was.

5           A.     He sent a letter to Destiny basically  
6 stating that he would not support the development of  
7 the property as a rural land stewardship and for  
8 whatever reason he no longer felt it was an  
9 appropriate process for the property.

04:12:47

10          Q.     Did you ever meet with Mr. Pelham directly?

04:13:15

11          A.     Sure.

12          Q.     On the Destiny project?

13          A.     Yes.

14          Q.     How many times?

15          A.     Six or seven times.

04:13:31

16          Q.     As a result of your meetings with  
17 Mr. Pelham, did you have an understanding of whether  
18 he was interested in allowing the development of the  
19 property, the Destiny project?

20          A.     He gave no indication -- I mean, we knew he  
21 was a tough individual to deal with, but he gave no  
22 indication that, you know, there was no way that he  
23 would ever support the project, at least as far as I  
24 could see.

04:13:49

25          Q.     When you say tough individuals are you

04:14:13

1 saying he wouldn't support the project? 04:14:15

2 A. When Mr. Pelham was the director, was the  
3 secretary of the Department of Community Affairs,  
4 nobody liked to deal with him.

5 Q. When did he leave office? 04:14:45

6 A. The fall of 2010.

7 Q. So a little more than a year after these  
8 activities were going on between your group and the  
9 DCA?

10 A. Yes. 04:14:57

11 Q. Why did he leave office?

12 MR. CHAPMAN: Objection, Your Honor, calls  
13 for speculation, relevance.

14 THE COURT: Sustained.

15 MR. MARIANI: I'll withdraw the question. 04:15:10

16 I'll rephrase the question.

17 Q. Did Mr. Pelham discontinue being head of the  
18 DCA when he left office?

19 A. Yes he did.

20 Q. And what happened to the DCA after 2010? 04:15:30

21 MR. CHAPMAN: Objection, Your Honor,  
22 relevance.

23 THE COURT: Overruled.

24 Q. You may answer?

25 A. I may answer? The Department of Community 04:15:36



1 Affairs was abolished in 2011.

04:15:43

2 Q. But there are still issue that's a developer  
3 has to go to the State level when seeking development  
4 and entitlements?

5 A. Well, the process has become a lot easier.

04:16:18

6 Q. Explain the process, please?

7 MR. CHAPMAN: Objection, Your Honor,  
8 relevance.

9 THE COURT: Overruled.

10 A. If a community wants to make amendments to  
11 its comprehensive plan either on its own initiative or  
12 because an applicant is -- somebody has made an  
13 application, you still have to, you still have to send  
14 it, transmit it to the State. The State planning  
15 office is now part of the department of economic  
16 opportunity. Most of the review authority has been  
17 taken away from them.

04:16:28

04:16:50

18 They now under the current rolls, only have  
19 30 days to respond back to a community and they can  
20 only comment on issues of state-wide regional  
21 importance. Generally like at Wellington, when we  
22 send a proposed comparative plan amendment to them,  
23 within 30 days we get a letter back saying we identify  
24 no state issues, and that's it.

04:17:13

25 There are no more ORC reports.

04:17:34

1 Q. When you were working through this process 04:18:02  
2 before funding stopped at the Destiny project, did you  
3 have a target date or a date by which you felt the  
4 applications would be completed and the entitlements  
5 would be obtained man objection, Your Honor, 04:18:26  
6 speculation and foundation.

7 THE COURT: I think the foundation is being  
8 attempted to be established now, so I'll overrule  
9 the objection.

10 A. Would you repeat that. 04:18:45

11 Q. I was going to say, in the summer of 2009  
12 before the funding stopped and after you received  
13 information from Mr. Pelham -- well, let me ask a  
14 preliminary question.

15 Was it your intent and the advisor's intent 04:19:05  
16 to continue to pursue the environmental or excuse me  
17 the entitlement process?

18 A. Yes.

19 Q. The instruction from either Mr. Pugliese or  
20 anyone else wasn't to pack your bags and go home, was  
21 it? 04:19:22

22 A. No. I mean, we were confident that the  
23 county's issue with the new community overlay you know  
24 was going to be resolved. As a matter of fact they  
25 had scheduled a final adoption hearing for the new 04:19:46

1 city overlay in November of 2009. We were  
2 anticipating, and I believe I wrote a letter to  
3 Anthony on the dates and everything -- I'm trying to  
4 remember them -- but we were anticipating actually  
5 filing the master and supplemental DRI applications  
6 probably in January or February of 2010, and we  
7 expected that we would have all of our entitlements  
8 and the project be able to move forward in the  
9 development by mid 2012.

10 MR. CHAPMAN: Objection, Your Honor, calls  
11 for speculation, move to strike.

12 THE COURT: Overruled. You can cover that  
13 on cross.

14 Q. You mentioned an ORC report, is that ORC?

15 A. Yes.

16 Q. And who issued the ORC report?

17 A. For the new city overlay?

18 Q. Yes?

19 A. It was the Department of Community Affairs.

20 Q. And what is the purpose -- well, first of  
21 all, what does ORC stand for?

22 A. It's an acronym it stands for objections,  
23 recommendations and comments.

24 Q. So explain that before we get into the  
25 detail. What are objections, what are

1 recommendations, and what are comments? 04:21:32

2 A. All right. Well, in terms of their  
3 hierarchy of course an objection is the worst case and  
4 then followed by comments -- are recommendations and  
5 comments. Under the rules what would happen when DCA 04:21:57  
6 got a comprehensive plan amendment application, they  
7 would review it and they would issue their ORC report  
8 and the rule was that recommendations and comments  
9 were just that; you didn't have to do them, they were  
10 just suggestions by the department. 04:22:21

11 But a local government was in the allowed to  
12 adopt a comprehensive plan amendment that had  
13 unresolved objections.

14 Q. So you've sat on both sides of that table?

15 A. Yes. 04:22:42

16 Q. Meaning the government side and the  
17 developer's side?

18 A. Yes.

19 Q. Describe the process of dealing with  
20 objections in an ORC report? 04:22:50

21 MR. CHAPMAN: Objection, Your Honor, can we  
22 have a side bar please.

23 THE COURT: The objection is overruled. You  
24 can answer.

25 Q. Go ahead? 04:23:06

1           A.     Well, the process is that when you  
2 receive -- when a community, county, city, village,  
3 whatever, receives the objections back from the State,  
4 then you would begin a negotiation process to resolve  
5 them. It might mean -- in some cases it was easy, you  
6 know, to get the department to remove the objection,  
7 but it was a negotiation process and sometimes  
8 adjustments had to be made to the particular  
9 application in question in order to resolve the  
10 objection, an either eliminate it or just turn night a  
11 comment or a recommendation and then when the  
12 objections were all dealt with, you could adopt the  
13 comprehensive plan amendment.

04:23:06

04:23:27

04:23:52

14           Other options include if you can't come to  
15 an acceptable conclusion with DCA, there's an appeal  
16 process their objection to a higher authority and it  
17 could be overturned.

04:24:13

18           MR. CHAPMAN: Move to strike, Your Honor as  
19 expert testimony.

20           THE COURT: Overruled. The jury will just  
21 accept it based upon the experience of the  
22 witness, treat it as such.

04:24:30

23 BY MR. MARIANI:

24           Q.     Appeal to whom?

25           A.     They have administrative hearing officers

04:24:46

1 and ultimately you could appeal up to the land and  
2 water adjudicatory commission which is the governor  
3 and cabinet.

04:24:49

4 Q. Let's say the ORC report, I'm going to give  
5 you a hypothetical, but let's say there's eight or ten  
6 objections in an ORC report and you resolve some of  
7 them, but not others. Do you appeal just individual  
8 objections or the entirety of the objections?

04:25:09

9 MR. CHAPMAN: Objection, Your Honor,  
10 foundation, improper hypothetical to a lay  
11 witness.

04:25:24

12 THE COURT: Overruled.

13 A. You would appeal the unresolved objections.

14 Q. Do you recall when the DCA staff sent down  
15 the ORC report to the county of Osceola?

04:26:07

16 A. I'm trying to remember. I believe it was in  
17 the summer or -- spring or summer of '09.

18 Q. If I told you it was April, does that  
19 refresh your recollection? I'll show you a copy.

20 A. Okay.

04:26:29

21 Q. It's already in evidence.

22 THE CLERK: Which one is that.

23 MR. MARIANI: The ORC report. It's one of  
24 the FD Destiny parties' exhibits. What number is  
25 it?

04:26:50

1 THE COURT: It's already in evidence.

04:26:51

2 A. It's April 17th, 2009.

3 Q. Would you take a couple of minutes to flip  
4 through that to confirm -- well, first of all, let me  
5 ask, when the county received a copy of that, how did  
6 you receive a copy of it?

04:27:09

7 A. It was provided by the county.

8 Q. You didn't get a copy sent to you directly  
9 from DCA, did you?

10 A. I don't believe so.

04:27:21

11 Q. Does that look complete to you?

12 A. Yes.

13 Q. Let me take it back. I have a few more  
14 questions.

15 You mentioned there was going to be ten  
16 different villages, something like that in the Destiny  
17 project?

04:28:01

18 A. As the plan evolves it was eight, nine, ten,  
19 11, right in that area.

20 Q. I wanted to ask you, did you ever have any  
21 dealings with a group called Velocita?

04:28:17

22 A. Yes.

23 Q. Do you know who that is?

24 A. I believe that was Emerson Fitipaldi.

25 Q. And what was the Velocita involvement in

04:28:33

1 Destiny? 04:28:37

2 A. They were interested in buying a village.

3 Q. Did you mean with any of them ever?

4 A. Yes.

5 Q. How many times? 04:28:44

6 A. Numerous.

7 Q. Your best estimate?

8 A. Eight or nine times.

9 Q. And why did you meet with the Velocita

10 group? 04:28:56

11 A. Because they became involved in the planning

12 and design work, because they were intending to

13 acquire a village and develop it within a theme that

14 they were developing.

15 Q. What was their theme? 04:29:17

16 A. It was actually automotive related research

17 and development, testing. Emerson Fitipaldi was a

18 Brazilian formula one driver and he was interested in

19 green industry cars, develop electric cars and other

20 forms of fuel and his concept was to create a village 04:29:43

21 that the business or the primary business of which was

22 companies and individuals that were going to be

23 interested in designing next era type vehicles and he

24 was going to provide a black track and he was going to

25 provide wind tunnels and other type of testing 04:30:17



1 equipment that smaller companies might not be able to 04:30:21  
2 afford and he was actually designing the street system  
3 within the village so it could be a formula one track  
4 and have events there.

5 Q. What's a black track? 04:30:32

6 A. A black track is used by the automotive  
7 industry companies to test new technology and new  
8 vehicles in an environment where nobody could see  
9 them, where the media couldn't get pictures. It's  
10 basically a secured environment. 04:30:53

11 MR. MARIANI: May I approach the witness.

12 THE COURT: Thank you.

13 MR. MARIANI: Thank you.

14 BY MR. MARIANI:

15 Q. I know it's late in the day an I apologize, 04:32:09  
16 but let's get into some of this if we can now.

17 Could we turn to the letter that was sent  
18 addressed to the honorable John Quinones. Did you  
19 meet with any county commissioners in respect to the  
20 Destiny project and this particular ORC report? 04:32:49

21 A. Yes.

22 Q. Whom did you meet with?

23 A. I met individually -- the county  
24 commissioners can't meet with people that are doing  
25 business with the county together unless it's an 04:33:05

1 advised meeting, so we met individually with pretty  
2 much all of them. including John Quinones.

04:33:09

3 Q. You were at all those meetings?

4 A. Not all of them. I was at a lot of them.

5 Q. Let's turn to page two. And pull up the  
6 full paragraph there. Had you met with Mr. McDaniel?

04:33:30

7 A. Yes.

8 Q. The first sentence of that, the first  
9 sentence of that paragraph, "this is the beginning and  
10 not the end of the process."

04:34:00

11 What did you understand that sentence to  
12 mean?

13 A. Well, I've been through many, many ORC  
14 reports. It's a reflection of what the fact is. The  
15 ORC report not a denial. An ORC report lists  
16 objections to a proposed change to a comprehensive  
17 plan, all right, and gives reasons why the objections  
18 are made. It's the first step in a process of  
19 resolving differences, ultimately with the end of  
20 coming to an agreement that they can sign off on.

04:34:11

04:34:40

21 Q. So to the extent there might be negative  
22 language in an ORC report, does it affect that  
23 sentence there, meaning that it's the beginning and  
24 not the end of the process?

25 Well, let me rephrase that. That's a

04:35:08

1 terrible question. I apologize. 04:35:10

2 After you read this particular ORC report,  
3 were you dissuaded to attempt to negotiate with the  
4 DCA?

5 A. No. 04:35:21

6 Q. And why not?

7 A. Because I mean, this was a big project  
8 certainly, but it's like mike McDaniel said in his  
9 letter, it's the beginning of the process. This isn't  
10 a hell, no. It's we've got issues, let's sit down and  
11 talk about the issues. That's what an ORC report is. 04:35:38

12 Q. So after you got a copy of the ORC report  
13 from the county, did you meet with the county to  
14 discuss how to respond or deal with the ORC report?

15 A. Yes. 04:36:09

16 MR. CHAPMAN: Objection, asked and answered.

17 Q. Who did you meet with?

18 A. Well, we met with the planning and zoning  
19 director and his staff.

20 Q. Do you recall his name? 04:36:18

21 A. It's on the letter here. It's Bill  
22 Wright -- Bob Wright, I'm sorry.

23 THE COURT: Overruled to the objection  
24 earlier.

25 Q. And as a result of those meetings, was plan 04:36:34

1 developed to respond to the ORC report?

04:36:38

2 A. We were working on it.

3 Q. At the same time were you also either  
4 meeting with or taking information from consultants on  
5 the Destiny project, including attorneys?

04:36:54

6 A. Sure, yes.

7 Q. And being a planner and being a government  
8 official, having been a government official and now  
9 again are a government official, in terms of those  
10 meetings that you had in respect of taking either  
11 information or opinion from different lawyers, what's  
12 your view of the lawyers in this process, as  
13 distinguished from the planner or the developer?

04:37:15

14 A. This is probably a real dangerous thing to  
15 say, but you know, lawyers always seem to make things  
16 a lot more complicated than they need to be. That was  
17 my opinion.

04:37:36

18 Q. So in your view if a lawyer writes down  
19 something like this will never happen, is that to be  
20 taken as fact?

04:37:59

21 A. Not literally, no.

22 Q. Could you put up the introduction page,  
23 that's 62, please. Could you blow up the highlighted  
24 language please.

25 A. Read it?

04:38:52

1 Q. No, I just asked him to blow it up. Yes,  
2 would you read the highlighted language that begins  
3 with each.

4 A. Yeah, "each objection includes a  
5 recommendation of one approach that might be taken to  
6 address the cited objection."

7 Q. You spoke about objections before. That  
8 sentence, is the DCA saying there's only one approach  
9 to take to satisfy the objection?

10 A. No.

11 Q. And in your experience might there be other  
12 methodologies to take or to follow to either negotiate  
13 or resolve that objection?

14 A. Certainly, yes.

15 Q. So in a recommendation, if the DCA says we  
16 believe you should do AB or C, does that mean  
17 necessarily you have to do ABC?

18 A. No, it means they think that would resolve  
19 the objection, you know, but it certainly doesn't  
20 eliminate the opportunity of the applicant, in this  
21 case the county, to address it another way.

22 Q. And is it part of the job of the planners on  
23 your side of the equation in this circumstance to work  
24 with other consultants better ways of solving the  
25 recommended problem from the DCA's perspective?

1 A. Yes.

04:40:28

2 Q. Does it occur with some frequent that the  
3 solution to any objection might not appear on any  
4 pages of the ORC report?

5 A. Happens all the time.

04:40:42

6 Q. If you can turn to page 62-eight, please.  
7 If we could blow up the objection?

8 MR. HUTCHISON: Is that a Bates Number  
9 you're using? What page of the report are you  
10 on? The one in evidence is Exhibit 314. What  
11 page of the report are you on.

04:41:09

12 MR. MARIANI: Let me show you the page.

13 MR. HUTCHISON: Thank you.

14 Q. So Mr. Basehart would you read that  
15 objection please.

04:41:42

16 A. Paragraph seven of policy 6.2.2 limits  
17 analysis and protection of natural resources to only  
18 those that are regionally significant. That is  
19 inconsistent with rule 9J-5.013, Florida  
20 administrative code, which does not distinguish  
21 between regionally significant and non-regionally  
22 significant natural resources.

04:42:03

23 Q. So let me make an effort to ask you  
24 questions to put that in English. First of all, what  
25 is a natural resource? What are they referring to in

04:42:26

1 item one?

04:42:29

2 A. A natural resource could be wetland areas,  
3 it could be roadways. It could be a lot of things.

4 Q. So they're not making -- or in this  
5 objection, this is about the new city overlay, right?

04:42:50

6 A. Yes.

7 Q. Which is more general than the specific  
8 project that was Destiny?

9 A. Yes.

10 Q. So the DCA what are they telling Osceola  
11 County to do, tighten language or not?

04:43:08

12 MR. CHAPMAN: Objection, Your Honor.  
13 Foundation, calls for expert opinion.

14 THE COURT: Has it been determined that he's  
15 used this before.

04:43:25

16 MR. MARIANI: Yes.

17 THE COURT: Overruled.

18 A. Okay, what this is saying is that there's a  
19 proposed policy, 6.2.2. That would be in the Osceola  
20 County comp plan, that limits the analysis and  
21 protection of natural resources to only those that are  
22 regionally significant, and then it goes on to say  
23 that that's consistent with 9J5 which are State rules,  
24 which requires you to consider both regionally and  
25 non-regionally significant resources.

04:43:40

04:44:09

1           They're suggesting that the language should           04:44:13  
2 be changed to include more than just regionally  
3 significant.

4           Q.     So what is the difference between a  
5 regionally significant natural resource and a           04:44:24  
6 non-regionally significant resource.  Could you give  
7 an example?

8           MR. CHAPMAN:  Same objection, Your Honor,  
9           foundation, calls for expert testimony.  He's  
10          interpreting statutes.  Would like to have a side       04:44:38  
11          bar.

12          THE COURT:  I don't think he's interpreting  
13          statutes here.  Again, the objection is overruled  
14          and the request is denied.

15          A.     Could you repeat the question.           04:44:57

16          Q.     My question is could you give us an example  
17 of the difference between a regionally significant  
18 natural resource and a non-regionally significant  
19 natural resource.

20          A.     Well, you know, I mean the way I'd like to       04:45:09  
21 explain it is regionally significant is something that  
22 affects or has an influence or impacts a large area, a  
23 region, as opposed to something that may have only  
24 very local impact.

25          Q.     That's the language.                   04:45:31



1           Let's look at the recommendation. Could you  
2 just review it quietly. I'm not going to ask you to  
3 read it.

4           A.     Came.

5           Q.     Again I apologize for the tediousness of  
6 this. but you were going to be part of the group to  
7 respond to this; is that correct?

8           A.     Yes.

9           Q.     So give an answer if you would, of the  
10 various ways you might respond to this objection and  
11 this recommendation?

12          A.     Well, I mean, this one seems like it would  
13 be a pretty easy one and that would be to, you know,  
14 adjust the requirements in new city overlay so that  
15 all natural resources that are impacted by the project  
16 be considered and not just one that's are regionally  
17 significant.

18          Q.     So in your meetings after this ORC report  
19 was received, did you and the planners from the county  
20 start to discuss the various items in the ORC report  
21 and how you'd like to respond to them?

22          MR. CHAPMAN:  Objection, Your Honor, asked  
23 and answered.

24          THE COURT:  We are getting a bit repetitive  
25 here. I'd like you to move forward.

1 MR. MARIANI: Fair enough, Your Honor. 04:47:59

2 BY MR. MARIANI:

3 Q. And did they draft out a potential response  
4 to this item number one, natural resource protection?

5 A. It's been a long time. I don't recall, but 04:48:10  
6 it might have been, yeah. We were working on, you  
7 know, all the objections.

8 Q. Let me put this to the side right now.

9 THE COURT: How much longer do you have.

10 MR. MARIANI: I'm going to have a about 04:48:30  
11 another hour with this witness.

12 THE COURT: Okay. Well, we're going to go  
13 ahead then and call it a day and we'll stop at  
14 this point and again, it's with our thanks.

15 We'll commence tomorrow, if you'll meet at 9:15. 04:48:49

16 It look like a relatively normal morning  
17 tomorrow, nothing extraordinary that I can see  
18 here that's going to take a significant amount of  
19 time.

20 but it starts around 8:30 tomorrow and 04:49:13  
21 finish hopefully as we have a little earlier than  
22 9:30 the last few days, and that should hopefully  
23 hold tomorrow.

24 So again thank you for your continued  
25 service and sacrifice. Please do not speak to 04:49:27

1 anyone about the case or anybody involved in the 04:49:31  
2 case. Do not do any independent research on your  
3 own, post or receive or otherwise send any  
4 messages regarding your jury service or any of  
5 the party or any of the people involved or any of 04:49:45  
6 the issues involve. Please no investigation on  
7 your own.

8 Thank you again for your time and your  
9 sacrifice and thank you to our courtroom  
10 personnel as well. We'll see you back tomorrow 04:49:58  
11 at 9:15 and we'll be in recess. Thank you. End  
12 end end end end