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SPECIAL SESSION D 3RD TURN AT THE TAX TABLE

By Eric Berkowitz

The tax reform passed by the legislature in the second 2007 Special Session (Special Session B) was a disappointment to most Floridians. Governor Crist, Senate President Ken Pruitt and House Speaker Marco Rubio all initially acknowledged the critical need to stem an exodus of businesses and non-homesteaded property owners from the state. Lawmakers joined the Administration in promising to implement the tax relief necessary to preclude a devastating recession. After paying lip service to the public outcry for property tax reform, they spent the entire 2007 regular legislative session trimming the original \$56 billion tax cut to a tepid \$15.6 billion two-part "compromise".

Following months of sound bytes and psychobabble, they failed to pass even token legislation during the regular session. Thoroughly embarrassed by the political deadlock, the Governor and the Legislative leadership called the first of two Special Sessions dedicated to passing Tax Reform (Special Session B). A two-pronged strategy featured a statutory resolution imposing mandatory tax reduction targets for municipalities and counties. It also proposed a constitutional amendment that would make available a supersized homestead exemption as a voluntary alternative to the existing Save Our Homes tax cap. Instead of targeting the relief to businesses and non-homesteaded property owners, the tax cuts were largely limited to homesteaded property owners. The statewide vote for the amendment was scheduled to coincide with the January 29th Presidential Primaries.

Weston Mayor Eric Hersh filed a lawsuit contending that because the amendment was poorly drafted, residents voting in favor of the relief would be unaware that they were also voting for the demise of their "Save Our Homes" protection. Disparaging the amendment's construction, Chief Circuit Judge Charles A. Francis of Tallahassee tossed out

the proposed amendment's ballot language, calling it misleading and inaccurate. The ballot summary promised to protect homestead benefits under the existing Save Our Homes Amendment. Since the new measure actually phased out those benefits, the Judge properly ruled that the misleading language was unacceptable. Since 3 months minimum notice is required for the vote, lawmakers had until October 29th to agree on and draft an acceptable replacement for the original compromise package. After scheduling a Special Session to address a \$1.1 billion budget deficit and the expiration of the State's No-Fault law (Special Session C), another Special Session was called to reanimate the stricken tax reform amendment (Special Session D).

Expressing concern about upsetting the delicate political underpinnings of the original compromise, Senate President Pruitt was reluctant to alter the tax plan built around doubling the \$25,000 homestead exemption on everything but school taxes and giving first-time home buyers a discount. While admitting a preference for the Senate plan, Governor Crist expressed receptivity to elements of a more ambitious House Plan, stating, "I think we're in a pretty good place. I think there's some very, very good discussions going on."

Governor Crist spent much of the past year insisting that a runaway property tax system was responsible for Florida's economic woes. Only by implementing a significant tax cut and moderating the growing disparity between homesteaded and non-homesteaded tax burdens could the State fend off the darkening real estate recession.

Continued on page 5



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Tax...Continued

Senate Banking and Insurance Chair Bill Posey quickly answered her "inflammatory and derogatory remarks about lawmakers' decisions to keep PIP, and your allegations that lawmakers are catering to 'special interests'." He then revealed that the lower rates promised by the insurance companies and their lobbyists was apparently nothing more than "industry spin." He expanded on his response, writing, "Fact is, you represent the biggest spending special interest of them all! You may not have been at the Banking & insurance Committee when I offered to tear up the proposed bill if the industry would provide a written guarantee rates would be reduced for more than just one year. Unfortunately, the industry's response was negative, saying 'of course we can't do that.' Thank you again for taking the time to write."

Intimating that unscrupulous medical providers and ethically challenged lawyers represented an irresolvable obstacle to Florida's no-fault personal-injury protection, industry PAC spokeswoman Allison North Jones said, "It's a horrible consumer bill. When you get down to the nuts and bolts, it's insufficient reforms of a system that needed major reforms." The lobbying organization also contended that most of the State's licensed drivers already have health insurance coverage, rendering the bill's central requirement redundant. Jones exclaimed that the legislation "amounts to little more than a massive driving tax by forcing drivers to continue purchasing a duplicative medical payments coverage many do not want or need." Hospital spokespersons contested the validity of this objection, offering statistics demonstrating that more than 40% of auto accident victims don't have health insurance.

Industry contentions that "forcing drivers to continue purchasing a duplicative medical payments coverage" is abusive to the consumer are some-

what disingenuous. Prior to the advent of No-Fault protection, insurance carriers regularly bundled P.I.P. into almost every standard auto coverage package, whether or not the applicant had health insurance. They would like to revive that lucrative market. Pre-No-Fault automobile accidents also kept battalions of attorneys busy determining liability for subrogation purposes. No-Fault successfully relieved much of this undue pressure on the courts until its unanticipated vulnerability to fraud and abuse became an easy target for exploitation.

Speaker Rubio applauded Bogdanoff's efforts, characterizing the legislation as "perhaps the most significant auto insurance reform in a long time in Florida." Adding perspective to the Legislature's accomplishment, he observed that significant political obstacles had to be overcome prior to passing an acceptable replacement for Florida's expired No-Fault protections. In view of the negative industry rhetoric and threats that the legislation would increase insurance rates, he took a swipe at the lobbyists, "That's easier said than done when a lot of people get paid a lot of money to keep things from happening." Representative Bogdanoff's Senate counterpart - Chairman Bill Posey of the Senate Banking and Insurance Committee - said at the bill signing, "The final score is: 17 million Florida drivers, 100; special interests, zero."

Until the legislation takes effect on January 1, 2008, PIP is voluntary. Existing coverage as described in current policies will remain intact and unchanged until it comes up for renewal. However, anyone facing that renewal prior to January 1, 2008 needs to contact their agent or carrier to ascertain whether their protection is adequate. Department of Financial Services spokeswoman Tara Klimek explained that different auto insurance companies will have different rules for renewing customers' policies before the new no-fault law takes effect on January 1st. She advised, "Customers with questions should call their agents or call the state's insurance consumer hotline at 1-800-342-2762."

If even one accident participant doesn't have PIP coverage, liability may have to be determined in court prior to any reimbursement being approved. Klimek elaborated, "If you're in an accident before January 1st and you have no-fault coverage but the other driver doesn't, you could face a lawsuit." Conversely, if everyone carries PIP, each victim is automatically covered by their own insurance. Since the changes in the new law are primarily anti-fraud provisions, Klimek assured policyholders that any transition should be relatively seamless, stating, "In the end ... many motorists will not notice a difference between the old and new [no-fault insurance law]."

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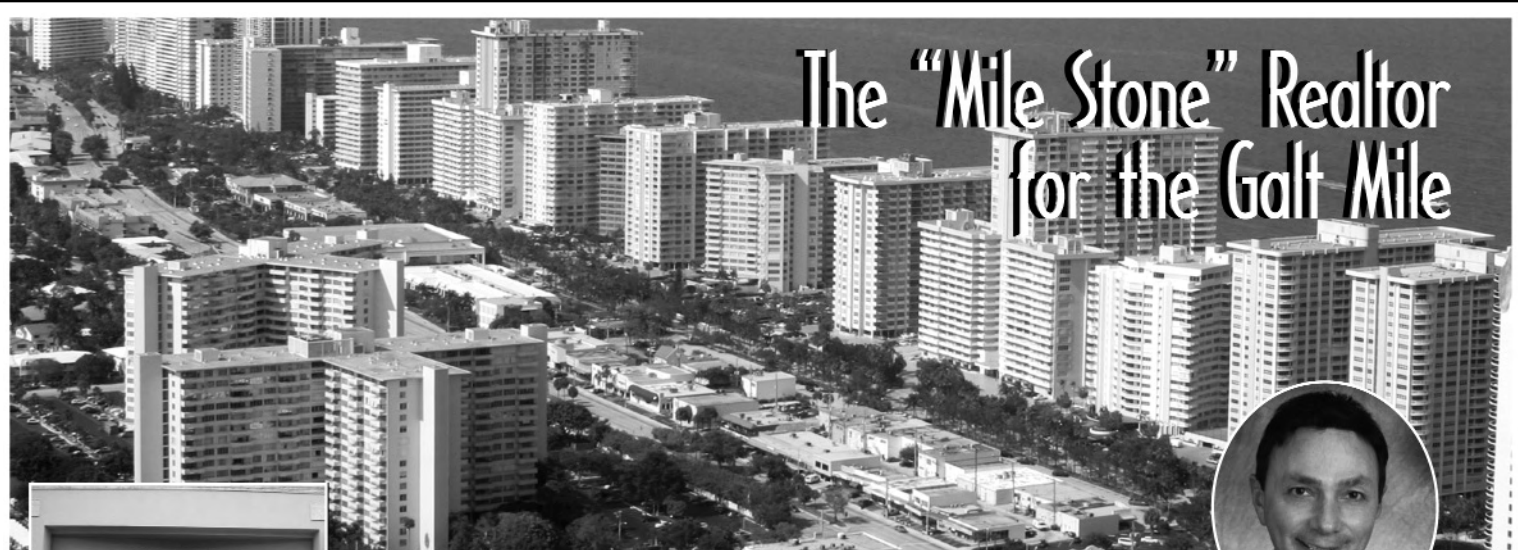
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Special Session...Continued

In stark contrast, the Senate plan ignored the State's almost one million snowbirds. Aside from some consideration for working waterfront enterprises (tax cuts for waterfront properties engaged in financially modest recreational activities) and a \$25,000 Tangible Personal Property exemption, it offered negligible help for businesses. In what appeared to be a reversal of his earlier prescription for the State's recovery, the Governor had become inexplicably comfortable with a tax reform plan that sacrificed almost every one of his "critical" policy objectives.

Unlike Crist and Pruitt's timid refusal to consider the more aggressive tax reform they initially promised to the Florida electorate, the House leadership sought to take the opportunity to make the tax cuts more relevant. They proposed offering a new tax exemption equal to 40 percent of a county's median home value. By roughly adjusting the exemption to the property value, homeowners across the state would proportionately receive the same relief. For most South Florida homeowners, that would amount to an exemption in excess of \$100,000 (Broward - \$101,647, Palm Beach - \$101,354, Dade - \$106,894) in addition to the existing \$25,000 Homestead Exemption. Low income seniors would receive an exemption equal to 100% of their county's median home value. The plan provided for limitations on assessed values of properties used for affordable housing. More importantly, it placed a 5 percent annual assessment cap on businesses and other non-homesteaded properties, giving every property owner meaningful protection from overheated real estate market environments. The House and Senate plans both preserved the Save Our Homes protection for currently homesteaded property owners and both bodies agree that its benefits should be portable. However, the Senate plan provided for a maximum of \$500,000 in transferable protection while the House plan doubled that maximum to \$1 million. The average Broward homeowner stood to realize about \$240 in tax savings from the Senate Plan and about \$588 under the House package. Although the overall assessment impact of \$11 billion was comparable to the Senate's plan, the House plan targeted the tax benefits more effectively.

Special Session...Continued

Instead of judging the alternatives based on what's best for the State and its property owners, the issue deteriorated into what Democratic Senate Minority Leader Stephen Geller called "a dispute, to a large degree, between the Republican Senate leadership and the Republican House leadership." Despite his contention that both plans were too complicated, Geller described the controversy as, "The Senate leadership said, 'We had a deal.' And the House leadership is saying, 'Yeah, but we came up with a better deal.'" Although he conceded that the House plan's constructive elements warranted consideration, he opined that his Senate colleagues would be unwilling to risk departure from the original compromise.

As a curious adjunct to the conflict, the actions undertaken by the Statehouse were unexpectedly out of character with its usual hard-line format earmarked by "winner take all" party politics. Aware that any proposed changes to the amendment would require overwhelming support for the Senate or the Governor to deem them worthy of consideration, House leaders built an unprecedented bi-partisan coalition bordering on unanimity. With the exception of a few Representatives catering to self-serving agendas, the House proposal enjoyed widespread bi-partisan support. Democratic Representative Jack Seiler explained the importance of demonstrating a united front, "If we come out with a product in the House that's 118-2 or 115-5, it sends a message that, look, this is pretty good reform that we're united behind. We actually deliver the same in tax cuts [as the Senate's plan], but we deliver it more efficiently."

House Majority Whip Rep. Ellyn Bogdanoff, one of the major architects for almost every Special Session Statehouse product, expressed confusion about the Senate's hesitancy to consider the House improvements. She said, "Conceptually you can't argue with what we're doing. We've targeted tax cuts. We're giving it to the people who need it the most."

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Special Session...Continued

As legislators were fleeing the State Capitol, the Commission met on November 1st to discuss Appropriations from Special Session C and Property Tax Relief and Reform Legislation from Special Session D. The Commission has been accruing input from statewide public hearings conducted during the past year. Preoccupied with non-homesteaded property owners neglected by the legislature, Commissioners agreed to formulate relief for new home buyers, businesses and second home owners. Repeatedly pummeled or ignored by politicians since they are a paper thin voting constituency, they should benefit from the significant business representation on the Commission. North Broward Hospital District President Alan Levine exemplified the attitude of his fellow commissioners, "We're their last hope. Nothing has weighed more heavily on me than that." Commissioner Nancy Riley, president of the Florida Association of Realtors, confirmed Levine's sentiment, "I was hoping we wouldn't have to take the bull by the horns. But people are looking at us to make a difference."

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Special Session...Continued

House Majority Leader Rep. Adam Hasner tried to put the issue into perspective. Since their shared objective should be the creation of an amendment that Florida voters will want to pass; pleasing the Senate at the expense of disappointing the electorate is an exercise in futility. He clarified, "The House is working in a bipartisan fashion, and the ideas that have emerged are going to be meaningful and are going to have widespread support in the state. I don't think it's important to think about what's going to pass in the Senate or not." Hasner would soon regret the irony attendant to his diagnosis.

Senate President Ken Pruitt functionally stonewalled any variation of the original compromise. On October 17th, a tenuous Senate coalition passed a \$9.7 billion version of tax reform (over a 4 year term) essentially duplicative of the original compromise. Since an amendment must be found favorable by 60% of each chamber, the 26 - 11 Senate decision represented 2 votes more than the minimum required for passage. However, the Senate was four votes shy of the 75% passage requirement to win a place on the ballot. The predictive "near-miss" threatened by this soft support was central to Pruitt's problem.

President Pruitt didn't have enough votes to deliver the Senate. While publicly proclaiming their intention to pass legislation consistent with Crist's stated objective to correct the statewide tax inequities, North and Central Florida Senators realized that they were well positioned to engage in some locally beneficial horse trading.

Instead of fractionating into partisan or ideological camps, Senators aligned themselves according to their constituents' average property values. While a \$50,000 homestead exemption is more than adequate for lawmakers representing counties where the median property value is \$55,000, it is nearly invisible to taxpayers in South Florida counties where home values average 5 or 6 times that amount.

With the success or failure of tax reform hanging in the balance, every uncommitted Senator became a potentate with a price tag. When the Governor personally called on all 160 lawmakers to elicit their support, he came to grips with the depth of Pruitt's predicament. Any divergence from the original package, despite its obvious shortcomings, would cost Charlie Crist - and Ken Pruitt - any chance of placing a proposed amendment on the January 29th ballot.

In our current zero-sum property tax system, whatever taxes homesteaded property owners are exempted from paying are borne by their non-homesteaded neighbors. Since the Save our Homes protection increasingly shifts the tax burden to unprotected property owners, their numbers shrink as the disparity grows, saddling those remaining with an even greater burden. In 2006, the burden reached a critical mass, driving businesses and snowbirds out of the State at an unprecedented rate. For the first time in Florida history, emigration outpaced immigration. The statewide public outcry for tax reform envisioned relief for every property owner, not an incremental shifting of even more of the burden to a shrinking population.

In an effort to preserve the huge tax windfalls to which they'd become acclimated, local governments expended significant resources to either overturn any reform that represented a threat to those revenues or to shield themselves from compliance. When the statutory tax reform was enacted, many local governments took advantage of legislative loopholes that allow local commissions and boards to waive adherence to their newly mandated tax reduction targets. While vehemently opposing any reduction in their net annual "take", they had no problem with simply shifting the burden from one group to another.

This is at the heart of the Senate's problem with the House plan. North and Central Florida Senators sought to relieve local jurisdictions from belt-tightening at the expense of those non-homesteaded taxpayers that are carrying the load for everyone. Once non-homesteaded property owners have even moderate protection, their local taxing authorities will have to make due with less money instead of simply squeezing more resources from their unprotected constituents.

Continued on page 8

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Special Session...Continued

Another seemingly minor issue stems from concern about the constitutionality of portability. A few days earlier, the Governor assured homeowners that "if lawmakers agree on a tax reform plan, the First Amendment concerns about the Save Our Homes Amendment will not be an obstacle." It has been suggested that the Save Our Homes tax cap may violate the Equal Protection Clause, the Commerce Clause and freedom of travel provisions in the U.S. Constitution since Florida's tax policies benefit homestead owners to the detriment of non-homestead owners. In a similar equal protection challenge (Nordlinger v. Hahn); the US Supreme Court held that California's system of giving primary home owners special tax benefits was constitutional. However, since the Commerce Clause prevents states from creating laws that discriminate against interstate commerce, the burden placed on Florida businesses and non-homestead residential property investments by Save Our Homes is constitutionally cloudy. The Amendment's greatest vulnerability derives from how Florida's tax policies impair "for those travelers who elect to become permanent residents, the right to be treated like other citizens of the State," possibly violating the Constitutional right to travel.

Save Our Homes was already unsuccessfully contested before the First District Court of Appeals in 2000 (Reinish v. Clark) by out-of-state residents whose second homes in Florida were ineligible for the tax cap. In August, Circuit Judge John C. Cooper (of the same 2nd Circuit Court as Chief Judge Charles A. Francis) ruled against some Alabama residents claiming that Save Our Homes violated the Constitution's equal-protection and right-to-travel provisions. Constitutional experts agree that a pending appeal will fail. While the Amendment is sufficiently structured to withstand equal protection arguments, commerce or right to travel challenges could possibly open a Constitutional can of worms.

After passing their bare-bones package shortly after noon on October 29th by a 35 - 4 vote, the Senate sent it to a disgusted Statehouse. Immediately after they voted, the Senate disbanded, precluding any negotiation with the House. As Senators headed for the exits, they were questioned about the package. As one of the plan's architects, Senate Majority Leader Dan Webster focused on the Senate plan's only redeeming provision - portability. He said, "It is an economic booster. This allows people to move elsewhere. They can buy a bigger or better home, pay a little more in taxes, but not get hit with the whole load." The vast majority of departing Senators expounded variations of Senate Minority Leader Steve Geller's parting shot, "It was as good as we could have gotten."

For 6 hours, Statehouse Representatives on both sides of the aisle criticized the reform's failure to address any of the underlying reasons for the economic downturn, the unnecessary \$2.8 billion loss it portends for schools, and the Senate's decision to "hit and run," narrowing the House options to "take it or leave it." At 5:42 PM, a House vote of 74 - 41 failed to break the 75% minimum required to place the amendment on the ballot.

Although disappointed with the legislation and visibly angered by the Senate's arrogance and inflexibility, Statehouse Speaker Marco Rubio pleaded with members to accept the skeletal amendment. While he wasn't sold on the idea repeated by many Senators upon leaving that, "Its better than nothing," Rubio acknowledged that the portability provision would provide a one-time boost to the ailing real estate market. Despite their overt frustration, House members grudgingly passed the Senate plan an hour later - at 6:54 PM - by a vote of 97 - 18.

On October 29th, the Senate Joint Resolution 2D (SJR 2D) was signed by the officers and filed with Secretary of State Kurt Browning for insertion into the January 29th ballot. Two linked bills that provide preliminary statutory housekeeping, Senate Bill 4D (SB 4D) and Senate Bill 6D (SB 6D), were signed by the officers and presented to the Governor on October 30th. The bills were finally enacted as Chapter No. 2007-338 after being signed by Governor Crist upon receipt.

Continued on page 13

Special Session...Continued

When the Senate returned on Monday, October 29th, it immediately jettisoned any special breaks for first-time home buyers, working waterfront properties, poor seniors or affordable housing units. It completely ignored the House proposal to establish a homestead exemption equal to 40 percent of the median home value in each county. The Senate plan seemingly doubled the \$25,000 Homestead Exemption although the second \$25,000 is inapplicable to school property taxes. Since the average school board assessment represents about 40% of the overall tax bite, only \$15,000 of the \$25,000 exemption is available to reduce property valuations. Therefore, the net reduction is actually only \$40,000. They provide businesses with a modest \$25,000 exemption for Tangible Personal Property. The Senate plan also provides a watered-down version of the House plan's 5% annual cap on tax increases for non-homesteaded properties. Since it is unlikely that future tax increases will ever exceed the 10% annual property tax cap approved by the Senate, for snowbirds and businesses, the "benefit" is little more than a theoretical "sop" for spin purposes.

The total tax reduction impact of the 4-part Senate plan over a five year period is \$12.380 billion. The \$25,000 additional Homestead Exemption (of which only \$15,000 can actually be used) carries a five-year impact of \$4.666 billion. The portability provision will cost state coffers \$5.629 billion over five years. The \$25 thousand exemption for Tangible Personal Property portends a five-year impact of \$922 million. The 10% cap on non-homesteaded assessments is "generously" predicted to afford a statewide tax savings of \$1.165 billion through 2013. Of the total \$12.380 billion tax impact, \$2.757 billion (more than 22%) comes out of school budgets.

While the prospective amendment does nothing for snowbirds and little for businesses, its net benefit to South Florida homesteaded homeowners averages a paltry \$220 in annual savings. When measured against the huge tax increases endured during the past few years, most South Florida homeowners consider the legislature's tax reform to be a bad joke. The one benefit that will likely have some positive economic effect is the plan's portability provision.

The amendment will allow permanent Florida residents to transfer the accrued "Save Our Homes" benefits - up to \$500,000 - to another homesteaded property within two years of moving out of their previous home. The benefit would be retroactive, allowing permanent residents who moved in 2007 with expectations of applying for Homestead exemptions for their new homes on January 1, 2008 or January 1, 2009, to carry forward their accumulated tax protection. If the adjusted value of the new home exceeds the previous home's value, the entire differential is transferable. However, if the new home's value is less than the value of the previous homestead, the benefit is proportional to the new homestead's actual value.

An unintended consequence of the 1992 "Save our Homes" amendment arose from its lack of portability. The protection currently only persists as long as the homestead claimant remains in the existing property. When the resident moves to a smaller, less expensive new home, since the property is assessed at market value, the tax bite is often trebled or quadrupled. Characterized as the "moving penalty", this unforeseen ramification of the amendment has trapped literally thousands of Floridians who would have moved but for the attendant horrific tax punishment. Since the 1992 inception of Save Our Homes, a 16-year inventory of prospective home buyers seeking to move because of divorce, the empty nest syndrome, change of employment or school, marriage, growing family needs, and a dozen other motivations were financially frozen into homes that no longer suit their needs. Portability will release this huge stockpile of potential customers into the stagnant real estate market.

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<p>9</p> <p>A Christmas Carol Broward Center Tix.: 954-462-0222</p>	<p>10</p> <p>GMCA Presidents Council Meeting To Be Announced 7:30 to 9 p.m.</p>	<p>11</p> <p>Andrea Bocelli Hard Rock Live (Through 12/12) Tix.: 954-523-3309</p> <p>Florida Panthers vs. Calgary Flames BankAtlantic Center 7:30 p.m. Tix.: 954-835-7825</p> <p>Menorah Lighting at Galleria Mall 5:30 p.m. Tix.: 954-68-1190</p>	<p>12</p>	<p>13</p> <p>Jethro Tull Hard Rock Live Tix.: 954-523-3309</p>	<p>14</p> <p>Second City's Dysfunctional Holiday Revue Broward Center Tix.: 954-462-0222</p> <p>Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092</p>	<p>15</p> <p>Seminole Hardrock Winter Boat Parade Starts downtown Fort Lauderdale on the New River and ends at Lake Santa Barbara, Pompano Beach Info.: 954-7670686</p> <p>Cosi Fan Tutte, Florida Grand Opera Broward Center Tix.: 954-462-0222</p> <p>ENA Trash Pickup</p>
<p>16</p>	<p>17</p> <p>Vice Mayor Teel Pre-Agenda Meeting Beach Community Center 6 p.m. Info: 954-828-5033</p>	<p>18</p> <p>Ft. Lauderdale City Commission Meeting City Hall 6 p.m.</p>	<p>19</p>	<p>20</p> <p>GMCA Advisory Board Meeting Nick's Italian Restaurant 11 a.m.</p> <p>Florida Panthers vs. Carolina Hurricanes BankAtlantic Center 7:30 p.m. Tix.: 954-835-7825</p>	<p>21</p> <p>The Nutcracker, Miami City Ballet (Through 12/23) Broward Center Tix.: 954-462-0222</p> <p>Santa on the Beach Near Oasis Cafe 12:45 p.m. Tix.: 954- 828-7275</p> <p>Santa's Enchanted Evening Hagen Park</p>	<p>22</p> <p>Florida Panthers vs. Toronto Maple Leafs BankAtlantic Center 7 p.m. Tix.: 954-835-7825</p>
<p>23</p>	<p>24</p>	<p>25</p> <p>Christmas</p>	<p>26</p> <p>72nd Annual College Swim Forum (Through 1/15) Ft Lauderdale Aquatic Center Tix.: 954-828-4580</p>	<p>27</p>	<p>28</p> <p>Panthers vs. Montreal Canadiens BankAtlantic Center 7:30 p.m. Tix.: 954-835-7825</p> <p>Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092</p>	<p>29</p> <p>Foreigner Mizner Park Amphitheater Tix.: ticketmaster.com</p> <p>MetroPCS Orange Bowl Basketball Classic BankAtlantic Center Tix.: 305-341-4700</p>
<p>30</p> <p>Holiday Antique Show War Memorial Auditorium Tix.: 954-828-5380</p>	<p>31</p> <p>Kwanzaa Kuumba Celebration Bass Park Tix.: 954-828-5411</p> <p>Downtown Countdown SW 2nd St 5 p.m. to 3 a.m. (early countdown for kids at 7 p.m.) Info.: 954-828-5363</p>	<p>1</p>  <p>The Drowsy Chaperone, Broadway Broward Center (Through 1/13) Info.: 954-462-0222</p>	<p>2</p>	<p>3</p> <p>Vice Mayor Teel Pre-Agenda Meeting Beach Community Center 6 p.m. Info: 954-828-5033</p> <p>74th Annual FedEx Orange Bowl Dolphin Stadium 8 p.m. Tix.: 305-341-4700</p>	<p>4</p> <p>Sensational Fort Lauderdale Broward City Convention Center 7 to 10 p.m.</p> <p>Ft. Lauderdale City Commission Meeting at City Hall 6 p.m.</p> <p>Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092</p>	<p>5</p> <p>Las Olas Art Fair Las Olas Blvd. (Through 1/6) 10 a.m. to 5 p.m. Info.: 954-472-3755</p>
<p>6</p>  <p>Sunday Jazz Brunch Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985</p>	<p>7</p>	<p>8</p>	<p>9</p>	<p>10</p>	<p>11</p> <p>The 2nd Annual Martin Luther King Event Wilton Manors Elementary 7 to 9 p.m.</p> <p>Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092</p>	<p>12</p> <p>21st Annual Boca Fest The Shops of Boca Center on Military Trail 10 a.m. to 5 p.m. Info.: 954-472-3755</p>

UPCOMING EVENTS IN OUR AREA

January 18 - ?
African Adventure 3D: Safari in the Okavango
Museum of Discovery & Science, IMAX Theatre
7 to 11 p.m.
Info.: 305-667-1651

January 19
Wilton Manors Main Street Green Market
Richardson Historic Park & Nature Preserve
8 a.m. to 2 p.m.
Info.: 954-568-0504

January 19
4th Annual Fine Wines at Fairchild
Fairchild Tropical Gardens, Garden House
7 to 11 p.m.
Info.: 305-667-1651

January 22
Florida Panthers vs. Ottawa Senators
BankAtlantic Center
7:30 p.m.

January 26- 27
2nd Annual International Chocolate Festival
Fairchild Tropical Gardens

February 9 - March 9
Florida Renaissance Festival
Quiet Waters Park, weekends only
10 a.m. to sunset
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Special Session...Continued

By limiting annual increases on non-homesteaded properties to 5% (as provisioned in the House plan), Florida cities and counties will collect \$billions less in future revenues. Since the proposed \$50,000 homestead exemption was more than adequate to resolve any local property tax issues for Senators from most North and Central Florida jurisdictions, they shunned the prospect of saddling their local allies with any reform components designed to provide equitable relief primarily to South Florida taxpayers.

Lawmakers are often confronted with having to decide between what's best for their constituents (or a constituent) and what's best for the State. In this case, however, the cost of the statewide recession will far outstrip any benefit derived of protecting the local cash cow. Unfortunately, since snowbirds don't vote in Florida, their State officials are less sympathetic to the consequences of this reality.

Senators from South Florida did little to counter the overall collapse of support for meaningful tax reform in the Senate. Minority Leader Geller and Senator Ted Deutch (D-Boca Raton) characterized improvements to the tax plan as complications that would only confuse voters. They opposed provisions that targeted the benefits, contending that they would make the legislation "overloaded and impossible for the average person to understand." Enigmatically, they seemed to advocate passing legislation that cleared the way to fixing the tax system instead of actually fixing it. As explained by Senator Deutch, "It took years for this lopsided tax system to evolve and it's going to take more than just a week to fix it." Other South Florida Senators were reluctant to support provisions that could potentially invite abuse. Senator Alex Diaz de la Portilla (R/Miami) cited the House provision to help "working waterfronts" as an example. Ostensibly offered to help struggling marinas lambasted by huge tax increases simply because of their highly desirable waterfront locations, Senator Diaz de la Portilla pointed out, "It could also apply to playgrounds for millionaires and yacht clubs. It's not working waterfronts. It's partying waterfronts."

Having failed to convince the powerful North and Central Florida Senate caucus and reluctant South Florida Senators that only significant statewide reforms would head off the recession, Crist and Pruitt circled the wagons. They spent the entire Special Session deflecting questions about why the final reform package ignored South Florida taxpayers and actually inflamed the disparity between taxpayer classes – a condition that they repeatedly held responsible for the crippling exodus. Another source of embarrassment was the Senate plan's cost to schools of about \$2.8 billion. With Pruitt's credibility as Senate President and Crist's 65% overall job approval rating at stake, every official statement was belabored with euphemisms about "sticking to their original agreement" and "doing what was doable."

With the final decision about tax reform held hostage by a small group of Senators, Pruitt framed the legislature's "doable" objective, "Should we proceed with a tax reform and reduction package, we believe it will be important to include the basic principles that were the foundation of the Special Session call. First, we must reduce property taxes for Floridians. Second, we must minimize any negative impact to education. Finally, we must craft a proposal that will be understood and accepted by Florida voters." Resigned to sacrificing many of his initial objectives, Crist said, "Let's not try to pursue perfection and lose the potential for progress. It's important to realize whatever we conclude on Monday (the October 29th deadline) doesn't mean it's the end game. We need to try to move the ball down the field."

Mounting public disappointment with Crist's willingness to settle for token tax reforms and the Senate's arrogant refusal to even consider improvements was creating an uncomfortable environment for the last week of the Special Session. To minimize the unpleasantness, the Senate President notified Senators on October 23rd that they should take a few days off. He indicated that he may or may not ask them to return on October 29th, the last day of "Special Session D" and the deadline for submitting acceptable ballot language for the January 29th vote. On Friday afternoon, October 26th, Pruitt and Rubio said that both bodies would be reconvened on Monday, October 29th. Without an eleventh hour compromise supported by 75% of each body, the amendment's failure to make the ballot would create a public relations hornet's nest. Governor Crist pointedly admonished legislators that "if the amendment didn't make the ballot, they would be on the next ballot."

Confused by the Senate's refusal to even discuss the House alternative, Majority Whip Ellyn Bogdanoff said, "It sounds like there is an unwillingness for them to consider the components of our proposal. That is extremely disappointing." Acknowledging that the Senate was in the catbird seat, she said that if the Senate rubber stamped its own plan, she didn't know how the House would react. "What would we do? I have no clue yet."

A last-minute meeting called by Governor Crist to promote cooperation was cancelled and replaced by an ad hoc press conference when he discovered that the legislature was off through the weekend. Hoping to project a positive public outlook, he expressed confidence that a compromise would be forthcoming by the deadline.

Continued on page 9

Special Session...Continued

Two local House members commented on the Senate bill. House Majority Whip Ellyn Bogdanoff exclaimed, "Obviously this is a far cry from what we passed, not anywhere what we want." Representative Jack Seiler expressed a rationale shared by most of his Statehouse colleagues, "I do not want to wake up Tuesday morning and come back home to tell people we were not able to reach a deal. It would be a disaster for the current real estate recession we're in."

Not willing to believe Senate promises to "fix the \$2.8 billion hit to education next year," teachers union lobbyists immediately vowed to campaign against the amendment. Attempting to head off concerted opposition to the flawed reform, Governor Crist pleaded with Florida Education Association President Andy Ford to back off. The teachers' union boss seems predisposed to elicit input from his members and potential allies before formulating a position. Education association spokesman Mark Pudlow said, "We need to talk with school boards, cities, counties, firefighters and see where everyone is and see if there is much in the way of a will to oppose it."

In summary, a toothless tax reform plan will be the target of a high pressure spin campaign by the Governor. Pruitt will dispassionately agree with Administration's cloudy assertion that this amendment will save the State's economy. Although Rubio will likely not interfere with the sales pitch, he will probably decline to join the Governor in waxing poetic about their "Herculean achievement" that will save homesteaded homeowners about \$18 per month – about a half tank of gas. Calling the final package "a small solution to a big problem," Rubio said that he would probably participate in a separate citizen petition drive to put a more ambitious tax-cutting measure on the November 2008 ballot.

Shortly after securing a place for the amendment on the January 29th ballot, the Governor kicked off a promotional tour by scheduling news conferences in Jacksonville, Port St. Lucie and Orlando. He gave the Tallahassee press corps a taste of the campaign's theme, explaining, "We're going to campaign like the dickens to make sure people understand the truth about how good this will be for Florida families, which is a wonderful, wonderful thing." Ultimately, the amendment's passage will depend on how the statewide electorate responds to the Governor's marketing campaign. Seriously conflicted South Florida homeowners are facing a mixed bag of voting motivations ranging from "complete disinterest" to "nothing to lose". Business property owners will continue their daily soul searching about pressing on or packing it in. While business owners are disappointed, snowbirds are out for blood. After all, our legislators actually intensified their tax burden by increasing the homestead exemption. Since Snowbirds don't vote, they are politically invisible. The \$18/month savings for homesteaded property owners will cost our schools \$2.8 billion. The only reason South Florida property owners have to support the amendment is to pass the portability provision.

The release of a sizable number of long-trapped property buyers is expected to shake up the stultified real estate industry. Realtor Association of Greater Fort Lauderdale CEO Richard Barkett explained, "This will help give them an incentive to trade up or down. We're embracing the plan because it's better than what we have now." Since every prospective buyer generated by portability will also be selling their current property, the net effect should be nominal despite the heightened activity. However, a small fortune in transaction taxes will help local coffers. Sadly, no amount of transaction tax revenues and doc stamp sales will reverse the recession.

Think tank political scientists and government economists never held much hope for a legislative solution since lawmakers searching for a balanced system could be hobbled by the need to compromise for political expediency. They've persistently maintained that the

Continued on page 15

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Tax...Continued

Floridians injured in an automobile accident through no fault of their own may have to pay for their own medical treatment or face the prospects of taking legal action (and a prolonged resolution) to cover their medical bills. Nearly every state in the nation requires some medical benefits insurance coverage, and failing to mandate this insurance protection is not in the best interest of Floridians."

One day before the October 12th Special Session conclusion, Senate President Ken Pruitt and Statehouse Speaker Marco Rubio issued another Joint Proclamation announcing that 10 minutes after "sine die" (the end) of Special Session C, another Special Session undertaking Property Tax Reform would run until October 29, 2007

Representative Bogdanoff's legislative No-Fault progeny, House Bill 13C (HB 13C), included \$10,000 in coverage for 80% of medical expenses including ambulance, hospital, surgical, and clinic care; 60% of lost wages; 100% of replacement services; and \$5,000 in death benefits. It deters fraud by limiting reimbursement only to reputable and qualified care providers and creating a fee schedule to control costs. Ancillary legislation she drafted to protect proprietary insurance data, House Bill 15C (HB 15C), was simultaneously filed and passed.

To ensure the medical adequacy of utilized health care services, they must be ordered, provided, and/or prescribed by licensed M.D.'s, D.O.'s, chiropractors, and dentists. In addition to these providers, payments can be made to Hospitals, physician assistants, ambulatory surgical centers, ambulance services, facilities owned by M.D.'s, D.O.'s, chiropractors, dentists, other health care clinics that meet rigorous standards for specific accreditation or other limited criteria.

Bogdanoff's bill deters unsubstantiated overcharging by linking costs to verifiable standards. Fees are limited to usual and customary charges for physician and dentist services rendered in a hospital, 75% of the usual and customary charges of emergency services and care provided by a hospital and 200% of services provided by Medicare (no less than 2007 schedule). It further uses existing Medicare and Workers' Compensation guidelines for reimbursement of other eligible services, supplies and care.

Her bill imbues the Attorney General with added legal muscle, specifying that capricious denials of meritorious claims by insurance companies constitute an unfair trade practice subject to penalty under the Insurance Code. To enhance efficiency, the bill allows consolidation of similar claims and electronic transfer of information with the express consent of all parties. Once a demand letter is filed, insurance companies only get an additional 15 days to verify validity of claims. To fund a proactive legal deterrent against filing capricious or inflated claims, \$2 million has been earmarked for grants to state prosecutors in metropolitan areas, including Palm Beach and Broward Counties.

In contrast with the regular session political infighting that thwarted the creation of any replacement for the expiring no-fault PIP, the bill whizzed through the House (105 - 4) and Senate (37 - 0). Governor Crist wasted no time, signing the bill into law on the last day of Special Session C - October 12th. The controversy engineered by the insurance industry was fueled primarily through an industry-funded political action committee, "Floridians for Lower Insurance Costs". After writing letters to policyholders promising to lower auto insurance premiums if the mandatory PIP coverage was eliminated, auto insurers sponsored a battalion of lobbyists to undermine any attempted political compromise among lawmakers.

Upon learning about lawmakers' intentions to revive a reformed No-Fault bill, PAC spokeswoman Allison North Jones blamed the measure on special interests and threatened, "Any reenactment of no-fault will not only result in the reversal of those savings for drivers, but potentially higher auto insurance rates imposed by lawmakers."

Continued on page 18

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Special Session...Continued

constitutionally empowered Taxation and Budget Reform Commission is better equipped to deliver the permanent long-term reforms necessary to kick-start the economy and bring equity to the tax system. A few days after Governor Crist signed the statutory tax reform bill on June 21st; former Republican Statehouse Speaker Alan Bense - chairman of the Taxation and Budget Reform Commission - expressed his intention to formulate an alternative plan in the event that the legislature's efforts were undermined by politics. Heading the dedicated blue-ribbon panel of business, union and government leaders appointed by Crist, Pruitt and Rubio, Bense exclaimed, "My instincts tell me to go ahead and pursue other alternatives so that on January 29th we're not caught flat-footed and have to just start up brand new."

Imbued with a broad mandate to assess the State's existing budgeting needs and recommend the best possible fiscal recipe for addressing them, the Commission is empowered to place constitutional amendments relating to taxes and budgets directly on the November 2008 ballot. Suggesting that panel participants might be better positioned than

elected legislators to make tough decisions free of political considerations, Bense commented, "I'm very cognizant of the fact that elected folks should frankly have more power than appointed folks, especially as it relates to taxes. But part of the job of the commission is to make some of the decisions that politically can't be made." Clarifying the Commission's flexible mission limits, Bense said, "I don't think there's anything we can't do. The challenge is narrowing the scope of our work." Recommendations could include asking voters to eliminate sales tax exemptions, the imposition of an income tax or approval of a more equitable property-tax.



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Continued on page 16

RUBIO CREDITS BOGDANOFF WITH NO-FAULT RESCUE

Article by Eric Berkowitz

House Majority Whip Tackles Special Session C Afterthought

In early September, Legislative leaders and the Governor set about making plans to establish a general framework for reducing state spending. On September 28th, Florida Senate President Ken Pruitt and Statehouse Speaker Marco Rubio issued a Joint Proclamation announcing a 10 day Special Legislative Session beginning on Wednesday, October 3, and ending on Friday, October 12, 2007.

The Special Session (Special Session C) was convened for the sole and exclusive purpose of considering: legislation making adjustments to fiscal year 2007-2008 appropriations; legislation providing for the redirection of trust fund revenues and balances to the General Revenue Fund; legislation making adjustments to user fees; legislation to conform Florida law to such adjustments and redirections; and legislation narrowing the definition of "municipality of special financial concern" created by Section 8 of Chapter 2007-321, Laws of Florida. This agenda was designed to deliver emergency reconsideration of a \$1.1 billion budget deficit.

On the same day, Speaker Rubio sent another correspondence to Governor Crist. He drew the Governor's attention to two other critical issues facing deadlines – property taxes and mandatory auto insurance. While a statewide vote to amend the Florida Constitution was scheduled for January 29, 2008 to supposedly lower property taxes, the ballot language had been tossed out by a North Florida judge who decided that it was confusing and misleading. Since amendment ballot preparations require three months notice, lawmakers had until October 29th to reword and/or tweak the Amendment. Without bi-partisan support in both Legislative Houses and the Governor's blessing, its prospects were bleak. The House and Senate had until the end of October to work out their differences and author property tax reform ballot language capable of eliciting the broad support needed to pass. (Unfortunately, characterizing the tax reform product ultimately finalized in Special Session D as a disappointment would be a tribute to understatement.)

Secondly, Florida's Motor Vehicle No-Fault Law, and with it the requirement to maintain personal injury protection (PIP) benefits, expired on October 1, 2007. The No-Fault Law developed into a bureaucratic nightmare, rife with opportunity for abuse and fraud. Since mushrooming legal and medical costs became unsustainable, it was euthanized with the expectation that lawmakers would create an effective successor during the regular session. When well funded lobbies representing the insurance industry and the Trial Lawyers turned up the heat, the anesthetized legislature dozed off. Replacement legislation was shelved!

Rubio stated that since the two issues weren't included in the Special Session C agenda, without the Governor's "leadership" in organizing relevant legislative CPR, property tax reform and a functional framework for personal injury No-Fault benefits would fade to black. Setting the stage for another Special Session, Rubio expounded that the shuttle diplomacy practiced by the House Majority Whip in search of the No-Fault Holy Grail was extremely productive. He informed the Governor, "In the House, Majority Whip Ellyn Bogdanoff has worked tirelessly to craft sensible and comprehensive anti-fraud legislation. With my full confidence, she has conducted lengthy and inclusive deliberations between the House and Senate, your office, various stakeholders, and legislators from both sides of the aisle, which ultimately yielded substantive



Representative Ellyn Bogdanoff explains No-Fault bill to Statehouse peers



Representative Ellyn Bogdanoff and Senator Bill Posey look on Governor Charlie Crist signs their new No-Fault bill into law.

compromise legislation."

On October 1st, the Governor issued a proclamation incorporating the fruit of Bogdanoff's handiwork into the Special Session C agenda. In framing his expectations for an acceptable No-Fault law, Governor Crist said, "Reenactment of Florida's Motor Vehicle No-Fault Law with reforms designed to lower costs and eliminate fraud and abuse such as: minimum qualifications for care providers, a uniform claims process, a fee schedule to help control medical costs, increased enforcement authority and increased funding to crack down on fraud, and litigation reform aimed at streamlining the claims process and reducing legal costs, will serve the best interests of the people."

Crist wasn't alone in supporting a fraud-free No-Fault renewal. Florida Chief Financial Officer Alex Sink indicated that if the legislature divested the existing law of its predisposition for abuse, renewing No-Fault protections would serve the public interest. CFO Sink notified Crist, Pruitt and Rubio, "In absence of the No-Fault Law, Florida will require motorists to purchase insurance that covers damages to others' property, but fails to require this same financial protection for innocent Floridians injured in an accident. This means that Florida law will protect cars, but not people.

Continued on page 6

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Commissioner Christine Teel December Newsletter

without causing devastating results to either people or property on the ground. In an effort to prevent reoccurrences in the future, I encouraged my colleagues on the commission to pass a resolution urging congress to appropriate the necessary funding for thorough and timely investigation of these types of incidents, preventative safety inspections of both the aircraft and crews, and implementation of stricter safety guidelines. The commission unanimously approved the following resolution on October 2nd that will be forwarded to the Florida Congressional Delegation.

WHEREAS, the City of Fort Lauderdale is responsible for the safe and efficient operation of the Fort Lauderdale Executive Airport; and WHEREAS, the City of Fort Lauderdale has established standards, rules and regulations for businesses located at the facility; and WHEREAS, the City of Fort Lauderdale City Commission is concerned with the safety and welfare of all its residents and desires to ensure that aircraft and airmen operating in the area meet all standards of safety, maintenance, and training; and WHEREAS, four aircraft accidents have occurred on roadways surrounding Fort Lauderdale Executive Airport in the past two-and-a-half-years, and WHEREAS, the Federal Aviation Administration (the "FAA") retains authority for the safety of civil aviation and the operational aspects of flight and its major responsibilities include regulating civil aviation to promote safety by issuing and enforcing regulations and standards regarding the manufacture, operation, and maintenance of aircraft; certifying airmen; and ensuring the safe and efficient use of navigable airspace; and WHEREAS, the FAA Administrator has submitted a budget request to the United States Congress which includes \$9.4 billion for safety programs and said budget request provides funding for inspecting aircraft, certifying new equipment, and ensuring the safety of flights procedures and the competence of airmen; and WHEREAS, in order to accomplish this mandate, the FAA must ensure that adequate staffing is available and that said staff is fully trained to perform these critical safety functions,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

- SECTION 1. That the City of Fort Lauderdale City Commission urges the United States Congress to approve the Federal Aviation Administration 2008 Budget request and that the budget include sufficient appropriations and adequate training for increased safety inspections of aircraft and airmen operating in Fort Lauderdale.
- SECTION 2. That the FY 2008 budget request for FAA includes, at a minimum, \$9.4 billion to meet safety goals, that include targets to reduce U.S. commercial air carrier and all general aviation fatal accidents in FY 2008.
- SECTION 3. That the City of Fort Lauderdale desires prompt and efficient investigations of aircraft accidents and the implementation of measures to prevent such accidents from occurring in the future.
- SECTION 4. That a copy of the Resolution shall be provided to the Florida Congressional Delegation.

ADOPTED this the 2nd day of October 2007.

To further emphasize the critical nature of our requests I encourage everyone in your neighborhood association to contact the following members of Congress:

- Senator Bill Nelson (716 Hart Senate Office Bldg, Washington, DC 20510-0905)
- Senator Mel Martinez (356 Russell Senate Office Bldg; Washington, DC 20510-0903)
- Congressman Alcee L. Hastings (2701 W. Oakland Park Blvd, Suite 200, Fort Lauderdale 33311)
- Congressman Ron Klein (800 East Broward Blvd., Suite 300, Fort Lauderdale 33301)
- Congresswoman Debbie Wasserman Schulz (10100 Pines Blvd., Pembroke Pines 33026)

I will continue to coordinate the efforts to improve the safety of aviation at Executive Airport.

Please feel free to contact me with any questions or suggestions. I can be reached at city hall at (954) 828-5004 or by e-mail at cteel@fortlauderdale.gov

***Fort Lauderdale Executive Airport is an integral General Aviation transportation facility serving Southeast Florida. In addition to being an important destination and embarkation point for a wide variety of personal, charter and corporate air traffic, it houses aviation businesses and flight training schools wherein local residents can learn how to fly helicopters and/or small aircraft. Unfortunately, the airport has been the site of a series of mysterious accidents. As required by federal law, accidents involving people's lives and personal property are subjected to thorough investigations to ascertain liability and flesh out databases useful for enhancing safety. Although the Federal Aviation Administration (FAA) is tasked with discharging this critically important responsibility, they have failed to adequately explain why four aircraft crashed into nearby local roadways during the past few years and, more importantly, implement whatever operational improvements are required to address this disturbingly dangerous proclivity.**

To this end, the Fort Lauderdale City Commission passed a resolution insisting that the FAA fulfill its obligation. To imbue the Agency with resources adequate to the task, the Commission also requested that Congress allocate almost \$10 billion to fund the training, equipment, certifications and inspections required to improve the facility's cloudy safety record. To be effective, our congressional representatives must make room on their agendas for the resolution. In her October Newsletter, District 1 City Commissioner Christine Teel frames the issue, explains the Commission's action to help mitigate the recurring disasters and asks for our help. While our local federal officials will politely acknowledge the resolution's relevance, without a clear indication of its importance from their voting constituencies, its effectiveness will be very limited. Familiar with the political mechanics in Washington, our Commissioner has opted to enlist those constituencies - US - to help give the resolution legs. After all, your home could be the next landing pad for Charter Flight #6643! READ ON... - [editor]*

FROM THE DESK OF COMMISSIONER CHRISTINE TEEL

We have all been concerned about the increase in aviation accidents involving aircraft from Fort Lauderdale Executive Airport, the most recent being a crash landing near Commercial Boulevard and I-95. These incidents, in densely populated areas, have miraculously occurred

Special Session ...Continued

Consistent with his primary responsibility – to achieve consensus – Chairman Bense made a conciliatory comment applauding the legislature's decision to forgo trying to phase out the "Save Our Homes" protective tax cap. Anticipating that the Commission would follow suit, he said, "I'm afraid if you touch Save Our Homes, it will taint any possible ballot initiative."

It appears that the Taxation and Budget Reform Commission is the last, and best, chance to get it right. If successful, they will plug the leak and rescue Floridians from a world of pain. They will also have saved some endangered political legacies. Time, as always, will tell.

Go to the Galt Mile website (www.galtmile.com) for additional information about the 2007 legislative session, the additional 4th special sessions and links to the actual legislation. Under the issues section, click on Tallahassee-Politics and ParlourTricks. Scroll down to follow the years chronological progress in reverse. •

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