

FloridaTrend.com

The Website for Florida Business



[PRINT](#) | [CLOSE WINDOW](#)

Wade Hopping, the In-Depth Interview

By Cynthia Barnett - 10/1/2009

Wade L. Hopping was perhaps the best-known lobbyist for developers in the state and was a key player in modern Florida history, beginning as an adviser to Gov. Claude Kirk in the 1960s. Florida Trend Senior Writer Cynthia Barnett had interviewed Hopping in 2003 on behalf of UF's Samuel Proctor Oral History Program and was preparing to interview him for this feature when he died. The following is the complete interview. [The Abridged Version Is Here.](#)

Cynthia Barnett: I'm with Wade L. Hopping, of the law firm Hopping, Green, and Sams in Tallahassee, on behalf of the Samuel Proctor Oral History Program at the University of Florida He is perhaps Florida's best known lobbyist for developers. The date is July 22, 2003. Mr. Hopping, where were you born and in what year?

Wade Hopping: I was born in Dayton, Ohio, in 1931.

B: What was it like growing up in Dayton in the 1930s?

H: Well, it was the Depression, and it was an industrial town. My father owned a series of restaurants and bars, mostly family bars. That was back when people, for entertainment on Saturday, would go to their neighborhood bar. [They would] take their whole family, the kids, the cats, the dogs. In fact, one of my dad's bars, the Zombie Bar, had the first TV in Dayton, Ohio. It was an eleven inch TV.

B: Did your family hang out at these bars with the rest of the families also?

H: Oh, yes.

B: This was a form of entertainment?

H: For better or for worse, yes. Actually, I would work there as I got a little older and stuff. I was lucky. Even though my parents divorced, I was lucky enough to go to college. I was the first one in my family to ever go to college. My dad had a high school education and my mother didn't ever finish high school because she got pregnant with me. Gosh, that's about the way it is today for some people. At any rate, I went to college because my high school advisor told me not to.

B: Oh, really? So you were rebellious.

H: Well, yes, sort of. I kind of graduated 386 out of a class of 412 because I was a late bloomer at best. We had a very good high school. Seventy percent of the students in the high school went to college. When it came my time to be interviewed by this guidance counselor, she said, you really shouldn't even think about going to college. She just made me so damn mad.

B: Oh, my gosh.

H: So I went to Ohio State.

B: That's a great story. It tells me a lot about you. Now back to your parents for one second. How old were you when they divorced?

H: I was eleven.

B: But it sounds like you were still pretty close to your dad. Did you stay with your mom?

H: Dayton was about like Tallahassee is today; it's a relatively small town. Sometimes I wouldn't see him for long periods of time, but he continued to support us. My mother was a little wild, so sometimes we were not in town. It was kind of interesting growing up.

B: Who was influencing you at that time? Who were your role models?

H: I think the thing that saved my bacon was that I got involved in the YMCA summer camps and eventually worked my way up to being a counselor or a junior counselor or whatever. That kept me from really going off the deep end because we didn't really have much supervision from my mother. She's a very beautiful woman, and when she was divorced there were a lot of guys around. It was during the war.

B: How many kids were in the family?

H: Just my sister and me.

B: Older or younger sister?

H: Younger by about a year and a half.

B: What's her name?

H: Wanda. She still lives in Dayton, actually Kettering.

B: So how did you do in college?

H: Well, it was kind of funny. They had what was called the OSPE, which is an entrance exam, and I placed right where my guidance counselor thought I should place. I had like a forty-eighth percentile, so she figured I'd flunk out. At that time, which I kind of liked, [the college] didn't give a darn. They had to take everybody who graduated from an accredited high school, but they didn't have to keep you. By the end of my freshman year, I had a B average, so I got this call from the administration wanting me to take the test over again because I was screwing things up. They offered me as an inducement a battery of tests, which is a strange inducement. In other words, if you'll come and be a guinea pig and take all kinds of personality and other tests, we'll give those to you free. I've always been intrigued by things like that, so I went and took all those tests. I actually did very well on the OSPE. Of course, you know in the first place, I'd been in college a year. My grades were against freshman, incoming kids, but I got in about the eightieth percentile.

B: What did those personality tests tell you, do you remember?

H: Not to be a scientist, not to do anything involving mathematics, [and] don't go into engineering. [It told me to] be a teacher or a lawyer or something. I was interested in history and political science, so I had a good experience at Ohio State.

B: What made you decide to go to law school?

H: Kind of somewhat by default. I'm not sure I can even tell you that. That was one of the things the testing showed that I might have an aptitude for. Along about my junior year the Korean War started to heat up. I was planning to go to law school separate and apart from that, and I made a colossal error. I dropped [my] accounting [course]. I decided I needed accounting if I was going to be in business. I took accounting and it was a disaster. I didn't really apply myself, and I was active in fraternities and active in student politics and I was playing lacrosse. I was doing all kinds of crazy things and working up to get married, so I dropped it. The minute I fell below fifteen hours I got a 1A notice to come. So then I joined ROTC, went back and took advanced ROTC. I figured, if I'm going in the military, I'm going as an officer, and that's exactly what happened. But I didn't go until after I'd graduated from law school.

B: Oh, you went to Korea after law school?

H: Yes.

B: Okay. What year did you graduate from law school?

H: 1953.

B: And were you working? How were you supporting yourself and getting through college?

H: I got a little bit of money from my dad. I was working all kinds of little odd jobs, a little bit like these kids we have in here. I was a messenger for a law firm. I worked in the [law] library.

B: And when you said you were involved in politics already, were you involved in Republican politics at that time?

H: Well, it's kind of funny. Yes, sort of at the tail end. For like one semester I was in the Young Republicans Club and that kind of thing. I was very much involved in Sigma Chi Fraternity. There were two political groups [which were] mostly fraternity dominated. There were the independents and then a group called Phalanx, and then there were the Spartans. We were the Spartans. It was a group of fraternities and sororities, and I got elected to the student senate and things like that.

B: Where was your Republican ideology shaped? Where did that come from? Was it from your dad?

H: No, my dad was a liberal Democrat and my mother was totally apolitical. What politics they did express were [as] Roosevelt Democrats. Actually, I was pretty much a Roosevelt Democrat, too. I don't know where it came from to tell you the truth. I've always been personally conservative. Not politically conservative as much as personally conservative. I remember when I was doing things for Claude Kirk [Florida governor, 1967-1971], one of my friends said to me, Hopping, you're a latent liberal. Because I was always thinking of these ideas that would move things forward. I'm very much for investing in infrastructure.

B: I wonder if that was to counterbalance your mom, that conservative side.

H: I think so. My grandparents both were very, very conservative. They were Pentecostal and a lot of religious stuff, although I wasn't particularly religious. I was particularly kind of loosey-goosey. I was a latch key kid, and a pretty bad latch key kid. I mean, [my mother] she'd go off for two or three days.

B: When you were how old?

H: Eleven, twelve. It was tough sometimes. It was unsettling, but you learn to make do and you develop some initiative. It may make you weird, but what doesn't kill you will make you stronger, is that the theory?

B: Right. Some develop initiative like you did, but some go in the other direction.

H: I think there were some close calls when you're alone between eleven and twenty. There were some close calls, some crazy things [I did] that were totally crazy, but I was lucky. I had good friends. Amongst the crazy things we did, we were not malicious. We probably violated the law 100 times, but it's not like we were hoods or anything.

B: Right, you weren't harming people.

H: No. We may harm a little bit of property, but we weren't harming people. Going to college was a big thing, that really helped.

B: How about Korea? How did that shape you?

H: That was interesting. At Ohio State your choices were to be either an armored officer or a signal corps officer or an artillery officer. To be [in] artillery, I'd have to have mathematics. I always liked to drive terribly, so the armor was perfect. They had these tanks and we drove them around the farm of the university and just had a wonderful time. Before I went to Korea, they send you to Fort Knox, Kentucky. I was in armored officer basic training there and then they sent me off to Korea. In Korea, I had a tank platoon. Actually, I was in the twenty-fourth infantry division. That's the division that was in the first Gulf War [January 16, 1991-March 3, 1991], an armored division. The Twenty-fourth Infantry Division was a division that had never been in the continental United States. It was actually formed during World War II in Hawaii, so its symbol is a tara leaf. I was in the First Tank Battalion for the Twenty-fourth Infantry Division. I was a platoon leader of a tank platoon with five tanks.

That was interesting because at the time, the U.S. military, this was immediately after the real serious fighting but there were still flare ups and we were pretty close to the front line, but the military was [in] sad [shape]. For instance, my platoon had five Katusas. Those are Koreans Attached to the United States Army. I used to laugh and say they only spoke English on payday. Then I had nine Puerto Ricans, and they only spoke English on payday. Then I had one guy who was a Lodge Act inductee. He swore that he was a former Luftwaffe [German Air Force] pilot. It used to be that when the United States Army went into the sink after World War II and discharged everybody, they used to go and get Germans and people. They'd say, okay, if you serve in the military for five years and are discharged in the United States, we'll give you citizenship. Well, they would bring them in and then they'd never bring them into the United States, so these poor people were career army. He was pretty good. Then I had one guy that claimed he was a Mexican wetback, but I never knew. He was a sergeant. He was kind of funny. Then I had some good sergeants, but it was very interesting.

B: And you were managing this diverse group of people.

H: Trying to manage it, yes. Sometimes you think it manages you.

B: Is there anything that taught you or that you particularly found out about you?

H: Oh, yeah, it taught me a lot about people that I'd never been really exposed to on an intimate basis. You learn some skills and you learn some things about dealing with people.

B: What are some of the skills that you think you later used in your [life]?

H: I really wish we had universal military training. I think it really makes you appreciate other people and where they're coming from and what motivates them. I think it teaches you that you can seek perfection, but you can't find it. It teaches you how to deal with bureaucracies and people and things. It's just a broadening experience. You know, I was a little guy from Dayton, Ohio, then got some broadening at Ohio State, and learned how to deal with people who came from an economic class far above myself in the fraternity. My dad was real good about paying my fraternity bill and things like that so I could live in the fraternity house and stuff.

B: How did you infiltrate into that crowd?

H: Well, it's interesting, the one thing my dad continued after the divorce, and I guess my mother bargained for it, was a membership in a country club. My mother was a wonderful golfer at one time and she won the city tournament. My dad was a fair golfer. To be a golfer you had to have a place to play, so they joined a country club. That meant that was a place where my sister and I could go swim and spend some of our summers when I wasn't off at the YMCA camps. As I got into the teenage years, I spent my whole summer at the YMCA camp because I was a counselor. That, by the way, taught me a lot of leadership skills and managing. I'd be fifteen and I'd be managing eight, nine, and ten year old boys and doing games with them. It's just one thing after another how you herd them, like herding cats.

B: But this country club is helping you to see how these people live and how they get along with that.

H: Well, not so much in the social [area], I just got in with a crowd of guys. A guy by the name of Sellers, who had the classic Jewish mother who had a ton of food in their house, we'd always go over there and eat. Then I became friends, particularly my junior and senior year, with a fellow by the name of Hank Stout and a guy by the name of Larry Blumenthal. The three of us ran together a lot. Hank's parents had buckets of money, so he had a car and I didn't. Larry's parents were sort of middle class, a Jewish traditional family. We were wild children. We played on an intramural basketball team called the Zoanns. People would say, why'd you name it the Zoanns? It's because some guy made up these jackets that had Zoanns on it and couldn't get rid of them. So that's how we became the Zoanns, we got them for free. I mean it was crazy. What happened was, Hank Stout was a legacy to Sigma Chi Fraternity. They had a summer rush in Dayton, Ohio, for all of the Sigma Chis no matter what school they were going to, and Hank sort of got me included in that. I never even thought about entering it, because I was lucky to think about going to college. My horizons were about that wide at that time. I think I sort of slipped through the door. I met some guys at those summer rushes and when I went to college I just got scooped up. It was a great thing for me. I didn't own a tie and I didn't own a jacket when I went to college.

B: So you learned how to move in these circles that you ended up moving in.

H: Well, yeah, maybe you could say it that way, but I learned certain things. We had a dress code four or five nights a week at the fraternity and things like it, so I had to get a jacket and wear a tie. But then the military helped

too. You have to wear a uniform, you have to keep your boots shined, and you learn self-discipline. You learn that you're discipline is important for others. Then after I got out of the military I needed work and I was having a hell of a time. I graduated from law school sort of in the middle of my class. They used to say in law school that the A students become professors, the B students become judges, and the C students make a million dollars.

B: And they were right [laughing].

H: [laughing.] They may be right. At any rate, I liked law school and I worked real hard at it. I really worked hard at it because reading comprehension and things like it I really had to work hard just to make it. But law school, again, was another one of those experiences where they let in about twice or three times the number they wanted to keep, and then they went about their business of flunking them out. I mean it was murder. We had a course that went three quarters (we were on the quarter system). If you flunked contracts, and it went three quarters before you got your grade, you were out, and there were several two quarter things like civil procedure. It was not dog eat dog, but it wasn't easy. At any rate, I came back from Korea.

B: Did you go back to Ohio then?

H: Yeah, I went back. My wife at the time was teaching in a town north of Columbus, so I went back to Columbus and I went around and interviewed and stuff. Finally, the father of the maid of honor in our wedding, probably my age now but he seemed like an old guy, offered me a job. He had made a killing in a lawsuit, so he was semi-retired to Florida. He practiced down here some of the year and had sort of a practice, a lot of acquaintances and friends, in Columbus, Ohio. He set me up in the Huntington Bank building on the seventeenth floor. God that was a lonely place.

B: In what city?

H: Columbus. So I started getting active in the community and stuff. I got into an investment club, I got into Kiwanis or something, and I got into the Young Republican club. About the time I was really getting settled there, about a year and a half after I was practicing, he calls me up one day and says, my practice here in Ft. Lauderdale is doing pretty good. About that time I said to him, you know I need some more money, you're not paying me enough. He said, "well I'll make you a partner, no more money, but I'll make you a partner." So we were Adams and Hopping.

B: How old were you at that time?

H: I was about twenty-six or something.

B: That's pretty impressive.

H: Yeah, but that was his way of avoiding paying me more. So at any rate he says, you come down and take the Florida Bar, this is 1958, and what we'll do is I'll come to Ohio in the summer and you can come to Florida in the summer.

B: Oh, great!

H: [Laughing.] And I'll be in Florida in the winter and we'll really make this work. So I come loping down here.

B: Did you realize what he was doing to you?

H: Oh, yeah, but our situation was that he was literally paying me out of his pocket. I had some business and it was beginning to work. The deal was that he was supposed to spend like six months of the year getting the practice revitalized in Columbus, and he wouldn't do it. So I thought, well, this is a way to get that done. I came down to Tallahassee as a matter of fact. It was the damndest airline flight. I think we stopped at every town along the way. We flew from Dayton to Lexington, and Lexington to Atlanta, and Atlanta to I don't know, Albany, and Albany to some other little town, and finally we landed out here.

B: And Tallahassee because the bar was being offered here?

H: Yes. I came down one week before the bar was being offered. I spent the whole week studying the nuances of Florida law and the little idiosyncrasies. I'd been warned that they really did not want to admit out-of-staters at the time. They would whip in all kinds of little oddities.

B: Like any you remember?

H: Yeah. At the time it had to do with court liability. There was a difference between Florida and Ohio law, and most law around the country, on contributory negligence. [There was also some] difference on doctrine called *Ris Ipsa Loquitur* and some things like that, and some differences in partnerships and stuff like that.

B: So who was helping you with these quirks?

H: Well, nobody. I came down here to study here. I stayed at the old Duval Hotel, but it's now the Radisson. It's been very much remodeled. I got here on a Friday and I was going to go spend all my time studying at the Supreme Court Library, and it was closed.

B: Oh my gosh.

H: So Friday I was sitting there sucking my thumb over the weekend. What had happened, and it actually turned out, it's funny how life is, but Mr. Adams had some political acquaintances with a very strong law firm out of Deland. A guy by the name of Warren Hall did a lot of appellant work and he was very close to one of the Supreme Court justices, Justice T. Frank Hobson. He says, call up Justice Hobson and go see him; you've got nothing to do, go see him. So I called him up and went over there. At the time, his research assistant was there and I met him, a guy by the name of Bill Dreesback. Hobson was a recluse, a very brilliant guy, but he was reclusive. He had this little old tiny house, every time I go by it I'm amazed at how small and teeny it is, down on South Meridan.

At any rate, Dreesback was a sailor. Dreesback said, well, what are you doing? I said, well, I'm trying to study for the bar but I've got nothing to study with. I can't get in the library and blah blah blah. He said, well why don't we go sailing tomorrow? I said okay. I mean, I had some papers, like my old stuff I had put for the Ohio Bar, and I was doing sort of a general refresher. I had a book called Clark on American Law, which is sort of a lot of black letter law. I took the bar exam in Ohio in 1953, this is 1958, and I'm trying to remember. Well, cripes, how am I going to do this? At any rate, to make a long story short, I went sailing with the guy. I take the bar exam. It was kind of funny. We're hanging out at the hotel and all these University of Florida graduates are saying, what'd you think of question X and the answers Y. I was sitting there with a couple guys from out of state and we're going, we didn't have that answer. We thought, Jesus! I came away from that thing thinking I flunked it. Well, what happened was, that became almost a scandalous bar exam because the in state guys did worse than the out of state guys for the first time ever. Somebody skewed the bar exam to get the out of state guys, and actually got the in state guys. So there was lawsuits and all kinds of things. Ellan Morphoneus, who later became a judge and had some relationship with Fuller Warren, actually got the former governor Fuller Warren to come and sue the Supreme Court.

B: It's almost like so far your life has been charmed.

H: It's not charmed. Well, I'm glad to be alive.

B: No, in the couple of different stories you've told me already, it's almost like you happen to be in the right place at the right time.

H: Well, yeah, sometimes, but sometimes in the wrong place at the wrong time too. But at any rate, I passed the bar exam and got a little telegram. Before I found out I passed the bar exam, Bill Dreesback calls me. He says, I want to tell you you're going to get a telegram shortly that says you passed the bar exam. I'm planning to leave Judge Hobson, and he wondered are you coming down for the swearing in ceremony. I said no, I wasn't planning to. He said, well would you come down for it? I said, yeah I'll come down. He said, the judge wants to interview you as a possible clerk.

B: You must have really impressed them

H: I don't know. Maybe the guys that had introduced me to him impressed him, who knows. Anyway, I come down and am interviewed and he offers me this job. It's a hell of a lot more than I'm getting. I was getting \$350 a month from this guy, and this thing pays \$8700 a year. I thought I was in hog heaven. Now you need to understand something, the top guy in our class in 1953 was offered \$250 a month. I was getting paid \$750 to be a second lieutenant. That was the period when lawyers were expected to serve peonage for a couple years. At any rate, this was a nice offer. It was just my wife and I and a dog. My wife didn't much want to do it, but we did it.

B: So you moved to Tallahassee instead of Ft. Lauderdale.

H: Yeah, and I told the guy. He actually kind of encouraged me because it was going to be an effort on his part to build this practice and troop back and forth. I was probably somewhat of a financial drain on him, and the office definitely was a financial drain, and a secretary and the books and all that stuff. So at any rate I came to work for T. Frank Hobson and found out that he was a brilliant guy. He added a little something to my life. I had never done much writing other than in school reports and stuff. [Hobson] was a terrific writer. Back in those days they would write their opinions in long hand or have them typed out on this long yellow paper. He had a very good writing style and he also had the style of putting a unique word in every opinion. Even the *per curiam* opinions where you don't know who the author is, you could always tell that it was him because he'd have a word like epitomizing or limn or something off the wall, but that was sort of a style thing. I actually [adopted] his style [as my own]. Later, when I came back and worked for Justice Terrell, when Justice Terrell died, I wrote an opinion to complete his work load.

B: So you wrote opinions for him after he was dead.

H: Well, yeah, but they were signed by Justice Roberts, endorsed by Justice Roberts. So I'm writing this opinion and then later I'm listening to some lawyers and they said, that opinion sounds just like Frank Hobson would have written.

B: And it even had the unique word in it?

H: No, I left the unique word out. You know, we either merged our writing styles or whatever. The way we worked in that office, and I was there for two years, he would give me the case and after the first few months I would draft an opinion. He'd tell me what he'd want. Because of the way they do it, they hear oral argument, then they have a conference, then they actually do a preliminary vote, and then the case comes back to the office and someone's assigned the responsibility of writing the opinion and carries it out. Or he may come back and say, I'm going to write this opinion and I don't give a damn what they say. I'm going to convince them by the brilliance of this opinion that they ought to go with me on this, even if their preliminary vote was the other way or it was split or something. He'd tell me what he wanted and I'd sort of go do it. It was hard but it was not unmanageable because you have these briefs of the parties and you know the cases. But you have to write an opinion that makes sense and has to be in historic context. So I would write the opinion and he would edit it, and we'd go back and forth for sometimes weeks.

B: It really taught you argumentative skills also in writing.

H: Well, it taught me how to write and taught me how to persuade by writing. It made me a slow writer though.

B: A slow writer?

H: Yeah, although in later years I got so I could dictate a brief and stuff like that. That's one of the things I hate, there are no secretaries around you can give dictation to. I used to haul this couple poor secretaries in my office and dictate it to them for three or four hours and do the whole brief.

B: But the computer should be...

H: No, I can't type as fast as I can think.

B: Well, they have voice recognitions...

H: I tried that.

B: It didn't work?

H: No, it didn't work at all. I've got it on there, it's called Dragon, and it don't work, I've tried it. Maybe some day, but not now. The Hobson thing, I worked for Hobson for two years.

B: What were yours and your wife's early impressions of Florida?

H: Well, I liked it, I'm not bothered by the heat. I think I liked it much better than she did. The first time I went into a store to try to buy a pair of shoes from a black clerk, I thought I was in a foreign land. I couldn't understand what they were saying. It wasn't so much what they were saying, it was the rhythm of it compared to what I was used to.

B: So that was shocking.

H: It was shocking. When I first went to work for the Supreme Court I probably could more characterize somewhat a populace. Although I was a great state's rights believer, I was a great believer in equity and equality for people and equal opportunity for people. I was a little aghast at the time, I used to laugh, it had its johns [bathrooms] labeled things like "lawyer", and then it had "colored person", and then it had "justice." The johns were bizarrely labeled throughout the building. I wish I'd have gotten a collection of those things. It was incredible because I always thought, if you were a black female justice there was no place to pee, or you could pee everywhere. It was...

B: Bizarre.

H: Bizarre. It took a lot of getting used to the segregation and stuff. Being with the court was sort of apolitical except for bar politics.

B: So how did you come to know Claude Kirk then?

H: I'll shortcut that. I went away and practiced in Palm Beach for a couple years, and then Justice Terrell's wife called me and said her husband was in bad health. He had been on the court for over forty years. [She asked] would I come back and be his research assistant. I did not like South Florida.

B: Why?

H: It had no change in the weather basically, and my wife and I were having some problems. Although I was doing real well down there, I was with a guy that was hard to work with.

B: Is this guy still around?

H: Buck Baugher. I don't know, I don't think so. He was older. I'm a great believer in corporate culture, that if you're comfortable in [your] corporate culture you'll succeed, and if you aren't you won't. He and I didn't see and saw very well together. I had some modern ideas about the practice of law and he had none. I'm not faulting him. He was very successful financially and he is a very, very crafty, good lawyer. [He did] a lot of estate planning. Every time I tried to anticipate something with him I anticipated it wrong. Have you ever been with somebody where no matter what you did, it was wrong?

B: Yeah, you can't work in that situation.

H: I know. At any rate, this was perfect when she called and said would you come back. So I came back and helped him do a book, which was interesting, on a collection of his opinions, and we did the preface [for each opinion]. He was getting ready to retire. He decided he was going to retire as soon as we completed this book. So I started looking around for a job. I may have actually precipitated his retirement because somebody from the Municipal Code [Corporation] came over and offered me a job with that organization. I'd have probably been rich as Cresus had I done that. I was very active in The Florida Bar. I had a call about the time they found out I was getting ready to retire from Marshall Cassidy, who was the head of The Florida Bar. Chesterfield Smith, who just died, was president of The Florida Bar at that time, or about to be president. So I was hired by The Florida Bar to run their continuing education program. I ran that program for three years. I guess Chesterfield was just on the board. What happened was when Claude Kirk was elected governor, and I was a Republican but I didn't [know him].

B: So you hadn't gotten active in Republican Party politics in Florida.

H: No, I was working for Democrats the whole time. I knew a little bit about the politics just by osmosis from being over at the Supreme Court in Tallahassee and learning about the politics. When Claude Kirk was elected, the Constitutional Revision Commission was going on. Chesterfield Smith was either chairman of that or big in that [he served as the chairman], and he was simultaneously either president or immediate past president of The Florida Bar. Claude Kirk said to Chesterfield Smith, here I am elected in November, you guys are deliberating on the future of the state, you need to get the bar to give me a lawyer to help me as my advisor on constitutional revisions. So Chesterfield Smith and the bar lent me to Claude Kirk for sixty days starting in November. It was supposed to be temporary until he could get a staff going. I went down and interviewed with Claude Kirk. That's when I first saw Erica [Kirk's wife], the famous Erica in the bikini. I wasn't sure I'd ever seen a bikini before then.

B: Where did you go?

H: He was camped out at somebody's house in Palm Beach, some lavish house, and out there was this woman in a green bikini. Erica was a voluptuous woman, an attractive woman, the mystery woman. Anyway, I'd met Claude Kirk and he was interviewing a bunch of folks. I guess since I was free, I get on board with him and start helping him with various [and] sundry of things. We had a very small staff at that time.

B: Is this in Tallahassee when he has first taken office?

H: Well, he hadn't taken office yet. So I'm mucking around learning about the constitutional revision and I've left the bar. [I'm] being paid by the bar, but I'm over here doing constitutional revision. The governor says to me after about a month, I want you to go on my staff and work for me full time. Back and forth back and forth, I don't know, so I decide to try it.

B: What did you think about him at that point, because it sounds like you are a much straighter person so to speak?

H: Well, he's very charismatic. I always laugh and say Claude Kirk had 100 original ideas a day. Now most people only have one original idea a year, maybe an original idea a month, but he had 100 of them. He had maybe, to be more honest, ten original ideas a day.

B: That's amazing.

H: He thought every one of them was perfect. What he really needed that he didn't have enough of were people to say, hey, that's a bad idea.

B: When you said that, did he listen to you?

H: Not at first. We had some interesting engagements over that. Actually, that's something that really probably helped me more than anything else. My current wife always accuses me of wanting to avoid controversy.

B: That doesn't sound like you.

H: Well, I do and I don't. I mean, I always want to work it out. I don't seek controversy. I'll have it, but I want to work it out. Kirk was really a character. Republicans have this little bit of habit that I call the shoot, ready, aim habit. During his inaugural address, without bothering to tell a single legislator, he announces he's calling a special session ten days later for the War on Crime [and] then he's going to hire Wackenhut to be his state cops. We had no state police at the time and we had no division of law enforcement.

B: So had he bounced this off you?

H: Well, sort of, it was in the speech. It was a little like some administrations you're familiar with. It was like the first time you see these ideas are in a speech somebody wrote and then you're like, go do it. It's like, oh, well, how do I do that? The classic was during his campaign, which I had nothing to do with, he went around and told everybody and he answered every question on a policy with, like what are you doing about the schools, well I've got a White Paper [on that issue]. I've got these [experts] out there writing the white paper. Hell, I came along after he was elected and wrote some of those white papers. It was crazy. But the guy had great ideas and got himself elected, well actually the Democrats elected him because they were having a war.

B: So you went to work for him despite the fact that he didn't always listen to you.

H: Well, at the time I went to work for him I didn't really know what an assistant was supposed to do. The office was very clearly divided into political and PR on one side. A young guy named Tom Ferguson tried to run [that side], and I had all [of the] governmental [issues]. So I had, "working for me," people like Nat Reed, and later Chuck Perry. You have to remember at the time we went into the governor's office, the governor's office staff was like eighteen people, including somebody that was called the janitor.

[End of side A1]

B: It was small and you were doing a lot.

H: Well, we were doing a lot, and he had an expansive legislative program. He really wanted to reform the state.

I've told this story 100 times, so I hope it's true (laughing). They say never let the truth get in the way of a good story. Actually I know it's true, but I've heard other versions of it, which were different. What happened was he calls this special session in February on the War on Crime. The legislature comes to town mad as wet hens. There are no Republicans to speak of in either house; like four in the Senate and twelve in the House. The leadership, Dempsey Barron and all these people, come down to his office and they're going to chew him a new one, and I'm walking in behind them. In addition to all my other duties I'm now in charge of legislative, and I don't know exactly what I'm doing. I did get some good advice. I went over and spent a week with one of Haydon Burns' guys. I just said, would you let me be with you for a week? He said, yes, but every now and then I'm going to ask you to leave the office. I said, it doesn't bother me. Finally he got to liking me and he said I'll give you some advice: like keep your door open as much as you can because people think you're doing something sneaky; never say you're going investigate something and say you're going to look into it, the media can't do much with that but it's the same result; cancel your subscription to a newspaper; and make up a list of your current friends because you're going to have new ones, and check your current friends against the new ones so you don't get over awed by somebody [new].

At any rate it was good advice and I learned how the office functioned. It was smart to do that. Anyway, they all hauled into the governor's office. I'm walking in and here's this silver chalice that I think candy used to be in. I see this telegram in it addressed to the governor. So I pick it up; hell, I'm his assistant, I'll open the telegram. The telegram says, the Florida State Legislature is malapportioned. The legislature may only meet for the sole and single purpose of reapportioning itself. Mandate follows. Signed by the [clerk] of the [Supreme Court] of the United States. So I get in there and they're just going back and forth. I said, excuse me, excuse me, and the governor thinks I'm an idiot, what is this lowly assistant doing? Excuse me, I've got this telegram here Governor and I think you better read it. I hand it to the Governor and he read it, and then he read it to the troops. It was like somebody had shot a gun. They went firing out of there and they did meet and reapportion themselves. When the special election was held, the Republicans kind of got organized and ended up electing like twelve senators and thirty something representatives. The guys they elected were conservative, but they weren't ideologues like the current House. They were more business oriented, more people from out of state, more willing to move forward, [and] more willing to make this a modern state.

B: So this was sort of the beginning of the end of the "pork chop" era of Florida politics.

H: Yeah, because when they reapportioned that time it did shift politics south and around and more urban than rural, and all kinds of new faces arrived. Those were the people I actually dealt with for the next two years.

B: Let me ask you about Governor Kirk's environmental stances because I want to spend most of the rest of the time talking about some of the growth management changes that we've seen since then. He's considered very strong on environmental issues, creating the Florida Air and Water Pollution Control Act in 1967, tightening up dredge and fill. What did you think of those environmental stances at the time?

H: I thought they were good.

B: Did you?

H: I thought they were good, yeah. What happened was he had a dollar a year guy, Nat Reed, who espoused a lot of those things, but some of those things were coming to pass. You used to be able to fill out to the bulk head line, and that was getting out of hand. The water quality issues were coming along. We had a terrible phosphate spill that one of the slime ponds spilled. It made no sense to have an air board and a [separate] water board. We had two of them and they were totally differently structured. The Governor wanted to reorganize state government. We had 300 semi-independent boards and commissions. So it kind of fit in with constitutional revision and kind of fit in with his vision of a streamlined government. By the way, we had a very weak governor at that time, very weak. It was probably the weakest in the South. So some of that was to fit in with this concept of bringing some of that power back to himself.

B: So part of it was the times. It was time for some of those changes to be made.

H: Right.

B: How was the development community reacting at that time? Were people peeved at him for these environmental stances?

H: To some extent. Some of it was helped along by some land sale scandals.

B: The Gulf American?

H: Yeah. In essence there'd be this problem, and Claude Kirk was very proactive in solving those problems. He appointed the first water quality committee. There was some federal stuff going on. I actually ended up being general counsel to that committee and Chesterfield Smith actually was the chairman of that committee. I'll give Kirk credit. Kirk had a very progressive outlook towards things. I'll give you one story that epitomizes that. Right after he was elected, at the same election, there were two judges elected, one Democrat and one Republican. At that election there was a revision to Article Five of the Constitution. That revision said you had to be a member of The Florida Bar for ten years, or five years or whatever it was, before you could be a judge. There were two circuit judges elected, one a Democrat and one a Republican, who did not qualify. They had been lawyers for longer than that, but they hadn't been members of The Florida Bar because they had come from somewhere else. But they had gotten elected by the citizens. He said, I'm going to make sure those two guys get to be judges. He worked it around. He said, the people have spoken, by God that's what we're going to do. Both of them had like a year to go or something, so we either put in a temporary judge or something. I can't remember exactly how he did it, but he was very much honorable that way.

B: Yes. Do you think it's fair to say he also seemed to be for the underdog?

H: Oh, yeah. He loved the publicity that goes with it, but intuitively he liked that underdog position for both himself and others. You know, overcoming great crisis.

B: Maybe the environment was somewhat of an underdog at the time.

H: Yeah. Also, it gave him a chance to beat up on the cabinet. He liked that, it was part of his life. He called himself Snow White and them the six dwarfs. He did all kinds of crazy stuff. Some of it was pure political and some of it wasn't. He really wanted to do good for the state [and] he wanted to modernize the constitution. But then some of it became somewhat of a game. Some of it was issues that were presented to you. You know, improving education and the whole education thing. The teachers went on strike and all that stuff. That wasn't an issue that he necessarily caused, it was them thinking they could run over him so he proved they couldn't.

In the environmental area we were more proactive. In the law enforcement area we were more proactive. We would get the best advice we could about environmental issues from around the country and from the National Republican Governors Conference. I went off and actually met Nelson Rockefeller [Governor of New York, Vice President of U.S., 1975-76] and worked on a national [committee] to say, this is what we're doing in Florida, what are you guys doing [in your state]?

B: Now he has been characterized as someone who didn't care a whit for the environment but did these things because it was politically expedient. Do you think that's true?

H: No, I don't think that's true. It's hard for me to really remember what his environmental stance was. We served him up choices on all kinds of issues. It'd be go or no go. He wanted to be Vice-President or President of the United States and that kind of stuff, but the environmental thing wasn't resonating that well. The crime thing was resonating better. The education thing was [resonating better].

B: So he didn't have to do these things.

H: No, he didn't have to do those things. Part of it was Nat Reed pushing, part of it was us pushing, and part of it just made sense. I mean, you looked at the numbers, you looked at what was going on.

B: The water pollution and so on.

H: [Yeah], the water pollution and stuff. I'll tell you how that water pollution really came up. As my recollection was, most of the cities and counties were discharging [domestic waste] into the streams after [primary or] secondary treatment. Well, secondary treatment is not much. In fact, some of them were discharging primary treatment if I remember right. We had done some numbers along with some newspapers that said, look, for \$4,000,000,000 we could get them all on secondary. But to go the rest of the way to tertiary is going to cost another \$8,000,000,000. What sort of led to your water pollution issue was really trying to get them to not discharge [untreated waste] directly into the ocean [or streams].

B: Do you remember any of the politics on that water quality committee that you were general counsel of?

H: Yeah. We were setting the stage for the adoption of the first water quality standards in Florida. There was a

national program going on and there was a red book that EPA had done. We made some mistakes. We sort of took that red book, seemed to be authoritative, made a few changes in the numbers, and applied it to Florida. Are you familiar with the dissolved oxygen standard in any way, shape, or form? Well, the DO standard in the red book was developed based on trout in North Carolina streams. Well, that didn't work too well in Florida, and we made it even worse. The number that the red book suggested was like ten, okay, well we cut it in half. We did a lot of that kind of craziness to say, okay, if it's good enough for those North Carolinians, we'll just make it twice as good. There was a lot of that nonsense that went on originally. The environmentalists [were] saying, yeah, Florida's got to be better, and the governor [was] saying, yeah, we're going to be better, without really thinking through what you are talking about here. They've got fast flowing, bubbling, well oxygenated streams, and fish that require a certain level, and we've got shallow, sun beaten down, tannic acid filled streams that just meander, and our fish are used to a hell of a lot less than that. We got ourselves into a mess on some of those.

B: Did you not have good scientists working with you at that time?

H: Nobody had good science. The Feds didn't have good science in those beginning days. It was more conceptual ideas, but I think we did pretty good. In the early stages of environmental protection it was more setting up a good process. Later, in 1972, I didn't have anything to do with it, we adopted a whole bunch of air standards that had to be undone in 1975. We had to spill blood to get it undone.

B: In other words, there was sort of a frenzy it sounds like.

H: Yeah. For instance, they were going to make all the utilities in the state go to 1% sulfur fuel by 1975, across the border. Well, we get to 1974, and I'm representing Electric Utilities, and our scientists say this is crazy. We don't need to do this and there's no justification to do this. We're meeting national primary and secondary standards everywhere in the state; this is insane. We're just going to up everybody's cost in the state for no good purpose.

B: So it must have been a battle to get that undone once you had it.

H: Well I'll tell you how we did it.

B: How?

H: It was fascinating. I got to be pretty good at Rube Goldberg schemes through my career, and this was one of the better ones. Bill Frederick was the chairman of the DEP, and we were having a series of hearings. We had worked hard and we had brought some administrative challenges and this stuff. My scientists said to me, and I had good ones representing the Electric Utilities, this is insane. We can prove that if they let us continue to burn 2.5% sulfur fuel, the air quality of this state will meet all the standards, national primary and secondary standards, when in the North they weren't even meeting primary. So we said, okay, are you willing to bet your career on it? Yeah. Okay. So I got the Electric Utilities, working with the chairman of the committee, to say we will do a study. I can't remember how much it was funded, like \$4,000,000 or \$1,000,000, and the Electric Utilities put up the money. [They said], we'll put up a system so that the money is cleansed, in other words the money doesn't control the study, and we'll have all these peer review panels and we'll do a one or two year study, I can't remember how long it was, and we'll be bound by whatever comes out of that study. The environmentalists at that time were so full of themselves they said, okay, we'll be bound by it too. By God we did the study, and it was pure as the driven snow. People were brought in from all over the country, all over the world, to peer review the results. They had these peer review panels and the doctors from the south Florida hospitals were on these, we had them. The study came out and said, yep, you're absolutely right. But I'll tell you, the funniest part about that was when I got all the presidents of all the companies on the phone with Bill Frederick and they committed to putting up this money. That was a big deal on their part and a hell of a risk on their part.

B: Yes it was.

H: Because it could have gone the other way. The study was crazy. Some guy at the University of Florida had these dogs smoking cigarettes. I mean, it was crazy. There was a couple things that came out that were nutty. It's called the SO2 Study. So we changed the standards. But you know you make some mistakes going in.

B: Well, I want to move on to ask you in 1971, but first I know you served on the Supreme Court, so I don't want to rush too fast over that. That was from 1968-1969?

H: Actually yeah, he appointed me in August 1968. I had to run as a Republican with carrying all his baggage and my own. Although I was amazed at people who gave me money.

B: Oh really?

H: Yeah. God, it was amazing. I got the endorsement of the teachers. They were so mad at him they couldn't stand it. Actually Pat Tornielo [Head of Miami-Dade Teacher's Union] and the teachers endorsed me for the Supreme Court because I had been negotiating with them [on school issues]. See they knew me and they decided, well if we've got to have a [Republican] I guess we'll have a devil we know instead of a devil we don't know. At any rate I lost that race and I wrote about seventy opinions. Somebody said, well what's the difference between being a clerk and a justice? I said, well when I was a clerk, I didn't have a clerk.

B: You were the one writing the opinions.

H: Right. No, I actually wrote most of them because I had clerks that didn't know how to do it. But they did the research.

B: So where were you in 1971 when Governor Askew is elected? Where had you gone to work?

H: I went to work for Mahoney, Hadlow, Chambers, and Adams in Jacksonville.

B: Oh okay, so you had moved to Jacksonville.

H: Right, and I got divorced in that time frame.

[Break in the tape]

B: We were just starting to talk about Governor Askew's administration. You are single and you're living in Jacksonville.

H: Well, I don't know, I may be just in the process [of divorcing], but I'm in Jacksonville.

B: Now are you specializing in any sort [of] land use at that point?

H: Sort of.

B: Where is it?

H: It's kind of funny. I went over there because I admired one of the members of the firm greatly.

B: Who was that?

H: Bill Adams. He's just one of the best lawyers I've ever met. Part of the reason I went over there is because Claude Kirk is still governor and I knew if I practiced here, I had some offers here, he would have me working for him free forever. He would just act like I was still there.

B: So you needed to escape.

H: I needed to escape a little bit, and I was trying to save my marriage sort of belatedly. I started to do some environmental work for Rainier and for the beginnings of a town called Palm Coast.

B: That must have been interesting.

H: It was. They were going to do a land sales operation and I was giving them some advice. One of my biggest clients was General Development, and they had some land sales problems and some growth management problems. They didn't call it that then.

B: I was just going to say, you're calling it growth management, but we won't see that for a little while.

H: No, it was zoning and a lot of federal and state registration issues. Even during the Kirk administration there had been some land sales scandals where people were selling swamp land. The cure was a series of disclosure

legislation where people had to disclose to you that their land was underwater. It was very complex legislation.

B: Governor Kirk really cracked down on that, right?

H: Yes he did, and I helped write a lot of that legislation. So now I'm outside in typical revolving door; somebody said okay, they're adopting regulations and stuff and they're crazy, we need to work with them or we need to get this changed. The crack down, aimed one direction and hit the other target, so it's putting us out of business, or whatever it was. I started lobbying for General Development.

B: So this is back in 1970 and 1971 that you're already lobbying.

H: Yeah, right.

B: I understand at that time some 60% of Florida's land was not under any zoning regulation.

H: Yeah, it's starting to emerge.

B: Okay, it's starting to emerge in some communities.

H: Local communities, and the more urban communities of course have zoning by now. [It was] all kinds of crazy zoning. I mean, some of its anti-development, some of its pro-development, give away the store. There's a little town called the town of Medley that incorporates itself. There's nobody living there; just ten people live there. They're trying to get the gas tax and the cigarette tax. It's crazy stuff going on in Florida, as usual Florida, you know? And all these people moving in. I started to build a practice with some environmental stuff. I knew the people who were still on these regulatory boards. I knew Nat Reed, who was still around. I think he may have been chairman of the [DEP] board and stuff. So I'd commute over [to Tallahassee]. Then the legislature met every other year. I can't remember what year it was it met, [but] I came over and lobbied.

B: Do you remember what some of Palm Coast's early issues were?

H: Well, at the very beginning they conceptualized a 90,000 acre project to straddle two counties. This was before the DRI law, but it was close. The DRI law passed in 1971, I think, and was effective in 1972. See, ITT bought Rayoner, and then ITT was in this big expansion mode and it bought Levitt and Sons [developers of Levittown], you know the community. So I was going up to wherever Levitt was in New York and kind of trying to give them some advice about how to structure this community they were planning. They had an engineering firm. I was trying to give them some advice on the regulatory laws they'd have to meet and things like that. They wanted to do a land sales deal, you know, sell 1/3 acre lots. They didn't want to run into the problems, the Mackles of General Development had run into, but at the same time they wanted to have this money machine. ITT was one of those big conglomerates where they would meet once a year and each group in the conglomerate, like Wonder Bread, would have to say well, we made 56% profit. So these guys wanted to maximize the profit and I was there kind of pushing about, well wait a minute, long term you're going to be better off to do it this way or that way, or here are the regulatory hurdles you'll meet. So we were just in the beginning stages of that.

B: Did developers understand that the DRI was on the horizon?

H: No.

B: There was no clue?

H: No clue. I mean, they knew they had to register under the Land Sales Act, [but] even that was foreign to these New Yorkers. They didn't get it exactly. It was in the year of bigger is better, so they came up with this concept of this 90,000 acre, 250,000 people community that they were going to build a large part of it in a county that had 2,500 people in it. So you can imagine. It's like they surprised me. I'd go up for these preliminary meetings and I'd try to give them the best advice I could and we'd argue back and forth and we'd give them legal papers and all kinds of memorandums. Then one day I get a call and they say we're having this announcement at Princess Estate in Flagler County, and come on down. When I got there for the first time I see this nine villages, 250,000 people community.

B: Wow.

H: Immediately I see all these problems.

B: Right.

H: But, you know, I'm just a lawyer from Jacksonville who's trying to kind of feel my way through all this stuff anyway. Then two big laws pass in 1971 and 1972. One is the Water Resources Act, and I played in that.

B: Let me take you back one second. Governor Askew, in the fall of 1971, has this huge conference in Miami Beach, and I was wondering if you were there.

H: On water?

B: Yes, 150 people.

H: No, it was mostly environmentalists.

B: Yeah, that's what I was wondering.

H: It was skewed, but it was mostly drought driven.

B: It was drought driven, but they ended up making a very strong statement that would end up kind of launching the land management, as well as the water management.

H: Oh yeah. It was mostly the liberal wing of the liberal wing of the liberal wing. I call them Enviros, but it was those people who, for one reason or another, didn't want to see too many more people come to Florida and who were worried about the long term environmental health of the state, somewhat sincerely I'm sure.

B: But it sounds like that was a very partisan effort. After that Askew creates a twelve member task force chaired by John DeGrove that will end up writing these four very significant laws. So it sounds like you're saying the developers had no idea.

H: Well, they may have had one or two participants. A lot of these, and we're even seeing this [in the Wekiue River story] and some other things, is you get these committees loaded up with these people and then they have one or two developers on it to give it some gloss and the gleam of legitimacy. Sometimes the developers are their own worst enemies. I mean, they'll appoint some guy [who is the] president of the company who doesn't have his hands down in the dirt trying to get a permit or something and [doesn't] really understand. He may well understand the large concept, but he doesn't understand all the process you're going to have to go through. My recollection is [that] we had Senator Nelson pushing the water bill along with Jack Shreve, who was a legislator at the time. I played a little bit in that.

B: Now by the time it gets to the legislature, I was telling you I had read John DeGrove's book about this, and it sounds like he quite purposefully sort of got all these experts like Fred Bosselman, and you were sort of blind sided.

H: Yes, Bosselman and I went around and around.

B: But the law makers saw those experts from the American Bar Association and said, wow, these people really know what they're talking about, we need to do this.

H: Well, we were definitely on the defensive

B: So you were fighting it in that legislative session, but it just didn't work?

H: Well, we got a lot of changes to it. In the big amendment Joel Gustafson was the delay in [implemented aid] vested rights provision.

B: What was that? Could you explain what that did?

H: Well, two things. We made the bill effective a year later. In other words, it wasn't effective until July 1 of the following year, so we had an intervening legislative session. But that also gave us a chance to qualify for a vested rights provision that we created. We said if the land was platted by July 1, 1972, well there's a hell of a lot of platting that went on between the summer of 1971 and July 1, 1972. As a matter of fact, a lot of litigation followed Palm

Coast's effort to plat.

B: I was just going to ask you about that. So Palm Coast hurried to plat its development out, and you must have encouraged them to do so.

H: Yes I did, I encouraged all my clients to do so. We wrote some memorandums and we said, look guys, if you've got something on the books get it done. We said, here's the law, follow the law, but get it done. If you want these vested rights, then you need to get it done. Remember the way the law was set up, another commission was appointed to decide what a DRI was. You remember?

B: ELMS I.

H: Right, so I played at the edge of that a little bit. That was also a concession we got in the bill.

B: The definitions, yes.

H: I like John DeGrove; he's smart as hell. I thought Fred Bosselman was a jerk and a pain. He had written a book; I can't remember what it was called now.

B: *The Revolution in Land Use Planning* or something.

H: In which he essentially postulated that you didn't have any property rights and the only property rights you got were rights granted to you by government. I thought that was preposterous. That's probably when I got labeled as a conservative or something. But that's the distinction between being an American and being under some king somewhere. I read his book and I thought it was ridiculous. I mean, he came down and acted like he knew everything there was. Actually, it took us awhile to educate some senators. Senator [Jim] Williams, who later became lieutenant governor, was the first to get it. I was teased the other day by a long time staff member from the senate who has retired. He said, are you still going in and telling the committee? He said, you used to get up in front of these committees and you'd say to them with these bills that were fifty pages long, I don't know whether I like this bill or not, but I started reading it and when I read it this is what I found, look on page twelve. He was making fun of me. Look on page twelve and it says this and what do you think about that? Well, that was the problem, no one was reading this stuff.

B: They were relying on these experts to tell them how smart it was.

H: Absolutely. It was awful. I was reading it, and some of us were reading it, and I was trying to get other people to read it. It was preposterous. So Bob Graham had a bill, he was a House member I think at the time, or maybe he was a Senate member, and we killed the damn thing. We actually killed it. We got it so tangled up that Senator Williams came along and we kind of came with a compromised bill.

B: Okay. Now I know when Governor Askew spoke later about the rule making process for these bills, he says it was very watered down from the original intent. But he blamed the recession. He said it was just sort of the reality.

H: Well, it was a reality.

B: But it sounds like there was a lot of lobbying going on.

H: Oh, there was a lot of lobbying going on and there was a lot of trying to understand what they were trying to do. I think the biggest mistake we made was we underappreciated the monstrous bureaucracy we would create. But as far as the intent of the bill is concerned and whether or not it was going to help, I think we correctly identified the effect of what they were doing was they were going to kill large projects. You have to make a fundamental decision whether or not it's better to have a larger project that's well planned and that can afford to set aside parks and school sites and spend some money on vacant land, or whether or not it's better to encourage people to build less than 100 unit subdivisions.

B: So you think the DRI just made people do smaller things.

H: Yeah. There was a whole career built around avoiding being in the DRI process. Any project that was near the margin would go smaller.

B: What do you think the impact of that first group bill? I think there were four, the environmental land and water management bill, the land preservation bill, and there was this creation of areas of critical state concern.

H: Well let me take them a piece at a time. I think the water bill was basically Dean Maloney and Professor Plager's. That was a whole different kettle of fish. We had an awful lot of wells in Florida. That [bill] was driven by the drought. We had a lot of unlicensed, uncapped wells all over the place, and that created the water management district structure, which essentially quadruplicated the structure that was in South Florida already with the C & S. So we had these governing boards and we set in place a process to manage our water.

B: So you think that part made sense?

H: It made sense. The part I fault was [that] over a period of time, those agencies, instead of being water supply and water management agencies, they became regulatory agencies. And that is terrible, you shouldn't mix those two together. In fact, I guess one of the cases going up to the Supreme Court of the United States is whether or not the water management district needs a permit to transfer water. We're sort of getting to the extreme of how much regulation you can have.

B: Bureaucracy, right.

H: Basically we were an eastern water law state [that said] take what you want, use what you want, as long as it doesn't adversely affect your neighbor or adversely affect riparian rights. We became a mixture as opposed to the water reservation laws of the western states. We became this reasonable beneficial use state. There wasn't so much wrong with that as it created a bureaucracy you now had to contend with. And lawyers like me made money out of getting people permits and dealing with the rule making and stuff like that. That was one law, but I thought that made a lot of sense. I think they probably missed the boat a little bit on the vested rights issue in the sense of people who already were using the water and should they be allowed to continue to use it. I think that's an area that still needs work. We're at a stage now, if you carry that all forward, where the next great issues are water reservations for natural resources and additional water supply. How do we meet the water needs? Back then, and until recent years, most all [domestic] water was ground water and we just stuck a straw in the ground and got relatively clean water at no cost except for the cost of [pumping and] piping. Those days ought to be gone, but we can't seem to figure out how to raise the rates yet. So we've got a mismatch and that's all in the mill to be worked on. What was the other one?

B: Now what about the land?

H: Oh, the purchase programs. Basically, although we were somewhat schizophrenic about it, we thought that was a good idea. That went along with the philosophy don't regulate it, buy it. If you want it, buy it.

B: Although Big Cypress was very controversial, I understand.

H: Some property owners didn't want to sell.

B: Right, but the general philosophy of the development community was, as long as you pay a fair price for it that's the way to achieve some of these goals.

H: Right. Quit trying to regulate us. See, Bosselman started it. He started it. He says, you don't have a property right. If you really read it carefully, you don't have a property right. I don't have to pay you for it. [Government] awards you value, so therefore, when [government] takes it away from you, [they] haven't done anything to you. So you don't have any rights. Our response was, hey, that's bullshit Charlie, that's communistic, that's nutty. And we finally got some legislators to listen to us. We more or less said to them, hey guys, we are firm believers in property rights. If government wants to put the burden on me, especially different than what it puts on my neighbor, then government ought to compensate me for it. We're for that, we're fine, we'll support that, and that's what we did. So we took care of it that way.

B: So the legislature really listened to you and they supported you. The federal government too, at that point, was supporting the land acquisition program. But it sounds like these are where the seeds are being sown with an unhappiness about property rights that comes forward twenty years later.

H: Yeah, that's one of my claims to fame.

B: I know, we've got to Bert Harris. I have to plow through this.

H: Alright, I'll quit talking so much.

B: No, it's fascinating. Now, just back to the basic idea of managing growth now for the first time.

H: Well, first we had the DRI law, and the DRI law was these big developments need to be brought under some [special regulations]. The perceived public problem was the big developers are so powerful that they intimidate the local governments, and therefore, they are not adequately regulated. So we get the DRI process and we adequately project the costs [of development]. The DRI process, by the way, is an excellent process for saying this is what's going to happen and here's how much it's going to cost. It's not very good at saying who gets to pay for that cost. What it does is, it ends up saying the developer needs to pay for that cost.

B: By the way, what's the average a developer will have to pay to get through the DRI process.

H: Oh it depends. There haven't been too many big ones, but it's probably somewhere from \$300,000 to \$1,000,000 in transactional costs. Then, depending on whether you've got to build an interchange or something like that, it can be between \$10,000,000 and \$50,000,000. It depends on what it is. The transactional costs are outrageous. The problem with the DRI process, and this is my long term war with the DCA, is they're process oriented, they're not results oriented. This was a planner's relief act. The one thing I know about planning from experience is, the day I finish my plan it's obsolete. Either things I can't control or things I can control, I want to change that plan. That's the problem with the DRI process. We're trying to project the plan out twenty years, when who knows whether people are going to be wanting or needing multi-family apartments. There are hundreds of developments that have multi-family apartments in them. People don't want multi-family apartments now, they want their own little slice of the land. They'd rather have zero lot line or something. So you can't carry it out that way.

B: So it's inflexible.

H: We had for years and years and years this fight over how do you build flexibility into these things, and it's a nightmare. The problem is that every level of government, state, regional, and local, builds in additional process hurdles. So what happened in 1975 when we adopted the Growth Management Act, which required all local governments to adopt comprehensive plans, we should have abolished the DRI process. In 1985 when we amended the Growth Management Act and really polished it up, we should have repealed the DRI process because it no longer is needed.

B: You served on the ELMS II committee that led up to the 1985 amendment. Politically did you try to make that happen then? What happens?

H: The devils in the details, a very strong bureaucracy, [and] very great fears that somebody would get something. I'll tell you what's always the tension in development, certainty versus flexibility. Even developers are schizophrenic over that, so we never could cross that hurdle. Bob Rhodes and I and some other guys have written some position papers and some stuff over the years. God only knows where they are now.

B: I think I've come across a few of them, yes.

H: It's a little like the difference of if you found that you had cancer on your face, you might go get it cut out [even though] it'd be painful and hurtful. But all we can ever do is do one of those face sandings, you know, we just can't make it. The bureaucracy prevents it.

B: Now, if you could comment on Governor [Bob] Graham for a moment. It seems like his appointment of you and a handful of other Republicans to that committee made him more of a bipartisan governor.

H: Oh, he was very smart, and it was a different time. I fault the Republicans for this.

B: What happened?

H: No, I think now there's more of [a thing where] you've got to pass some kind of test before you can be appointed to something. For instance, I never [pushed] a bill in the legislature until recently that I didn't have both a Democrat and a Republican on. In fact when I got John Thrasher to sponsor a bill, he said go get me some Democrats.

[End of side A2]

H: You're trying to get a sponsor of your bill that is someone who can carry it [and] someone that's interested in the issue. I only use Thrasher as an illustration, but here's a guy who had the power because he was the next speaker. Instead of saying, okay, I'll handle your bill and because I'm the next speaker, I'll push it through. I said, do you want me to get a co-sponsor, and he said, sure, go get some Democrats to co-sponsor. So I went and got Debbie Wasserman Schultz, and I'm trying to think of the black guy who was supposed to be the speaker who got in some trouble ...

At any rate, those three were my main sponsors and it was a riot because every time it came up in front of a committee people would start laughing about who the sponsors were. I'm not sure anybody ever read the bill. But the point I'm making is [that] even during the Kirk administration we always had bipartisan support. In fact sometimes we would have a bill sponsored by a Republican, and then we'd have a bill sponsored by a Democrat that we wanted to pass because we knew the Republicans bill would get killed. But today it's all sort of one sided.

B: Willie Logan.

H: Willie Logan, right. Nice guy.

B: So then, how about during Askew's? It sounds like it was a bit more partisan at that time.

H: Yeah, they tried. I think he worked hard. Graham, God love him, I think he and his staff had a pretty good knack for figuring [out] whatever I can get out of a committee that's a good committee, that's well balanced, I can pass in the legislature. But if I don't put some of my enemies on there or some of the people who logically will oppose this stuff, and if I don't listen to them, I'm going to get killed in the legislative process. He didn't have a successful relationship with the legislature. I don't want to say it was bad, it just wasn't successful. So on some of these major issues either his advisors or he decided they had to have some folks who were the natural opponents. You know, representatives of home builders and what have you.

B: Okay, so it wasn't so much that spirit of bipartisanship.

H: It was a spirit of nonpartisanship, I want to get this bill passed. I wasn't identified so much as a Republican, I was identified as a pain in the ass.

B: Why did Governor Graham have a poor relationship with the legislature?

H: I don't really know, but he always did. Even as a legislator he did. He always had these great ideas, but they were great soaring ideas. He just had trouble with them. They called him "Governor Jello." I don't know if anybody ever told you that.

B: I knew the contractors called him "Governor Jello."

H: No, no, the legislators.

B: But it was more than that?

H: Oh, yeah. He never could quite present a clear, concise agenda for them.

B: Interesting. Let me take you back to that 1985 act for a moment. It sounds like the legislature went a lot farther than your committee report in putting concurrency into that law, which it hadn't been in your report. This must have come up in the two years since then.

H: It did. In some ways concurrency is a good idea [and] some ways it's a bad idea. Here's the problem, we've never adequately addressed the issue of backlog. Concurrency doesn't work unless you've finished off or addressed the issue of backlog.

B: Right, everything that had already gone wrong up until the time you built.

H: I mean, if your roads are at level [of] service E, why should I, as the incoming developer, bear the costs of bringing it to B? Or why should the new homeowners? I'll tell you what, the concept we had a lot of trouble getting people to understand is, hey, you aren't costing the developers a dime.

B: It's the homeowners.

H: It does not cost the developers a penny, it just increases the price of housing and lots.

B: What do you think was the impact of the 1985 laws, including concurrency?

H: I think it left a lot of issues still unresolved. We still are schizophrenic about whether it's a real local government issue and how much oversight from the state. We still haven't figured out how to fund this stuff. I once did a speech that I thought was a pretty damn good speech. It said, look, there are about six choices here. One choice is to just let things go to pot. Another choice is to fund the infrastructure needs. Another is to regulate it, and that's what we chose. [It's] probably the worst of all those to put all these transactional costs on there instead of funding it.

B: It's a good segue to the [Charles] Zwick Commission and what came out of that. Did you agree with that?

H: No, I can't remember what Zwick said.

B: They basically said it's going to cost us \$50,000,000,000 to fund all this infrastructure for the foreseeable future.

H: I thought they scared everybody to death.

B: And that evolved into the services tax.

H: I will tell you something. I've been a longtime advocate of increasing the sales tax. In fact, when Governor Martinez's services tax came along, they wrote the bill so crazily and they had compounded the taxes and pyramided the taxes so weirdly, that I was the President of the [state] Chamber [of Commerce] at the time and we adopted a position that we just ought to increase for one year the sales tax by 1%.

B: Instead of doing the services tax.

H: At that time. Then they did a 300 page glitch bill after they did a 350 page bill, and they didn't solve any problems. By the way, in the end, he screwed that up. He should have adopted another glitch bill. Our law firm actually paid some taxes under that thing. Just to show you the kind of glitches they had in it, we had hearings. Often for hearings we hire a court reporter and we hire the experts. The client reimburses us for both of them. Okay, we get the bill from the court reporter and there's a 5% sales tax on that bill. We get the bill from the expert and there's a 5% sales tax on that bill. We add that to our bill, and there's a 5% added on again. If that goes to the client and the client sends it to somebody else, there's another 5% on the total. The thing had pyramid in it. Anyway, to make a long story short, we espoused the increase in the sales tax.

B: So you were president of the Florida Chamber at that time?

H: Yeah, when that thing came in. I got mugged. [Laughing.]

B: What was the business community's reaction to Governor Martinez's election in the first place?

H: Very good.

B: Very pleased?

H: Yeah.

B: And then disappointment when he decided to at first support the services tax?

H: I think the devil was in the details of that tax. It's always hard to get businesses to support taxes. Associated Industries supported the service tax. We looked at the mechanics of it and the impact of it on a number of things. We had a lot of our [members], like Beall's Department Store and people like that saying, we can't administer this tax. Whereas if you increase the sales tax, we just punch a button in the computer and it's done.

B: What did Martinez tell you when you advocated for the sales tax?

H: That we were crazy. It was a typical governor. I'm going to do this, this is my way or the highway. Associated Industries [was] telling him, oh yeah, you're doing the right thing, we'll straighten out all the details. But the thing just got absolutely bogged down in details and some bad policy choices. Never tax [the] media.

B: Absolutely.

H: That's not a good idea. And [don't tax] conventions and things like that.

B: It seems like he could have just blamed it on the Democrats and not run with it, and that maybe that would have allowed him to be reelected.

H: No, I'll tell you what. He violated what I call the quarter theory in government.

B: What was that?

H: Or the eighth theory I guess they should call it. When you make a decision, you make 50% of the people mad. When you reverse that decision, you make half of those who were with you to begin with mad. Now you're down to a quarter, and that's exactly what he did. So he ended up with everybody mad at him.

B: Do you think that cost him the reelection bid?

H: Yeah.

B: So [Mac] Stipanovich was advising him to go with the services tax?

H: I don't know who. Brian Ballerd, Stipanovich, Jim Smith? I don't know who all was in there telling him what to do. Whatever it was, he did it.

B: Does he have any particular environmental legacy in your mind?

H: I'd have to go back and look. I don't know when P[reservation] 2000 came along.

B: I'll look at that. How about Lawton Chiles? How did the development community perceive him when he came into office?

H: I think they thought he was going to be hard on them.

B: And they were wrong about that, right?

H: Well, they were right up to the point of the famous cook shack incident, till he tried to get a permit himself.

B: Oh, that's right.

H: Do you remember?

B: Yes, tell that story on the tape. That would be terrific.

H: A couple things happened. That kind of brings you to Bert Harris and the Administrative Procedures Act. I used to laugh and say we ought not allow our governors to read books, What happened, and I can't tell you the sequence of it because I'd have to go back and look, but Lawton Chiles read a guy by the name of Peterson's book, *Death of Common Sense*. [He was] an author who was writing about how bureaucracy was running amuck. [Chiles] has his personal experience with trying to get a permit for a little place that would be screened in so the bugs wouldn't eat you alive.

B: On his hunting trips.

H: Yeah, on his hunting place, his cook shack. He gets all wrapped around the permitting axle, and a guy by the name of David Bidloff is out getting 600,000 signatures on petitions to get property rights [protected in the

Constitution].

B: Who is David Bidloff?

H: He's a guy from over in Volusia County who is a property rights advocate. He kind of disappeared from the scene, but at the time he had one of the early [Constitutional] petition drives. It was a non-professional petition drive. He had done pretty good in getting signatures and there had been some bad stuff happening in the legislature. The aggies [Agricultural community] were mad as hell. Attorney General Bob Butterworth had asserted [on several] occasions that the state owned, land along meandered lakes to the historic high water line. Some people went out and kind of looked and said, wait a minute, that's thousands of my acres, and I've been paying taxes on it forever. There was the residual of the professors running around talking like Fred Bosselman. So Lawton Chiles gets several great initiatives. One is to reform the APA, Administrative Procedures Act, and he appointed me to a committee to work on that. Then the aggies mostly start pushing for legislation which eventually became the Bert Harris Act. I always laugh because they had this coalition they put together of about twenty organizations that would meet occasionally, but they had no leader. They hired me and I used to say they were twenty chiefs looking for one Indian.

B: Was this the Florida Legal Foundation?

H: No, this was the Property Rights Coalition. So they had some ideas for some legislation and we got it introduced. Ken Pruitt, Bert Harris, and John McKay, and Rick Dantzler were somehow in the mix. What happened was, as we pushed forward with the legislation, it was obviously becoming a big brewhaha. So Lawton Chiles designated Linda Shelley and Dan Stengle, who were at the DCA, to head up an informal group. They very cleverly pulled all the players together into this giant group. I used to laugh. We met and met and met and met. Tony Brigham was on there. He and a guy by the name of Goldman, who was a big guy for one of the state counties, would make the same arguments over and over again. So we'd say, number them. Linda would say, just make argument [number] one. I'll recognize this as argument [number] one so we don't have to [hear] it again. Dan Stengle is now one of my law partners. I didn't know Dan, but as a result of this I thought he was really a competent lawyer. I thought he'd be a good guy to hire someday. I didn't know him at all.

B: So this is the third Environmental Land Management Study Commission that you're talking about?

H: No, this is just an informal group that put together the Bert Harris Act [that was] led by Linda Shelley. Bert Harris was the prime sponsor, with Ken Pruitt being his lurking guy. I think Harris is a Democrat by this time. Mostly it was with negotiations with the governor's office over the content of the bill. [We] came up with the inordinate burden concept, that there was something more than inverse condemnation.

B: Could you describe what that means, the inordinate burden concept?

H: Well, here's the thing. At the time, cities and counties were running around as fast as they could adopting more and more outrageous ordinances that limited your use of your property. There just seemed to be no end in sight. They were implementing the 1985 act. Some of them were going totally no growth and they didn't care how you were zoned. They were taking away your density units of the agriculture.

B: Such as Martin County.

H: Yeah. They were down zoning agriculture from one to one. That was the dumbest thing that ever happened. That was the dumbest thing the state ever did for growth management.

B: Allowing down zoning?

H: No, they took the density away from the aggies. It was the stupidest thing they ever did. They damn near ruined the agricultural ability to borrow money, but they also infuriated the agricultural people. Even to today. I'm dealing with some deals here now and we were trying to do something to sell some land of the state or allow the state to buy some land, and [there are] fights over the density. Even with Wekiua is a fight over the density. It's ridiculous. At any rate, to make a long story short, these regulations did not rise to an actual inverse condemnation because under inverse condemnation or under a takings claim, you had to take away all the economic value and use of the property. There was this question still floating around. Well, if I have a right to go out and look at it and maybe go hunt on it or walk across it, if you take in all my economic use, or if I could camp on it once a week, [is that fair?] Well to Lawton Chiles and to the administration, even then that didn't seem fair. Dan I think is actually the author of the idea to come up with this inordinate burden. That is, something less than a total taking, but which represents a burden being put on you by government that is distinct and different from the burden they put on everybody [else's property]

and has a specific application to your property. That's a very clever piece of legislation in my opinion, because it's designed to force you to compromise and to go through a process, and actually it's a pretty good process. Then in the end, if government intends to be jerks about it, they have to pay you money. By the way, when they pay you money, they get the property, the interest in the property. Everybody overlooks that. So if they pay me the difference between the fair market value and the current value. Let's say you pay me \$10,000,000, now I've got a piece of property I can only use for what they gave me to use it for. Maybe I can only have two stories. They get to buy that difference and they get title to it.

B: How effective do you think it's been? Do you think it's worked?

H: Well, I think it's worked wonderfully well for seven years in making local governments think carefully before they enact ordinances that would have an adverse impact on your property. It has not generated a lot of lawsuits where money has changed hands. It's worked pretty well as a settlement mechanism.

B: So it's more the threat?

H: It's more the threat and as a settlement mechanism. Miami Beach believes this act's unconstitutional, believes it's unfair, and they've challenged it. We just got a decision out of the District Court of Appeal in the third district that says you're stuck with it.

B: One more thing in 1993. Chiles does launch the third ELMS III Committee. The resulting legislation was supposed to terminate the DRI program, but that didn't end up happening. Do you remember the politics of that?

H: Part of the politics of that is that by then there's so many lawyers and consultants making a living off of that process, I'm serious, and so many bureaucrats making a living off that process, that there isn't really a constituency to get rid of it. I mean it's the right thing to do.

B: You really believe that even though you're one of the lawyers that's been enriched by the act.

H: A time or two. I really believe that. I'd say, in particular, the planners. The lawyers are mechanics. We hate the bureaucracy of it, so we will inveigh against that. In that sense we might set the stage for it being done away with. But the planners give it the mental underpinning. They say, oh, this makes for better planning.

B: But how would planners have more sway?

H: They don't have more sway but there are a lot of them and they give it the mental underpinning. It's particularly the planners in local governments. They get the local governments to say. By the way, in some respects the DRI process is a great dodge for local governments.

B: Why? Because they can rely on planning councils?

H: Well, in the first place, they can pick the pocket of the developer to get a lot of things paid for that they can't pay for with their regular budget. That's the first deal. The second deal is, if they want to approve something it gives them a place to hide because they can blame it on the regional planning council. And if they want to deny something it gives them someplace to hide so they can blame it on the DCA.

B: So there was that constituency fighting to keep the DRI.

H: Yeah.

B: Okay, so that would have been very hard to combat. What's your overall perception about Chiles and these issues? How do you think he did?

H: Well, [when] Lawton engaged, and he wasn't [always] engaged. Lawton engaged was a terror. I mean, that guy was wonderful. As an aside, he and I served on the Law Revision Commission. He was chairman and I was vice-chairman, a long, long time ago before he was a U.S. Senator.

B: Oh, back in the Kirk administration, the constitution revision.

H: No, not constitution revision, law revision. This is another one of those progressive things that came along

during the Kirk administration. We decide, hey, there's a lot of laws that are really bad and people are wanting to change them, and that's what this administration is all about. So the legislature with the governor's help creates a Law Revision Commission. It has like eight lawyers on it and then it has two members of the legislature on it from each house, a Republican and Democrat. Lawton Chiles was the first chairman and it follows sort of the practice of the ALR. We hired people, we did landlord tenant, we did the first Administrative Procedures Act, we did a lot of reform legislation, and it's done in a very studious fashion. I was in the governor's office at the time and I get him to appoint all these great lawyers I knew from The Florida Bar. This thing was a collection, put myself aside, of the most brilliant lawyers in the state of Florida, *plus* great politicians. We get the Republicans to put real smart lawyers on there, and Lawton is real smart. So when Lawton's engaged, that guy's a world beater. Toward the end he was sometimes not engaged.

B: But it sounds like he was engaged on this issue because of the cook shack.

H: Well, when they screwed him on the cook shack he got engaged.

B: Just going briefly to the current times, Governor [Jeb] Bush's Growth Management Study Commission in 2000 seemed ready to take on the DRI issue and to take on outdated components and other problems in the growth management laws. Why do you think that turned into such a weak effort?

H: I don't know, I truly don't know. First, I think it was too rushed. Second, I think this administration has a lot of good ideas, but [it] has not merchandised those ideas very well to the legislature. [It] hasn't lobbied the legislature in an organized fashion. It more or less throws it out there and waits for somebody to salute it. You can't do that. You have to show leadership. I think it's classic that they couldn't even get the DCA merged with the Secretary of State's office.

B: How about the partisanship?

H: Well, that's part of it. You'd think with the governor so plugged into the House [that] if you got to the right guys in the Senate and you really looked at it, [you could be successful]. If you said to yourself, okay, who do I need to get here? I need to get Geller and Constantine, I need to get me two good sponsors, and I need to have them fully briefed. I just don't think the leadership of that [study] committee was strong enough.

B: Although Mel Martinez had been a very strong leader in Orange County.

H: Well, you know, but the plug got pulled on him. He went off to Washington about the time he should have been over there lobbying that thing.

B: Yes, good point. That probably has a lot to do with it. You said when I first came in to your office that there may be something coming down the pipe next year. Do you think the governor will push growth management reform again?

H: I don't know. Senator Geller talks about doing something on smart growth.

B: Like what?

H: Don't know. I can't figure it out. He's actually a very good land use lawyer.

B: What do you think about the term smart growth?

H: Well, I think it's a wonderful term, [but] I wonder what's underneath it. It's like peeling the onion. When we get down to the next layer we'll find out. I almost suspect it's sort of a [city of ramapo] kind of model where we don't provide any infrastructure out of the urban service area until it's time.

B: I just want to end with a few general questions about the growth management system. We talked about a few things, but if you could sort of pull together what you and your clients see as the major problems we have now with growth management.

H: Well the first is the bureaucracy. It's not just the bureaucracy and the process, the love affair with the process. It's not organized right, the DCA in particular. You know lawyers think they know everything and they think they can do anything, but planners are even worse. As a general rule, [although] there are some exceptions, the real problem with the whole process is they think they know more about what the developer ought to do or what the public

should have or what the local government ought to do than anyone else. They're somewhat arrogant about it. So they make up rules and requirements. I'm not sure that without a very significant change in the process and in the staffing that you can overcome that.

A number of years ago I had a ridiculous argument with some folks out there over who is responsible for the traffic on [the] Interstate system. They were trying to make my client pay for the traffic on the Interstate road. I said to them, you guys are idiots. We've got nothing to do with the Interstate road [traffic]. The traffic goes through that road, it comes from North to South, you're crazy as ticks. I mean, we don't have anything to do with that traffic, I'm sorry, go talk to congress. They just can't get it, you know? The number two problem is the underlying law. It's confusing, overlapping, gilding the lily. The number three problem is a fundamental problem with all environmental regulation and growth management, and that is none of these agencies trust the other agencies' judgment. And the environmentalists don't trust anybody's judgment. What you really get is all this piling on. If I go to do something on a development and I need an ERP permit, you've got everybody in the world telling me how to design my road that crosses a wetland. It's so bad that the principal reasons behind the [new Wekiua River study] committee is because the transportation people couldn't figure out how to get everybody together so they could build their expressway. That is a sorry state of events when government can't get its own business done. So those are the three things wrong with it.

B: Any redeeming qualities to these laws?

H: Yeah. I think they sensitize people to the issues related to growth. I sense there's a general frustration in the state. There are a lot of people who now say, guys, we've got too many people, where are we going here? I have that sense of frustration some. I think until we change our tax structure in a material fashion, we are not going to take care of that problem.

B: What do you think needs to be changed with the tax structure?

H: We need a generation of political martyrs to do it because they'll be out of office. It's very easy for me, out of office, to say that. We've got to do something about the homestead exemption, we've got to do something about the bankruptcy law that allows people to hide money down here, and I think we've got to do something about funding our infrastructure, which means increase taxes. By the way, I'd be the first to say there are 100 things we ought to fix in the schools and I'm all for all those things, accountability and testing teachers and making professors work and all that stuff. At the same time I think we need more money for schools and more money for students. We need more gasoline taxes. I'm not in the public policy in that area. I have clients who say you can't advocate this, but personally I think we ought to have more user taxes to pay for the infrastructure needs that we have.

B: What do you think Florida would look like today if we had not had these thirty years worth of growth laws?

H: I don't think it'd look a heck of a lot different.

B: Interesting.

H: I really don't. I think there might have been more large developments.

B: Which might have been a good thing.

H: It might have been a good thing, yeah.

B: It's interesting to see places like Hobe Sound and Miami Lakes developed by people who were wealthy and could do big things before this. They're definitely better than a lot of the smaller things around them. Is there a particular lesson from all of this? You know, from all the laws, the rewrites, the commissions, ELMS I, ELMS II, ELMS III? I mean, we've talked about it for three decades, and the problems are essentially the same as they were then.

H: Well, it's an iterative process. I'm not sure we learn a lot, but I think you have to struggle. I always laugh and say that government is like kudzu, you've got to prune it back every year or it will grow right over you. I think we'll be tinkering with it forever. I do think it's maybe time for another vision. I think it's time to stop, and we ought not do it in a rushed fashion. Some of what we've got has been rushed. We ought to sit down and think, well here's where we are in 2005, where are we going to be in 2010? It's hard to do. The devil's in the details.

B: Well Sarasota County has this interesting 20/50 plan, which is really far out planning.

H: Yes I know, and they've got some crazy stuff in there. I'm really not talking about that, I think that's one of the problems. We should not have consistency or concurrency. I think what we really ought to have is visioning. I think with a vision you can change your vision over time. And things have changed. Ten or fifteen years ago, who would have envisioned the way we communicate with computers and with mobile phones? Who would have thought that? I don't know what's next.

B: Just going back to the kudzu metaphor for a second, do you think you felt that way about government in the 1960s when you went to work for Claude Kirk, or was this something that you acquired?

H: I think I acquired that while I was there. I mean, we had a lot of frustration. Claude Kirk was having trouble with the DOT. He had this guy who helped get him elected, his name was Robert E. Lee. He had gotten Governor Love elected in Colorado and he was one of these professional guys. The Kirk administration would have been very different, but the guy had a heart attack right after the election. So we're about into the administration six to eight months and the guy is kind of back and around a little bit, [but] not active in the administration. The governor said to the guy, I want you to go down to the DOT and tell me why in the hell I can't get them to do what I want them to do. He goes down there and spends about a week down there and he comes back and he says, Governor, the DOT is run by the district engineers. You can change the Secretary and you can change the executive director in Tallahassee, but it's run by the district engineers. He said, you've got two choices, governor. One choice is you can call them in and say, guys, I'm not going to interfere with you, you're the district engineers. As long as you don't take bribes and run things right, I'm not going to fool with you. But every now and then, I'm going to ask you to build a road somewhere, I'm going to ask you to do something, and I'm going to expect you to do it. He said, that's one choice. He said, your second choice is you can call them in and say, look you no good sons of bitches, I was elected governor of this state and I can't fire you, but I'll tell you what I'm going to do. I'm going to take the guy in Chipley and move him to Key West, and I'm going to put you on the road for four years and you're going to have the most miserable life you've ever had unless you start paying attention to me. So what did the governor do? Neither. He equivocated. And that's what governors do, okay? That was too harsh, that was inconsistent with his training. Now, I don't know why I told you that story. What did you ask me?

B: Well you were talking about visioning, I think, before that.

H: That story is probably not applicable to anything.

B: I know you're eager to finish this interview, so I'll just ask you one last question. You're at the age when some hardworking people would start thinking about retiring. What are your plans?

H: I don't know. My wife doesn't want me around the house. The law firm has a sabbatical program and I've gone on two sabbaticals, one for six months and one for four over about a fifteen year period. I'd like to cut back. I'd like to pick and choose, and I have been doing some of that. I've got a transition program with the firm. We have a management committee now who's taking over a lot of the administrative duties I used to do. I don't know. It will be awhile before I quit. I told the management committee when we were talking about that. I sent them a memo and I said, as soon as it's not fun or as soon as my health goes bad, I'm out of here. But beyond that, I find legislative stuff challenging and interesting. I sometimes think I've got a few things I can contribute still. If Bosselman shows up I'm definitely going to be over there.

B: Right. Well thank you so much for your time. I know I asked for two hours and I took two and a half, and I really appreciate it. After you retire we will send another historian back to get all the Erica stories and all the other great stories.

H: Yeah, there's some great ones. Great Claude Kirk stories. He's an amazing man. I really thought a lot of him.

B: And are you still close to him now?

H: I hear from him every now and then [when] he wants me to do something for free. He's a pistol.

B: Still trying to get you to do stuff for free.

H: He's still got 200 ideas a day. He's a pistol.

B: Well thank you again. I really appreciate it.

H: Nice meeting you.

B: You, too.

© Copyright 2009 Florida Trend All Rights Reserved.