

>> WE NOW MOVE TO THE SECOND
ITEM ON THE AGENDA TODAY.
EMERSON VERSUS HILLSBOROUGH
COUNTY.

>> MAY IT PLEASE THE COURT, MY
NAME IS CHRIS ALTENBERND OF
MATTHEW CONIGLIARO REPRESENTING
STACY WHITE IN THIS CONSOLIDATED
APPEAL.

PARTIES PROVIDED EXTENSIVE
WRITTEN ARGUMENTS BUT IN THIS
SHORT TIME THE SIMPLEST
90-SECOND EXPLANATION OF BOTH
ISSUES OF SUPREMACY ISSUE AND
SEVERANCE ISSUE IS THE OVERALL
PURPOSE EXPLAINED TO THE VOTERS
IN THE TEXT OF THE FIRST SECTION
OF ARTICLE 11 FLEW IN THE FACE
OF THE TEXT OF THE LEGISLATURE
AND 102.15D.

LEGISLATURE CREATED A BROAD LIST
OF OPTIONAL USES AND SPECIFIED
THE SELECTION OF THOSE USES AND
ANY ORDER THEY WISHED WOULD BE
MADE AS THE COUNTY COMMISSION
DEEMED APPROPRIATE.

OFFER TRANSPORTATION HAD ITS OWN
AGENDA AS TO WHAT IT WOULD WANT
THE PROCEEDS TO BE USED FOR.

IN THE TEXT OF THE FIRST SECTION
OF ARTICLE 11, ARTICLE 11
INFORMED THE VOTERS THE OVERALL
PURPOSE WAS TO FUND A DETAILED
LIST OF TRANSPORTATION PROJECTS
AND THIS WAS IMPLEMENTED BY
SUBSTANTIVE PROVISIONS THAT
CREATED A MANDATORY DISTRIBUTION
PROCESS, CONDITIONS AND PROJECTS
THAT COULD BE DONE AND THIS WAS
FURTHER ENFORCED BY COERCIVE
POWER IS GIVEN TO THE
INDEPENDENT OVERSIGHT COMMITTEE.

A STANDARD JUDICIAL REVIEW OF
THIS BY THE CIRCUIT COURT AND
THE CIRCUIT COURT IN SECTIONS OF
THE PLAN WOULD VIOLATE
CONSTITUTION TO THE SUPREMACY
BUT THE TRIAL COURT DIDN'T
APPRECIATE THE CORE PROBLEM WAS
THE OVERALL PURPOSE ANNOUNCED TO

THE VOTERS WERE CONSTITUTIONALLY APPROPRIATE IN ITSELF. ONCE YOU REMOVE THE SUBSTANTIVE PROVISIONS THERE WAS NOTHING LEFT IN THE TEXT OF ARTICLE 11 THAT GAVE ANY PURPOSE FOR THIS REMAINING TAX AND THE UNCONSTITUTIONAL PURPOSE WHICH WAS TO FUND THE PROJECTS THAT WERE LISTED TO THE VOTERS AND DESCRIBED BY ALTERNATE TRANSPORTATION NO LONGER SUPPORTED ATTACKS THAT WAS REALLY A MEANS TO THAT IMPROPER END.

AS A RESULT OF THAT THE TRIAL COURT'S DECISION ON THE SUPREMACY CLAUSE SHOULD BE AFFIRMED AND ITS DECISION ON SEVERABILITY SHOULD BE REVERSED.

>> COUNSEL, COULD YOU ADDRESS THE ARGUMENT THAT THE HOUSE OF REPRESENTATIVES MADE THAT THIS WHOLE THING WAS STILL -- IT PRESENTED A QUESTION TO THE VOTERS THAT THE LEGISLATURE ESSENTIALLY DIDN'T ALLOW TO BE PRESENTED.

IN OTHER WORDS THE ARGUMENT THAT THE ONLY THING VOTERS ARE PRESENTED WITH HIS WHETHER TO LEVY THE TAX AT ALL AND BY PACKAGING IT IN THIS BIG PLAN THAT NULLIFIED THE WHOLE THING OUT OF THE GATE?

>> I STRONGLY ADVOCATE FOR THAT. THE PROBLEM HERE IS WHEN THE COUNTY COMMISSION IS NOT INVOLVED IN CREATING THE ORDINANCE AND THE CHARTER, PUT IN SOME SUBSTANTIVE PROVISIONS. WHEN THIS COMES TO CITIZENS INITIATIVE, AND WE SHOULD CREATE A ONE% TAX AND THAT TAX WILL BE USED FOR STATUTORY USES AUTHORIZED AS DEEMED APPROPRIATE BY THE COUNTY COMMISSION. IT DOESN'T NEED TO GO ON FOR PAGES AND PAGES AND PAGES BECAUSE IN THAT SITUATION VOTERS

NEED TO KNOW THAT AFTER IT IS AN
ACTED, LATER THE COUNTY
COMMISSION WILL SELECT THE USES.

>> WITH THE SUPREMACY PROBLEM
NOT BE PRESENT IF THE COUNTY
COMMISSION ITSELF HAD PROPOSED
THIS TO THE VOTERS, WE ARE
LOCKING OURSELVES AND DEEMING
THIS PLAN APPROPRIATE?

>> IT IS MORE COMPLICATED THAN.
FOR EXAMPLE, IF THE CURRENT
COMMISSION SAID WE WANT TO USE A
CHUNK OF THIS WITH BONDS AND
THEY LAST FOR 30 YEARS, I WOULD
HAVE TO SAY THEY CAN PUT THAT
INTO AN ORDINANCE OR CHARTER
AMENDMENT BUT I DO NOT BELIEVE
THE CURRENT COMMISSION WOULD PUT
THINGS INTO ANY OF THIS THAT
WOULD BIND THE COMMISSION 20
YEARS LATER ON ANNUAL
APPROPRIATIONS, THAT WOULD BE
APPROPRIATE IF THIS WAS COMING
FROM THE COUNTY COMMISSION.

>> HOW DO WE DEAL WITH THE FACT
THAT THE ARGUMENT MADE IN THE
AMICUS BRIEF WERE INTERESTING
ARGUMENTS THAT WERE NOT RAISED
IN YOUR BRIEF.

>> IF THEY WERE NOT RAISED BY
PARTIES YOU CAN'T CONSIDER THEM
AND THE ASSOCIATED INDUSTRY HAS
NICELY COMPLEMENTED MY FINAL
ARGUMENT.

>> YOU THINK IT IS THE SAME
ARGUMENT?

>> THE CRAMPS SHOULD BE REPLACED
BY SOMETHING ELSE.
THAT IS PART OF MY ARGUMENT THAT
IT IS A DIFFERENT TEST WITH A
LOCAL INITIATIVE THROUGH THE
STANDARD PROCESS.

I HAD RAISED THE BALLOT SUMMARY
ISSUES AND THE ASSUMPTION THAT
IT WAS ALL CONSTITUTIONAL THEN
THE BALLOT WAS STILL INEFFECTIVE
BUT HAD THE COURT SEPARATED THE
PLANS FOR THIS, TO TALK ABOUT
WHETHER THE BALLOT WAS CORRECT
FOR EVERYTHING.

THE PROBLEM NOW IS THE BALLOT AND ARTICLE 11 DIDN'T EXPLAIN A PURPOSE TO THESE VOTERS ABOUT WHAT THEY WERE REALLY GETTING SO THAT IS WHY IT CANNOT SURVIVE THE SEVERANCE TEST UNDER CRAMP OR ANY OF -- DEMING'S AND THE RECENT DISCUSSION.

>> AND OF COURSE THE SEVERABILITY TESTS WE USE ARE JUDICIALLY CREATED.

>> AND IT GOES BACK, 1962 BEFORE STANDARD REVIEW WERE THOUGHT ABOUT BY COURTS AND SOME OF THE LANGUAGE THAT CONCERNED ME BECAUSE IT FELT LIKE IT WAS EVIDENTIARY AREA AND THE EVIDENCE WE BRING TO THIS TABLE, IT WOULD BE NICE TO KNOW THIS IS A LEGAL TEST THE WE DO BY THE TEXT AND ONLY LOOK AT CONTEXTUAL MATERIALS IF THERE WAS SOME CONFLICT IN THE TEXT.

THE MATERIAL I GAVE YOU ON ADVERTISING FOR EXAMPLE IS CONSISTENT WITH MY READING OF THE TEXT, ARTICLE 11 AND THE BALLOT SUMMARY.

>> THE OVERARCHING PRINCIPLE IS THE COURT GIVES DIFFERENCE TO THE WILL OF THE LAWMAKER.

>> YES.

BUT --

>> I WILL LET YOU FINISH.

>> BECAUSE OF THE PROCESS THAT GOES THROUGH.

WHAT HAPPENED HERE IS IF THE LAWMAKER IS THE VOTERS, IF THE VOTERS GAVE THEM SOMETHING THAT RIGHT UP FRONT, THE PURPOSE WAS TO DO SOMETHING, SECOND YEAR LAW STUDENTS SHOULD HAVE BEEN ABLE TO TELL THE WAS

UNCONSTITUTIONAL, THEY COULDN'T PRESELECT THE PROJECTS FOR THEM. WE SHOULD GIVE GREAT DEFERENCE TO THE VOTERS I FRANKLY DON'T THINK WE DO THAT IF WE ALLOW CITIZENS INITIATIVE TO GO FORTH WITH THINGS THAT WERE

UNCONSTITUTIONAL AT THE TIME
THEY WERE DELIVERED TO THE
SUPERVISOR OF ELECTIONS OFFICE
TO BEGIN THIS PROCESS.

>> IT IS A FUNDAMENTAL
PROCEDURAL DEFECT IN TERMS OF
THE APPROVAL ITSELF, YOU
WOULDN'T NEED TO GET TO THE
SEVERABILITY ANALYSIS BECAUSE
THE VOTERS WOULD NOT HAVE
ENACTED ANYTHING.

>> THAT IS CORRECT.

>> IF YOU SET ASIDE THAT
ARGUMENT THAT IS FLESHED OUT IN
THE HOUSE'S BRIEF, THAT THE
SEVERABILITY DOCTOR AND, WHAT IS
LEFT - WOULD IT MAKE SENSE TO
CONSIDER THE SUBSEQUENT ACTION
OF THE COMMISSION THROUGH THE
BOTTOM VALIDATION PROCEEDING
THEY GAVE THE VOTERS WHAT THEY
WANTED.

IT IS NOT PART OF THE CRAMP TEST
BUT IT IS NOT DETERMINING
WHETHER THOSE PROVISIONS ARE
VALID AT ALL BUT DETERMINING
WHETHER THE REST SHOULD STAND,
SHOULDN'T THOSE ACTIONS BE TAKEN
INTO ACCOUNT SETTING ASIDE THE
HOUSE'S ARGUMENT.

>> IF IT WOULD CAUSE RESULTS
UNANTICIPATED BY THE
LEGISLATURE, THERE COULD BE NO
SEVERANCE AND THEY SWITCH THAT
AROUND AND SAY BECAUSE WE CHANGE
THIS THING IT IS THE SAME
ANTICIPATION IS WHAT THE VOTERS
VOTED FOR.

MY RESPONSES TO THAT, IF YOU ARE
TEXTUAL ABOUT THIS, THE ISSUE
FOR BOTH, FOR SUPREMACY BUT ALSO
SEVERABILITY IS WHAT WAS THE
STATUS OF THE LAW BETWEEN THE
CONSTITUTION OF FLORIDA AND THE
CONSTITUTION OF THIS COUNTY ON
THE DAY OF THE ELECTION AND YOU
CAN'T GO FIXING THAT AFTER THE
FACT BY SOME INFERIOR DOCUMENTS
BY A GROUP THE TWO YEARS LATER
WITH THE INCOMING COMMISSIONER

IT MAY ALL CHANGE.
IF YOU STAY TRUE TO TEXTUALISM I
DON'T SEE HOW YOU CAN DO THIS
BUT EVEN THEN, WHAT ARISES, IT
IS FAIRLY OBVIOUS IN THIS CASE,
EVERYONE KNOWS IF THEY DON'T
DEEM APPROPRIATE EVERYTHING THEY
MAINTAINED WAS CONSTITUTIONAL
THAT SEVERABILITY WILL NOT WORK
AND THEY WILL LOSE THIS TACK.
THIS IS WHAT WE REALLY WANT TO
DO COME PUTTING THE COUNTY
COMMISSION IMPOSTER WHERE IF
THEY WANT TO DO THAT, IT IS
UNCONSTITUTIONAL FROM THE
BEGINNING AND THAT IS BAD
POLICY.

>> YOU ARE INTO YOUR RESERVED
TIME QUITE A BIT.

>> THE LIGHTS WERE ON THE WRONG
SIDE.

I WILL STILL GIVE YOU THE TIME
YOU HAVE RESERVED.

>> MAY IT PLEASE THE COURT, MY
NAME IS DEREK T.. HO AND I
REPRESENT BOB EMERSON, CITIZEN
AND TAXPAYER OF EMERSON COUNTY
INTERFERED IN A ON VALIDATION
PROCEEDING TO CHALLENGE THE
CONSTITUTIONALITY OF THE
HILLSBOROUGH COUNTY
TRANSPORTATION SURTAX WITH OUR
PRINCIPAL SUBMISSION IS MOST
PROVISIONS OF ARTICLE 11 MAKE
CLEAR THAT THE MANDATORY BUT
UNCONSTITUTIONAL SPENDING PLAN
WAS INTEGRAL TO THE SURTAX AND
SEVERANCE WOULD BE IMPROPER
BECAUSE IT WOULD CONSUMMATE A
BAIT AND SWITCH ON THE VOTERS OF
HILLSBOROUGH COUNTY.

IF I COULD ADDRESS JUSTICE
LAWSON'S QUESTION AND THE ISSUE
OF THE COMMISSION'S POST AN
EXCELLENT CONDUCT WE WOULD AGREE
THE PRINCIPAL OBJECTIVE OF
SEVERANCE IS TO MAKE SURE THE
WILL OF THE PEOPLE IS ENACTED
BUT THAT DOES NOT MEAN YOU SAVE
AS MUCH OF THE REFERENDUM AS

POSSIBLE WHEN IT IS CLEAR FROM THE TEXT OF THE REFERENDUM THAT VOTERS THOUGHT THE MANDATORY SPENDING PLAN AND THE SURTAX WERE JOINED AT THE HIP AND IN ADDITION TO SECTION 11.1 WHICH MISTER ALTON BYRNE REFERRED TO THERE ARE MULTIPLE PROVISIONS OF ARTICLE 11 THAT MAKE THAT CLEAR. I THINK ONE THAT HASN'T GOTTEN AS MUCH PLAY IN THE BRIEFS IS ARTICLE 11.2 WHICH IS THE LEVEE ITSELF, THE LEVEE PROVISION HAS AS ITS THIRD SENTENCE A VERY EMPHATIC STATEMENT THAT NOTWITHSTANDING ANYTHING IN THE CHARTER TO THE CONTRARY THE PROCEEDS OF THE TAX MUST BE USED IN CONFORMANCE WITH THE MANDATORY SPENDING PROVISION ON ARTICLE 11.

THE LEVEE DOESN'T WANT TO STAND APART FROM THE MANDATORY SPENDING PLAN.

NOT A SINGLE PROVISION OF ARTICLE 1 HAS A FREESTANDING LEVEE AND THAT TELLS YOU THAT THE TWO ARE TEXTUALLY AND IN TERMS OF THE PURPOSES OF THE VOTERS JOINED TOGETHER.

ANOTHER PROVISION THAT IS IMPORTANT IS THE FIRST SENTENCE OF ARTICLE 11.10 WHICH SAYS THAT THE IOC'S OVERSIGHT IS CRITICAL TO ENSURE THE SUCCESSFUL IMPLEMENTATION FOR THE SURTAX.

TEXTUALLY YOU CAN SEE THE REFERENDUM STATES THAT THE MANDATORY SPENDING PLAN IS CRITICAL TO THE OVERALL SURTAX'S OBJECTIVES.

THE BASIC PROBLEM IS THE VOTERS IN THE REFERENDUM TRIED TO KEEP FOR THEMSELVES POWER THE LEGISLATURE SAID THE COMMISSION SHOULD HAVE PURSUANT TO ITS DISCRETION OVER .025 AND AFTER THE FACT WE WILL ESSENTIALLY GO ALONG WITH WHAT THE VOTERS WANTED DOESN'T SOLVE THAT

PROBLEM BECAUSE THE ISSUE IS THE VOTERS DO NOT WANT THE COMMISSION TO HAVE ANY CHOICE BUT TO ADOPT WHAT THEY HAD DIRECTED AND THE LEGISLATURE SAID VOTERS ARE NOT ALLOWED TO DO THAT SO IT MAY BE THE CASE THE COMMISSION FOR NOW HAS ESSENTIALLY EXCEEDED TO THE WILL OF THE VOTERS BUT THAT STILL RUNS CONTRARY TO THE TEXT AND PURPOSES OF 202.0 ONE 5 THE WHICH IS THE COMMISSION SHOULD HAVE THE DISCRETION IRRESPECTIVE OF THE DIRECTION OF THE VOTERS TO DECIDE HOW THESE MONEYS OUGHT TO BE SPENT.

>> I APOLOGIZE FOR INTERRUPTING BUT THAT BRINGS ME BACK TO MY QUESTION, TRYING TO SEPARATE THE PROCEDURAL WAY THIS WAS PUT IN FRONT OF THE VOTERS VERSUS THE SUBSTANCE IN THE CHARTER AMENDMENT.

WHAT IS YOUR POSITION WHETHER THERE WOULD STILL BE A SUPREMACY CALL IN THE COUNTY COMMISSION ITSELF THAT SAID THIS IS WHAT WE DEEM APPROPRIATE, WE WANT TO LOCK OURSELVES IN AND PUT THIS CHARTER AMENDMENT PROPOSAL IN FRONT?

WOULD YOU STILL HAVE THE SAME SUBSTANTIVE PROBLEM?

>> I SHARE CHRIS ALTENBERND'S VIEW THAT THERE ARE SOME ISSUES THE COUNTY COMMISSION COMBINED ITSELF OVER THE COURSE OF A 30 YEAR TAX BUT IN TERMS OF ANNUAL APPROPRIATIONS OR SPECIFIC PROJECT IT IS PROBLEMATIC BUT THAT IS NOT WHAT HAPPENED HERE. THE COMMISSION ESSENTIALLY SAID THE VOTERS HAVE DIRECTED US HOW TO USE THE MONEY SO IN ORDER TO SAVE THIS THING WE ARE GOING TO EXCEED TO THE VOTERS WILL AND THAT RUNS CONTRARY TO 2 ONE 2.5 ONE D.

I APPRECIATE THAT RAISES A

TRICKIER ISSUE AND IF THAT WERE THE CASE IT MAY BE A MORE DIFFICULT ISSUE ON THE SUPREMACY CLAUSE BUT IT IS NOT THE CASE WE HAVE HERE.

>> AS FAR AS OUR ABILITY IN TERMS OF THE POSTURE OF THE CASE AND THE ARTICLES THAT HAVE BEEN PRESERVED.

THE OPTION, THE AVENUE YOU THINK IS AVAILABLE TO US.

>> I THINK IT IS.

THE HOUSE'S ARGUMENT IS ROOTED IN THE TEXT OF 202.0 ONE 5 THE AND IT IS FAIR TO SAY THE PARTIES BRIEFS FOCUS MORE HEAVILY ON THE APPROPRIATE LANGUAGE OF THAT PROVISION BUT IT IS THE FLIP SIDE OF THE COIN TO OBSERVE AS THE HOUSE DOES THAT THE ONLY THING THAT IS AUTHORIZED UNDER 0.551 IS TO LEVY THE TAX.

THE VOTERS ARE ALLOCATED THE AUTHORITY TO LEVY THE TAX AND ON THE OTHER SIDE THE COMMISSION IS GIVEN THE AUTHORITY TO DEEM APPROPRIATE THE EXPENDITURES. THOSE ARE TWO SIDES OF THE SAME ARGUMENT OF THE COIN.

IF THERE ARE NO FURTHER QUESTIONS, THANK YOU VERY MUCH.

>> GEORGE LEMIEUX, I REPRESENT HILLSBOROUGH COUNTY AND THE CITY OF TAMPA.

A HYPOTHETICAL DISPUTE BETWEEN THE COUNTY COMMISSION AND HILLSBOROUGH COUNTY.

THE PEOPLE OF HILLSBOROUGH COUNTY IN NOVEMBER OF 2018 VOTED FOR CRITICALLY NEEDED TRANSPORTATION IMPROVEMENTS IN THEIR COUNTY, AND THE COUNTY COMMISSION NOT ONCE BUT TWICE DEEMED APPROPRIATE THOSE USES. THE WAY THIS STATUTE WORKS IS THE STATE LEGISLATURE GAVE POWER TO THE PEOPLE AND COUNTY COMMISSION.

THE PEOPLE COULD PUT A CHARTER

AMENDMENT ON THE BALLOT AS THEY DID OR THE COUNTY COMMISSION COULD PUT ON THE BALLOT A REFERENDUM TO SUPPORT THIS. THE LEGISLATURE DID NOT SAY THE COMMISSION DID THIS BY THEIR SELVES.

THE PEOPLE WERE IMPORTANT TO US. THE QUESTION ABOUT WHETHER THE HOUSE, BEING STILLBORN FROM THE BEGINNING.

WHAT IT SAYS IS A PROPOSAL WILL BE PUT ON THE BALLOT.

WHAT IS A PROPOSAL?

THE DEFINITION OF A PROPOSAL IS AN OFFER BY ONE PERSON TO ANOTHER OF TERMS AND CONDITIONS WITH REFERENCE TO SOME WORK OR UNDERTAKING.

IT IS BEYOND BELIEF THE LEGISLATURE WOULD SAY TO THE PEOPLE GO TO THE COMMISSION, LEVEE ATTACKS, HERE'S A BAG OF MONEY WITH THE STATUTE.

>> IT REFERS TO THE PROPOSAL TO ADOPT A DISCRETIONARY SALES SURTAX AS PROVIDED IN THE SUBSET AND CREATE A TRUST FUND.

THE CREATION OF A SALES SURTAX AND CREATION OF A TRUST FUND, AND THE STATUTE MAKES CLEAR THAT THE PROCEEDS FROM THE SURTAX SHOULD BE APPLIED TO AS MANY OR AS FEW OF THE USE OF THE ENUMERATED BELOW IN WHATEVER COMBINATION THE COUNTY COMMISSION DEEMS APPROPRIATE.

THAT SEEMS TO BE ENTIRELY DIFFERENT FROM WHAT WAS PRESENTED HERE WHICH WAS THIS ELABORATE SCHEME TO CONTROL THE DISPOSITION OF THE FUNDS BUT COME FROM THE SURTAX.

>> THE PROPOSAL, THAT WORD HAS MEETING AS REFERENCED, STATES PROPOSAL MEANS TERMS AND CONDITIONS WITH SUGGESTED USES FOR THE SURTAX.

THERE IS NO DISPUTE BETWEEN THE PARTIES.

>> IT WASN'T SUGGESTED.
>> ALLOCATIONS THE CALL IN FOUR
SUBPARAGRAPHS OF SUBSECTION D
WHICH GIVES A VARIETY OF CHOICES
FOR HOW THE MONEY WOULD BE USED
INCLUDING GIVING MONEY TO THE
TRANSIT AUTHORITY, AND TYPES OF
USES ROADS TO BRIDGES TO
TRANSIT.
>> IS THERE ANYWHERE IN ARTICLE
11, THESE USES ARE SUGGESTED.
>> THE USES ARE PUT FORWARD TO
THE PEOPLE TO THE CHARTER AND
THOSE USES ARE CONSISTENT WITH
WHAT IS IN THE STATUTE.
DID THIS ABRIDGE THE COUNTY'S
AUTHORITY?
BEFORE YOU THE COUNTY HAS DEEMED
IT APPROPRIATE.
>> IF THE COUNTY HAD NOT ENACTED
THE ORDINANCE AND THE BONDS THAT
HAPPENED SUBSEQUENTLY.
THE COUNTY COMMISSION SAID WE
DON'T THINK SO.
>> OF THE COUNTY COMMISSION
DEEMS APPROPRIATE OTHER USES,
THEY HAVE THE AUTHORITY TO DO
THAT UNDER THE STATUTE OF THAT
WAS IN CONFLICT.
>> THE VOTERS DIDN'T KNOW THAT.
THAT IS NOT WHAT THE PROPOSAL
SAID.
>> WHAT THE VOTERS KNEW FROM THE
BALLOT SUMMARY IS A
TRANSPORTATION TAX FOR
HILLSBOROUGH COUNTY
AND THE CITIES IN
UNINCORPORATED AREAS WOULD BE
FOR ROADS AND BRIDGES EXPANDING
PUBLIC TRANSIT OPTIONS, OTHER
TYPES OF TRANSPORTATION FOR 30
YEARS AND --
>> YOU ARE ASSUMING IF I
UNDERSTAND CORRECTLY, YOU ARE
ASSUMING THE VOTERS ONLY KNEW
WHAT WAS IN THE SUMMARY AND
THEREFORE WE CAN'T LOOK AT WHAT
WAS IN THE ACTUAL PROPOSAL.
>> THE SUMMARY WAS WHAT WAS IN
FRONT --

>> THE ACTUAL PROPOSAL ANYBODY WHO LOOKED AT THE ACTUAL PROPOSAL I HAVE TO BELIEVE SOME VOTERS WOULD HAVE DONE THAT WOULD HAVE GOTTEN A VERY DIFFERENT PICTURE. THEY WOULD HAVE THOUGHT THIS WAS SET.

WE DON'T KNOW WHERE THIS MONEY IS GOING TO BE GOING FOR 30 YEARS.

UNDER THE SCHEME THAT IS SET OUT THAT THE COMMISSION OVER HERE, WE HAVE A SCHEME THAT IS GOING TO DO SOMETHING THAT OVERRIDES THE AUTHORITY OF THE COUNTY COMMISSION.

SOMEBODY READING THE PROPOSAL WOULD HAVE UNDERSTOOD THAT.

>> RESPECTFULLY, WHEN READING THE PROPOSAL THE VOTER WOULD SEE THAT IN SEVERAL PROVISIONS IT SAYS 11 TIMES THAT IF THERE IS ANY PART OF THIS CHARTER AMENDMENT THAT IS INCONSISTENT WITH THE STATUTE, THE STATUTE RULES -

>> THE PROBLEM WITH THAT, PUTTING THAT IN THERE AND SAYING THE STATE LAW IS SUPREME IS LIKE A STATEMENT OF THE OBVIOUS. BUT IT SEEMS TO ME AT THE VERY BEST THIS, WHAT IS INVOLVED IN THIS IS DECEPTIVE DOUBLETALK. WHY AM I WRONG ABOUT THAT? WHY WOULDN'T SOMEBODY - IF I UNDERSTAND WHAT YOU ARE SAYING, ALL THAT STUFF IS JUST TALK, THAT REALLY DOESN'T MEAN ANYTHING BECAUSE WE HAVE TO ULTIMATELY FOLLOW WHAT THE STATUTE SAYS BUT WHY WOULDN'T THAT JUST BE KIND OF A VERY UN-TOWARD WAY OF PRESENTING THIS TO THE VOTERS?

>> IT IS NOT UNTOWARD AT ALL. VOTERS HAVE THE RIGHT TO GIVE INSTRUCTIONS TO THE GOVERNMENT. THE GOVERNMENT HAS THE RIGHT TO DEEM THEM APPROPRIATE OR NOT.

THEY CHOSE TO DEEM THEM
APPROPRIATE.

>> I'M NOT SURE THE PREMISE WAS
RIGHT IN THE SENSE THAT THIS IS
AN AREA WHERE THE ONLY AUTHORITY
THE COUNTY HAS IS WHAT IS
DELEGATED BY THE LEGISLATURE.
IT SEEMS THE BASIC STATUTORY
SCHEME IS THE COUNTY COMMISSION
IS IN THE DRIVERS SEAT AS TO THE
PERMISSIBLE USES, APPROPRIATE
USES AND WHAT THE VOTERS ROLE IS
TO APPROVE THE TAX OR NOT AND IT
SEEMS BY PURSUING THIS THROUGH
AN INITIATIVE AND HAVING SUCH A
PRESCRIPTIVE PLAN AND HAVING THE
OVERSIGHT BOARD WITH VETO
AUTHORITY AND EVERYTHING THAT
YOU SENSUALLY THE PEOPLE
BYPASSED THE STRUCTURE THE
LEGISLATURE SET OUT.

THAT IS THE PROBLEM I'M HAVING.

>> WHY HAVE THE PEOPLE ABLE TO
HAVE A CHARTER AMENDMENT AT ALL?
WHY NOT LET THE COUNTY
COMMISSION PUT IT UP FOR A
REFERENDUM?

>> THAT IS WHAT STATUTE SAYS.

>> THIS IS A FRAMEWORK.

WE DIDN'T CREATE THE FRAMEWORK.
THE LEGISLATURE CREATED THIS
FRAMEWORK.

WHAT WE ARE STRUGGLING WITH IS
TRYING TO SEE HOW YOU FIT THIS
IN WITH THAT FRAMEWORK WITH WHAT
WAS ACTUALLY PROPOSED INTO THIS
FRAMEWORK AND THEN WE GET NEVER
MIND, WHAT WAS PROPOSED REALLY
ISN'T BINDING BECAUSE THE STATE
LAW CONTROLS AND IT IS PURSUANT
TO ARTICLE 11 AND THE STATUTE
AND CONSISTENT WITH THE STATUTE.
IT SEEMS TO ME, SOMETHING THAT
IS A MISS WHEN THE VOTERS ARE
PRESENTED WITH SOMETHING LIKE
THAT AND THEN THE COUNTY
COMMISSION SAYS WE DON'T WANT TO
DO IT, WE ARE NOT GOING TO DO
THAT, THEN WE GET THE MONEY
ANYWAY AND THE COUNTY COMMISSION

CAN DO WITH IT AS WE PLEASE.

>> YOUR TIME IS RUNNING SHORT
BUT I WANT TO MAKE SURE WE
UNDERSTAND YOUR POSITION.
IS THAT YOUR POSITION THAT
BECAUSE OF THE REFERENCES TO
CHAPTER 212 IN THE CHARTER
AMENDMENT THAT ALL THE
PRESCRIPTIVE STUFF ABOUT HOW TO
USE THE MONEY IS ALL A NULLITY
AND ONCE VOTERS APPROVE THE TAX
THAT WE REVERT TO THE STATUTORY
SCHEME OF THE COUNTY COMMISSION
BEING ABLE TO DO WHATEVER IT
WANTS?

>> MY FIRST POSITION IS THERE IS
NO CONFLICT BECAUSE THE COUNTY
COMMISSION DEEMED IT
APPROPRIATE.

BUT LET'S PUT THAT ASIDE.

>> IN A CIRCUMSTANCE WHERE THE
COUNTY COMMISSION SAID NO, WE
ARE GOING TO DEEM IT APPROPRIATE
AND ONE COMMISSIONER VOTED NO SO
THEY COULD HAVE VOTED NOW.

THEN YOU WOULD BE IN A
CIRCUMSTANCE WHETHER THE COUNTY
COMMISSION WAS FOLLOWING THEIR
OWN CHARTER AND WHETHER THERE
WAS A VIOLATION BETWEEN WHAT
THEY DEEMED APPROPRIATE AND WHAT
WAS IN THE RESOLUTION.

>> TEXTUALLY THE WAY YOU READ
THE CHARTER IS THE CHARTER
ESSENTIALLY SAYS DO XYZ EXCEPT
WHEN IT CONFLICTS WITH STATE LAW
AND SINCE STATE LAW PREEMPT
EVERYTHING AT STATE LAW GIVES
THE COUNTY COMMISSION UNFETTERED
DISCRETION WITHIN THE CATEGORY
SET OUT IN THE STATUTE IS IT
YOUR POSITION BASICALLY THAT
EVERYTHING PRESCRIPTIVE GOES
AWAY AND ALL YOU ARE LEFT WITH
IS WHATEVER THE COUNTY
COMMISSION DEEMS APPROPRIATE?

>> THAT IS A BRIDGE TOO FAR.
THE COUNTY COMMISSION, THE
STATUTE IS SUPREME AND THEY LOOK
AT THOSE CATEGORIES AND MAKE THE

BEST DECISIONS.
HARD TO UNDERSTAND WHAT
HYPOTHETICAL THIS WOULD BE.
ARE THEY TAKING ONE PART AND
DEEMING IT APPROPRIATE?
TAKING ANOTHER PART?
WE COULD IMAGINE --
>> IF YOUR POSITION IS THAT THEY
CAN TAKE ONE PART AND NOT
ANOTHER PART, WHY COULDN'T THEY
IGNORE THE WHOLE THING?
>> THEY HAVE A AUTHORITY TO DEEM
APPROPRIATE, IT WAS PUT IN THIS
ARE THE INSTRUCTIONS GIVEN TO
THEM, TERMS AND CONDITIONS BY
THE PEOPLE, THEY WOULD HAVE TO
WRESTLE THAT OUT AS
COMMISSIONERS ELECTED WITH 50%
VOTE THAT SAYS THIS IS HOW HE
WANTS TO USE THE MONEY AND AS I
SEE MY TIME IS RUNNING OUT THE
IMPORTANT THING IS THAT IS NOT
REALLY BEFORE YOU BECAUSE THE
HILLSBOROUGH COUNTY COMMISSION
TWICE, THIS IS NOT ONE OF THE
CASES WHERE THE COMMISSION HAS
SUED PRIOR TO THE NEGATIVE THE
CHARTER AMENDMENT SAYING THIS
GOES TOO FAR.
THE COMMISSION HAS AGREED AND
THEY DEEMED APPROPRIATE.
>> YOU HAVE CONSUMED ALL YOUR
EXTRA TIME LIKE CHRIS ALTENBERND
DID BUT I WILL YOU HAVE YOUR TEN
MINUTES.
>> MAY IT PLEASE THE COURT,
RAOUL CANTERO FOR
TRANSPORTATION.
THE THEME RUNNING THROUGH THESE
CASES HIS RELUCTANCE TO OVERTURN
THE WILL OR - THE WILL OF THE
VOTERS UNLESS ABSOLUTELY
NECESSARY AND THEN ONLY TO THE
EXTENT NECESSARY.
THIS WAS EVIDENT IN TELL YOU
VERSUS BROWARD COUNTY IN WHICH
THE COURT SAYS WE ARE NOT GOING
TO IMPLY ANY CONFLICT.
IT HAS TO BE AN EXPRESS CONFLICT
WITH THE STATUTE OR

CONSTITUTION.

AND THIS COURT INTERPRETED AN ORDINANCE THAT PROVIDED FOR CITIZENS INVESTIGATIVE PANEL TO SUBPOENA PEOPLE TO COME IN AND TESTIFY AS PART OF THAT VIOLATED THE POLICE OFFICERS BILL OF RIGHTS.

IN THAT CASE THE ORDINANCE SPECIFICALLY SAID COMPLIED WITH THE POLICE OFFICERS BILL OF RIGHTS AND TO COMPLY WITH THE BILL OF RIGHTS YOU CAN'T COMPLY WITH THE BILL OF RIGHTS AND SUBPOENA POLICE OFFICERS SO WE ARE GOING TO READ THAT OUT OF THE ORDINANCE AND AFFIRM AS CONSTITUTIONAL THE REST OF THE ORDINANCE.

>> THE SEVERABILITY CLAUSE, 11.112.

1107-1108, AND IT SAYS IMPERMISSIBLE, SEVERABILITY, IT DOESN'T TALK ABOUT SEVERABILITY THE WAY SEVERABILITY CLAUSES DO AND THAT IS BECAUSE THERE IS A CHARTER PROVISION, I THINK IT IS 9.05, IN THE COUNTY CHARTER. AND IT IS DEEMED

UNCONSTITUTIONAL OR INVALID.

>> THIS DOES NOT EXIST HERE.

>> THIS IS AN AMENDMENT TO THE COUNTY CHARTER AND IF IT IS IN ONE STATUTE AND ANOTHER STATUTE THAT IS MORE SPECIFIC, THE MORE SPECIFIC APPLIES BUT THAT'S NOT WHAT WE HAVE HERE.

WE HAVE A CHARTER AMENDMENT THAT IS PART OF THE CHARTER.

IT IS AS IF YOU HAVE A CONSTITUTIONAL AMENDMENT IT BECOMES PART OF THE CONSTITUTION.

>> WHAT ABOUT THE ARGUMENT THAT THIS IS A VERY INTEGRAL PART OF WHAT THEY ARE TRYING TO DO.

THE AGENCIES AS DESCRIBED IN THE AGREEMENT, HOW THEY ARE TO SPEND THE MONEY.

THE NOTION THAT IF ANY PARTIES

DEEMED TO BE IMPROPER EXPENDITURE THEN SOME OTHER TYPE OF ADMISSIBLE EXPENDITURE, IT IS INTERWOVEN SO THE SEVERABILITY ANALYSIS SHOULD TELL US WE SHOULD NOT SEVER THIS, YOU CANNOT SEVER IT.

>> MISTER WHITE HIMSELF CONCEDED THAT FROM THE BALLOT SUMMARY THE LEGISLATIVE INTENT AND PURPOSE ARE THE SAME EXPRESSED IN 1101. THERE IS NOTHING IN THE BALLOT SUMMARY THAT TALKS ABOUT HOW YOU DISTRIBUTE THESE FUNDS AND THE PERCENTAGES.

ALL THE BALLOT SUMMARY TALKS ABOUT IS WHAT IS IN 1101 THROUGH 1104 WHICH WAS LEFT INTACT AND SAYS WE HAVE A TRANSPORTATION SURTAX FOR ONE% FOR 30 YEARS AND TRANSPORTATION USES.

>> ANY AUTHORITY THAT SUGGESTS WE SHOULD LIMIT OUR VIEW TO THE SUMMARY?

>> NOW AND I'M NOT SAYING WE SHOULD.

>> IF IT IS THE WILL OF THE LAWMAKER, THE PEOPLE HERE, THEY ENACTED THE ENTIRE ORDINANCE.

>> THE QUESTION IS --

>> IT IS UNDISPUTED THAT PROPONENTS OF THE ORDINANCE WERE TOUTING THE SPECIFIC PROVISIONS ABOUT HOW THE MONEY WOULD BE USED OVER THE TERM OF THE TAX.

>> THIS COURT HAS NEVER GONE OVER THE TAX OF THE SUMMARY AND THE AMENDMENT TO DETERMINE WHAT THE INTENT WAS AND WHAT THE PROPONENTS ARGUED.

I DON'T THINK YOU SHOULD CONSIDER AT ALL MISTER WHITE'S PROPOSAL THAT ADDS AND MAILERS ARE RELEVANT TO THE ANALYSIS. THE VOTERS LOOKED AT THE BALLOT SUMMARY AND YOU SHOULD CONSIDER THE AMENDMENT.

THE AMENDMENT PROVIDES AS MISTER WHITE CONCEDED, PROVIDES FOR AN ORDINANCE COMPLETE IN ITSELF BY

SAYING WE WILL HAVE A TAX FOR 30 YEARS FOR TRANSPORTATION PURPOSES SO IN THAT SENSE I WOULD SUBMIT THAT IT IS SEVERABLE BUT ALSO --

>> I STRUGGLE WITH THAT.

LOOKING FROM THE PERSPECTIVE OF A LAWMAKER, IF A LAWMAKER SAYS I AM ENACTING THIS TAX FOR THE SPECIFIC PURPOSES AND THEN THE LAWMAKER IS TOLD WE AREN'T GOING TO GUARANTEE THOSE SPECIFIC PURPOSES WHICH I THINK A LAWMAKER SAID I DON'T WANT THE TAX BECAUSE THE TAX IS FOR SPECIFIC PURPOSES THAT WERE DESIGNATED.

I'M STRUGGLING TO SEE HOW THOSE THINGS ARE SO TIED TOGETHER IN THE WAY THIS PROCESS EVEN ALL. I'M NOT TALKING ABOUT ANYTHING OUTSIDE THE ORDINANCE ITSELF OR THE CHARTER AMENDMENT ITSELF. TO DISENTANGLE THAT WOULD DO VIOLENCE TO THE WILL OF THE VOTERS.

THE VOTERS HAVE A CHANCE TO VOTE ON THIS AGAIN AND IN A FORM THAT IS PRESENTED TO THEM THAT IS CONSISTENT WITH THE STATE STATUTE BUT TO SAY THEY WILL GET THE TAX BUT NOT NECESSARILY WHAT WAS WANTED.

I AM NOT CLEAR WHERE THE ARGUMENTS ARE MADE ABOUT WHAT CAN BE CHANGED, WHAT CAN'T BE CHANGED.

IT'S JUST THE COUNTY COMMISSION DOESN'T HAVE TO FOLLOW THAT BUT THEY KIND OF DO.

WHAT IS YOUR POSITION ON THAT?

>> AS FAR AS WHAT CAN BE CHANGED?

I THINK THE COUNTY COMMISSION CAN DEEM APPROPRIATE WHATEVER ALLOCATIONS IT WANTS AND THE AMENDMENT RECOGNIZES THAT.

I WOULD LIKE TO GO THROUGH IT BECAUSE YOU ASK ABOUT SPECIFIC LANGUAGE IN THE AMENDMENT SO I

WOULD LIKE TO GO THROUGH FOR YOU SPECIFIC LANGUAGE WE ARE RELYING ON AND IT STARTS WITH THE VERY FIRST SECTION, 1101.

THE PROCEEDS OF THE SURTAX SHALL BE DISTRIBUTED AND DISPERSED IN COMPLIANCE WITH SECTION 2001205 ONE IN -- 1102 SAYS THE TRANSPORTATION SURTAX SHALL BE LIMITED AND OPPOSED AND COORDINATE WITH SECTION 021204, THE RULES PROMULGATED BY THE DEPARTMENT OF REVENUE --

>> LET ME STOP YOU THERE.

WHAT IF THE AND IS COMPLETELY INEFFECTUAL THERE BECAUSE THE SPECIFIC DIRECTIVES INCONSISTENT WITH THE STATUTORY DIRECTIVE, THE COUNTY COMMISSION GETS TO DECIDE?

WOULDN'T IT BE EXTRAORDINARILY MISLEADING TO SAY CONSISTENT WITH THIS AND THIS IF YOU CANNOT GUARANTEE EVERYTHING THAT COMES AFTER THE AND?

>> IF YOU COMBINE THAT WITH THE SUPREMACY CLAUSE AT THE END OF THE AMENDMENT ITSELF, THE JUST YOU GET FROM THE AMENDMENT IS WHENEVER THERE IS A CONFLICT BETWEEN THE STATUTE AND THE AMENDMENT THE STATUTE IS GOING --

>> I UNDERSTAND IT TO BE -- THE COMMISSION COULD DO SOMETHING ELSE.

>> THE COMMISSION HAS THE WILL OF THE VOTERS, 57% OF THE COUNTY VOTED FOR THIS AMENDMENT AND THE COUNTY COMMISSION HAS THAT IS DISPOSAL.

>> IT IS POLITICAL ACCOUNTABILITY AS OPPOSED TO A LEGAL CHECK ON WHAT THE COUNTY CAN DO OUTSIDE OF THE BRIDE CATEGORIES IN THE STATUTE. COULD YOU -- WHAT IS YOUR ANSWER TO THE QUESTION OF THE WAY THIS WAS PRESENTED TO THE VOTERS IS A WAY TO CONSTRAIN THE DISCRETION OF THE COUNTY COMMISSION, WHY

JUST FUNDAMENTALLY AT THE THRESHOLD THAT DOESN'T VIOLATE THE STATUTORY STRUCTURE AS FAR AS WHAT THE LEGISLATURE SAYS IS ALLOWED AND HOW IT IS TO BE APPROVED?

>> ARE YOU GOING TO THE HOUSE'S ARGUMENT?

>> IT IS BASED ON THE STATUTE.

>> I THINK A CHARTER COUNTY IS DIFFERENT FROM A NON-CHARTER COUNTY IN THAT IN A CHARTER COUNTY, AN ORDINANCE OR CHARTER AMENDMENT MUST BE CAN BE CONSTITUTIONAL.

IF IT IS NOT INCONSISTENT WITH GENERAL LAW WHERE THE NON-CHARTER COUNTY HAS ONLY THE POWERS GRANTED BY GENERAL LAW AND THERE IS NOTHING IN THE STATUTE THAT PROHIBITS INDEPENDENT OVERSIGHT.

IT DOESN'T ADDRESS INDEPENDENT OVERSIGHT AND SO MUCH LIKE IN PHANTOM OF BREVARD WHERE THE STATUTE FOR REGULATION, AND INSURANCE FOR FIREWORKS PLAYS BECAUSE IT IS NOT ADDRESSED IN A STATUTE AND IS NOT INCONSISTENT WITH THE STATUTE.

THE COUNTY CAN DO ANYTHING IT WANTS EVEN IN THE CONTEXT OF AN AMENDMENT ESTABLISHING A TAX.

IT CAN ESTABLISH AN OVERSIGHT COMMITTEE INDEPENDENTLY.

EVEN WITHOUT IT IF THERE WAS EVER A TACK THAT NEEDS AN OVERSIGHT COMMITTEE, DOESN'T ESPECIALLY PROHIBIT THAT.

>> IF YOU USE THAT, YOU GET YOUR TWEET 10 MINUTES.

>> A COUPLE THINGS I WOULD LIKE TO TALK ABOUT.

TO ANSWER ANY QUESTIONS YOU HAVE AT THIS POINT BEFORE I TALK ABOUT THOSE THINGS.

I WILL TAKE IT FIRST.

IF NOT, ON THE DEEMED APPROPRIATE DISCUSSION THERE ARE TWO THINGS TO KEEP IN MIND.

THERE IS AN UNDERCURRENT WITH THE SUPREMACY CLAUSE THEY CAN GO THROUGH THIS AND DECIDE WHAT PART IS CONSTITUTIONAL AND WHICH PART IS UNCONSTITUTIONAL AND THEY CAN THEREFORE DEEM APPROPRIATE ANYTHING BECAUSE THEY ARE NOT BOUND BY ANYTHING THAT IS THERE AND I AM SORRY, THE POWER IS TO DETERMINE WHETHER SOMETHING IN A COUNTY CHARTER IS OR ISN'T VALID IS VESTED IN THE CIRCUIT COURT AND THAT IS WHY I BROUGHT IT THERE, WHY CHARLOTTE COUNTY BROUGHT IT THERE WHEN THEY HAD THEIR 3%, THE COUNTY COMMISSION CAN'T LOOK AT THEIR OWN CHARTER AND SAY WE ARE GOING TO FOLLOW THIS PART AND TOMORROW ANOTHER PART. THERE HAS TO BE A RULE OF LAW THAT IS DONE BY THE COURTS, NOT BY THE ELECTED COMMISSIONERS. THE OTHER THING WHICH IS OBVIOUS IS THE DEEMED APPROPRIATE IN THE BOND VIOLATION WASN'T NECESSARY FOR THE BOND VALIDATION. THE DEEMED APPROPRIATE IN THE INTERLOCAL AGREEMENT WERE ALL DONE WHEN THEY WERE TAKING THE POSITION THAT EVERY SINGLE THING IN ARTICLE 11 WAS CONSTITUTIONAL. THEY DIDN'T HAVE ANY CHOICE BUT TO PICK THE ONES PLAN BECAUSE IT WAS THE ONLY CHEESEBURGER ON THE MENU AT THAT TIME SO THERE IS NOTHING REALLY ABOUT THE POLITICAL PROCESS THAT SHOULD OVERRIDE THE JUDICIAL PROCESS IN THIS PARTICULAR SITUATION.

>> IF THE COUNTY COMMISSIONERS WERE ABLE WHEN THEY WANTED TO DEEM THIS TO BE INVALID WHAT WOULD IT DO FOR UNDERWRITING THE BOND?

>> I'M NOT A BOND LAWYER BUT IT SOUNDS LIKE A BAD IDEA TO ME. MY CONCESSION THAT THE SUMMARY WAS THE SAME AS THE ARTICLE, I

AM TRYING TO POINT OUT THE FIRST 48 WORDS ARE ALL ABOUT THE PLAN AND THE PROJECT THEY ARE GOING TO DO IN VARIOUS CITIES AND NEIGHBORHOODS.

THE OVERALL PURPOSE IS BOTH HERE AND IN THE ARTICLE, THIS IS WHAT THEY ARE GOING TO GET IF YOU VOTE FOR THIS.

THANK YOU VERY MUCH.

>> MEMBERS OF THE COURT, THE PEOPLE OF HILLSBOROUGH COUNTY VOTER FEES BADLY NEEDED IMPROVEMENT IN THE STATE LEGISLATURE GAVE THEM A ROLE. TO THE QUESTION FROM EARLIER THE COUNTY COMMISSION COULD HAVE PUT THE SAME ISSUE BEFORE THE PEOPLE IN THE TERMS OF THE REFERENDUM. THE LEGISLATURE WHEN IT CREATED THE STATUTE GAVE A ROLE FOR BOTH PARTIES.

THEY DIDN'T SAY THE COUNTY COMMISSION COULD DO IT ALONE. THE PEOPLE HAD TO APPROVE IT. OF THE COUNTY COMMISSION WERE GOING TO THE PEOPLE AND ASKING THEM TO VOTE FOR A SURTAX THEY WOULD TELL THEM WHAT THE TAX WAS GOING TO BE SPENT ON.

IT MAKES SENSE THAT IF THE PEOPLE WANT TO COME FORWARD AND PUT ON THE BALLOT A SURTAX THEY HAVE TO SAY WHAT THE MONEY IS GOING TO BE SPENT ON.

THERE IS NO DISPUTE THE USES THAT ARE PROVIDED IN THE CHARTER AMENDMENT ARE APPLICABLE AND APPROVED UNDER 212.55.

WHAT PEOPLE SAW ON THE BALLOT SUMMARY CAN BE ACHIEVED, IN THE CHARTER AMENDMENT OR DOING AND JUDGE BARBUS PENCILED OUT THE ALLOCATIONS WHEN THAT GAVE THE COURT DISCOMFORT AND PORTIONS OF THE RESPONSIBILITIES OF THE INDEPENDENT OVERSIGHT COMMITTEE. THE PURPOSE IS IN THE BALLOT SUMMARY, WHAT PEOPLE VOTED ON, SPENDING IT ON, THE CATEGORIES

OF USES WHICH ARE IN THE STATUTE AND HAVING OVERSIGHT CAN BE ACHIEVED AND THE VOTERS WILL CAN BE UPHELD FOR TRANSPORTATION IMPROVEMENT PROJECT.

THANK YOU.

>> FIRST ANSWER TO JUSTICE PAULSON'S QUESTION THE BOND ARE CONTINGENT ON VALIDATION AND THAT IS WHY WE FOUND VALIDATION PROCEEDINGS AND NO BONDS WOULD BE ISSUED UNLESS AND UNTIL THEY ARE VALIDATED.

THE ONLY THING I WANT TO POINT OUT IS IN THIS CASE NO FUNDS WERE DISTRIBUTED UNDER THE TAX UNTIL THE COUNTY DEEMED APPROPRIATE THE ALLOCATIONS AND DISTRIBUTIONS IN ARTICLE 11.

>> I GUESS PART OF THE DYNAMIC HERE SEEMS LIKE THIS INITIATIVE, I AM SYMPATHETIC TO THE COUNTY IN THIS SITUATION.

THEY ARE PRESENTED WITH AN OFFER YOU CAN'T REFUSE.

I DON'T KNOW HOW MUCH MONEY IS INVOLVED, MAYBE \$9 BILLION.

I HAVE SEEN OTHER NUMBERS.

IT IS A RARE GROUP OF PUBLIC SERVANTS THAT TURN DOWN \$9 BILLION.

WE UNDERSTAND THAT.

THE QUESTION WE ARE CONFRONTED WITH IS THAT OFFER YOU CAN'T REFUSE IS YOU HAVE VIOLENCE TO WHAT THE STATUTE, THIS IS ONLY AN OPTION BECAUSE THE LEGISLATURE SAID SO.

THERE IS NO INHERENT POWER IN THE COUNTY TO DO THIS.

THIS IS THE LEGISLATURE AUTHORIZED AND I AM STRUGGLING TO SEE HOW THIS CAN BE RECONCILED WITH THE SPECIFIC REQUIREMENTS IN THAT FRAMEWORK WHERE THE AUTHORITIES ALLOCATED BY THE LEGISLATURE.

>> IF I CAN ADDRESS THE PREMISE OF THE ARGUMENT WHICH IS THE OFFER YOU CAN'T REFUSE THE

COUNTY COMMISSION COULD HAVE REFUSED AND NOT DEEMED APPROPRIATE THE ALLOCATIONS IN ARTICLE 11 AND IN FACT THERE WAS A DISSENTER, COULD HAVE BEEN A 4-3-3-4 VOTE AND WE WILL ALLOCATE THE WAY WE WANT.

>> I REVIEWED MY OBSERVATION THAT IT IS A RARE GROUP OF PUBLIC OFFICIALS WHO WILL TURN DOWN THE KIMBERLY ACUNA SPEND \$9 BILLION.

>> THE ARGUMENT ABOUT POPULAR SOVEREIGNTY SEEMS TO SAY THAT TO HANG YOUR HAT ON THAT AND SAY BECAUSE THE STATUTE CONTROLS ANYWAY, THE COUNTY COULD DO WHATEVER IT WANTED WITH WHAT THE LEGISLATURE TOLD IT TO DO AS OPPOSED TO WHAT PEOPLE TOLD THEM TO DO WHEN THEY APPROVED IT IT DOESN'T SEEM LIKE AN ARGUMENT, JUST NOT A PLAUSIBLE WAY OF LOOKING AT IT.

>> THE COUNTY COULD ONLY DO WHAT IT WANTS AS FAR AS THE USES, THE ONLY REQUIREMENT IN THE STATUTE. EVERYTHING ELSE IN ARTICLE 11 WAS NOT INCONSISTENT WITH THE STATUTE AND THE COUNTY COMMISSION CANNOT CHANGE THAT. THE INDEPENDENT OVERSIGHT COMMITTEE.

>> IF THE INTENT WAS TO HAVE THE COUNTY COMMISSION STILL HAVE DISCRETION ON WHAT GOES ON THIS IS A STRANGE WAY OF DOING THIS.

>> AS I WAS GOING THROUGH THE PROVISIONS, IT IS NOT JUST 1101 OR 1102 BUT 1105 AND THE ACTUAL DISPUTES, THE GENERAL PURPOSE PROVISION AND TRANSIT RESTRICTED PORTION BOTH HAVE THE CAVEAT AS PERMITTED BY AND TO THE EXTENT PERMITTED BY SECTION 20012055.

>> THERE IS AN AUDIT PROVISION TO MAKE SURE EXPENDITURES ARE DONE AS ALLOCATED AND WHAT HAS BEEN AGREED TO.

>> THERE IS AN AUDIT PROVISION

BUT THE AUDIT PROVISION AUDITING
DIFFERENT THINGS BASED ON WHAT
THE COUNTY COMMISSION DECIDES TO
DO.

NO QUESTION THEY COULD HAVE SAID
WE DON'T DEEM THIS APPROPRIATE.
THERE WAS A DISSENTING VOTE
ABOUT IT AND WHAT WAS MY --
>> ALL THE TIME HAS NOW EXPIRED.
BUT WE THANK YOU FOR YOUR
ARGUMENTS AND THE EXCELLENT
BRIEFS IN THIS CASE, THANK YOU
VERY MUCH.