

THE CABINET
STATE OF FLORIDA

Representing:

DIVISION OF BOND FINANCE
FINANCIAL SERVICES COMMISSION
DEPARTMENT OF VETERANS AFFAIRS
ADMINISTRATION COMMISSION
BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Bush
presiding, in the Cabinet Meeting Room, LL-03, The
Capitol, Tallahassee, Florida, on Tuesday, January 31,
2006, commencing at approximately 9:10 a.m.

Reported by:

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Governor

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Chi ef Fi nanci al Offi cer

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(Presented by BEN WATKINS)

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1 P R O C E E D I N G S
2 (The agenda items commenced at 9:30 a.m.)
3 GOVERNOR BUSH: Division of Bond Finance.
4 Excuse me. The next cabinet meeting is Tuesday,
5 February 14th, Valentine's Day, 2006. Speaking
6 of Valentines, Ben, how are you doing?
7 MR. WATKINS: Very good, Governor.
8 CFO GALLAGHER: Motion on the minutes.
9 ATTORNEY GENERAL CRIST: Second.
10 GOVERNOR BUSH: There's a motion and a
11 second. Without objection, the item passes.
12 Item 2.
13 MR. WATKINS: Item 2 is a resolution
14 authorizing the competitive sale of up to
15 \$70 million in university system improvement
16 revenue bonds.
17 CFO GALLAGHER: Motion on 2.
18 ATTORNEY GENERAL CRIST: Second.

19 GOVERNOR BUSH: There's a motion and a
20 second. Without objection, the item passes.

21 MR. WATKINS: Item number 3 is a resolution
22 authorizing the issuance and competitive sale of
23 up to \$19 million in student housing facility
24 refunding bonds for Florida A&M University.

25 CFO GALLAGHER: Motion on 3.

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1 COMMISSIONER BRONSON: Second.

2 GOVERNOR BUSH: There's a motion and a
3 second. Without objection, the item passes.

4 MR. WATKINS: Item number 4 is a report on
5 the placement of a \$10 million taxable note with
6 Bank of America for food service facilities at
7 Florida State University.

8 CFO GALLAGHER: Motion on 4.

9 COMMISSIONER BRONSON: Second.

10 GOVERNOR BUSH: Didn't we already do this?

11 MR. WATKINS: We did the authorizing of
12 these, Governor, and then we did the placement
13 for the pricing based on an index, and this is --

14 GOVERNOR BUSH: Is this the final --

15 MR. WATKINS: -- the final report back to
16 you on that transaction.

17 GOVERNOR BUSH: All right. There's a motion
18 and a second. Did someone second it?

19 CFO GALLAGHER: Yes, Bronson.

20 GOVERNOR BUSH: Without objection, the item
21 passes.

22 MR. WATKINS: Item number 5 is a report of
23 award on the competitive sale of \$116.3 million

24 in PECO bonds. The bonds were awarded to the low
25 bidder at a true interest cost of 4.56 percent.

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1 ATTORNEY GENERAL CRIST: Motion on 5.

2 COMMISSIONER BRONSON: Second.

3 GOVERNOR BUSH: There's a motion and a
4 second. Without objection, the item passes.

5 MR. WATKINS: And item number 6 is a report
6 of award on the competitive sale of \$300,135,000
7 in PECO bonds, which was a combined new money and
8 refunding issue, with 136.75 million in new
9 money, and \$163.4 million was a refunding piece,
10 resulting in gross debt service savings of
11 \$17-1/2 million, or \$11 million on a present
12 value basis.

13 CFO GALLAGHER: Motion on 6.

14 ATTORNEY GENERAL CRIST: Second.

15 GOVERNOR BUSH: There's a motion and a
16 second. Without objection, the item passes.

17 Thank you, Ben.

18 MR. WATKINS: Thank you, sir.

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1 GOVERNOR BUSH: Office of Insurance

2 Regulation, Financial Services Commission.

3 CFO GALLAGHER: Motion on the minutes.

4 ATTORNEY GENERAL CRIST: Second.

5 MR. PARTON: Good morning, Governor and
6 Cabinet members.

7 GOVERNOR BUSH: Hang on one second. Let me
8 get Item 1 taken care of first. There's a motion
9 on the minutes and a second. Without objection,
10 the item passes.

11 Item number 2.

12 MR. PARTON: My apologies. I'm Steve
13 Parton, General Counsel for the Office.
14 Commissioner McCarty is presently in Orlando at
15 the Long-Term Solutions Task Force, where he is
16 chair. It's one of the last meetings for that
17 task force, and he's not able to be here today.

18 GOVERNOR BUSH: We're looking forward to his
19 recommendations.

20 MR. PARTON: Item 2 on the agenda is up for
21 reconsideration of the approval for final
22 adoption of Rule 690-170, Part 1, as amended by
23 this Commission at the January 11th meeting of
24 the FSC, and Rule 690-175.003. At the FSC
25 meeting, there was a motion made to the pending

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1 rule, the proposed rule that was there, deleting
2 certain provisions from that rule, and you
3 ultimately adopted that rule. Unfortunately,
4 there were members of the Florida Insurance
5 Council that were present that had wanted an
6 opportunity to speak, and they were not given the
7 opportunity to speak as to this particular rule.

8 GOVERNOR BUSH: My bad.

9 MR. PARTON: Well, it may have been our bad.
10 I'm unsure with regards to --

11 CFO GALLAGHER: Well, they were here. They
12 were here.

13 GOVERNOR BUSH: Yes. I mean, we move it
14 along unless somebody wants to speak. And, of
15 course, everybody that wants to can. You've got
16 to step up to the plate.

17 MR. PARTON: Given that --

18 GOVERNOR BUSH: To use Commissioner
19 Bronson's analogy, hit a -- what was it? Hit
20 grand slam instead of a grand scam?

21 So are they here now?

22 MR. PARTON: Yes, sir. Given the fact that
23 we're presently in litigation with the Council
24 regarding these rules, Commissioner McCarty felt
25 that it would be prudent to bring this matter

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1 back up for reconsideration and allow them the
2 opportunity to speak.

3 If I could remind you as to what this rule
4 actually does before we allow them to do so, this
5 rule defines the basis of agency action. It
6 defines what a rate filing shall consist of.
7 That rate filing is what is submitted to the
8 Office, and any additional information requested
9 by the Office that is filed with us prior to the
10 notice of intent to deny.

11 In addition, and importantly, it requires
12 insurers to file with the Office all information

13 that they wish us to consider that demonstrates
14 that the filing is neither excessive, inadequate,
15 or unfairly discriminatory. These changes will
16 improve the quality of rate filings, reduce the
17 time needed to process the filing, and provide
18 the Office with the information it needs to
19 properly exercise its authority.

20 I believe that there are members --

21 GOVERNOR BUSH: Can I ask you a question as
22 a layman here? What the rule change will do is
23 require this information up front?

24 MR. PARTON: Yes, sir.

25 GOVERNOR BUSH: So that when they're --

11

1 typically there's the filing, and then there's a
2 second bite at the apple, I guess, when the
3 insurance companies can provide additional
4 information, and you just -- you want that
5 information up front.

6 MR. PARTON: That is correct. If you want
7 it considered, if you believe it is probative of
8 the issues of unfair discrimination,
9 excessiveness, or inadequacy, give it to us and
10 give it to us now so that we can in an orderly
11 and expeditious manner review that information.

12 GOVERNOR BUSH: Would there ever be a time
13 where the information that -- the secondary set
14 of information which wasn't available at the
15 filing would be appropriate to provide?

16 MR. PARTON: Well, of course, even after we
17 issue the notice of intent, if they had

18 additional information they wanted us to consider
19 in terms of negotiating this particular issue, we
20 would take a look at it. It would nevertheless
21 require them to make a new filing and include
22 that particular information in there. The
23 purpose of this is so that we have all the
24 information that we need and that they want us to
25 consider.

12

1 GOVERNOR BUSH: So why are we doing it the
2 other way now?

3 CFO GALLAGHER: Here's what happens. They
4 make a filing, and it is turned down, so they've
5 got two routes to go. They can go to an
6 administrative hearing officer, or they can go to
7 the panel, the three --

8 GOVERNOR BUSH: Arbitration.

9 CFO GALLAGHER: Arbitration panel. When
10 they go to one of those two, what has happened
11 is, they show up with additional information that
12 wasn't provided in the first place, and they've
13 got to go through all that to get the rate
14 approved.

15 So what they're asking for, which I think
16 makes sense, and I think it's probably good for
17 the people of the State of Florida, is that if
18 you have data that shows that you can justify a
19 rate increase, show it to us up front. Don't
20 wait and go through all this process. And if you
21 get it during the process, refile it and do it
22 rather than go through, you know, bringing it up

23 at the arbitration or in a hearing.

24 It makes the Office of Insurance Regulation
25 look like, you know, they're not doing their job,

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1 when they don't have all the information. So
2 what they're asking is, look, whatever
3 information you have, give it to us when you have
4 it so that we can make a decision on all the
5 information on the front end.

6 GOVERNOR BUSH: Okay. And one other piece
7 of information, I thought it might be appropriate
8 to try to explain this in English rather than
9 just read the -- I mean, if you read the agenda
10 item, you could have no clue what we're talking
11 about.

12 CFO GALLAGHER: Right.

13 GOVERNOR BUSH: The second issue, as you
14 say, we're under -- there's litigation?

15 MR. PARTON: That is correct. We are
16 presently in litigation. You are being asked to
17 approve for final adoption this rule. The rule
18 would not be filed for final adoption with the
19 Secretary of State's office until all that
20 litigation is completed.

21 GOVERNOR BUSH: So the actual rule itself is
22 what's being litigated?

23 MR. PARTON: Yes, sir.

24 GOVERNOR BUSH: And who's doing this?

25 MR. PARTON: The Florida Insurance

14

1 Commission, or Council, and I believe one other
2 plaintiff whose name escapes me.

3 GOVERNOR BUSH: Okay. So notwithstanding
4 anything we do, that will be resolved before --
5 that litigation will be resolved?

6 MR. PARTON: That is correct. Issues with
7 regards to your authority and whether or not this
8 is appropriate and legal will be resolved in that
9 litigation.

10 GOVERNOR BUSH: All right. Should we ask
11 our speakers to speak?

12 THE COURT: Yes, sir, we should.

13 GOVERNOR BUSH: Very good.

14 MR. NEWMAN: Brian Newman with the law firm
15 of Pennington, Moore, Wilkinson, Bell & Dunbar on
16 behalf of the Florida Insurance Council. First
17 of all, thank you for the opportunity to address
18 this issue and bring it back for reconsideration
19 at this point in time.

20 Speaking to the merits of the issue briefly,
21 if I may, the insurance companies have all the
22 incentive in the world right now to produce all
23 information they believe supports their rate
24 filing on the front end, and I think by and
25 large, that's the practice in the industry.

15

1 The problem the industry has with this rule
2 is that it limits the right that insurance
3 companies have to a new hearing or a de novo
4 hearing under the Administrative Procedures Act,
5 and therefore it conflicts with existing law, and

6 that's the basis for the challenge. And we have
7 a disagreement with that, over that issue with
8 the Office of Insurance Regulation. And
9 Mr. Parton is correct; these rules are currently
10 in litigation to determine that rule.

11 If the Commission is not inclined at this
12 point to withdraw the rules because of the
13 conflict that exists between the proposed rules
14 and the Administrative Procedures Act, we would
15 ask that the Commission table this issue and at
16 least hear the rules one more time prior to final
17 adoption after the administrative process has
18 worked its way through, because at this point, we
19 really don't know how the administrative law
20 judge may change the proposed rules when she
21 issues a final order. So we just think that this
22 process is a bit premature and would ask that you
23 at least ask the Office of Insurance Regulation
24 to bring the rule back before the Commission at
25 the conclusion of that litigation.

16

1 GOVERNOR BUSH: Well, based on what
2 Treasurer Gallagher said, you do have the ability
3 to provide additional information through a new
4 filing. What's the problem with that?

5 MR. NEWMAN: The problem is the delay that
6 that would cause, Governor, because it starts the
7 clock again for another review process. And the
8 real problem -- and it arises only in a very
9 small number of cases, I think both sides would
10 agree, but you don't always know what information

11 the Office of Insurance Regulation would like to
12 see to supplement the original filing until the
13 notice of intent is issued. And that's the
14 cutoff that this rule would set, that would
15 require any new information to constitute a new
16 filing, which starts the 90-day review clock
17 again. And that time can be very precious when
18 an insurance company is attempting to implement a
19 new rate in this state.

20 CFO GALLAGHER: But how many rate filings
21 are taking 90 days?

22 MR. NEWMAN: I don't know the answer to
23 that. I don't have that statistic.

24 CFO GALLAGHER: And if it would be a
25 refiling, they usually put it right at the top of

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1 the heap to ensure that they get a -- that you
2 get a fair hearing on those.

3 MR. NEWMAN: The rule doesn't necessarily
4 protect that, is the problem. And it's not
5 necessarily the fear of what this Commissioner
6 may do or may use the rule, but how subsequent
7 administrations may misuse the rule. It just --
8 fundamentally, and as a lawyer, it conflicts with
9 the Administrative Procedures Act, and it's just
10 something that we need to resolve, candidly.

11 CFO GALLAGHER: But the hearing officer is
12 going to make that decision.

13 MR. NEWMAN: The hearing officer would, but
14 this rule proposes to limit the evidence that an
15 insurance company can admit during the hearing

16 process. And they wouldn't --

17 CFO GALLAGHER: Well, what they're saying is
18 that they want all of the information so that
19 they can make a proper decision on the rate.

20 And what has happened is, for example, a
21 company makes a rate filing, and it gets turned
22 down, and probably, you know, for good reason.
23 Then they go and ask for a three-member panel
24 hearing through arbitration, and they go to
25 arbitration. And they get to pick an arbiter,

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1 the Insurance Commissioner picks an arbiter, and
2 the two pick a middle person. When they show up
3 to the arbitration, they bring additional
4 information that was not made available to the
5 Department. And at that point, the third person
6 looks and says, "My goodness, this looks like
7 they ought to have a rate increase."

8 Now, none of those people in most cases are
9 actuaries, so what they end up doing is, instead
10 of going to what they can actually justify, which
11 may be higher than what was given, they get the
12 whole thing. And that's what is problematic
13 here.

14 So if in fact some actuaries are able to
15 look at the new information and work on it in the
16 Department prior to it going to that three-member
17 panel or that -- you know, the arbitration, then
18 that information will be able to be discussed in
19 the arbitration or with the hearing officer.

20 So, you know, I think it makes it look like

21 the Department actuaries aren't doing their job
22 when these things get appealed, and they hold
23 back information and go for the whole thing
24 because -- because they could.

25 MR. NEWMAN: And I will say respectfully,

19

1 the industry doesn't assert that the actuaries
2 that work for the Department aren't doing their
3 job on these rate filings. But, you know, what
4 one actuary believes supports a rate filing and
5 what another actuary believes supports a rate
6 filing are often two very different things.

7 And there has been a representation that the
8 insurance company should give us all information
9 up front. Well, you're talking about an almost
10 unlimited amount of data and information that
11 would be filed with every single rate filing if
12 that were the case. And invariably, the Office
13 of Insurance Regulation actuaries, who do
14 diligently perform their services,
15 notwithstanding that, typically always have
16 questions about the rate filing after it's filed.

17 The problem with this rule is that when a
18 notice of intent to issue is -- excuse me, a
19 notice of intent to deny is issued, this rule
20 cuts off that information-sharing process and
21 starts the clock anew. And it just -- it frankly
22 has the potential to be abused, and it conflicts
23 with the APA, which guarantees the insurance
24 company a right to a de novo hearing in front of
25 an administrative law judge.

20

1 CFO GALLAGHER: But they should get a
2 de novo hearing based on the evidence and
3 information that they gave the actuaries in the
4 Department.

5 MR. NEWMAN: But you don't always know what
6 evidence they need or would like to see to
7 support their ruling until the notice of intent
8 to deny is issued. That's the problem.

9 CFO GALLAGHER: Well, if you're sitting
10 there in the company, first, you would want to
11 give them every bit of information that you have
12 in order to justify a rate increase.

13 MR. NEWMAN: Agreed.

14 CFO GALLAGHER: And if they ask you some
15 details on some other information and you have
16 it, you give it to them.

17 MR. NEWMAN: Agreed.

18 CFO GALLAGHER: And if they -- they usually
19 will tell you, "Look, with what you've given me,
20 it doesn't look like it's enough. Have you got
21 anything else?" And they say no, and then they
22 got to the hearing, and all of a sudden they've
23 got this other stuff. That's what the problem
24 is.

25 MR. NEWMAN: I agree with you up to the

21

1 point that this rule prevents the information
2 sharing once the notice of intent to deny the
3 rate filing is issued.

4 CFO GALLAGHER: But that doesn't happen

5 until there has been a lot of back and forth
6 between the actuaries.

7 MR. NEWMAN: Usually, but not always. I've
8 been involved in cases where there hasn't been a
9 lot of back and forth between the actuaries.

10 GOVERNOR BUSH: All right. Any other
11 questions to the star witness?

12 CFO GALLAGHER: I'll move this item, and
13 also --

14 GOVERNOR BUSH: Can I ask one question?

15 CFO GALLAGHER: Sure.

16 GOVERNOR BUSH: I'm sorry. Chief Legal
17 Counsel?

18 MR. PARTON: Yes, sir.

19 GOVERNOR BUSH: Could you come back, sir?

20 CFO GALLAGHER: Steve Parton.

21 GOVERNOR BUSH: Steve, excuse me. Steve, if
22 we do -- there seems to be two options here since
23 it's in litigation. One is to approve the rule.
24 If the administrative law judge in the litigation
25 rules in favor of the Council, the Insurance

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1 Council, then you've got to come back here
2 anyway; right?

3 MR. PARTON: Well, if they rule in favor of
4 the Council in this matter on the fundamental
5 issue that this rule represents, we probably will
6 not be coming back to you.

7 GOVERNOR BUSH: You would have the old rule.
8 You would still have the old rule.

9 MR. PARTON: That is correct.

10 GOVERNOR BUSH: If you wanted to change the
11 rule, you would have to modify the rule to
12 accommodate that ruling, and you would have to
13 come back to us.

14 MR. PARTON: That is correct.

15 GOVERNOR BUSH: So it really doesn't seem to
16 me that we're actually ahead of the game if we
17 approve this as you've requested, because --

18 MR. PARTON: Actually, Governor, if I could
19 address that issue, I think it's very important
20 that you do go forward. I think, frankly, the
21 request that the representative for FIC has made
22 is frankly indicative of the way this litigation
23 has gone forward.

24 A rule challenge is normally supposed to be
25 heard in 30 days. This rule challenge has now

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1 been pending since August, and we're no closer to
2 a resolution than before. The majority of the --
3 or the reason that this has not been resolved is
4 the number of continuances at the request of FIC
5 to pass these matters over our objection. You're
6 now again being asked to delay this particular
7 matter. I think it's important for the
8 Commission to, frankly, go ahead and approve this
9 for final adoption, close the window on any
10 future rule challenges, and clear the way for
11 final adoption when we get this rule approved.

12 GOVERNOR BUSH: All right. Thank you.

13 Treasurer, would you like to make a motion?

14 CFO GALLAGHER: I move that we approve Item

15 2.

16 GOVERNOR BUSH: Is there a second?

17 ATTORNEY GENERAL CRIST: Second.

18 GOVERNOR BUSH: There's a motion and a
19 second. Any other discussion? All in favor say
20 aye.

21 (Simultaneous affirmative responses.)

22 GOVERNOR BUSH: All opposed? The motion
23 passes. Thank you. Thanks for coming. I'm
24 sorry that I didn't give you guys a chance to
25 speak last time.

24

1 MR. PARTON: Actually, Governor, excuse me.
2 They're going to want to speak as to the next
3 rule as well.

4 GOVERNOR BUSH: Excuse me?

5 MR. PARTON: They're going to want to speak
6 to the next rule as well.

7 GOVERNOR BUSH: Good. Thanks for telling me
8 in advance.

9 MR. PARTON: I'm sorry.

10 GOVERNOR BUSH: All right.

11 MR. PARTON: Moving on to agenda item number
12 3, this is a new rule, and it implements the
13 provisions of Section 626.9741, which is the law
14 that was passed in 2003 regulating the use of
15 credit reports or credit scores in the insurance
16 industry. This section was specifically enacted,
17 and by its terms was enacted to limit and
18 regulate the use of credit reports or credit
19 scores for use by the insurance industry.

20 The rule establishes standards and
21 requirements for the use of credit reports and
22 credit scores. Importantly, the rule implements
23 the authority specifically granted the Commission
24 to adopt rules that, among other things, prevent
25 unfair discrimination based on race, color,

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1 religion, marital status, age, gender, income,
2 national origin, or place of residence. This
3 particular rule requires insurers who use credit
4 reports and credit scores to demonstrate that
5 their use by the individual insurer does not
6 unfairly discriminate against any of the classes
7 pronounced in this particular statute.

8 We're coming to you with a request again to
9 approve this for final adoption pending the
10 outcome of litigation. There have already been
11 two studies by two different states, I believe
12 Missouri and Texas, with regards to the effect of
13 using credit scoring in the insurance industry
14 that does indicate that in fact the use of credit
15 scores or credit reports does disproportionately
16 impact African Americans and certain Hispanic
17 groups. It likewise demonstrates that it has a
18 disparate impact on people of low income; that is
19 to say, credit scores tend to be worse at the
20 lower income level, and thus, the very people who
21 most need insurance are paying the highest rates
22 with regards to that.

23 Again, this rule is presently being
24 litigated and will not be filed until all

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litigation is completed. Again, the reason we

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1 are bringing it forward is that this matter has
2 been pending since August at the Division of
3 Administrative Hearings, and we need to close the
4 door on any future challenges, and we need to
5 prepare the way to go ahead and file this when we
6 get a favorable ruling.

7 GOVERNOR BUSH: All right. Do we have any
8 speakers?

9 MR. NEWMAN: Yes. Thank you, Governor.
10 Brian Newman once again on behalf of the Florida
11 Insurance Council.

12 This credit scoring rule has been challenged
13 by the industry because it doesn't limit credit
14 scoring. It eliminates the use of credit scoring
15 in underwriting in the State of Florida, and
16 that's in derogation of the intent of the statute
17 that was passed that's cited as the authority for
18 this rule.

19 Again, this case is -- this challenge is in
20 litigation, and we believe that the Commission's
21 consideration of this rule for final adoption is
22 premature at this time and ask that this
23 consideration be tabled until such time as the
24 administrative law judge has entered a ruling and
25 you know what the rule is that's before you that

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1 may be adopted.

2 CFO GALLAGHER: Well, maybe I don't

3 understand. I think what this rule says isn't
4 that you cannot use credit scoring. What it says
5 is that you may use credit scoring if you can
6 show and demonstrate that it does not
7 discriminate against African Americans,
8 Hispanics, and low income. And if a company can
9 demonstrate that the credit scoring doesn't do
10 that, then they can use it. Now, if it does do
11 that, then I don't know whether -- I don't
12 believe the public policy of the State of Florida
13 should allow it.

14 So every company has their own way of credit
15 scoring, and if companies have the ability to do
16 credit scoring where it does not discriminate,
17 then, you know, that's fine, and it would
18 certainly be approved. But when in fact it does
19 discriminate -- and we know that there are
20 examples, strong ones, by many studies that there
21 are credit scoring methods which do discriminate
22 against low income, African Americans, and
23 Hispanics. So tell me what's wrong with that.

24 MR. NEWMAN: Well, the difference is that
25 the rule defines what is unfairly discriminatory,

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1 which is the test that's traditionally applied to
2 rating factors in underwriting. It now equates
3 for the first time unfairly discriminatory with a
4 disparate impact analysis. And actuaries will
5 tell you that practically every rating factor
6 that is applied in underwriting has a disparate
7 impact on one class or another, first of all.

8 So we believe just by defining unfairly
9 discriminatory as a rating factor that has a
10 disparate impact, you've already eliminated the
11 use of that rating factor. And that is not a
12 test that is applied to any other rating factor
13 in underwriting in the State of Florida.

14 Secondly, the burden on the insurance
15 company imposed by this rule requires the
16 insurance company to collect data from its
17 insureds and applicants from insurance -- for
18 insurance, excuse me, that is not acceptable and
19 that is just bad public policy.

20 For example, under the proposed rule, the
21 insurance company would have to demonstrate that
22 there's no disparate impact, that the use of
23 credit scoring in underwriting has no disparate
24 impact on an individual because of their
25 religion. You have to submit a study to

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1 demonstrate that fact. An individual's religion
2 is not information, as it should not be, but it's
3 not information that's available by any public
4 record. The only way to get that information
5 would be to ask the insured or applicant for
6 insurance every time they apply for insurance
7 what their religion is. Insurance companies are
8 not going to do that in the State of Florida, and
9 they shouldn't do that, and the Office of
10 Insurance Regulation shouldn't promulgate a rule
11 that requires insurance companies to do that.

12 But that's the reason why this rule

13 eliminates credit scoring in Florida, and that's
14 why it has been challenged by the industry.

15 CFO GALLAGHER: Now, can Mr. Parton answer
16 that?

17 GOVERNOR BUSH: Yes, please.

18 MR. PARTON: Yes, Treasurer.

19 CFO GALLAGHER: I know you were listening.

20 MR. PARTON: Yes, sir.

21 GOVERNOR BUSH: Can you respond to the
22 question, the religious --

23 MR. PARTON: Well, I think the fundamental
24 problem -- and I think we need to come back and
25 focus a little bit. A credit scoring is really

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1 based upon income. The bottom line is,
2 information with regards to income is easily
3 collectible and has been utilized by the two, or
4 at least one of the states that actually examined
5 the effect of credit scoring on individuals of
6 color or other racial classifications.

7 The fundamental basis of credit scoring is
8 based upon income. And if in fact the industry
9 really wanted to know what in fact and how this
10 is actually working, they could have over the
11 last two, almost three years now been collecting
12 data that would otherwise demonstrate that the
13 tests that have already and the studies that have
14 already been done are incorrect and that the
15 Department's or Office's position that in fact we
16 believe that it does fundamentally discriminate
17 against people with low income, and ultimately as

18 a result of that, people of color, sex, and other
19 gender, they could have been collecting that
20 information and demonstrating that it otherwise
21 does not do that, and they have failed to do so.

22 The bottom line is, the insurance industry,
23 frankly, has turned a blind eye to the effects of
24 credit scoring, despite the fact that the studies
25 out there do demonstrate that there is this

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1 di s p a r i t y.

2 C F O G A L L A G H E R: I wanted you to comment on
3 the religious part.

4 M R. P A R T O N: Well, the religious part,
5 Commissioner, there are certain beliefs and
6 denominations that in fact don't believe in the
7 use of credit, that is, borrowing money and
8 paying interest as a result of that. Those
9 people, because they have what is known as a thin
10 file or no file at all, are going to be adversely
11 impacted by the use of credit scoring. They're
12 going to be placed in a group that they otherwise
13 would not have to be in and pay a greater amount
14 of money.

15 G O V E R N O R B U S H: Because they haven't
16 borrowed money, they don't get scored?

17 M R. P A R T O N: That's correct. This is what
18 we call --

19 G O V E R N O R B U S H: They get a negative score?

20 M R. P A R T O N: You can get -- the way these
21 tiers -- and this is how it is done. When you
22 use credit scores, you actually create tiers or

23 price groups, if you will, based on those credit
24 scores. You have high, and you have low, and you
25 have something that the industry is able to

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1 define as neutral.

2 People with thin files, one of the options
3 for the insurance company is to place them in
4 this neutral group. That neutral group, however,
5 is defined by the insurance industry, and its
6 effect is defined by the insurance industry, not
7 by the Office, and that is by law.

8 You may be placing people into, and I
9 suggest you are placing people into, a neutral
10 group when in fact they should actually be in a
11 lower group than what they actually are, and the
12 sole reason being that they have not engaged in
13 the use of credit scoring, or credit, rather,
14 borrowing, interest, credit cards, that sort of
15 thing. So you are actually -- in doing that,
16 actually discriminating against people based upon
17 religion.

18 Now, it would be an easy thing for, it seems
19 to me, the industry to do to identify those
20 particular religions or beliefs that in fact have
21 that as a tenet to their religious belief and to
22 ask appropriate questions in a noninvasive way
23 that would allow them to identify those factors,
24 but there has been absolutely no attempt to do
25 so.

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2 COMMISSIONER BRONSON: Thank you, Governor.
3 How is this different from -- what you just
4 described, how is that different than what
5 happens when someone goes to apply for a loan to
6 buy a house or anything else? I mean, I know
7 when my daughters applied for their home, they
8 didn't have much of a credit rating. And
9 therefore, there was no credit history with them,
10 and the bank wasn't overly zealous about wanting
11 to get involved on a loan on a house when there
12 was no credit history to say whether they were
13 going to be paid back or not. And therefore, my
14 wife and I had to sign, had to co-sign just to
15 make sure they could get their loans, knowing
16 that they did have the capability of paying it
17 back.

18 But how is this different than what goes on
19 in lending for homes and so forth, or cars, or
20 anything else that this same type of thing takes
21 place?

22 MR. PARTON: What credit scoring is
23 measuring in the instance you're talking about is
24 the ability of somebody to repay a loan, the
25 risk, if you will, with regards to that

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1 individual either in making a determination to
2 give a loan or in coming up with the appropriate
3 interest to charge that individual based upon the
4 risk.

5 And that's what's important about the use of
6 credit scoring in insurance. What it is actually

7 measuring is not whether an individual is going
8 to have a car accident, not whether or not they
9 keep their house up, but whether or not they will
10 make a claim. And people of lower income are
11 more likely to have to use the insurance that
12 they are paying for, and as a result of the use
13 of credit scoring in that process are being
14 punished, if you will, for the fact that they are
15 in fact of low income and they're going to have
16 to use the insurance that they otherwise aren't
17 going to.

18 Moreover, they're at the lower income, and
19 they're paying higher rates. The very people
20 that need the use of insurance, need
21 affordability of insurance, are being adversely
22 impacted by the use of credit scoring.

23 Further, Commissioner, the Legislature has
24 created this rule not in the rating section of
25 the law. And that's a very important thing. It

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1 is not part of the rating law. It is part of the
2 Unfair Trade Practices Law. The law itself
3 already embodies the concepts of the rating law
4 when it says that when you use credit scoring,
5 irrespective of that, you still have to have a
6 filing that's not excessive, inadequate, or
7 unfairly discriminatory. So that aspect is
8 already taken care of.

9 But the Legislature went further and gave
10 you the authority to limit the use of credit
11 scoring and to avoid the use of disparate

12 conduct, if you will, with regards to the people
13 in the protected class in the creation of rates
14 and premiums. And that's what this rule does.
15 It says to the insurance company, "Look, you're
16 free to use it, but show us that it is not
17 adversely impacting these protected classes."

18 The thing that worries the Office, quite
19 frankly, is the testimony that has occurred over
20 the two-year period with regards to credit
21 scoring. And the thing that just astounds me is
22 the two-way person. The industry says, "We don't
23 know why it works. It just works."

24 GOVERNOR BUSH: But does it work -- I think
25 the Commissioner was asking -- maybe I didn't

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1 hear your question right, but I thought he was
2 saying, for car insurance or mortgage lending, do
3 we use credit scoring in the way that it's being
4 used now, or are we applying the same for -- are
5 there rule changes pending for those forms of
6 insurance or lending?

7 MR. PARTON: The way credit scoring is used
8 in the industry versus the way it is used in the
9 lending industry is indeed different.

10 GOVERNOR BUSH: What about car insurance?

11 MR. PARTON: Same thing with regards to car
12 insurance. You have to understand that credit
13 scoring ultimately forms the basis, and then
14 there are other factors that are considered.

15 GOVERNOR BUSH: So this is for car and --

16 MR. PARTON: And homeowners, all insurance.

17 Okay? The factors that are actually considered
18 in addition to a credit score when you get it are
19 such things as how many credit cards does this
20 individual have, are they close to the limit, are
21 they making minimum payments or are they making
22 larger than minimum payments. And all of those
23 factors, if you look at them, work against those
24 people who are in the lowest income brackets of
25 our state.

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1 GOVERNOR BUSH: Thank you. Did you get your
2 question answered?

3 COMMISSIONER BRONSON: I think so.

4 GOVERNOR BUSH: All right. Any other
5 discussion?

6 CFO GALLAGHER: I move 3. And also, this
7 particular rule has been floating around for
8 about a year. Is that about right, Steve?

9 GOVERNOR BUSH: I think he said August.

10 MR. PARTON: It actually began development
11 in November of 2003.

12 GOVERNOR BUSH: Oh, August is when the
13 litigation started.

14 MR. PARTON: Yes, sir.

15 CFO GALLAGHER: I want to move this, and
16 also, I believe that we should at the same time
17 basically tell them to start implementing this
18 kind of policy in the Department, and that will
19 move that procedure over in the administrative
20 hearing a lot quicker, and it will come to a
21 conclusion, as opposed to -- right now what's

22 happening is, "We'll just keep delaying and
23 delaying as long as we need to," as opposed to,
24 "Let's hurry up and get this settled." And if we
25 say this policy should take place now, they'll

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1 get it settled over there and find out if it is
2 or isn't, and they'll know what to do. So I move
3 Item 3 with that.

4 COMMISSIONER BRONSON: Second.

5 GOVERNOR BUSH: There's a motion and a
6 second. Without -- is there any discussion?
7 Without objection, the motion passes. And it
8 does include this new provision that is asking
9 the Department to move forward with the rule.

10 MR. PARTON: Thank you, sir.

11 The last agenda item is Item 4. The Office
12 is seeking approval to publish a rule that sets
13 out the criteria for determining whether or not
14 there's a reasonable degree of competition in
15 some of the areas that Citizens services, and in
16 this particular case it is Monroe County. It
17 uses other considerations. Among other
18 considerations, it uses a methodology known as a
19 Herfindahl Index. Please don't ask me to explain
20 what that is.

21 GOVERNOR BUSH: Please do, as I was curious.

22 MR. PARTON: I knew you would do that,
23 Governor.

24 GOVERNOR BUSH: Who is this guy, Herfindahl?

25 MR. PARTON: I don't know, Governor, but

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1 this is an index that is used quite often in
2 determining the degree of competition in
3 anti trust matters, and it is why we are asking
4 that this be published as part of the basis for
5 making that determination.

6 This rule is being used and will be used in
7 a pilot project that involves Monroe County. We
8 have a report that is due on March the 1st to the
9 Legislature to report to them what the effects of
10 this rule, in combination with a rate filing
11 based upon actuarial principles, would have with
12 regards to the availability and affordability of
13 insurance.

14 To date, we have collected a great deal of
15 information. We have workshopped this particular
16 rule. We now have an actuarial filing that has
17 been done by Citizens. There will be a hearing
18 in Monroe County with regards to this matter
19 about this next month. All of the information
20 that is entailed, as well as the use of this
21 rule, will be used in formulating our report to
22 the Legislature which we will provide on March
23 the 1st.

24 We've asked this matter to be brought
25 forward. We would typically not ask for

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1 permission to publish. We would normally do that
2 under the authority you gave us back when we were
3 created. But there has been some negative
4 comment on the part of the industry, and we would

5 not want to be accused of non-rule policy by not
6 having begun the formal rulemaking procedure
7 before we actually use this in the state if we're
8 going to --

9 GOVERNOR BUSH: Can I read from the rule
10 draft? It's very riveting.

11 MR. PARTON: Yes, sir.

12 GOVERNOR BUSH: "The Herfindahl Index gives
13 added weight to the biggest companies. The
14 higher the index, the more concentration and the
15 less open market competition." So far that's
16 English. "A monopoly, for example, would have an
17 H index of 51 squared or 100 squared, or 10,000.
18 By definition, that's the maximum score. By
19 contrast, an industry with 100 competitors that
20 each has 1 percent of the market would have a
21 score of 1 squared plus 1 squared plus 1 squared
22 plus 1 squared, dot, dot, dot, 1 squared or a
23 total of 100. A 1,000 to 1,800 value generally
24 indicates moderate concentration. Anything over
25 1,800 is taken to betoken acute concentration."

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1 CFO GALLAGHER: And all that is to say
2 something that I would like anybody here from
3 Monroe County to tell me --

4 GOVERNOR BUSH: Can you get insurance other
5 than Citizens?

6 MR. NELSON: No.

7 CFO GALLAGHER: Exactly. And the
8 Legislature wants the Office to go through all
9 that calculation and everything to prove

10 something that there's no doubt anybody in the
11 state, certainly the people of Monroe County
12 know: There's no market.

13 GOVERNOR BUSH: Exactly. What you should
14 have done is encouraged a road trip. That
15 probably would have solved this problem without
16 having --

17 CFO GALLAGHER: Exactly.

18 GOVERNOR BUSH: A legislative committee
19 investigation would have found that they can't
20 get insurance other than --

21 CFO GALLAGHER: Well, they could have called
22 up anybody down there in the phone book and asked
23 them how they got it. Here's --

24 GOVERNOR BUSH: Well, Citizens has a very
25 high Herfindahl Index, is that what you're

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1 saying, in Monroe County?

2 CFO GALLAGHER: I'm sure they do. Here's
3 the issue. My guess is that the reason this was
4 put in here is because the Legislature thinks
5 that the rates for Citizens are too high in
6 Monroe County. And what I'm -- I'm going to
7 forewarn you guys --

8 GOVERNOR BUSH: They're about as low as
9 they're going to be.

10 CFO GALLAGHER: What they used to do when
11 they took the top 20 companies probably kept the
12 rates low, and let me tell you why. The
13 companies had not bothered to file any rate
14 changes in Monroe County because they're not

15 writing any business there. Okay? So they left
16 it where it was. Now what's going to happen --

17 GOVERNOR BUSH: That's true.

18 CFO GALLAGHER: They're going to do an
19 actuarial study in Monroe County, and they're
20 going to realize that when a storm blows through
21 there, lots of bad things happen. One company
22 has all the risks. Therefore, they're going to
23 have a huge rate increase, which is what any
24 other company that would write would file. So
25 I'm afraid that this thing is going to have a

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1 major negative effect as opposed to positive.

2 Now, you know, it's done, and they're going
3 to do the study. But at the same time, the
4 Legislature also said they want actuarial rates
5 throughout the state, so I guess the good news is
6 you won't be alone, everybody is going to get it.

7 GOVERNOR BUSH: Any discussion?

8 CFO GALLAGHER: I'll move it.

9 GOVERNOR BUSH: There's a motion.

10 CFO GALLAGHER: Is anybody against it,
11 except these people in the --

12 GOVERNOR BUSH: Is there a second?

13 COMMISSIONER BRONSON: Second.

14 GOVERNOR BUSH: Motion and a second. Any
15 discussion? All in favor say aye.

16 (Simultaneous affirmative responses.)

17 GOVERNOR BUSH: All opposed, no. I'm not
18 opposed. Excuse me. Aye. It passed
19 unani mousl y. Thank you.

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1 GOVERNOR BUSH: Department of Veterans
2 Affairs. Rocky.

3 MR. McPHERSON: Good morning, Governor Bush
4 and Cabinet officers. Item 1 is our minutes,
5 sir.

6 CFO GALLAGHER: Motion.

7 ATTORNEY GENERAL CRIST: Second.

8 GOVERNOR BUSH: There's a motion and a
9 second. Without objection, the item is accepted.

10 MR. McPHERSON: Item 2, sir, is our first
11 quarter report for the '05-06 fiscal year. It
12 has been reviewed by staff, and there are no
13 issues of concern. Recommend acceptance.

14 GOVERNOR BUSH: Is there a motion?

15 COMMISSIONER BRONSON: Motion on Item 2.

16 ATTORNEY GENERAL CRIST: Second.

17 GOVERNOR BUSH: And a second. Without
18 objection, the item passes.

19 MR. McPHERSON: Item 3, sir, is provided for
20 information, and it is a booklet we have just
21 published. It is a booklet concerning Florida
22 veterans' benefits that you all approved in
23 November. It has been given a much more
24 organized and classier presentation.

1 40,000 copies, and they are being widely
2 distributed to legislators, veterans leaders,
3 county service officers, military installations,
4 and colleges and universities. There's an
5 electronic version of this available on our Web
6 site, and it will markedly enhance our outreach
7 to Florida's veterans. It's just provided for
8 information, sir.

9 GOVERNOR BUSH: All right. Item 4.

10 MR. McPHERSON: Item 4, sir, is the FDVA
11 recommendation for your approval of the proposed
12 donated site of the next state veterans nursing
13 home in Northeast Florida. Five counties were
14 invited to compete for this facility, and two,
15 Duval and St. Johns County, submitted intent to
16 compete.

17 Only St. Johns County submitted an
18 application for the project. Its submission
19 meets all the requirements of the selection
20 criteria, and it is a terrific piece of land just
21 west of I-95 adjacent to the World Golf Village.
22 I personally walked this site last Thursday
23 afternoon and can attest that it is an ideal
24 location for this next state veterans nursing
25 home.

1 There are a series of color maps in your
2 packets that portray the exact location. It is
3 the center of a rapidly expanding portion of

4 Northeast Florida, and locating this facility
5 there as proposed will provide much needed
6 long-term care services for veterans in this
7 portion of the state.

8 Once the site is approved, our department
9 will proceed with adapting the design that we
10 used for our last two facilities and repurchased
11 to the actual site. In cooperation with DMS, we
12 have already selected a construction company
13 which will work hand in hand with our architects
14 on design adaptations to this site.

15 We will apply for the USDVA 65 percent
16 matching grant, construction grant, following
17 legislative approval of the State's share in the
18 2006 Legislature this spring. The federal VA
19 construction grant could be available early in
20 the next federal fiscal year, and we anticipate
21 commencing construction in the spring of 2007 at
22 this site, subject, of course, to your approval.

23 I recommend the approval, sir.

24 COMMISSIONER BRONSON: Motion on 4.

25 ATTORNEY GENERAL CRIST: Second.

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1 GOVERNOR BUSH: There's a motion and a
2 second. Is there any discussion? It's a
3 dynamic piece of property.

4 MR. McPHERSON: Yes, sir, it is.

5 GOVERNOR BUSH: Without objection, the item
6 is approved.

7 MR. McPHERSON: Thank you, sir. Good
8 morning.

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GOVERNOR BUSH: Thank you.

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GOVERNOR BUSH: Administration Commission.

MS. TINKER: Good morning. Item 1,
recommend approval of the minutes of the October
4, 2005 meeting.

GOVERNOR BUSH: Is there a motion?

CFO GALLAGHER: Motion on the minutes.

GOVERNOR BUSH: Second?

COMMISSIONER BRONSON: Second.

GOVERNOR BUSH: And a second. Motion and a
second. Without objection, the item passes.

MS. TINKER: We're not getting off to a very
good start, are we?

GOVERNOR BUSH: We'll get better as we go,
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14 I'm sure.

15 MS. TINKER: Item 2 is consideration of the
16 Department's assessment of the Florida Keys Area
17 of Critical State Concern. Governor and Cabinet
18 members, the staff recommendation is a three-part
19 recommendation as follows: (a) Continue the Area
20 of Critical State Concern designation for the
21 Florida Keys area; (b) determine that the City of
22 Marathon has made substantial progress towards
23 accomplishing the objectives of the work program
24 included in the City's Comprehensive Plan; and
25 (c) determine that Monroe County has made

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1 substantial progress, contingent upon completion
2 of the following action: (1) By March 21, 2006,
3 Monroe County shall adopt land development
4 regulations and associated tier 1, tier 3, and
5 special protection area maps consistent with
6 baseline maps dated November 29, 2005, and the
7 conservation and natural areas maps adopted by
8 the County on June 16, 2004, submitted to the
9 Department of Community Affairs as data and
10 analysis in support of amendments to the
11 Comprehensive Plan which the Department found to
12 be in compliance on January 15, 2006; and (2) a
13 determination by the Department of Community
14 Affairs that the land development regulations and
15 associated maps are in fact consistent with the
16 Principles of Guiding Development and the adopted
17 amendments to the local government Comprehensive
18 Plan.

19 Governor, we have several speakers today.
20 The first speaker will be Secretary Thaddeus
21 Cohen presenting the findings of the Department's
22 assessment.

23 GOVERNOR BUSH: Mr. Secretary.

24 MR. COHEN: Good morning.

25 GOVERNOR BUSH: Good morning.

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1 MR. COHEN: What we would like to do is to
2 give you our view, our assessment as we go
3 forward working with our partners in the Florida
4 Keys as to the work that has been accomplished in
5 years 7 and 8. And then I guess there will be
6 other speakers who will be speaking to other
7 portions of our presentation, so -- while it's
8 loading, my understanding is that I have five
9 minutes, so I'll just go ahead and move forward.

10 What we believe is, we're using -- based on
11 the information that we received from the rule,
12 we believe that the work that has been done by
13 Monroe County over the last two years, and
14 particularly combining years 7 and 8, addresses
15 the issues of habitat protection, water quality,
16 workforce housing, and hurricane evacuation.

17 You directed us in August to be able to work
18 with them to be able to provide a status report
19 and being able to complete an interlocal
20 agreement on wastewater, which was done, as well
21 as being able to move forward on land development
22 regulations and mapping of a tier system to be
23 able to do protection of the environment. Let me

24 try to get myself to where I am.

25 We're using the term "substantial

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1 completion" as being in terms of fairly large,
2 important or, particularly for the Keys, really
3 existing, have they actually done the work that
4 is being proposed to go forward. In our November
5 report for habitat protection, they had acquired
6 15 acres of CNA or identified for purchase.
7 They've spent 3 million. An update for January
8 '06 is that they've adopted the tier system, and
9 more importantly from our perspective, we found
10 that in compliance. The data analysis and maps
11 support the Comprehensive Plan, and they're
12 proposing to move forward with land development
13 regulations to be completed by March of 2006.

14 GOVERNOR BUSH: Thaddeus, the March 21st
15 date is the date that we -- is that a date for
16 the Cabinet meeting, or is that a date that
17 they're meeting when final approval will take
18 place?

19 MR. COHEN: That will be the date that
20 they're meeting for final approval to take place.

21 GOVERNOR BUSH: When is our Cabinet meeting
22 after that? Do we know?

23 MS. TINKER: Assuming the local government
24 adopts the land development regulations and
25 they're found in compliance by the Department of

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1 Community Affairs as required under the statute,

2 Governor, there would not have to be another
3 Cabinet meeting to address this issue.

4 GOVERNOR BUSH: Well, assuming, which is why
5 your resolution was so detailed, because it
6 was --

7 MS. TINKER: Yes, sir.

8 GOVERNOR BUSH: -- the particular map -- I
9 mean, it's so specific that if there's any
10 variation, it would have to come back to us.

11 MS. TINKER: The Department could bring it
12 back to you if they don't do what they're
13 required to do, and then the Cabinet would have
14 the opportunity to either allow a proceeding to
15 go forward at DOAH if the Department finds that
16 they're not consistent, or you all could choose
17 to impose a rule adopting those land development
18 regulations for the County.

19 GOVERNOR BUSH: Okay. Thanks. The
20 March 21st date was a little confusing. I got it
21 now.

22 MR. COHEN: Okay. On the water quality
23 issue, we reported in November that four of the
24 six projects that they were moving forward on
25 have been completed. They secured funding from

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1 the Department of Transportation for \$2 million
2 for retrofits along U.S. 1.

3 Most important, from our last time we had an
4 opportunity to meet, we were looking at the
5 wastewater issue. In particular, CFO Gallagher
6 was moving us towards moving on an interlocal

7 agreement, which has been completed. Conch Key
8 and Bay Point has 50 to 70 percent of the
9 connections made. And I think more importantly,
10 in January, the County has moved forward with an
11 appropriation of \$5 million for Big Coppitt and
12 working with the FKAA. That's the identified
13 project. They've moved forward on fees that will
14 generate somewhere in the neighborhood of
15 \$170,000 per year, as well as connection fees,
16 which will generate \$7.7 million from moving
17 forward on that area.

18 On affordable housing, in November we
19 reported that they had acquired \$7 million worth
20 of property. They have authorized 10 million in
21 bonding. They created a community land trust for
22 which they're partnering with the Florida Housing
23 Finance Corporation in that area, working with
24 Habitat for Humanity, and also working to
25 increase the time frame in which affordability

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1 will be maintained down in the Keys to 99 years,
2 basically in perpetuity. An update says that
3 they have drafted documents, that they're looking
4 forward for a February hearing to move forward on
5 those, as well as scheduling land development
6 regulations that will codify that affordable
7 housing component.

8 Hurricane evacuation, as you know, in
9 talking with Director Fugate, we've been
10 impressed with the work that they've done. Last
11 year they evacuated folks safely on four separate

12 occasions. They have a phased plan. Craig says
13 he can now take them off their watch list as an
14 area in which they've made incredible progress.
15 We think that the plan they have in place works
16 well. The proof is in the pudding. It was done.

17 The City of Marathon. In November we
18 reported that they've expanded the boundaries for
19 Florida Forever to be able to identify properties
20 to be bought. They provided \$1.5 million for
21 land acquisitions over the next five years. And
22 again, in January of '06, they're also developing
23 the implementation of land development
24 regulations to move forward in that area.

25 Again, with CFO Gallagher's direction, we've

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1 been able to reach an agreement with the Florida
2 Aqueduct Authority to be able to separate the
3 fact that Marathon is now its own provider of
4 sewers. They've been able to secure \$4.7 million
5 from the State Revolving Loan Fund. They're
6 preparing a request for an additional \$16
7 million, which will be reviewed by the Department
8 of Environmental Protection in April of '06.
9 They've contracted with Wilder Engineering to be
10 able to move forward on the implementation of
11 their wastewater facility, so they're moving
12 forward.

13 The same for workforce housing. They've
14 implemented land development regulations.
15 They've got dollars in their capital improvement
16 element. And hurricane evacuation is similar to

17 Monroe County. They've been able to move forward
18 successfully there.

19 So we find from our perspective that they've
20 made, as we said earlier, from common language,
21 real progress in moving forward, and we would
22 like that to be part of your consideration as you
23 make your final decision.

24 Thank you.

25 GOVERNOR BUSH: All right. Any questions?

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1 We have some speakers, I assume.

2 MS. TINKER: Yes, sir, Governor. With your
3 permission, I would like to take up the City of
4 Marathon first. There seems to be no dispute
5 among the parties that the City has actually made
6 substantial progress. So if we could hear from
7 Mayor John Bartus first, I think we can then move
8 on to Monroe County.

9 GOVERNOR BUSH: Good morning, Mayor.

10 MR. BARTUS: Good morning, Governor, and
11 good morning, Cabinet members. My name is John
12 Bartus, mayor of the City of Marathon, part of
13 the fabulous Florida Keys.

14 And I would just like to thank, of course,
15 the DCA for all their hard work with us, and of
16 course, your office as well, and the Cabinet
17 aides in helping us get to this point today, in
18 making the progress, real significant progress in
19 our annual report. And again, this is a result
20 of a productive working relationship we've
21 developed with the DCA over the last six years

22 since we have incorporated. And another
23 department we really need to thank, of course, is
24 the Department of Environmental Protection, the
25 lovely folks at DEP who are helping us make those 57

1 wastewater dreams a reality.

2 GOVERNOR BUSH: That's so romantic.

3 MR. BARTUS: It certainly is.

4 CFO GALLAGHER: Could be on the other end.

5 MR. BARTUS: But again, we have also
6 contracted with Wilder Engineering to handle our
7 stormwater as well as our wastewater, and we're
8 going to be able to go into our neighborhoods and
9 get them done in one fell swoop so we don't have
10 to go back in time and time again and redig up
11 the roads and plumb this and do that. It's going
12 to be a one-time process, one shot, and we get it
13 done.

14 And thanks again to your office and thanks
15 again to all the people we've been working with
16 at the state level, we are in line to meet that
17 deadline of May 31st this year to qualify for
18 that \$7 million in grant funding, and we are
19 going to do that. The ball is rolling. There's
20 no stopping us now.

21 Some of the people that also helped get us
22 to this point are the very hardworking city staff
23 members and my fellow council members. I've got
24 a few city staff members with me here, our city
25 attorney, John Herin; our finance director, Peter 58

1 Rosasco; and Cindy Lawson, who works under Peter,
2 but also has done a lot of work helping us get
3 wastewater and stormwater into this point, and,
4 of course, my fellow council members who with me
5 have found the political will to get a lot of
6 this stuff done. And that's the key to making
7 substantial progress, the will and a good working
8 relationship with our staff and your staff.

9 Governor, like you, I'm term-limited out of
10 office this year, and actually, I'm term-limited
11 out in about seven weeks, so there's a couple of
12 issues I would like to discuss.

13 GOVERNOR BUSH: Before you --

14 MR. BARTUS: Before I leave.

15 GOVERNOR BUSH: Uh-oh.

16 MR. BARTUS: But these are things that
17 future councils and future cabinets are going to
18 have to deal with, and some of them are probably
19 a little more near term, some of them not so.

20 But one of the things that we're going to
21 really need to address is affordable housing.
22 It's at a crisis level right now, and that has
23 been exacerbated by the recent hurricane season
24 last year. You know, that \$1.5 million, that's
25 1.5 million a year over five years that we have

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1 dedicated to both affordable housing and
2 environmentally sensitive land acquisition.

3 We're also putting into effect redevelopment
4 policies that require developers or redevelopers
5 who come in to dedicate a certain percentage of

6 that to new affordable housing units for the
7 people in the Keys that we desperately need.
8 They have an effect, and they need to help be
9 part of the solution.

10 And we're really looking at right now some
11 public-private partnerships for the creation of
12 workforce housing. Again, our deed restrictions,
13 our policy is 50 years plus two 50-year terms on
14 top of that, so they would be deed restricted in
15 perpetuity. We're looking at some city-owned
16 land for the potential of private-public
17 partnerships that we can put some real units in
18 real numbers on the ground, hopefully sooner
19 rather than later.

20 And that's the problem. Some of the --
21 we're at a backlog of units at this point. The
22 units that we have hopefully coming back to us
23 are committed to other projects, and we would
24 like to somehow or other create a pool on an
25 as-needed basis that we could dip into for

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1 legitimate, real, in perpetuity, affordable
2 housing units that we could build that would
3 again help solve this problem. We have groups
4 that are willing to work with us as long as we
5 have the units to do so.

6 So either we can create that pool of
7 allocations, or something else that we've talked
8 about with the Department is the possibility of
9 moving to fractional allocations. These things
10 like studio apartments, things like one-bedrooms

11 shouldn't necessarily require a full ROGO
12 allocation for affordable housing.

13 GOVERNOR BUSH: So what you're saying is
14 you're using your ROGO allocation for market
15 housing, and you want more? Is that --

16 MR. BARTUS: I'm not talking about market at
17 this point. I'll get there.

18 GOVERNOR BUSH: No, but you have an
19 allocation of housing units right now; right?

20 MR. BARTUS: Yes, sir.

21 GOVERNOR BUSH: And those are being -- those
22 aren't being used for affordable housing?

23 MR. BARTUS: We have, I believe, 65 units
24 coming back to us that were older. We have a
25 group called the Coral Isle Group that's putting

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1 in an 84-unit affordable housing project here
2 right now that we've been working with them over
3 the last couple of years to get this done.

4 We're also looking at -- our deputy city
5 manager, C. J. Geotis, has come up with an idea
6 and has made some contact with some developers
7 for -- on city-owned land, they come in, they
8 build a project, and it's managed by the Middle
9 Keys Community Land Trust or somebody else the
10 City would designate. They would hold it for 20
11 years, and like a similar thing with like a
12 hanger lease at an airport, where after the end
13 of that 20 years, it reverts back to the City.

14 So those are some of the things we're
15 talking about.

16 GOVERNOR BUSH: Well, the good news is that
17 hopefully the Legislature will embrace our
18 recommendations. We have \$300 million of
19 one-time money going into affordable housing
20 impacted by -- in communities impacted by the
21 storms of this last year, which is Wilma
22 principally, so South Florida and the Keys will
23 benefit from that. Our affordable housing budget
24 -- is it okay if I mention it, Teresa?

25 MS. TINKER: Go ahead.

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1 GOVERNOR BUSH: We're proposing about 35, I
2 think it was a 30 or 40 percent increase over
3 last year's funding. And by the way, we're also
4 going to propose yet again the \$20 million for
5 wastewater funding for the Keys. Hopefully all
6 y'all can come back and help Representative
7 Sorensen and Senator Bullard to make that happen.

8 I think maybe the third time is a charm,
9 because you all are -- we're asking you to do a
10 lot, given the base of your -- the population.
11 And you want to do it, and I think the State has
12 an obligation both to continue to purchase
13 preservation lands, which was started with
14 Secretary Castillo and continues on through DEP's
15 land purchasing programs. The wastewater
16 commitment I think is appropriate, and affordable
17 housing is a huge issue for you all, and I think
18 the State has a responsibility to step up. So
19 we'll be your partner. Let me put it this way:
20 The next mayor and the next governor will have to

21 deal with it, but I'm sure they'll have resources
22 to do it.

23 MR. BARTUS: That is great news. And if I
24 could just sort of get back to the
25 environmentally sensitive land acquisition, we

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1 have this thing called --

2 GOVERNOR BUSH: You know, all you're going
3 to do is blow it now. You've already got your
4 approval, so anything you say now is only going
5 to be downside, so be careful.

6 (Laughter.)

7 MR. BARTUS: But this is a topic that needs
8 to be addressed, because --

9 GOVERNOR BUSH: He's not going to stop.

10 MR. BARTUS: I'll try to be as quick as
11 possible here. But we've developed policies in
12 cooperation with the Department to direct
13 development away from environmentally sensitive
14 lands, and that policy has worked, so much so
15 that all the lots in ROGO that we currently have
16 are not environmentally sensitive. There are no
17 issues. We've got a backlog of them coming up in
18 year 4 in ROGO. For those that want to -- they
19 have the choice for administrative relief. They
20 can either be bought out at a fair market value
21 if they choose to stay in the system, or we have
22 to give them a permit. And we're looking at
23 hopefully not devoting too many taxpayer dollars
24 to purchasing market rate lots that are perfect
25 for infill development.

1 So that's something we're looking at as
2 hopefully perhaps a one-time bump to try to
3 alleviate some of these market rate units. I
4 don't know how this is going to work, but this is
5 a problem that, like you said, a future governor
6 and a future mayor and council and cabinet will
7 have to --

8 GOVERNOR BUSH: By the way, the other thing
9 that we're going to do -- the future mayor and
10 future governor will hopefully be part of the
11 ribbon cutting -- is the funding of a hardened
12 emergency operations center.

13 MR. BARTUS: Hear, hear.

14 GOVERNOR BUSH: Paid for by the State. Is
15 anybody writing that down?

16 MR. BARTUS: Are you guys getting this?

17 GOVERNOR BUSH: That was a little scary
18 going down there to see the emergency operations
19 center and the County Commission building.

20 MR. BARTUS: It will be very good for the
21 County to have a place like that. And we're
22 looking at also developing an EOC for our City
23 with the building --

24 GOVERNOR BUSH: Why don't you share it?

25 MR. BARTUS: -- and the construction of our

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1 new fire station.

2 GOVERNOR BUSH: Why don't you share it with
3 the County so that we can create some economies?

4 MR. BARTUS: I think that's a good idea.

5 Anyway, thank you for your time. I am going
6 to shut up now and let you guys move on.

7 GOVERNOR BUSH: Thank you, Mayor.
8 Congratulations on a great job.

9 MS. TINKER: Governor, we have two residents
10 of the Florida Keys here to speak today. The
11 first person is Debra Harrison, who lives in the
12 Keys, and she also represents the World Wildlife
13 Fund, followed by Kim Wigginton, who is a
14 resident of the Lower Keys.

15 GOVERNOR BUSH: Good morning.

16 MS. HARRISON: Good morning.

17 GOVERNOR BUSH: Welcome back.

18 MS. HARRISON: Thank you. It's always a
19 pleasure to be in the capital. We sometimes wish
20 it weren't quite so far away.

21 GOVERNOR BUSH: I know. I hear you.

22 MS. HARRISON: Tallahassee is a beautiful
23 area, and it's a beautiful day.

24 Thank you for the opportunity to present to
25 you today. My name is Debra Harrison. I'm here

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1 on behalf of World Wildlife Fund. And I want to
2 thank you and thank the Department of Community
3 Affairs and thank the Administration Commission
4 staff for the recommendation they have worked out
5 to make to you today. It has been a long road.

6 And particularly, Governor Bush, I am
7 familiar with the efforts that you have
8 undertaken throughout your tenure as Governor to

9 help Monroe County meet both water quality needs,
10 wastewater needs, protection of our conservation
11 lands. I have been in Washington, D.C., with
12 your staff where we have gone together and tried
13 to secure the authorization and the funding for
14 the Florida Keys water quality improvement funds,
15 and I know of your dedication and your commitment
16 to the Florida Keys. So to me, as a longtime
17 resident who is raising my family in the Florida
18 Keys, I particularly thank you for the legacy
19 that you are leaving with us here as you step out
20 of the governorship.

21 There is one additional item I would like
22 you to add to the staff recommendation. It has
23 only been through the oversight of the Governor
24 and Cabinet of this Administration Commission
25 that we have come as far as we have with the

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1 items that we are trying to secure for Monroe
2 County. It has been your continued involvement.
3 And I remember well the comment you made at the
4 August 9th meeting, Governor, but believe me,
5 it -- having been in the Florida Keys for close
6 to 30 years, it is your oversight that helps us
7 accomplish what we need to do. So I would beg of
8 you, please add a third item that either brings
9 back to you upon completion of the tasks a report
10 for a recommendation and a finding or defer until
11 June when all of these items should be completed
12 and ready for your action, an opportunity for you
13 to review at that time. My fear is that without

14 your continued oversight, we will not be able to
15 accomplish the goals that have been put before
16 you through your hard work today.

17 Thank you again so very, very much.

18 GOVERNOR BUSH: Thank you for trekking all
19 the way up here.

20 MS. WIGINGTON: Hi.

21 GOVERNOR BUSH: Good morning.

22 MS. WIGINGTON: Good morning. I'm Kim
23 Wigington, and I support your staff's
24 recommendation. You're keeping your word. Thank
25 you.

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1 In August I asked for assurance that you
2 could hold the County accountable, and you made
3 sure you could. I asked for assurance that you
4 would, and you made it clear that you would.
5 And, Governor, you said it was important to you,
6 and it was important to me also. I left here
7 with your word and a restored faith in the public
8 process. You're doing what you said that you
9 would do, and that's why it's important to me
10 also that this final word be in your hands.

11 Respectfully, I don't care how you do it,
12 whether it's an opinion, whether it's a ruling,
13 whether it's a finding, or whether their
14 recommendation comes back to you. I just trust
15 you and your word that you'll hold the County
16 accountable.

17 Thank you. I could get used to this,
18 promises made, promises kept. Thank you.

19 GOVERNOR BUSH: Thank you very much.

20 CFO GALLAGHER: I move Item 2.

21 GOVERNOR BUSH: Is there a -- I saw
22 Commi ssi oner Nel son.

23 MS. TINKER: We do have Commi ssi oner
24 Nel son --

25 CFO GALLAGHER: I'm sorry.

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1 MS. TINKER: -- avai lable from the County.

2 GOVERNOR BUSH: Does he want to speak?

3 MS. TINKER: And then we also have a couple
4 of representatives from the Aqueduct Authority if
5 you have any questions for the Authority.

6 GOVERNOR BUSH: Murray, you're looking good.
7 It's great seei ng you. You look really heal thy.

8 MR. NELSON: Well, Governor, I'm back again.
9 It's a pleasure to be here. And certainly all
10 the comments today have been posi tive, and the
11 actions that have been taken by Monroe County and
12 the Cabinet and the DCA have all been posi tive
13 too.

14 We've come a long way, Governor, and we
15 basically -- Monroe County had obligated its
16 ci ti zens for \$130 million for wastewater. We've
17 obligated them for \$10 million bonding for
18 workforce housing. We are the leader in the
19 state on affordable housing issues, and right now
20 I have 418 uni ts ready to proceed wi th the
21 permi ts that you currently gave us through the
22 rule. So we are movi ng forward on our wastewater
23 and the envi ronmentally sensi tive lands and the

24 issues of concern of the State.

25 I would like to address this issue of the

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1 history versus the present. I know that we've
2 come from a long history of not doing what we
3 said we were going to do. That changed in 2000.
4 We had an election of three commissioners that
5 have basically forwarded this issue. We've been
6 the leaders in this issue of bringing these
7 things forward and implementing the necessary
8 actions that will accomplish the goals of the
9 rule, and those are workforce housing,
10 environmental lands, wastewater, and evacuation.

11 Our last evacuations have worked like a
12 charm, I mean, just like clockwork. I was on
13 U.S. 1 12 hours after -- 12 hours prior to the
14 storm in Key Largo at the intersection of U.S. 1
15 and Card Sound, and it was basically a deserted
16 road. So --

17 GOVERNOR BUSH: Is that because there were
18 four hurricanes, and by the fourth, people said,
19 "To heck with it"?

20 MR. NELSON: Well, whatever it was --

21 GOVERNOR BUSH: Which would be
22 understandable. I mean, it's a difficult
23 challenge for the Keys to evacuate. A lot of
24 people, you know, that are with modest incomes,
25 it costs a ton of money to -- particularly in Key

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1 West, to trek all the way up. You know, it's
2 just expensive. So for people to evacuate to the

3 extent that they do is a tribute to people, you
4 know, taking it seriously, and we appreciate it.

5 MR. NELSON: Well, the good news is that
6 anybody who wanted to leave Monroe County had
7 more than ample time to do that, and 12 hours
8 prior to the storm, there was literally nobody on
9 the road. And I did that on two storms, and the
10 result was the same.

11 I just have a letter I would like to read
12 today to the Cabinet and Governor.

13 GOVERNOR BUSH: Sure.

14 MR. NELSON: "It is my honor today to appear
15 here to speak in favor of Monroe County receiving
16 a vote of confidence in our progress toward the
17 work program. Today I'm happy to report Monroe
18 County has met the requirements for year 8, and
19 we're also working on projects on year 9 and 10.
20 This agreement and partnership was entered into
21 over two years ago. Today it is time to complete
22 our agreement and move on to implement our
23 partnership. Monroe County has obligated over
24 130 million for wastewater projects, 20 million
25 for affordable housing, and an obligation to buy

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1 from willing sellers any environmental land over
2 one acre. Monroe County has also completed the
3 tier maps and ground truthed them with Secretary
4 Cohen. We are ready to start public hearings in
5 March so we can create the necessary LDRs for our
6 Comp Plan.

7 "The DCA and the Governor and Cabinet's
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8 agreement indicates the State will provide
9 \$20 million for affordable housing and
10 \$30 million for wastewater projects. We are
11 looking forward to receiving this funding in the
12 near future.

13 "The findings of substantial completion
14 should be made on facts, not supposition or
15 political considerations. The last time I
16 appeared before this Cabinet, we had met all the
17 requirements except an agreement with the Florida
18 Keys Aqueduct Authority. This has now been
19 accomplished with the help of Secretary Cohen.
20 Monroe County has now met all the requirements of
21 the work rule, the requests of the Cabinet, and
22 has satisfied DCA staff of our obligations. It
23 is now time for the State and the County to honor
24 our partnership and work hand and hand to see it
25 through to completion.

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1 "Thank you for your attention today and for
2 your consideration of our request."

3 And I would like to just add something on
4 the affordable housing issue that Mayor Bartus
5 brought up. We got with the work rule 145
6 permits back, and I got the ability to borrow
7 forward 71 per year for five years. That comes
8 up to about 480 permits, approximately. I
9 currently have 418 projects ready to proceed.

10 GOVERNOR BUSH: 418 units?

11 MR. NELSON: 418 units ready to proceed.

12 And we are -- our policy is in Monroe County that

13 no matter what workforce housing project it is,
14 we own the land, so we control the process.
15 We've also instituted that you have to earn 77 a
16 year income in Monroe County to qualify for
17 workforce housing.

18 If it's a buy situation, the developer will
19 get a 99-year lease. That lease will be sold
20 back to each individual buyer. They have a
21 99-year lease. When they sell that property,
22 they have to sell it back to the Monroe County
23 Housing Authority at 3 percent a year, so that
24 basically we provide that housing in perpetuity
25 at an affordable cost.

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1 And the good news about that is that no
2 matter what cost it is today, if we build that
3 house at, say, \$200,000, and it has a 3 percent
4 index on it per year, vis-a-vis market rate, the
5 affordable housing becomes more affordable each
6 year.

7 So we've addressed the issues that will
8 provide affordable housing in perpetuity with a
9 plan that actually works, and we own all the
10 land. And we are putting our money up to buy
11 that land, which we've already done about
12 \$7 million. And at the next County Commission
13 meeting, I will introduce resolutions to add 10
14 more million dollars to that fund.

15 So we are moving forward very rapidly on
16 this. The issue is, I can build affordable
17 housing with contractors and willing partners,

18 but I can't do it if I don't have permits. So
19 that's going to be the crux of the next
20 situation. That's not your problem, Governor,
21 obviously.

22 But as we come into the next year and I need
23 funding -- well, I'll have the funding, but as I
24 need permits to solve the problem of this
25 critical housing crisis which John Bartus alluded 75

1 to very eloquently, it is beyond a crisis.
2 Doctors cannot afford to buy a house today in
3 Monroe County. Engineers can't buy a house.
4 Architects can't buy a house because the houses
5 have become so expensive. So literally, the rule
6 is, when the average person can't buy the average
7 house, you have a market crisis. We're beyond
8 that, way beyond that.

9 So we're going to need the help of the
10 Cabinet and the Governor, future Governor,
11 whoever that may be -- and obviously, we're
12 looking at two possibilities. But we're going to
13 need some help on that issue, because even though
14 you've appropriated a lot of money for affordable
15 housing, if you gave us \$100 million today to do
16 affordable housing and I don't have the permits
17 to address that issue, it's for naught. So I
18 would like to leave you with that thought.

19 But I really would like to commend this
20 Commission and the Governor for all your work in
21 helping us attain our goals. The work plan says
22 very specifically that the State will assist the

23 County in doing economic development, wastewater,
24 land acquisition and wastewater. And you've done
25 that in spades, and I think we've met our

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1 obligations as a county to meet that obligation.

2 So thank you very much for your attention
3 today, Governor.

4 GOVERNOR BUSH: Thank you, Commissioner.

5 MR. NELSON: Nice seeing you again, and I
6 hope to not have to come back here.

7 GOVERNOR BUSH: Oh, come on.

8 MR. NELSON: Certainly I guess in June I
9 will be back for the year 9 hearings.

10 GOVERNOR BUSH: Commissioner.

11 COMMISSIONER BRONSON: Thank you, Governor.

12 Commissioner, I'm intrigued by how you set
13 your affordable housing plan up. I would like to
14 make sure that if we don't have it in hand that I
15 get a copy of how you organized that so that
16 whenever units are turned over, it comes back to
17 the County.

18 We're also, as you know, trying to set up
19 some programs for affordable housing for migrant
20 workers and so forth, and I think this model may
21 be something close that we could use so that as
22 they turn over, they come back so that they can
23 be re-leased to any new workers that come into
24 the area. And this may be a good model for us to
25 take a look at for affordable housing for migrant

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1 workers as well.

2 MR. NELSON: Thank you very much.

3 COMMISSIONER BRONSON: I would like to get a
4 copy of that.

5 MR. NELSON: I'll make sure you get a total
6 plan of that. As you know, we entered into an
7 agreement with Secretary Seibert, who -- past
8 Secretary Seibert of the DCA, who basically has
9 been channeling our efforts on workforce housing
10 through an appointed committee of ten people.
11 And it's just absolutely amazing how you can take
12 the people of the County who know the problems
13 and come up with solutions that actually will
14 work over a long period of time. So through his
15 leadership on that and our ability to identify
16 what the problem is and solve the problem so we
17 can actually have affordable housing in
18 perpetuity and we can control the process has
19 been a fantastic step forward.

20 GOVERNOR BUSH: Commissioner, before you
21 leave, I just want to make sure you understand
22 this is a contingent approval, and we're -- did
23 you hear the proposal made by Ms. Tinker about
24 the specific map?

25 MR. NELSON: Yes, and we're totally in

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1 accordance with that.

2 GOVERNOR BUSH: No tinkering, no changing --

3 MR. NELSON: No problems.

4 GOVERNOR BUSH: We'll approve on March 21st
5 that specific map. If not, then this is not --

6 you know, you don't get the approval that you
7 want and you've earned.

8 MR. NELSON: I have no problem with that.
9 You know, you've asked us to do something that's
10 reasonable. We were going to do that anyway.

11 GOVERNOR BUSH: I know. I just want to make
12 sure there's no --

13 MR. NELSON: No, there'll be no --

14 GOVERNOR BUSH: No wiggle room. You
15 understand there's no wiggle room on that?

16 MR. NELSON: I think the County Commission
17 has committed to you to going through the process
18 of these public meetings and sticking to this
19 plan, even though it's going to be painful for
20 some people and there's going to be some people
21 that say, "Well, I shouldn't be in that tier. I
22 shouldn't be in that designation." But we're
23 committed. It's fair, it's equitable, it
24 protects the property, and it provides a
25 reasonable expectation for the property owners to

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1 be able to build in the future.

2 GOVERNOR BUSH: Okay. Thank you.

3 MR. NELSON: Thank you very much, Governor.

4 GOVERNOR BUSH: Thank you.

5 MR. NELSON: It's my pleasure to be back.

6 GOVERNOR BUSH: Glad we're in sync.

7 Any other speakers?

8 MS. TINKER: No, sir.

9 GOVERNOR BUSH: Okay.

10 CFO GALLAGHER: Motion on 2.

11 COMMISSIONER BRONSON: Second.
12 GOVERNOR BUSH: There's a motion and a
13 second. Any other discussion?
14 Without objection, the motion passes.
15 CFO GALLAGHER: Congratulations.
16 GOVERNOR BUSH: Thank you all. Thank you,
17 Secretary Cohen, for your hard work. Ground
18 truthing, is that what it was called?
19 MR. COHEN: Yes. We took a bus tour. We
20 took a bus tour.
21 GOVERNOR BUSH: Mayor, I hope there's life
22 after term limits.
23 MR. NELSON: There is.
24 GOVERNOR BUSH: After you get out, let me
25 know. You're my predecessor.

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1 GOVERNOR BUSH: Board of Trustees.
2 CFO GALLAGHER: Motion on the minutes for
3 the November 8th and November 22nd meetings.
4 ATTORNEY GENERAL CRIST: Second.
5 GOVERNOR BUSH: There's a motion and a
6 second on Item 1. Without objection, the item
7 passes. Item 2.
8 MS. CASTILLE: Item 2 is the Board of
9 Trustees delegations additions and revisions.
10 Governor and members of the Cabinet, over
11 the years we have been compiling delegations in
12 order to make the processes of the Department of
13 Environmental Protection more efficient when it
14 comes to land acquisition, leases, modifications
15 of leases, et cetera. We have been giving you

16 quarterly reports each quarter over the last
17 couple of years.

18 And this is as a result of the request that
19 you made last year or earlier in 2005 to bring
20 the delegation packet that we have existing, and
21 then include all of the delegations that we have
22 been given on an item-by-item basis in the last
23 probably year and a half, I think it includes.

24 And so in front of you, you have the new
25 delegation with the addition of certain

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1 directives. Would you like me to go through the
2 directives?

3 GOVERNOR BUSH: I'm happy with not going
4 through them.

5 CFO GALLAGHER: I've got a question, though.

6 GOVERNOR BUSH: Treasurer.

7 CFO GALLAGHER: Do you all have a place
8 where you track each one of the, let's say,
9 projects that --

10 MS. CASTILLE: You mean each one of the
11 actions that we take?

12 CFO GALLAGHER: The projects that you're
13 working on. In other words, something comes in
14 from somewhere. Either you start it, or the
15 Nature Conservancy starts it, or somebody starts
16 it, or maybe a landowner comes to you.

17 MS. CASTILLE: I'll tell you what we have.
18 What we do is, we keep, as we get to the final
19 action, a delegation, depending upon who it's
20 delegated to. In each of these cases, if an item

21 comes to, say, Scott Woolam, attached to it will
22 be, "You're taking this item under Delegation X,
23 Y, and Z." So we begin that in Scott's office,
24 which is where the final action happens.

25 CFO GALLAGHER: Well, what I'm wondering is

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1 if you could make a list that's probably
2 electronic -- I would hope it is anyway -- of
3 what's being taken under delegation and being
4 worked on that's -- you know, you're going to
5 finalize it at the end of the week or whenever,
6 you know, within whatever time limit that they
7 have to finish the work on it, and just have that
8 available to the agency.

9 MS. CASTILLE: Treasurer, we take over 4,748
10 actions under the delegations each quarter, and
11 we keep track of it at the very end of the
12 process once it happens. Scott Woolam keeps the
13 report going so that we can send it over to you
14 after the third quarter.

15 CFO GALLAGHER: Well, you don't track them
16 coming in?

17 MS. CASTILLE: We don't until Scott takes
18 the action.

19 CFO GALLAGHER: So stuff is happening all
20 over the place, and nobody knows where it is or
21 what it is?

22 MS. CASTILLE: No. Actions are taken on a
23 continual -- it's what we do. I mean, it's
24 happening all the time.

25 CFO GALLAGHER: Right. But you have to

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1 manage that workflow.

2 MS. CASTILLE: We do manage the workflow,
3 but we don't manage it in terms of delegation.
4 We manage it in terms of here's Tracy Peters, and
5 Tracy Peters handles leases, and she's working on
6 various leases as she goes through the process.
7 And, you know, sometimes they get controversial
8 and they come up to my level, but for the most
9 part, I would say 99 percent of them don't even
10 reach my level until they come to Cabinet.

11 CFO GALLAGHER: Right. But if you want to
12 know where all the leases that were being worked
13 on are, is there a place you go on your Intranet
14 within the Department, or do you have to go to
15 her office, or what do you do?

16 MS. CASTILLE: I would call Tracy and ask
17 Tracy if she's working on a particular lease.
18 And she has a particular workflow that she has.

19 CFO GALLAGHER: Well, you could ask her for
20 the list that she's keeping probably
21 electronically as she tracks all the ones she's
22 working on, I would hope.

23 MS. CASTILLE: Do you do that, Tracy? Yes,
24 she does.

25 CFO GALLAGHER: I mean, I can't imagine that

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1 each one of your areas is doing that so you could
2 go track what's happening.

3 MS. CASTILLE: All the leases are -- I
4 actually at one point in time asked from all of

5 the agency personnel how they tracked the
6 projects, not just in State Lands, but across the
7 entire agency, on how people keep track of their
8 lists. A lot of them use an Excel spreadsheet.
9 Some of them use Microsoft Office. So I got over
10 50 program tracking project lists so that I would
11 know how everybody is keeping track of them. I
12 don't keep track of it on a daily basis, but I
13 was just working on a management process to make
14 sure that it was efficient and that the
15 delegations that I had given to all of the
16 managers, as every secretary and agency head does
17 when they take office, are being tracked
18 appropriately and in an efficient manner.

19 CFO GALLAGHER: 99 percent of them, maybe
20 it's 99.9, are just rote, and I recognize that.
21 But every once in a while something comes up that
22 isn't, and I just want to make sure that the
23 right thing happens with those, in other words,
24 they move up the food chain, I guess, to you, and
25 if necessary, to us. And I'm just wondering how

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1 you know that that happens.

2 MS. CASTILLE: Well, I know that it happens
3 for the most part because we have a series of
4 meetings that occur. Eva has weekly meetings,
5 and so I know that she keeps track of that. We
6 keep track of how efficient the processes are for
7 acquisition, and then finally to contract, and
8 then finally to deed signing. We keep track of
9 how efficient the processes are for items coming

10 to Cabinet.

11 For instance, we know that it takes
12 approximately 33 man-hours in-house to prepare
13 each item that comes to the agenda, and there are
14 approximately 10 agenda items. So when you talk
15 about 4,748 items and making sure that we send
16 those over here and get feedback from four
17 offices, that's essentially four signatory
18 approvals before they come over here, before they
19 get approved in our processes if we added that
20 process to it.

21 CFO GALLAGHER: Well, I'm not --

22 GOVERNOR BUSH: No one is suggesting that,
23 Secretary.

24 CFO GALLAGHER: Yes. I'm not looking to do
25 that. What I'm trying to do is to have a good

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1 back and forth so that there would be a place
2 where an interested office with their -- they
3 have to do it, not you have to do anything, they
4 have to come and review, if they choose to,
5 what's in the works and what's going on.

6 GOVERNOR BUSH: I think one of the things,
7 if everybody is keeping a -- is tracking their
8 work, to standardize it and make it Web-based
9 would be a benefit to them and accomplish the
10 objective that the Treasurer is trying to
11 achieve, if that's possible to do. Just a
12 standard template on how to track the work in
13 progress probably would be a productivity
14 enhancement, wouldn't it?

15 MS. CASTILLE: We're actually developing
16 online tracking processes so that we can be able
17 to do such a thing.

18 GOVERNOR BUSH: You should have said that at
19 the beginning, and that would have satisfied the
20 Treasurer.

21 MS. CASTILLE: And that should be available
22 around the first or second week of April. It
23 should be --

24 CFO GALLAGHER: Wonderful. Hallelujah.
25 That's all we want. And then if something pops

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1 up, one of the aides can contact you and say, "By
2 the way, this particular one probably needs some
3 questions answered."

4 GOVERNOR BUSH: I for one won't ask Kent to
5 do that. But the fact that you have a standard
6 reporting, that's just the way it should be.

7 MS. CASTILLE: Okay. We can do that.

8 CFO GALLAGHER: Hallelujah. Thank you.

9 GOVERNOR BUSH: You could have saved ten
10 minutes. Could have gotten the end first, and we
11 would have -- all right. Is there a motion?

12 CFO GALLAGHER: I move to approve the staff
13 recommendation on 2.

14 COMMISSIONER BRONSON: Second.

15 GOVERNOR BUSH: There's a motion and a
16 second. Without objection, the item passes.
17 Item 3. Thank you, Colleen.

18 MS. CASTILLE: Thank you, sir. Item 3 is
19 the recommended deferral on Nichols Creek until

20 March 3rd.
21 CFO GALLAGHER: Move deferral till March
22 3rd, Item 3.
23 ATTORNEY GENERAL CRIST: Second.
24 COMMISSIONER BRONSON: Second.
25 GOVERNOR BUSH: Why is it being deferred?

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1 Oh, Item 3. I'm sorry.
2 MS. CASTILLE: Item 3.
3 GOVERNOR BUSH: There's a motion to defer
4 and a second. Without objection, the item is
5 deferred till March 3rd.
6 MS. CASTILLE: Item 4 is Volusia County
7 option agreement for an addition and inholding to
8 the North Peninsula State Park. The purchase
9 price for this piece of property is \$208,000,
10 which is half of the price from the County,
11 14 percent of appraised value.
12 COMMISSIONER BRONSON: Motion on 4.
13 CFO GALLAGHER: Second.
14 GOVERNOR BUSH: There's a motion and a
15 second. Without objection, the item passes.
16 MS. CASTILLE: Item 5 is --
17 CFO GALLAGHER: Let me move to defer that
18 for 60 days, Item 5.
19 MS. CASTILLE: Sixty, or do we want to come
20 back in 30? Can we do it in 30? April 4th?
21 Okay. Sixty days.
22 GOVERNOR BUSH: There's a motion to defer
23 till April 4th.
24 ATTORNEY GENERAL CRIST: Second.

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GOVERNOR BUSH: And a second. Without

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1 objection, the item is deferred. This relates to
2 some --

3 CFO GALLAGHER: Property here, Millstone.

4 MS. CASTILLE: The Millstone Plantation.

5 GOVERNOR BUSH: Some questions of --

6 CFO GALLAGHER: Whether it can or can't be
7 developed.

8 GOVERNOR BUSH: Yes. And when you come
9 back, there needs to be a pretty hardy
10 explanation of how you --

11 CFO GALLAGHER: Yes. You know, we keep
12 pushing up like to 80 percent on these
13 conservation easements. I would prefer to look
14 at about 60. And I guess you're talking about
15 what the gross --

16 GOVERNOR BUSH: Well, I'm talking about the
17 price, the fee simple title price and then the
18 percentage. You know, now there's this new thing
19 where on a conservation easement you can actually
20 jack up the price by increasing the percentage
21 towards 100, so it's a new variation that we're
22 starting to see a little bit more of. And if in
23 fact there is some dispute about whether the
24 property can be developed, then why would we be
25 buying it at all?

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1 CFO GALLAGHER: That's my --

2 MS. CASTILLE: And that's what we're going

3 to look at, is to see if the will did include
4 some prohibition on development which was not
5 uncovered in the title search. So we'll look at
6 that.

7 GOVERNOR BUSH: All right.

8 MS. CASTILLE: If I could request, though,
9 we can do that by March 3rd, if we could come
10 back on March 3rd, by March 3rd rather than 60
11 days.

12 CFO GALLAGHER: I don't have a problem that.
13 I'll move March 3rd.

14 GOVERNOR BUSH: The motion has been amended
15 to March 3rd, not April 4th.

16 MS. CASTILLE: Okay. Item 6 is a conveyance
17 of surplus property, a sale to Barbara Caruthers
18 Brooks for -- a contract to sell an 11-acre
19 parcel of state-owned former Cross Florida Barge
20 Canal lands.

21 CFO GALLAGHER: Motion on 6.

22 COMMISSIONER BRONSON: Second.

23 GOVERNOR BUSH: There's a motion and a
24 second. Without objection, the item passes.

25 MS. CASTILLE: Item 7 is the Usina

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1 conveyance, a surplus land sale to Frank Usina
2 and John Usina. The approved value is 200,000,
3 and the purchase price is 500,000.

4 CFO GALLAGHER: Motion on 7.

5 COMMISSIONER BRONSON: Second.

6 GOVERNOR BUSH: Just say that again just for
7 fun.

8 MS. CASTILLE: The approved value is
9 200,000, and the purchase price is 500,000.

10 GOVERNOR BUSH: Well done.

11 MS. CASTILLE: Thank you, sir.

12 CFO GALLAGHER: I guess maybe the appraisal
13 was done two years ago.

14 GOVERNOR BUSH: Come on. Give them a break.
15 Let's pause and celebrate the moment here.

16 There's a motion and a second. Without
17 objection, 250 percent of appraised value that
18 we're selling -- we're buying -- that we're
19 selling, I mean.

20 COMMISSIONER BRONSON: We're selling.

21 CFO GALLAGHER: That's the way we buy
22 normally.

23 GOVERNOR BUSH: Without objection, it
24 passes.

25 MS. CASTILLE: Item 8 is the surplus land

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1 sale of the Sunland Center here in Tallahassee,
2 Florida. This, as you recall, came to us before.
3 The sale did not go through because the winning
4 bidder failed to follow through and challenged
5 his decision based on the reasoning that it had a
6 government land designation in the Comp Plan and
7 that he could not get rid of that. We settled
8 with him and let him out of the contract with no
9 penalty, and we moved forward with the City to
10 remove the government designation from the
11 property and appropriately marketed it as a
12 privately developable commercial piece of

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property.
GOVERNOR BUSH: What did we have it under contract the first time for?
MS. CASTILLE: 4.5 million.
CFO GALLAGHER: Beg pardon?
GOVERNOR BUSH: 4.5 million.
CFO GALLAGHER: 4.5 million. That's what I thought it was. I move Item 11 -- I mean 8. I'm sorry, Item 8.
COMMISSIONER BRONSON: Second.
GOVERNOR BUSH: There's a motion and a second. Without objection, the item passes. Once again, a great victory.

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MS. CASTILLE: And Mr. Caruthers is here as well, at least he was earlier. Cavanaugh, I'm sorry. There he is in the back.
GOVERNOR BUSH: Thank you. Thank you for buying it.
CFO GALLAGHER: Move to withdraw 9.
COMMISSIONER BRONSON: Second.
GOVERNOR BUSH: There's a motion to withdraw Item 9 and a second. Without objection, the item is withdrawn.
MS. CASTILLE: Item 10 is a conveyance to Palm Beach County on reclaimed lake bottom for the purpose of wells. This is a property that was dedicated to them, and since we don't want -- we still have the underlying ownership, so we want to make sure they have full fee ownership where the wells exist.

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CFO GALLAGHER: Motion on 10.
COMMISSIONER BRONSON: Second.
GOVERNOR BUSH: There's a motion and a
second. Without objection, the item passes.
CFO GALLAGHER: Move to defer Item 11 for 60
days.
MS. CASTILLE: Thank you.
GOVERNOR BUSH: There is a motion --

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COMMISSIONER BRONSON: Second.
GOVERNOR BUSH: -- to defer Item 11.
MS. CASTILLE: Which is the Department of
Health, Health Care District of Palm Beach --
GOVERNOR BUSH: And a second. Without
objection, the item is deferred.
GOVERNOR BUSH: Is that just to get the deal
going?
MS. CASTILLE: That's for us to work out
with the Department of Health, the Department of
Management Services, and the transportation
village with the county and the health care
district to make sure that we can be consistent
with the community plan as well as meet the needs
of each of the departments.
GOVERNOR BUSH: All right.
MS. CASTILLE: And that concludes our
agenda.
GOVERNOR BUSH: Thank you, Colleen.
MS. CASTILLE: Thank you, sir.

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1 GOVERNOR BUSH: State Board of
2 Administration.

3 CFO GALLAGHER: Motion on the minutes.

4 ATTORNEY GENERAL CRIST: Second.

5 GOVERNOR BUSH: There's a motion and a
6 second. Without objection, Item 1 passes.

7 MR. STIPANOVICH: Thank you, Governor and
8 members.

9 Item Number 2 is a request for approval of
10 fiscal sufficiency of an amount not exceeding
11 19 million State of Florida, Florida Education
12 System, Florida --

13 CFO GALLAGHER: Motion on 2.

14 GOVERNOR BUSH: There's a motion.

15 ATTORNEY GENERAL CRIST: Second.

16 GOVERNOR BUSH: And a second. Without
17 objection, the item passes.

18 MR. STIPANOVICH: Item 3 is a request for
19 approval of fiscal sufficiency of an amount not
20 exceeding 70 million State of Florida, Florida
21 Education System, university system improvement
22 revenue bonds.

23 CFO GALLAGHER: Motion on 3.

24 ATTORNEY GENERAL CRIST: Second.

25 GOVERNOR BUSH: There's a motion and a

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1 second. Without objection, the item passes.

2 MR. STIPANOVI CH: I tem number 4 is a request
3 for approval of fi scal determi nation of an amount
4 not exceedi ng 6, 635, 000 tax-exempt Florida
5 Housi ng Fi nance Corporati on --

6 CFO GALLAGHER: Moti on on 4.

7 ATTORNEY GENERAL CRI ST: Second.

8 GOVERNOR BUSH: Moti on and a second.

9 Wi thout objecti on, the i tem passes.

10 MR. STIPANOVI CH: I tem number 5 is a request
11 for approval of fi scal determi nation of an amount
12 not exceedi ng 6, 515, 000 tax-exempt Florida
13 Housi ng Fi nance Corporati on mul ti fami ly mortgage
14 revenue bonds.

15 ATTORNEY GENERAL CRI ST: Moti on.

16 CFO GALLAGHER: Second.

17 GOVERNOR BUSH: There' s a moti on and a
18 second. Wi thout objecti on, the i tem passes.

19 MR. STIPANOVI CH: I tem number 6 is simply a
20 request that you need to approve the follo wi ng
21 rul emaki ng i tems for adopti on. Thi s is based on
22 l egi slati on that was passed i n '04. I f you have
23 any questi ons, I' ll be happy to answer them.

24 CFO GALLAGHER: Moti on on 6.

25 ATTORNEY GENERAL CRI ST: Second.

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1 GOVERNOR BUSH: There' s a moti on and a
2 second. Wi thout objecti on, the i tem passes.

3 MR. STIPANOVI CH: And the fi nal agenda i tem
4 is an update, Governor and members, on the
5 Florida Hurri cane Catastrophe Fund, and I woul d
6 ask Jack Ni chol son to gi ve that presentati on.

7 GOVERNOR BUSH: Thank you, Coleman.
8 MR. STIPANOVICH: Thank you, Governor.
9 MR. NICHOLSON: Good morning.
10 GOVERNOR BUSH: Good morning.
11 MR. NICHOLSON: I think I have some slides
12 to plug in here. What I'm going to do is update
13 you on --
14 GOVERNOR BUSH: SBA. There you go.
15 MR. NICHOLSON: What I'm going to do is
16 update you on both the 2004 hurricane season and
17 the 2005 hurricane season.
18 GOVERNOR BUSH: This is ugly.
19 MR. NICHOLSON: Starting off with 2004, I
20 just want to point out that there were about 36
21 companies that had losses over \$100 million, and
22 the total losses were 15.8 billion. And that's
23 kind of interesting when you compare with 2005.
24 The 2005 losses were roughly half, or exactly
25 half of the '04 losses as reported to date.

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1 GOVERNOR BUSH: But aren't we expecting
2 more?
3 MR. NICHOLSON: Right. And we'll get to
4 that. There are 17 companies that have over
5 \$100 million of losses in 2005. 137 were
6 triggered or expected to trigger in '04.
7 Sixty-two were expected to exhaust their Cat Fund
8 coverage. And in '05, we have 99 expected to
9 trigger and 10 expected to exhaust their
10 coverage.
11 CFO GALLAGHER: By the way, there's an

12 interesting thing here that most of us probably
13 didn't notice. If you look on page 4, where you
14 see all insurers, you will see 236. If you look
15 on page 5, you will see 204. Nobody meant to put
16 that there, but that is the fact of what's
17 happening in our market. There is a large number
18 of companies that have chosen not to participate.
19 And that was after the 2004 storms and the 2005.
20 I don't know what the 2006 number is, but my
21 guess is that it is larger.

22 GOVERNOR BUSH: One of the things that --

23 ATTORNEY GENERAL CRIST: You mean smaller?

24 GOVERNOR BUSH: One of the things that is a
25 concern as it relates to that issue is the timing 99

1 of the assessment. Can insurers, insurance
2 companies exit, say, now prior to the assessment?
3 Is there an incentive because there's a delay?
4 As I understand it, the assessment for the 2005
5 storms might take place in August of 2006, the
6 actual --

7 CFO GALLAGHER: Right. Here's the issue.
8 That probably doesn't matter, and I'll tell you
9 why. The assessment is passed on to the
10 policyholders, so whether it be a Citizens
11 policyholder or a company that just left --

12 GOVERNOR BUSH: The insurance companies
13 don't care?

14 CFO GALLAGHER: They're going to pay, and
15 they're going to assess whatever policyholders
16 are left, and basically whoever holds a policy

17 during that period of time for the assessment is
18 going to be the ones that get assessed. So every
19 policyholder gets assessed. It's the collection
20 that is done by collecting the money from the
21 carriers, including Citizens.

22 GOVERNOR BUSH: Well, that's my point.

23 CFO GALLAGHER: And it's passed on.

24 GOVERNOR BUSH: That's my point. Is that
25 something that you all have looked at? There may¹⁰⁰

1 be a liquidity issue here for these captive
2 insurance companies.

3 CFO GALLAGHER: Well, the small ones are
4 exempt from putting up the money up front, I
5 think.

6 MR. NICHOLSON: You asked him a question on
7 the assessments. We haven't gotten that far yet.
8 We haven't determined that we need to do
9 assessments or anything.

10 CFO GALLAGHER: Right. We really --

11 MR. NICHOLSON: If they had to be done, they
12 would be -- they're on a collected basis, so I
13 don't think --

14 GOVERNOR BUSH: Are you comfortable with the
15 timing issue as it relates to the question of
16 departure of the insurance market? We've gone
17 from 236 to 204. The Treasurer is saying the
18 expectation is that that might continue, that
19 departure might continue. Are you comfortable
20 with the assessment, the timing of the
21 assessment, giving insurance companies perhaps an

22 added incentive to want to leave? And if you are
23 comfortable, tell me, and if you're not, then
24 make a recommendation that we can go to the
25 Legislature with about changing it.

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1 MR. NICHOLSON: Well, I'm comfortable
2 because the way the assessment works -- there's
3 two types of assessments. Citizens has a regular
4 assessment and an emergency assessment. We have
5 one type of assessment, and that's an emergency
6 assessment. Our emergency assessment works very
7 similar to Citizens', in that it's ordered and
8 then the companies collect that from
9 policyholders. So they don't have -- they're not
10 fronting the money. We actually changed the law
11 in 2004 to keep that from happening. So I'm
12 confident that that's not a disincentive for the
13 companies.

14 GOVERNOR BUSH: What about the other -- what
15 about the Citizens assessment?

16 MR. NICHOLSON: The regular assessment?

17 GOVERNOR BUSH: Yes. You've been blessed
18 with the Cat Fund, not with the --

19 MR. NICHOLSON: Right. Well, they have the
20 issue of filing rates and then recovering that
21 from policyholders, and they completely recovered
22 it is my understanding. But I don't know what
23 motivation they would have. It could be a
24 disincentive, but --

25 GOVERNOR BUSH: The insurance companies do

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1 front it as it relates to Citizens.

2 CFO GALLAGHER: Citizens, they do front it,
3 but they collect it back from them. And the
4 Department obviously gives them a credit for
5 what's going to come in from what they paid out,
6 so basically on the books it's a neutral.

7 Now, the big difference between Citizens and
8 the Cat Fund is the assessment base. Citizens'
9 assessment base is property and casualty,
10 homeowners insurance, basically. The Cat Fund's
11 base is all across, with the exception of medical
12 malpractice and workers' comp. Is that correct,
13 Jack?

14 MR. NICHOLSON: That's correct.

15 GOVERNOR BUSH: Okay.

16 MR. NICHOLSON: This is --

17 MR. STIPANOVICH: Governor, to be clear on
18 the assessment, there's not a foregone conclusion
19 that the Cat Fund will have to do an assessment,
20 and we won't know that until the next hurricane
21 season. Sort of where we are in our analysis is
22 that if there's not another hurricane that makes
23 landfall in the '06 season, there's a likelihood
24 that we wouldn't have to bond.

25 GOVERNOR BUSH: Okay.

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1 MR. STIPANOVICH: So that remains to be
2 seen. And whether or not we end up paying out
3 all the \$3 billion in cash we have remains to be
4 seen. Most likely we will, but that remains to

5 be seen.

6 GOVERNOR BUSH: All right. This is a very
7 clear chart.

8 MR. NICHOLSON: Yes. Let me concentrate on
9 the end of this. The orange --

10 CFO GALLAGHER: Could you get two more
11 things on that chart?

12 MR. NICHOLSON: The orange line -- this is
13 the 2004 hurricane season, by the way.

14 GOVERNOR BUSH: It is. It just looks just
15 -- it reminds me of it exactly.

16 MR. NICHOLSON: The orange line represents
17 the losses that we paid of 3.429 billion. The
18 3.751 billion is what has yet to be paid, so I
19 have indicated in red on there, 322 million yet
20 to be paid. And then I have another number, 3.85
21 billion, which is a reserve for IBNR, incurred
22 but not reported losses. That's when we're
23 expecting more losses to eventually be reported.
24 And the ultimate cost to the Cat Fund for the '04
25 season would be 3.85 billion.

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1 GOVERNOR BUSH: Wow.

2 CFO GALLAGHER: And that was '04.

3 MR. NICHOLSON: I won't go over the other
4 numbers, but they --

5 GOVERNOR BUSH: To put this all in
6 perspective, can you imagine if we didn't have a
7 Cat Fund? I mean, that's the point.

8 CFO GALLAGHER: Some brilliant person
9 figured that out years ago.

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GOVERNOR BUSH: Commi ssi oner Nel son?

CFO GALLAGHER: A l i t t l e before he got there.

GOVERNOR BUSH: I ' m j o k i n g.

CFO GALLAGHER: A c t u a l l y, t h i s was something that the industry was totally against. Do you remember, Jack? The industry was totally against it, and today they'll tell you that --

GOVERNOR BUSH: I t ' s a G o d s e n d.

CFO GALLAGHER: -- if it wasn't for this, they would n' t be here.

GOVERNOR BUSH: A l l r i g h t.

MR. NICHOLSON: O n s l i d e 7, I j u s t want to make the point that it takes time to pay losses. It took us 50 weeks to pay out \$3 billion during the '04 season. T h i s i s --

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CFO GALLAGHER: D o n ' t m i s l e a d them. T h i s i s n' t because you're too slow in paying. You're turning that around almost in less than a week.

MR. NICHOLSON: T w o t o s e v e n days we pay our claims.

CFO GALLAGHER: S o t h i s i s -- they're getting paid on demand. T h i s i s j u s t how long it takes the companies to put together the requests for payment.

MR. NICHOLSON: A n d I ' m going to skip over the next couple of slides to get to this one, because slide 12 shows the residential loss, and this compares both years. T h e b l u e bars are the loss associated with the '04 hurricane season,

15 and the yellow bars are the loss per hurricane
16 for the '05 season.

17 GOVERNOR BUSH: Is that your estimate for
18 Wilma, or is that the existing --

19 MR. NICHOLSON: That's the reported
20 residential loss on Wilma.

21 GOVERNOR BUSH: But won't there be more?

22 MR. NICHOLSON: The companies haven't
23 reported it to us.

24 CFO GALLAGHER: This isn't money out yet.
25 This is just gross losses.

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1 GOVERNOR BUSH: This is the estimate for the
2 entire storm?

3 CFO GALLAGHER: For the entire storm that is
4 insured, so --

5 MR. NICHOLSON: And I'm going to talk
6 shortly about loss development. I think that's
7 the question you were getting to, Governor.

8 GOVERNOR BUSH: Right.

9 MR. NICHOLSON: But this is -- the next
10 slide shows the hit to the Cat Fund. This is
11 what we're concerned with, because this is the
12 dollars that have to go out of the Cat Fund. For
13 '04, we're looking at 3.75 billion. For '05,
14 we're looking at 2.6 billion roughly. I put
15 beside those numbers that the 3.75 number is
16 after 74 weeks. That's what that number settled
17 into. The 2.6 number basically for the '05
18 season is after 14 weeks, so that's a number that
19 could be moving over time, and that's the number

20 we want to play close attention to.

21 Thus far, chart 14 shows what we've paid for
22 both those seasons. Right now we've only paid
23 about 20 percent of the losses that we expect to
24 pay.

25 Now, when we get into loss development, I

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1 want to show you what happened in '04, because if
2 I was standing here a year ago today, I would be
3 talking like it's '05, because I would be telling
4 you the same numbers, and I told you the same
5 numbers. December 31st, '04, we had 2.5 billion
6 reported to the Cat Fund, and then we have
7 quarterly reports thereafter. You can see that
8 the March report, that number jumped 26 percent
9 to 3.2 billion and has recently gone all the way
10 up to 3.75.

11 CFO GALLAGHER: But, now, Jack, you didn't
12 put it here, but give us the percentage of what
13 is actually paid out compared to the reported as
14 these come so we can see how the cash --
15 basically, it takes a long time to leave.

16 MR. NICHOLSON: The overall -- I don't think
17 I'm answering your direct question right now, but
18 I was going to say, the overall increase from the
19 initial to today is 46 percent. And in terms of
20 the cash leaving, that was on the other chart.
21 It takes 50 weeks to pay out about \$3 billion, so
22 this is a slow-going process.

23 If I were to take the '05 season and just
24 stick the numbers right in the middle of the

25 chart on chart 16, you can see that there is

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1 about a 20 percent increase in reported losses
2 that would basically wipe out our cash reserves
3 for '05. We had a 46 percent increase for '04.
4 So there's about a \$514 million cushion there
5 that may evaporate over time.

6 Chart 17 is history. It looks back. And
7 this is the chart I showed you in November, I
8 believe, when I was standing before you talking
9 about losses. I think the Governor had said --
10 the time before I said we had like 3 billion
11 expected loss, and I said 2 billion on this
12 chart, and you said, "Where do we save the
13 billion?" The billion is saved because I was
14 giving you an estimated number the first time I
15 said that, and then I came back with a reported
16 number. But that reported number grew by
17 84 percent, and the losses -- as reported, the
18 residential losses grew by 38 percent in '04.

19 So I've done another chart, the same chart
20 for the '05 losses on slide 18, and this shows
21 that we're still -- we're estimating 8.8 billion
22 for the season, but we've only had 7.9 billion
23 reported. But if losses increase by --
24 residential losses increase by 10 percent, that
25 pretty much is going to cut into our --

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1 GOVERNOR BUSH: Given the fact that Wilma
2 was such a late storm, does that have --

3 MR. NICHOLSON: It has an effect on
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4 knowledge because we don't -- we know we're 11
5 weeks behind Charley at any given point in time.

6 GOVERNOR BUSH: So you're expecting --

7 MR. NICHOLSON: I have less confidence --

8 GOVERNOR BUSH: You've factored that in?

9 MR. NICHOLSON: Yes. I have less confidence
10 in year-end numbers for Wilma than I did on
11 Charley, and you see what happened with Charley.

12 This pretty much shows on chart 19 the
13 position. We had set aside 3.85 billion. Of
14 course, less paid out would be what we have on
15 hand for '04 losses, which is about 421 million.
16 For '05 losses, we've only paid out a little of
17 that, but we have 3.1 billion available. And
18 we've only paid out 514 million thus far, so
19 there's like 2 billion left to pay.

20 But considering that when our actuaries set
21 up the reserves for the '05 season, they're
22 pretty much going to allocate all of that money
23 for the '05 season, because we have to anticipate
24 adverse loss development. So that basically says
25 for '06, we don't have any carryover to depend

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1 upon, so we will have premiums coming in in
2 August, October, and December of approximately
3 750 million, give or take.

4 So that's basically where we stand.

5 I want to skip to chart 22. Slide 22 shows
6 the Cat Fund cash position. Treasurer Gallagher,
7 I don't know if this has a bearing on what you
8 were saying earlier, but this is where we were at

9 the end of January, or where we expect to be at
10 the end of January of '05, less some losses that
11 were paid in the last few weeks. But this is the
12 cash -- this is the asset growth of the Cat Fund
13 since inception.

14 And then the next chart, 23, are the
15 disbursements on a monthly basis over the last
16 year starting December '04.

17 GOVERNOR BUSH: My favorite chart.

18 CFO GALLAGHER: May of '05, so June of '05,
19 or June of '06 is when the big money is going to
20 be, because we're about 60 days behind.

21 MR. NICHOLSON: And I think we see losses
22 start to pick up about now, right about week 15.
23 The last couple of weeks, for example, we had a
24 little over 200 million in losses that we paid.
25 Our average payment for the '04 season was about

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1 \$47 million a week to 13 companies. So the
2 maximum in '05 was about 213 million in a week,
3 but we're seeing that starting to happen right
4 now. But just exactly how it plays out we don't
5 know. We do have about a 514 million cushion
6 that these losses would have to be reported
7 adversely.

8 I think the next big date we've got our eye
9 on is March 31st to see how those loss reports
10 come in. As I know Treasurer Gallagher is aware,
11 companies file their financial statements, their
12 year-end financial statements in March, so they
13 have to sharpen their pencils and establish those

14 loss reserves, so those are some, quote, unquote,
15 "no kidding" numbers that they're putting up.
16 Even though they had two executive officers
17 certify these losses, they will have more time
18 under their belt, and those will be more serious
19 numbers.

20 So that would conclude the presentation,
21 unless you have any questions.

22 GOVERNOR BUSH: Any questions? Thank you
23 very much, Jack.

24 MR. STIPANOVICH: Governor and members,
25 we'll come back in April after we get those March
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1 numbers, which will be a lot harder than the
2 numbers we've got, and give you another update in
3 April. In the meantime, we're keeping the
4 Legislature informed as well, and we'll be
5 meeting with them in April for an update.

6 Governor, if I may, I just want to digress
7 on the agenda item, I believe it was number 6,
8 and just mention that it was 2005 legislation,
9 Senate Bill 1446, not '04.

10 GOVERNOR BUSH: Okay.

11 MR. STIPANOVICH: That concludes my agenda.

12 GOVERNOR BUSH: Thank you, Coleman.

13 (Proceedings concluded at 11:16 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:

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I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 112 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 7th day of February, 2006.

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