

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

DIVISION OF BOND FINANCE

FINANCIAL SERVICES COMMISSION, OFFICE OF
FINANCIAL REGULATION

FINANCIAL SERVICES COMMISSION, OFFICE OF
INSURANCE REGULATION

ADMINISTRATION COMMISSION

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

BOT/DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DEP SITING BOARD

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, December 5,
2006, commencing at 9:10 a.m.

Reported by:

JO LANGSTON

Registered Professional Reporter

Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.

2894 REMINGTON GREEN LANE

TALLAHASSEE, FLORIDA 32308

(850) 878-2221

APPEARANCES:

Representing the Florida Cabinet:

JEB BUSH
Governor

CHARLES H. BRONSON
Commissioner of Agriculture

CHARLIE CRIST
Attorney General

TOM GALLAGHER
Chief Financial Officer

* * *

1		I N D E X	
2		DIVISION OF BOND FINANCE (Presented by BEN WATKINS)	
3	ITEM	ACTION	PAGE
4	1	Approved	9
	2	Approved	9
5	3	Approved	9
	4	Approved	10
6			
7		FINANCIAL SERVICES COMMISSION, OFFICE OF FINANCIAL REGULATION	
8		(Presented by DON SAXON)	
9	ITEM	ACTION	PAGE
10	1	Approved	11
	2	Approved	11
11			
12		FINANCIAL SERVICES COMMISSION, OFFICE OF INSURANCE REGULATION	
13		(Presented by KEVIN McCARTY)	
14	ITEM	ACTION	PAGE
15	1	Approved	12
	2	Approved	12
16	3	Withdrawn	13
	4	Approved	14
17			
18		ADMINISTRATION COMMISSION (Presented by TERESA TINKER)	
19	ITEM	ACTION	PAGE
20	1	Approved	16
21	2	Approved	51
	3	Approved	110
22			
23			
24			
25			

1	CONTINUED INDEX		
2	FLORIDA LAND AND WATER ADJUDICATORY COMMISSION		
	(Presented by TERESA TINKER)		
3			
4	ITEM	ACTION	PAGE
	1	Approved	111
5	2	Approved	111
6	BOT/DEPARTMENT OF AGRICULTURE AND		
	CONSUMER SERVICES		
7	(Presented by SHERMAN WILHAM)		
8	ITEM	ACTION	PAGE
9	1	Approved	113
	2	Approved	113
10	DEP SITING BOARD		
11	(Presented by BUCK OVEN)		
12	ITEM	ACTION	PAGE
13	1	Approved	114
	2	Approved	115
14			
15	BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND		
	(Presented by COLLEEN CASTILLE)		
16	ITEM	ACTION	PAGE
17	1	Approved	123
	2	Approved	126
18	3	Withdrawn	128
	4	Approved	128
19	5	Approved	129
	6	Approved	129
20			
21	STATE BOARD OF ADMINISTRATION		
	(Presented by COLEMAN STIPANOVICH)		
22			
23	ITEM	ACTION	PAGE
	1	Approved	131
24	2	Approved	131
25	CERTIFICATE OF REPORTER		
			132

P R O C E E D I N G S

* * *

(Agenda items commenced at 9:35 a.m.)

GOVERNOR BUSH: Florida law requires the Governor to appoint the executive director to the Florida Department of Law Enforcement, with the approval of the Cabinet. Last May we approved the appointment of Jerry Bailey as the interim director of the Department.

Jerry spent more than 20 years at FDLE, including serving as deputy executive director, director of criminal investigations and chief of crime laboratories. While my staff reviewed numerous applications, as did the other members of the Cabinet, and spoke to several qualified individuals, it has become obvious that Jerry's professionalism and his familiarity with FDLE's responsibilities and operations served our state well.

The men and women of the Department under Jerry's leadership continued their good work in hurricane preparedness, domestic security and law enforcement investigations.

I ask that the Cabinet approve my appointment of Jerry Bailey as the executive director of the Florida Department of Law Enforcement. General Crist?

ATTORNEY GENERAL CRIST: Thank you, Governor. I

ACCURATE STENOGRAPHY REPORTERS, INC.

1 move that we approve the appointment of Jerry Bailey as
2 executive director of the Florida Department of Law
3 Enforcement.

4 COMMISSIONER BRONSON: Second.

5 GOVERNOR BUSH: There's a motion and a second.

6 Any discussion? All in favor say aye. Aye.

7 ATTORNEY GENERAL CRIST: Aye.

8 CFO GALLAGHER: Aye.

9 COMMISSIONER BRONSON: Aye.

10 GOVERNOR BUSH: All opposed? Jerry, are you here?

11 Congratulations.

12 MR. BAILEY: Thank you.

13 (Applause)

14 MR. BAILEY: Good morning. Thank you, Governor
15 and members of the Cabinet. I appreciate the
16 confidence that you placed in me to serve as an interim
17 commissioner, and I'm honored by your appointment
18 today.

19 The last seven months with the agency have only
20 confirmed what I already believed about FDLE, that the
21 1,900 members that make up the Department are
22 professional and dedicated and that there is a
23 tremendous amount of pride and commitment in public
24 safety from those folks. FDLE is known as a premier
25 law enforcement agency, and my pledge to you today is

1 to uphold that reputation.

2 Governor Bush, Treasurer Gallagher, it's been a
3 pleasure to work with you. We at FDLE appreciate your
4 strong leadership and support for FDLE and law
5 enforcement, our sheriffs and our chiefs across the
6 state. Governor-Elect Crist, Commissioner Bronson, I
7 look forward to serving with you in the years ahead.

8 Finally, I would be remiss if I did not recognize
9 the support of my family. My wife, Joyce, for 37
10 years, her unyielding support, I do want to recognize
11 that. Thank you very much.

12 GOVERNOR BUSH: Thank you, Jerry.

13 (Applause)

14 CFO GALLAGHER: Governor, I'd like to, if I could,
15 recognize Charlie's mom and my wonderful wife Laura.

16 GOVERNOR BUSH: There she is. Welcome, Laura.

17 (Applause)

18 GOVERNOR BUSH: Before us we have the 2007 Cabinet
19 schedule. I hope this has been checked out, most
20 particularly with Commissioner Bronson and
21 Governor-Elect Crist, not so much with what the
22 Treasurer and I will be doing. It is for approval, the
23 2007 Cabinet schedule.

24 CFO GALLAGHER: I did refer this to the CFO-Elect
25 and her staff to see if it was okay, and it was.

1 GOVERNOR BUSH: All right. Is there a motion?

2 CFO GALLAGHER: I'll move it.

3 ATTORNEY GENERAL CRIST: Second.

4 GOVERNOR BUSH: There's a motion and a second to
5 approve the 2007 Cabinet schedule. Without objection,
6 the Cabinet schedule is approved.

7 The next Cabinet meeting will be Tuesday, December
8 19th.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 GOVERNOR BUSH: Division of Bond Finance.

2 CFO GALLAGHER: Motion on the minutes.

3 ATTORNEY GENERAL CRIST: Second.

4 GOVERNOR BUSH: There's a motion and a second on
5 Item 1. Without objection the item passes. Item 2.

6 MR. WATKINS: Item 2 is a resolution authorizing
7 the issuance and competitive sale of up to \$160 million
8 in Lottery Revenue Refunding Bonds.

9 CFO GALLAGHER: Motion.

10 ATTORNEY GENERAL CRIST: Second.

11 GOVERNOR BUSH: There's a motion and a second.
12 Without objection the item passes. Item 3.

13 MR. WATKINS: Item 3 is a resolution making
14 technical changes to the Florida Forever and P-2000
15 Program to incorporate Everglades Restoration Bonds and
16 augment or strengthen the credit for environmental
17 programs.

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

20 MR. WATKINS: And Item Number 4 is the report of
21 award on the competitive sale of \$148 million of
22 Lottery Refunding Bonds. The bonds were awarded to the
23 low bidder at a true interest cost of approximately
24 3.85 percent, generating debt service savings of
25 approximately \$11 million.

1 CFO GALLAGHER: Motion on 4.

2 ATTORNEY GENERAL CRIST: Second.

3 GOVERNOR BUSH: There's a motion and a second.

4 Without objection the item passes. Thank you, Ben.

5 MR. WATKINS: Thank you, Governor.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 GOVERNOR BUSH: Financial Services Commission,
2 Office of Financial Regulation. Don, how are you
3 doing? Happy holidays.

4 MR. SAXON: Thank you, Governor, members of the
5 Cabinet. I have two items today. Item 1 is a request
6 for approval to file for final adoption Rule 69T-1.001
7 Florida Administrative Code.

8 GOVERNOR BUSH: There's a motion?

9 CFO GALLAGHER: Motion.

10 COMMISSIONER BRONSON: Second.

11 GOVERNOR BUSH: And a second. Without objection
12 the item passes.

13 MR. SAXON: Item 2, request approval to publish a
14 notice of proposed rulemaking for Rule Chapter 69U-110,
15 Florida Administrative Code, relating to state credit
16 unions.

17 CFO GALLAGHER: Motion on 2.

18 ATTORNEY GENERAL CRIST: Second.

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

21 MR. SAXON: Thank you.

22

23

24

25

1 GOVERNOR BUSH: Financial Services Commission,
2 Office of Insurance Regulation.

3 CFO GALLAGHER: Motion on the minutes.

4 ATTORNEY GENERAL CRIST: Second.

5 MR. McCARTY: Good morning, Governor, members of
6 the Commission.

7 GOVERNOR BUSH: There's a motion and a second.
8 Without objection the item passes. Item 2.

9 MR. McCARTY: Item 2 is a request for approval of
10 the published rules for the purpose of implementing the
11 qualified state long-term care insurance partnership
12 program in Florida.

13 The partnership program was designed to provide
14 policyholders who qualify for a long-term care policy
15 with the ability to qualify for Medicaid without
16 spending down all their assets.

17 CFO GALLAGHER: Motion on 2.

18 ATTORNEY GENERAL CRIST: Second.

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

21 MR. McCARTY: Item Number 3 is adoption of
22 amendments to Rule 69-168.008 (sic), Title Insurance
23 Rates. We're requesting this item to be withdrawn from
24 consideration. We're in the process of resolving the
25 litigation over this issue, and allow 60 days for us to

1 complete those negotiations, Governor.

2 CFO GALLAGHER: Motion to withdraw.

3 ATTORNEY GENERAL CRIST: Second.

4 GOVERNOR BUSH: There's a motion to withdraw and a
5 second. Without objection the motion has been
6 withdrawn. Item 4.

7 MR. McCARTY: I just want to point out that
8 Mr. Dudley is here. He's not wishing to speak. But he
9 did want to point out that First American Title favors
10 the reduction of the title rates by 80 percent.

11 GOVERNOR BUSH: You're in favor of reducing your
12 rates by 80 percent? Praise the Lord. Do you know
13 anybody in the homeowners business? Thank you for
14 being here. Item 4.

15 MR. McCARTY: Item 4, Governor, is the adoption of
16 proposed Rule 690-207.002, Electronic Filing. This
17 rule implements provision of Senate Bill 1506, which
18 requires specialty insurers, such as premium finance
19 companies, buyout and settlement brokers, life
20 settlements, and others to submit their financial
21 documents by electronic means.

22 CFO GALLAGHER: Kevin, I'll make the motion on
23 this. But this finishes out now your -- all filing now
24 must be electronic?

25 MR. McCARTY: I believe this concludes the final

1 segment that required all insurers previously, by
2 adoption of rules, this is -- the final 1,400 companies
3 that are required to file financial statements with us
4 now have to do it electronically.

5 CFO GALLAGHER: Thank you. Move Item 4.

6 GOVERNOR BUSH: There's a motion.

7 COMMISSIONER BRONSON: Second.

8 GOVERNOR BUSH: And a second. Without objection
9 the item passes. Thank you, Kevin.

10 MR. McCARTY: One last item, if I could update
11 you. Pursuant to the motion by Governor-Elect Charlie
12 Crist at the September 19th meeting, Citizens on
13 November 27th had its first of three public hearings in
14 Monroe County. We look forward to having two more
15 hearings. One is scheduled on December 14th at
16 Pensacola Junior College, and the last one will be in
17 the St. Petersburg area December 19th.

18 We'd also like to -- to assist policyholders with
19 Citizens, we've established a Web site,
20 www.citizensforabettercitizens.com, and we've received
21 several comments, received via the Internet, and
22 looking forward to providing a report with Citizens at
23 the conclusion of those meetings. Thank you, Governor.

24 GOVERNOR BUSH: Thank you. Go Gators.

25 MR. McCARTY: Go Gators.

1 GOVERNOR BUSH: Kevin, did I tell you that I got
2 my membership approved into Gator Nation earlier last
3 week?

4 MR. McCARTY: It's about time.

5 GOVERNOR BUSH: A little late, a little late in
6 the game, but --

7 MR. McCARTY: We welcome you to the Gator Nation.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 GOVERNOR BUSH: Administration Commission.

2 CFO GALLAGHER: Motion on the minutes.

3 ATTORNEY GENERAL CRIST: Second.

4 GOVERNOR BUSH: There's a motion and a second.

5 Without objection Item 1 passes.

6 MS. TINKER: Item 2, staff is recommending the
7 Commission accept the Department of Community Affairs'
8 assessment report on the Florida Keys and determine
9 that Monroe County has made substantial progress in
10 accomplishing the task of the work program.

11 We have several speakers on this item this
12 morning, Governor. We have asked that they please
13 limit their time. The first speaker will be Secretary
14 Cohen from the Department of Community Affairs.

15 GOVERNOR BUSH: Mr. Secretary, welcome.

16 MR. COHEN: Thank you. Good morning.

17 GOVERNOR BUSH: Good morning.

18 MR. COHEN: Good morning again. I'd just like to
19 briefly take you through where we are currently. When
20 we met last, we were looking at assessments for year
21 seven and eight. It was a combination of the two. We
22 found that they were in substantial compliance, but you
23 had two conditions.

24 One is that the Monroe County adopt the tier maps
25 without any changes, and the second, that you were

1 looking for the Department of Community Affairs to
2 accept and adopt and approve those changes.

3 I'd like to report to you that in March of '06 the
4 tier maps and ordinance was adopted by Monroe County.
5 It was approved by Department of Community Affairs in
6 May. They're going through the process now of having
7 those implemented into their comprehensive plan. We
8 expect that to occur December 20th of this year. And
9 the land acquisition master plan was also adopted in
10 August of '06.

11 So what we have before you today is looking at
12 years nine. And there are two issues that are before
13 us. And we would like to request, as Teresa Tinker has
14 indicated, that you find substantial progress.

15 The two tasks are that the Florida Keys Aqueduct
16 Authority and Key Largo Sewer District was to initiate
17 the process of finding \$80 million in bonding, secured
18 by connection fees, and the second task was to secure
19 sites in the Lower Keys.

20 This is what Monroe County has done as far as
21 being able to move forward on that. Ninety-five
22 million dollars in cash and loans have been made
23 available currently in order for them to meet that
24 obligation, and we're excited about the fact that
25 they've been able to come together to move forward on

1 building sewers in the Florida Keys.

2 On task B, which is the secure sites, Key Largo
3 Waste Water Management District has acquired a site at
4 mile marker 100.3. In 2003 they have an interim
5 facility that's already in operation and their
6 collection system and design as well as their permanent
7 system is well under way. Uh-oh, that's not good.

8 GOVERNOR BUSH: We'll come back.

9 MR. COHEN: The Big Coppitt, the site has been
10 acquired. As you remember, when we were here last, we
11 were making that commitment that we would move forward
12 with that project first. The collection system is 90
13 percent complete as far as design. Plant design is 40
14 percent complete. Bay Point is operational. Eighty
15 percent of the service has been connected. And in
16 Sugarloaf, Cudjoe and Summerland Key, the site has been
17 identified.

18 Continuing in the Lower Keys, they have planning
19 for Sugarloaf for 2007. Design is scheduled to be
20 completed by 2008, and Ramrod, Little Torch and Pine
21 Key, an alternative site analysis to be completed in
22 2007, with planning of design underway at the beginning
23 of this year.

24 The City of Marathon is also before us today. We
25 really have not much to do there. All of the issues

1 are being compiled inside of their comprehensive plan.
2 Their plan has been found in compliance by Department
3 of Community Affairs. The land development regulations
4 are looking to be adopted in early 2007.

5 So what we're doing is we're again recommending
6 that they are in substantial compliance for year nine
7 of the work plan for Monroe County, and that the City
8 of Marathon be found in compliance, substantial
9 compliance for year one.

10 That's my presentation. I'd like to take a
11 moment, though, to thank some folks who are in the
12 audience. I know they're going to speak. We have a
13 new mayor in Monroe County, Mario Di Genarro, who is
14 here. New commissioner, Commissioner Sylvia Murphy is
15 here.

16 You have heard from Dixie Spehar previously. My
17 understanding is she's not speaking today, but clearly
18 her leadership, when she was mayor, working with the
19 Aqueduct Authority to forward that sewer agreement was
20 the impetus in order for them to make the progress that
21 they have currently. And as well as the county
22 administrator who has been able to forge those
23 partnerships with his commission, as well as the
24 Aqueduct Authority and the Legislature in order to
25 receive funds so they continue making progress in the

1 keys, Tom Willi is here, and that's been very
2 instrumental.

3 And I think that over the last two years that I've
4 had an opportunity to be secretary, the Keys have moved
5 a long way in being able to protect the environment,
6 being able to move forward on affordable housing issues
7 and to be able to maintain the protection of their
8 citizens for hurricane evacuation. With that, that
9 concludes my presentation.

10 GOVERNOR BUSH: Thank you, Secretary. Thank you
11 for all your hard work over the last few years on this.

12 MR. COHEN: Thank you very much.

13 GOVERNOR BUSH: Teresa, who else do we have as a
14 speaker? I'm sure we have a few. It wouldn't be the
15 Keys without some really talented, eloquent speakers.

16 MS. TINKER: Yes, sir, we do. We have some of the
17 elected officials here today, but I'm going to move to
18 the residents first, if you don't mind.

19 GOVERNOR BUSH: Okay.

20 MS. TINKER: Debra Harrison, representing World
21 Wildlife Fund.

22 GOVERNOR BUSH: Good morning, Debra.

23 MS. HARRISON: Thank you for the opportunity to
24 address you today. For the record, my name is Debra
25 Harrison. I'm here on behalf of World Wildlife Fund.

1 And if you defer this action, I will get to come back
2 and see you one more time before you all change office
3 and thank you for your leadership one more time.

4 I'm here to speak about a very serious issue, and
5 that goes to the Department of Community Affairs'
6 assessment report. And I would like to request that
7 one sentence be stricken from the report. I understand
8 that this Commission is not accepting this language as
9 law, but the very fact that the statement is in this
10 report provides an inference and an expectation which
11 we believe is wholly unacceptable.

12 And it goes to -- and I have copies for you. And
13 I apologize for the ratty-tat way that I've prepared
14 your items, but I was minus a printer today.

15 The statement states, under hurricane evacuation,
16 the most recent September 2006 run of the hurricane
17 evacuation model shows a projected clearance time of
18 18.2 hours for the existing policy construct, i.e.,
19 phased evacuation with a 75 percent participation rate.

20 Basically what that says, by putting that into
21 this item, is that the Florida Keys now have six
22 additional hours to be able to evacuate the Florida
23 Keys based upon being able to move our tourists and our
24 mobile homeowners out of the Keys 36 hours prior to
25 hurricane winds.

1 The concern that I have with this is that it is
2 even in here. This was a South Florida Regional
3 Planning Council critical links analysis. It includes
4 eight different scenarios for evacuation of the Keys.
5 Basically what they used is what's called a critical
6 links model. It says that when you look at the most
7 difficult area to evacuate, which is the Snake Creek
8 Bridge, the time it takes to get the percentage of
9 evacuating cars across that bridge, which is 62 percent
10 of all the people anticipated to be in the Keys at that
11 time, that it will take 18.2 hours.

12 It says nothing about the time it would take to
13 get from Key West to that link. It says nothing about
14 the time it would take to get from that link to safety,
15 whether it would be the Florida International
16 University hurricane shelter or whether it would be
17 Florida City.

18 When I spoke with the Area of Critical State
19 Concern coordinator, Tracy Suber of DCA, she said to
20 me, this is based on the Miller Model. I would like to
21 read to you the methodology -- I would like to -- from
22 the Miller Model. And that says, clearance times begin
23 when the first evacuating vehicle in Monroe County
24 exits the roadway network and ends when the last
25 evacuating vehicle exits or passes by the northbound

1 entrance to Florida's Turnpike on U.S. 1 in Florida
2 City.

3 It is as if you said, here in these chambers, we
4 have a bomb threat and we are going to have to evacuate
5 everyone in this building. And how you determine the
6 amount of time it will take is to say that through that
7 front door it will take 18.2 hours to evacuate 62
8 percent of the people in this building.

9 That's what this analysis does. I would ask that
10 we either delete that reference completely or that we
11 change it to recognize that there were eight different
12 scenarios ranging from 18.2 to 35.7 hours. I would
13 also like to share with you that it is required in the
14 comprehensive plan that has been adopted in 9J-5,
15 quote, new clearance times produced by such additional
16 runs of the Southeast Florida Hurricane Evacuation
17 Study shall be incorporated by plan amendment. And
18 that also is here for you. So please --

19 GOVERNOR BUSH: I'm sorry. Could you read that
20 last sentence?

21 MS. HARRISON: New clearance times -- and I have a
22 copy of it with the packet that was given to you. New
23 clearance times produced by such additional runs of the
24 Southeast Florida Hurricane Evacuation Study shall be
25 incorporated by plan amendment, and that is Policy

1 216.1.5.

2 So I would ask you to please delete reference to
3 that. Please allow this to go through that pesky
4 public process of plan adoption, and please protect the
5 Florida Keys in terms of our health and safety.

6 Even our own emergency management director, Irene
7 Toner, was quoted in Saturday's newspaper saying,
8 County Emergency Management Director Irene Toner has
9 also said that a longer time frame, 36 hours, is more
10 realistic.

11 Again, thank you for your leadership and thank you
12 for all you've done for the Florida Keys. It's my
13 pleasure to be here before you.

14 GOVERNOR BUSH: Thank you.

15 MS. TINKER: The next speaker is Kim Wigington.

16 GOVERNOR BUSH: Good morning.

17 MS. WIGINGTON: Good morning. I'm Kim Wigington,
18 and I'm here to address the Stock Island wastewater
19 report. DCA considered the County's diligence on three
20 issues: Obtaining grants, investing necessary funds to
21 complete the system, and undertaking code enforcement
22 action against citizens.

23 The first one, grants, have been available for
24 three years but are being lost because the County built
25 an incomplete system and it's impossible for those left

1 out to be able to connect. I'm one of them.

2 That brings us to funding. The County has chosen
3 not to fund the necessary investment to complete the
4 system on Stock Island. The County did recently vote
5 to invest over \$3 million out of wastewater funding to
6 buy a restaurant on Stock Island.

7 GOVERNOR BUSH: I'm sorry. The County took money
8 that was supposed to go into --

9 MS. WIGINGTON: They took over \$3 million in
10 wastewater funding and bought a restaurant on Stock
11 Island. They also took \$2 million to sink the
12 Vandenberg out of wastewater funds. That's over \$5
13 million out of wastewater funding, with much opposition
14 and opposition from two of their county commissioners.
15 And Stock Island is still left incomplete after three
16 years.

17 That brings us last to code enforcement. With the
18 State's encouragement, the County has excelled in
19 prosecuting mostly low income homeowners in proceedings
20 in which homeowners have few rights, most have little
21 resources and are unaware of what rights they do have.

22 The system is not available for me to connect.
23 You have a letter from the county attorney saying that,
24 yet I have been cited several times with code
25 violations.

1 GOVERNOR BUSH: Why can't you connect?

2 MS. WIGINGTON: There are two parts to a vacuum
3 system. There's pipes and there's tanks. The system
4 that was first implemented that the County thought it
5 was building had tanks for everyone. The one that was
6 actually built has an inadequate number of tanks. You
7 cannot connect a pipe to a pipe on a vacuum system.
8 There have to be tanks.

9 These were located in the right-of-way on the
10 plans. They're not located in the as-builts and in the
11 actual street.

12 Though, code enforcement is forcing home owners,
13 Stock Island home owners to pay for the missing
14 infrastructure in the right-of-way. It's unheard of
15 for home owners to have to pay for right-of-way
16 infrastructure or what should have been in the
17 right-of-way.

18 Code enforcement can also force home owners to
19 sign questionable easements for the utility and to sign
20 contracts with a private company that uses corporation
21 names that I'm told don't even exist. This report uses
22 one of those names, those corporation names. It shows
23 up on our contracts. It shows up on their business
24 cards.

25 The grand jury reported that the utility used

1 nonexistent corporation names to pay a county
2 commissioner and the ethics commission recommended a
3 fine that was eventually implemented.

4 People are losing their home over this wastewater
5 project. Existing affordable housing is being
6 destroyed over this wastewater project. And the
7 State's encouraging and rewarding code enforcement
8 prosecution of citizens is compounding the problem.

9 GOVERNOR BUSH: How is the State rewarding this or
10 encouraging it?

11 MS. WIGINGTON: Part of the criteria for the DCA
12 to judge whether Monroe County is in compliance is
13 whether they're undertaking code enforcement action
14 against those citizens that are not connected.

15 This is not new information. This has been going
16 on for three years. A grand jury reported that the
17 County Commission's actions on Stock Island was
18 negligent and incompetent. And in light of recently
19 removing over \$5 million in wastewater funding, not
20 completing Stock Island, of losing grants because of
21 it, but excelling in code enforcement against citizens,
22 DCA reports, quote, efforts by the County demonstrate
23 substantial compliance.

24 I think it's a passing grade for a failing
25 student. Thank you.

1 GOVERNOR BUSH: Thank you.

2 MS. TINKER: Next speaker is Ron Miller.

3 GOVERNOR BUSH: Good morning.

4 MR. MILLER: Good morning, Governor, Cabinet. I'm
5 Ron Miller. I'm a resident of Key Largo and a
6 representative of the Upper Keys Citizens' Association.
7 Our hurricane evacuation plan has become a paper
8 piñata. Just whack it a few times with a pin and
9 building permits come flying out.

10 I'm in awe of the creativity that has gone into
11 our latest plan. Suddenly we can evacuate in 18.2
12 hours to the Snake Creek Bridge, but that still leaves
13 residents 57 miles from the nearest shelter at the
14 FIU campus. That scenario was not used in the 2001
15 Miller report or in the 1989 Post, Buckley, Jernigan
16 study.

17 The 2006 South Florida Regional Planning Council
18 estimate of 18.2 hours is not consistent with the
19 definition used in our comp plan. The original
20 evacuation time was based on the time the first vehicle
21 entered the roadway until the last exited the roadway
22 at Florida City on the mainland, which Debra Harrison
23 has already mentioned.

24 Without going through any public input or the
25 studied approval by the emergency managers, this plan

1 is being touted in the DCA report. Is it possible that
2 the architects of this phased evacuation plan are so
3 powerful that they have forged an agreement with Mother
4 Nature whereby hurricanes will approach the Keys slowly
5 and respectfully?

6 GOVERNOR BUSH: I sure as heck hope so.

7 MR. MILLER: God willing. So as not to expose the
8 tragedy that phased evacuation could become. Let
9 me add that we have had phased evacuation in the past,
10 but it was only when time was afforded and it was not
11 codified. Item Q, page 8 of the DCA annual assessment
12 report should be removed because it gives the false
13 impression that the plan has been accepted through the
14 review process and because it has no credibility.

15 I would like to place in the record a concise and
16 powerful refutation of the 18.2-hour estimate written
17 by John Hammerstrom, a seasoned analyst of our
18 hurricane evacuation plans.

19 GOVERNOR BUSH: Who is he? Where is he from, sir?

20 MR. MILLER: John Hammerstrom is from Key Largo,
21 and I worked with John for many years.

22 GOVERNOR BUSH: Is he a traffic guy, traffic
23 engineer?

24 MR. MILLER: He actually, I believe, knows more
25 about what's going on with the hurricane evacuation

1 plans than people who have been brought in over the
2 years, because we have been through all of these plans.
3 And he's in contact with many of the engineers who have
4 studied this. Thank you.

5 GOVERNOR BUSH: Thank you for coming all the way
6 up to Tallahassee. I always marvel at the number of --
7 we have these meetings, and the greatest number of
8 participants come from the furthest away. Let's see
9 how many people come from Franklin County for the next
10 item.

11 MS. TINKER: Next speaker is Pauline Kline.

12 GOVERNOR BUSH: It's truly amazing. I love their
13 community.

14 MS. KLINE: Good morning to everyone.

15 GOVERNOR BUSH: Good morning.

16 MS. KLINE: My name is Pauline Kline. I reside in
17 Key Largo. I am representing the Island of Key Largo
18 Federation of Homeowners Association. I'm the
19 secretary. And I would like to add something to that
20 hurricane evacuation comment that Ron made, that the
21 plan -- that plan is flawed, and all have been to a
22 certain extent.

23 We need a really good evacuation plan for the
24 Florida Keys, either that or start building shelters
25 for us down there. We're concerned about the

1 development issue.

2 GOVERNOR BUSH: I'm sorry, ma'am. Just as an
3 aside, aren't we building shelters down there? Aren't
4 we starting to do that in the Upper Keys?

5 MS. KLINE: No. We've tried to get the County to
6 go in as a partner with Key Largo Elementary that is
7 being rebuilt to provide a Cat 5 shelter, and so far
8 they have not agreed to do it.

9 GOVERNOR BUSH: Maybe that's the problem. I
10 should have redefined my question. I wasn't -- maybe
11 I'm wrong, but I thought the Division of Emergency
12 Management had plans to participate with the County to
13 build shelter space, maybe not Cat 5 space but -- never
14 mind.

15 MS. KLINE: They could and I may not be aware of
16 it.

17 GOVERNOR BUSH: I may be wrong, too. I'm getting
18 old and last month in office. I could have dreamed it.

19 MS. KLINE: Also, some of my friends live in
20 mobile home parks. They have been eliminated as
21 evacuees in a hurricane because they say that they
22 should leave when the tourists and the vans and the
23 boats and things like that leave. But many of them
24 stay to secure their homes, and they leave when the
25 others are asked to leave.

1 That's just one thing I promised I'd bring up. We
2 represent 23 homeowner organizations. And I have here
3 a public opinion survey on the de-designation of the
4 Keys as an area of critical state concern. This is a
5 survey commissioned by Phil Shannon, Jr., a Florida Key
6 homeowner.

7 The Lake Research Company designed and conducted
8 the survey of 400 registered likely voters in the
9 Florida Keys. The survey was done by telephone March
10 12th and 13th, 2006, and it touches everything that
11 we're concerned about for the Florida Keys.

12 Two-thirds of the electorate that they interviewed
13 strongly oppose removing the critical concern status,
14 and this strong opposition grows to 75 percent after a
15 simulated debate and messages about removing the
16 protection from the Keys.

17 GOVERNOR BUSH: You call that push polling.
18 That's interesting.

19 MS. KLINE: The main concern of lifting this
20 designation for our home owner group is about the
21 hurricane evacuation, development, redevelopment, the
22 marinas. We want more protection for our existing
23 affordable housing, which is our RV and mobile home
24 parks.

25 It's truly the only affordable that we have, and

1 we've lost part of it already. This is for service
2 workers. We're not talking about affordable housing
3 which starts at 200-, \$250,000 up.

4 These are the things we're worried about.
5 Freshwater supply. The Florida Keys aqueduct has
6 already put out a press release just a week ago about
7 mixing brackish water with our potable water already.
8 Things are not looking good because the major
9 development in South Florida affects the water table,
10 and more development in the Keys will also affect the
11 water table, hurricane evacuation, all those things.
12 And thank you for the opportunity to speak today.

13 GOVERNOR BUSH: Thank you, ma'am. Thank you for
14 being here.

15 MS. TINKER: The next speaker is Manley Fuller.

16 MR. FULLER: Governor, Governor-Elect, members of
17 the Cabinet, I'll be very brief. I would just like to
18 state that the Florida Wildlife Federation concurs with
19 the comments of Debra Harrison of the World Wildlife
20 Fund and Mr. Miller of the Upper Keys Citizens'
21 Association regarding the changes to the evacuation
22 times. And we think that should go through the comp
23 plan reviews. Thank you.

24 GOVERNOR BUSH: Thank you. I hope people are
25 taking notes to answer some of these very good

1 questions.

2 MS. TINKER: Governor, the County is here
3 available to answer the questions relating to
4 evacuation as well as the Stock Island wastewater
5 system. Tom Willi is the county administrator, so if
6 you'd like --

7 GOVERNOR BUSH: As well as mobile home evacuation
8 and 36 hours and --

9 MS. TINKER: The evacuation issues, right.
10 Mr. Willi.

11 GOVERNOR BUSH: Tell me I wasn't dreaming about
12 the shelter space.

13 MR. WILLI: Good morning, Governor, members of the
14 Cabinet. Thank you. It's a pleasure to be here before
15 you today. Unfortunately, Governor, yes, I think you
16 are dreaming. Shelters are not allowed within Monroe
17 County --

18 GOVERNOR BUSH: Okay. It shows you what kind of
19 dreams I have, that we have a secure, safe, fortified
20 Florida.

21 MR. WILLI: We do have some shelter capability for
22 category one and two storms. But once we receive a
23 category two warning, we plan for a category three,
24 which puts the evacuation process in place in Monroe
25 County. You've heard from some speakers here this

1 morning. I'd like to provide you some context for some
2 of these comments.

3 Number one, we had some comments this morning
4 about grants and the lack of grants and Monroe County
5 not keeping up with the grant capabilities to offset
6 some of these costs for some of these property owners.

7 Well, the County has, believe it or not, just
8 renewed for the fourth time available CDBG funding for
9 these wastewater programs. We have had some tremendous
10 difficulties, as you're aware. We talked about this
11 exact process, project, Stock Island last year in
12 depth.

13 But we have just received a fourth renewal of
14 those CDBG grant funds. Those monies are being used
15 right now to offset costs for residents in Stock
16 Island, as well as other wastewater projects throughout
17 Monroe County.

18 Today you also heard about the County purchasing a
19 restaurant and funding part of the Vandenberg from
20 wastewater funds. That is absolutely incorrect. The
21 County has revenue, the infrastructure surtax funds.
22 Of that fund, the County is allowed to spend up to ten
23 percent of that fund for any governmental purpose.

24 The Hickory House is actually a defunct
25 restaurant. We did buy that property for a waterfront

1 access park, something that's very near and dear to the
2 residents of the state of Florida as well as the
3 residents of Monroe County, a very worthy expenditure
4 of these funds.

5 And I might comment that the capital program and
6 these expenditures were reviewed by the County's budget
7 and finance director as well as the county attorney to
8 verify that these expenditures were within the
9 requirements of statute.

10 GOVERNOR BUSH: So based on the subject at hand
11 here, Monroe County committed to the State X millions
12 of dollars and you've spent or are in the process of
13 spending that on the projects that --

14 MR. WILLI: That and some, Governor. In fact, we
15 have more money right now budgeted for wastewater
16 programs than the Aqueduct Authority can actually put
17 the pedal to the road to make it work.

18 We're of course partners with the Aqueduct
19 Authority. They are the driving force behind the
20 actual construction of these plants. The county staff
21 is providing technical support and monetary, the
22 financial support for these projects. We are spending
23 considerable time together designing these budgets to
24 make sure that these wastewater projects happen, that
25 they happen timely and they happen before 2010, year

1 2010.

2 The rule, ensure 1,350 connections, EDUs on Stock
3 Island. By the definition of Webster, ensure means to
4 make happen, it's imminent, that it has occurred.
5 There is nothing that the residents of Stock Island can
6 do to not put wastewater systems on their property.

7 We have had some issues come to light because we
8 are using some newer technologies. We're using a
9 vacuum system. These vacuum systems have buffer tanks
10 and valve pits. And it depends on what size user that
11 you have and how many connections are on that parcel to
12 what size connection you can actually have.

13 GOVERNOR BUSH: Was it true that the tank, in the
14 previous engineered system, the tank was part of the
15 County's commitment, not for the home owner. Now
16 you've, as I understood it, based on Kim's --

17 MR. WILLI: Yes, Governor, you are correct. The
18 County has committed, and we have for some time
19 committed to additional monies for this project. I
20 believe the total is 970,000 additional dollars.

21 GOVERNOR BUSH: My question relates to, it sounded
22 as though -- the assertion was that the original design
23 system had the tank, the vacuum tank that was necessary
24 with the pipes being the responsibility of the
25 government, that the home owner would tap into that.

1 Now, it sounded like -- again, the assertion was that
2 that is flipped over to where the tank now is the
3 liability or the responsibility of the home owner.

4 MR. WILLI: Well, in the design of these systems,
5 you almost have to put the pieces of the system
6 together on a first come, first serve basis. The
7 larger users, of course, got the heavier parts of the
8 system, the vacuum pits and the buffer tanks.

9 So it really, as you go down in the service area,
10 as you get to the last users, the last connections on
11 an area, you have to get inventive of how they do
12 connect. But this infrastructure system that is
13 questioned on this one parcel is being installed in the
14 right-of-way by Monroe County. And that will allow the
15 connection of these residential units.

16 Also, something you need to keep in mind. A
17 mobile home park is a commercial property. We keep
18 calling it -- the residents keep calling it a
19 residential property. Well, under 99-395 and the
20 ordinances of Monroe County, we treat these properties
21 differently. A commercial property is treated
22 differently than a residential property.

23 Because it is a mobile home park, you would think
24 that it is residential, but it is not. It is
25 considered a commercial entity, and that's why the

1 connections are different for those properties. One
2 last issue --

3 GOVERNOR BUSH: It's a residential area for the
4 people living there as their residence.

5 MR. WILLI: A mobile home park is a commercial
6 business.

7 GOVERNOR BUSH: I understand that but --

8 COMMISSIONER BRONSON: Governor, that's like
9 saying that a condo or a group of apartments are
10 commercial, too. But the fact is people are living
11 there and they're paying for insurance on those
12 facilities as well. They're paying for everything that
13 everybody else pays.

14 MR. WILLI: I understand, Commissioner. But I
15 didn't write the statute. That's the way the statute
16 spells out the differences. That's included in 99-395.

17 CFO GALLAGHER: The problem is that when you have
18 multifamily units -- and a mobile home park is
19 considered multifamily use of that property -- you fall
20 under the commercial --

21 GOVERNOR BUSH: Let's move on, because that's such
22 a bureaucratic response, I mean, with all due respect.
23 People live there. It's their residence. And the
24 challenge -- this is not unique to Monroe County. This
25 is a problem all across the state. We have antiquated

1 or no modern infrastructure for wastewater. And people
2 are asked to spend a ton of money to -- correctly so,
3 so we can protect the environment. And the challenge
4 for local governments is to find a way to finance that
5 because a lot of people can't afford it.

6 So, I mean, I don't care what the law is. The
7 question at hand is, are you all making it as easy as
8 possible for people to tap in so that we can achieve
9 and you can achieve your desired effort, which is to
10 protect the natural systems.

11 MR. WILLI: Yes, Governor, I can answer that
12 unequivocally as a yes.

13 CFO GALLAGHER: It is very easy for a local
14 government to separate living units, whether it be a
15 condominium, apartment building or a mobile home park,
16 for use of a sewage system, to make a difference when
17 there are living units that are commercial or
18 non-living units commercial.

19 And you could easily as a commission say that we
20 will pay for that additional cost on that particular
21 commercial property that has residents on it so that it
22 makes it possible for them to afford to hook up to it.

23 MR. WILLI: Yes, sir. That's exactly the action
24 of the Monroe County Commission. We did make that
25 recommendation to the board and the board did approve

1 those additional infrastructure improvements.

2 CFO GALLAGHER: For the living units?

3 MR. WILLI: Yes, sir. Yes, sir. And they're
4 being installed right now as we speak.

5 CFO GALLAGHER: Well, we could have saved about 15
6 minutes if you would have said that in the beginning.

7 MR. WILLI: Well, again, you had a lot of
8 information thrown at you and I'm trying to put it in
9 some type of context.

10 GOVERNOR BUSH: Onward. Have you got anything --

11 MR. WILLI: Evacuation model, the County did adopt
12 in its comprehensive plan a model, evacuation model
13 that has 18.1 hours for evacuation time, and that is
14 adopted in our comprehensive plan, and that was done
15 last year.

16 GOVERNOR BUSH: It was adopted in the
17 comprehensive plan?

18 MR. WILLI: Yes, sir.

19 GOVERNOR BUSH: Were there public hearings, public
20 discussion?

21 MR. WILLI: Yes, sir. It went through the normal
22 process.

23 GOVERNOR BUSH: So why would people say otherwise?

24 MR. WILLI: I don't know, sir. I can't answer
25 that. Unless you have any other questions --

1 CFO GALLAGHER: Now, where are we with the
2 evacuation time? Because it looks to me like we could
3 be using a new evacuation time, which probably hasn't
4 gone through public hearings.

5 GOVERNOR BUSH: He just said it did.

6 MR. WILLI: We have an adopted comp plan
7 amendment. The original is 18.1 hours, is our
8 clearance time for Monroe County. The South Florida
9 Regional Planning Council is a baseline study to study
10 evacuation on a regional basis from South Florida. We
11 do see that the plan has -- the model has planning
12 value, but I don't see any value in adopting that model
13 plan into Monroe County's comprehensive plan.

14 GOVERNOR BUSH: I asked a question. Maybe I said
15 it incorrect. I want to be exact here so I'm not
16 misunderstood and you're not either. You included the
17 18.1-hour evacuation time in your comp plan last year.

18 MR. WILLI: Yes, sir.

19 GOVERNOR BUSH: And there was a public hearing
20 process where this idea was thoroughly vetted.

21 MR. WILLI: Yes, sir.

22 GOVERNOR BUSH: And three other people have come
23 before you and totally disagreed with that. Can you
24 explain why I'm -- consider me ignorant. Educate me.

25 MR. WILLI: A very controversial issue within

1 Monroe County, the evacuation.

2 CFO GALLAGHER: Well, I mean, I have for example a
3 paper here. It's a memorandum regarding the Florida
4 Keys Assessment Report by Richard Grosso, Everglades
5 Law Center, Inc. And he basically says here the
6 18.2-hour hurricane evacuation policy framework
7 approved for the Florida Keys had no public review or
8 input as required by our land use plan. Now, why would
9 he be saying this if you had one?

10 MR. WILLI: I think he's probably confusing the
11 baseline regional evacuation for the actual evacuation
12 study that was adopted for Monroe County. We have two
13 different animals, two different planning tools. One
14 is adopted in our comp plan and one was just completed.

15 CFO GALLAGHER: They both are 18.2 hours?

16 MR. WILLI: The adopted model in the County's code
17 is 18.1 hours. The new baseline by the Regional
18 Planning Council is 18.2 hours, yes, sir.

19 GOVERNOR BUSH: Okay. That's it. Thank you.
20 That clarifies it, I think, for me. There's two
21 different -- all right.

22 MR. WILLI: Thank you.

23 GOVERNOR BUSH: Thank you. Thanks for being here.

24 MS. TINKER: We have two elected officials from
25 the County to speak this morning, Governor,

1 Commissioner Sylvia Murphy, who will be followed by
2 Mayor Di Genarro. And I just wanted to mention that
3 newly elected representative Ron Saunders is in the
4 audience as well representing the --

5 GOVERNOR BUSH: Representative, welcome. Onward.
6 Commissioner, welcome.

7 MS. MURPHY: Thank you very much. I want you to
8 know that we don't have static cling in the Florida
9 Keys. It's very uncomfortable.

10 GOVERNOR BUSH: You know what? I had to wait
11 eight years to --

12 CFO GALLAGHER: That's because you have 99 percent
13 humidity, and it's 95 degrees.

14 MS. MURPHY: But now I know there's an upside to
15 that humidity. Good morning, gentlemen. And to the
16 young commissioner sitting over there, good morning.

17 GOVERNOR BUSH: Do you want to move the mike up a
18 little bit? I'm a little hard of hearing.

19 MS. MURPHY: Gee, so am I. Is this better?

20 GOVERNOR BUSH: That's fantastic.

21 MS. MURPHY: Or if I stand closer? It's an honor
22 to be here today, and it's even more an honor to be
23 allowed to speak. We're here today regarding really
24 three things. Wastewater. We've made rather smooth
25 progress in Monroe County in every area except South

1 Stock Island, which you've already heard about today.
2 And there we seem to be bogged down in quicksand.
3 We'll see what happens in the next two or three months
4 there.

5 Affordable housing, here we've made little to no
6 progress. I believe it was 32 units in 15 months or
7 something like that. Hurricane clearance time -- and
8 I'm very confused about this 18.1, 18.2.

9 GOVERNOR BUSH: Well, heck, you're the
10 commissioner.

11 MS. MURPHY: I know, and I'm confused. What can I
12 say? I thought it was up much closer to 24, but I
13 think that was before they removed everyone in a phased
14 evacuation. We don't always have time for a phased
15 evacuation, and that's the scary part.

16 None of this bodes well for the future of the
17 Florida Keys. We need to move. We need to move a
18 little bit faster. Because my primary concern and
19 responsibility is the safety and well-being of the
20 residents and visitors, I would like to be on record as
21 opposing the use of this latest plan, this 18.2.

22 The reins are in your hands, gentlemen. Drive
23 carefully. Drive safely. The life you save may be
24 mine.

25 GOVERNOR BUSH: Thanks.

1 MS. TINKER: The mayor is the last speaker on this
2 item, Governor.

3 CFO GALLAGHER: Well, we'll let the mayor speak,
4 and I can get clarified on how nobody seems to agree on
5 how we got 18 hours instead of 24.

6 GOVERNOR BUSH: Mayor, welcome.

7 MAYOR DI GENARRO: Thank you, Governor.

8 GOVERNOR BUSH: What part of the Keys are you
9 from, out of curiosity?

10 MAYOR DI GENARRO: I live on Key Colony Beach,
11 right off of Marathon, been there for many years, and
12 it's the greatest place in the world to live.

13 ATTORNEY GENERAL CRIST: Governor, if I might. I
14 just wanted to welcome the new mayor. He just got
15 elected mayor, and it's great to have you here.
16 Commissioner, great to have you here as well. Look
17 forward to getting down to the Keys some year.

18 MAYOR DI GENARRO: And I'm waiting for you,
19 waiting for you to come, would be honored to have you.
20 Mr. Governor, Mr. Governor-Elect, fellow Cabinet
21 members, thank you for giving me a moment to introduce
22 myself. My name is Mario Di Genarro, the mayor of
23 Monroe County.

24 Mr. Governor, as a citizen of the state of
25 Florida, I would like to first of all thank you for

1 your service. You will be dearly, dearly missed.

2 GOVERNOR BUSH: Don't butter me up. Let's get to
3 the task at hand here.

4 MAYOR DI GENARRO: On the other hand, we feel very
5 fortunate to have Charlie Crist following up --

6 GOVERNOR BUSH: Don't butter him up. Let's get to
7 the --

8 MAYOR DI GENARRO: Special thanks, a special
9 thanks to Secretary Cohen and his staff for their
10 assistance in working with Monroe County.

11 CFO GALLAGHER: And you're glad I'm leaving.
12 Okay. Get to the point.

13 MAYOR DI GENARRO: I'm the new mayor. It's a hell
14 of a tough job. I'm learning as I go. So bear with
15 me, gentlemen. I just want to thank you all very much
16 for -- can we try it now?

17 GOVERNOR BUSH: Yes, sir.

18 MAYOR DI GENARRO: I want to thank you very much
19 for having us up here today, and I want to thank you,
20 want you to realize that we're making steps going
21 forward in the Keys. We're doing the best we can. I
22 think we've advanced. I think that we're reaching our
23 goals. And if there are any questions that we can
24 answer, as you know, we have Tom Willi right here.
25 We'll assist you in anything that you need to know as

1 we move on. Thank you very much.

2 GOVERNOR BUSH: Thank you, Mayor, welcome.

3 MS. TINKER: That concludes the speakers on that
4 item. The recommendation again is to accept the
5 Department's assessment report and find that
6 substantial progress has been made for year nine of
7 the work program.

8 GOVERNOR BUSH: Commissioner Gallagher.

9 CFO GALLAGHER: Are you able to clarify two
10 things; one, does the comprehensive plan include now an
11 18.1 or 2 hour evacuation? That's question one. And
12 question two, if it does, how does that change units
13 available?

14 MS. TINKER: My understanding is that the County
15 adopted last year an amendment to its comprehensive
16 plan to include a policy that would yield an 18.1 or 2
17 hour evacuation time. That's through phased
18 evacuation, moving the visitors, et cetera, out first
19 and then moving to the permanent residents.

20 That is a policy in the plan. The plan was
21 adopted. It went through the local planning process,
22 public hearings, et cetera. It was found in compliance
23 by the Department of Community Affairs. That plan
24 amendment was not challenged. So it is effective.
25 There is still a cap on the number of residential

1 permits that can be issued in the county, in the
2 Cabinet's rule, and it's capped at 197.

3 So irrespective of the 18 hours versus the 24
4 hours, there is still a cap of 197 permits that can be
5 issued annually in the Keys. To change that cap would
6 require a comprehensive plan amendment and approval by
7 the Governor and Cabinet in the future and an amendment
8 to your rule.

9 CFO GALLAGHER: Thank you for explaining that.
10 Now, one other thing. I know that there's a push and
11 some reports out there and some articles said that
12 Monroe County would like to have 3,500 units for
13 affordable housing. And I guess we heard that that's a
14 \$250,000 house or apartment or something.

15 But Monroe County has the ability to borrow
16 forward on affordable housing five years, and they
17 could do their ROGO for affordable housing allocations,
18 that's -- 71 units a year would give them 355 units.
19 If it was so important to have it, they could also take
20 their 197 and make them all affordable housing. And
21 that would be -- five years' worth would be about 985.

22 So there's a potential on an immediate basis to do
23 more than a third of what they're asking for without
24 anything, other than making the allocation for
25 affordable housing, if they chose to, which would be

1 1,340 units that could basically be approved right now
2 if they wanted to go -- I mean, that's an extreme, but
3 if they wanted to go that far. Is that correct?

4 MS. TINKER: They could do that. They could use
5 all of their permits for affordable housing, and they
6 could borrow forward on those permits. That would have
7 to be a decision of the County.

8 GOVERNOR BUSH: And all the people that own a lot
9 that have been planning and working on it that would
10 have their rights restricted would probably scream,
11 which is -- when Governor-Elect Crist is governor and
12 serving in this chair a couple of years from now, my
13 hope is that you will have a celebration to
14 de-designate Monroe County and the Keys and let the
15 fight -- you know, this is what happens all across the
16 state. People have a -- they debate these points at
17 the local level, where it should be debated, about what
18 their future looks like.

19 It's just always an odd thing for us to be sitting
20 here talking about wastewater. But we've had to for
21 historical purposes, and I hope that we get to a point
22 where the County Commission fulfills its commitments,
23 continues to move forward, and in 2009, thanks to the
24 law that Representative Sorensen led the charge on and
25 there was consensus on, that we can -- you'll be able

1 to de-designate. That would be an exciting time.

2 Representative Saunders, would you like to speak?

3 Oh, come on, take a position on something, man.

4 Silence. Okay. Any other discussion?

5 CFO GALLAGHER: I move that we determine Monroe
6 County has made substantial compliance, continue the
7 area of critical state concern designation.

8 GOVERNOR BUSH: Is there a second?

9 ATTORNEY GENERAL CRIST: Second.

10 GOVERNOR BUSH: There's a motion and a second.
11 Any other discussion? All in favor say aye. Aye.

12 ATTORNEY GENERAL CRIST: Aye.

13 CFO GALLAGHER: Aye.

14 COMMISSIONER BRONSON: Aye.

15 GOVERNOR BUSH: All opposed? It is passed. Thank
16 you all very much for coming. Item 3.

17 MS. TINKER: Item 3, staff is recommending
18 approval of a final order finding the Franklin County
19 Comprehensive Plan not in compliance and setting forth
20 remedial actions that would need to take place in order
21 to bring that plan amendment into compliance.

22 Governor, if I could just take a minute. We do
23 have several speakers to sort of frame the issue for
24 you all.

25 GOVERNOR BUSH: All right.

1 MS. TINKER: Franklin County in 2005 adopted
2 amendments to its comprehensive plan based on the
3 assessment report, the evaluation and appraisal report.
4 This is a fairly comprehensive update to the County's
5 comprehensive plan.

6 The Department of Community Affairs reviewed that
7 plan amendment and found that it was in compliance.
8 Several challenges were brought to the Department's
9 finding. Don and Pamela Ashley are petitioners. The
10 Sierra Club also petitioned the Department's finding,
11 and Panhandle Citizens' Coalition also petitioned.

12 While the case was at the Division of
13 Administrative Hearings, both the Sierra Club and the
14 Panhandle Citizens' Coalition dismissed their
15 petitions, leaving only Don and Pamela Ashley as
16 petitioners.

17 This matter went through an extensive hearing at
18 the Division of Administrative Hearings. There was
19 eight days of testimony, exhibits entered into the
20 record. Just to remind you all, you are governed under
21 Chapter 120 for this proceeding, which is the
22 Administrative Procedures Act. Your decision has to be
23 based on the findings and conclusions of the
24 administrative law judge.

25 Staff has reviewed the record. It's our

1 recommendation that the administrative law judge was
2 correct in his finding that the plan is not in
3 compliance, and we're recommending that action to you
4 today.

5 The first speakers will be the petitioners.
6 Governor, I've asked folks to limit their comments here
7 to ten minutes per side. So the petitioners will share
8 ten minutes and then the Department and the County will
9 share ten minutes.

10 GOVERNOR BUSH: Okay. That means that it's ten
11 minutes --

12 MS. TINKER: That's right.

13 GOVERNOR BUSH: -- cumulatively. I mean, ten
14 minutes for one side, ten minutes for the other side.

15 MS. TINKER: That's right.

16 GOVERNOR BUSH: That's what it means, right?

17 MS. TINKER: That's right. And then we have a
18 number of citizens who would like to take just a minute
19 to give you their opinions as well. The first speaker
20 is Ross Burnaman, representing the petitioner Pamela
21 Ashley.

22 GOVERNOR BUSH: Good morning, sir.

23 MR. BURNAMAN: Good morning, Governor,
24 Governor-Elect Crist, members of the Administration
25 Commission. Actually, I represent both Pam and Don

1 Ashley. And we're here on this draft final order that
2 the Administration Commission staff has prepared, and
3 there is little to commend in this draft final order
4 except for the conclusion. And the conclusion is that
5 the plan, with the St. James Island FLUM amendments, is
6 not in compliance.

7 Now, that's certainly clear. The remedial actions
8 that are specified in this document, however, don't
9 come close to remedying the deficiencies that are
10 contained in the plan. Moreover the draft final order
11 is devoid of any sanctions to be imposed should
12 Franklin County decide to go ahead and make this plan
13 that is not in compliance effective and to accept the
14 sanctions of -- there won't be any. So at the next
15 meeting, after the final order is entered, the Franklin
16 County Commission can simply elect to make a
17 not-in-compliance plan effective.

18 Rather than spend a lot of time going over all the
19 exceptions that we have filed and that are part of the
20 staff recommendation, I'd just like to offer you some
21 of the specific gross deficiencies in this draft final
22 order.

23 The draft final order purports to grant the
24 Ashleys' exception that says that there are not two
25 planning time frames in the plan, and yet the specified

1 remedial action only requires the County to adopt a
2 five-year schedule of capital improvements.

3 There is absolutely no specificity with respect to
4 the density or intensity standards that are contained
5 in the plan and that was found in compliance. So
6 basically this is a blank check for the St. Joe Company
7 to build whatever it wants in these newly created
8 future land use map areas on St. James Island.

9 There was a countywide suitability analysis done
10 by Florida State University that was dropped by the
11 County at the request of St. Joe. And so the record
12 before you doesn't have a countywide suitability
13 analysis, other than the one that was placed into
14 evidence that was performed by FSU.

15 Skip Livingston from FSU said that there was no
16 data or analysis to distinguish between a high quality
17 and a low quality wetlands. He was right.
18 Nevertheless, there are policies that purport to defer
19 the protection of the low quality wetlands to the
20 permitting process.

21 With that, I will turn the presentation over to
22 Don Ashley. He has some comments to make. He lives
23 there, and this is where he raised his family and his
24 grandkids. So this is his backyard, basically. He
25 knows the lay of the land. I'll also be able to answer

1 any questions that you might have, and I thank you for
2 your kind attention.

3 GOVERNOR BUSH: Thank you. Good morning, sir.

4 MR. ASHLEY: Good morning, Governor. Can I just
5 say thank you to the Cabinet aides without taking my
6 time? You helped me last week. I appreciate that very
7 much. The nurses on the third floor were --

8 GOVERNOR BUSH: Oh, what happened?

9 MR. ASHLEY: Well, I've got a problem, and I hate
10 people to talk about their problems. But I will get
11 through it today, I promise.

12 GOVERNOR BUSH: Let me just say that the Cabinet
13 aides make the world go around. They are spectacular
14 public servants, and they don't get the recognition
15 they deserve. So I appreciate the fact that you
16 brought that up. And the nurse up on the third floor
17 is awesome as well so --

18 MR. ASHLEY: Well, they took very good care of me.
19 I'm hopeful that I don't have to do that today. I am
20 going to struggle a little bit.

21 GOVERNOR BUSH: Make sure we have nurse on call,
22 if there's some -- well, let's pray for the best here.

23 MR. ASHLEY: I'm not making excuses. I'm going to
24 just let you know up front. I'm going to have to
25 struggle just a little, but I'm going to get through

1 this.

2 GOVERNOR BUSH: All right.

3 MR. ASHLEY: First, Governor, Governor General
4 or --

5 ATTORNEY GENERAL CRIST: Charlie.

6 GOVERNOR BUSH: Mr. Gallagher, Mr. Bronson. I
7 really want to speak to you as a citizen. I want to
8 speak plainly to you. I want to speak quickly to you
9 because I know you have an agenda. But I would really
10 appreciate --

11 GOVERNOR BUSH: There was a mention that you're in
12 the -- you live on St. James Island?

13 MR. ASHLEY: Yes, sir. We live on St. James
14 Island. We live at the Breakaway Lodge, which was a
15 historic hunting and fishing lodge in 1938. We've
16 restored that. We've owned it since 1986.

17 I'm a native Floridian from Central Florida, and I
18 want to say a couple of things to you so you just know
19 a little bit about me, not to try to impress you, but
20 when I tell you that I know something about St. James
21 Island and the critters that live there and the aquatic
22 preserves, I just want you to know that I know
23 something about it.

24 I started to work for Ross Allen when I was 20
25 years old at Silver Springs. I served two years under

1 that man as an apprentice. I was your state's first
2 wildlife inspector. I've served 28 years as a wildlife
3 consultant, and I represent the State of Louisiana
4 before the International CITES Wildlife Treaty. A
5 hundred and sixty-two nations belong to that
6 international treaty.

7 I've made a living from the swamp in Florida and
8 in the Southeast for 38 years in one way or the other.
9 And I've spent a lot of time in the state of Florida.
10 And I've seen what's happened to my hometowns of Apopka
11 and Leesburg.

12 I think the panhandle of Florida is very much like
13 the Florida Keys in the 1950s. We have a chance in the
14 panhandle to do it better. And that's what we were
15 trying to do in Franklin County.

16 Pamela and I did not choose to challenge state
17 government, local government and take on the largest
18 landowner in the state of Florida. It wasn't an easy
19 decision. I want to explain to you why we did it.

20 Our motives were not to grandstand. This was our
21 home. In Florida, the idea that too many people don't
22 have a sense of place, I think that's wrong. I think a
23 lot of native Floridians and a lot of new Floridians do
24 have a sense of place. We do care about what happens
25 to this state.

1 I sent my first letter to St. Joe in 2000, asking
2 them to begin to protect parts of St. James Island.
3 And the reason I sent that letter to them -- could I
4 just put a couple of pictures up? I promise to go
5 quickly.

6 GOVERNOR BUSH: Sure.

7 MR. ASHLEY: That's just to remind you, Governor,
8 that I was here once before. That's one of the bears
9 from St. James Island, or actually from Franklin
10 County. I nicknamed them the seaside bears, and I
11 thought you really ought to know that there really are
12 seaside bears in the state of Florida.

13 But here is where we are. This is St. James
14 Island. You can see Bald Point State Park, the Crooked
15 River addition to Tate's Hell State Forest. This
16 is most of the -- everything in between is owned by St.
17 Joe. Pamela and I live right here on the Ochlockonee
18 River and have been there since or owned the property
19 since 1986.

20 It wasn't just that I've walked every square inch
21 of St. James Island, and not that I followed the bears
22 for 20 years and have a pretty good idea of what
23 resources are on that island, this is a strategic
24 habitat map from your Fish & Wildlife Conservation
25 Commission that is showing in the red most of this area

1 as important strategic wildlife habitat for the state
2 of Florida.

3 Next I just want to show you quickly, this is
4 another map from the Fish & Wildlife Conservation
5 Commission. This is why this area is not only
6 environmentally sensitive, why it's so ecologically
7 important to the state of Florida and Apalachee Bay.

8 This is the Alligator Harbor Aquatic Preserve.
9 This is the strategic habitat area. This map is dated
10 2003. It's showing you long before there were
11 developments proposed for St. James Island, state
12 agencies were recognizing the importance of St. James
13 Island as fish and wildlife habitat, as seagrass beds,
14 as buffers to Apalachee Bay and as buffers to
15 Apalachicola Bay.

16 And, in fact, during the process, FWC recommended
17 a connecting corridor. And I listened to (inaudible)
18 and Colleen Castille. I listened to all of these
19 environmental leaders for the state of Florida tell you
20 today that these are important for the future, the fact
21 that we can connect our remaining wildlife areas, how
22 important they are.

23 This was the recommendation that ended up also on
24 the cutting floor of how you might connect Tate's Hell
25 State Forest to Bald Point State Park.

1 GOVERNOR BUSH: Where is the connection on that?
2 The gray?

3 MR. ASHLEY: Right. All of the crosshatched
4 areas.

5 GOVERNOR BUSH: It doesn't come across as
6 crosshatched. It's the grayer?

7 MR. ASHLEY: The gray, yes. This area is Bear
8 Creek, where most of these bears live. This is the
9 connection north and south, and this is the connection
10 across St. James Island.

11 And I just want to point out to you, I don't want
12 to be silly about this, but when you have a bear for
13 3,000 to 5,000 acres in Apalachicola National Forest,
14 there are five female bears that live on less than
15 5,000 acres in Bear Creek Swamp that produce 10 to 12
16 cubs a year.

17 This is one of the most important denning and
18 cubbing areas I believe in all of the panhandle of
19 Florida. Now, that doesn't mean that St. Joe shouldn't
20 be able to build. All it means is that they have a
21 right to be there as well. We have an obligation, I
22 think, to at least plan for future growth with some of
23 those concerns in mind.

24 But that's not why we challenged. Why we
25 challenged is because Summer Camp came along as a

1 proposal, I believe, in 2002. It was adopted in 2003.
2 The citizens of Franklin County, more than 200 of them,
3 filled the old courthouse in Apalachicola and objected,
4 to the last person that stood up there, to the Summer
5 Camp amendment. Why are we putting almost 500 homes on
6 an aquatic preserve? Why are we doing that without
7 proper planning?

8 CFO GALLAGHER: Where are those homes going on
9 that map you just had?

10 MR. ASHLEY: They would be built -- here is the
11 aquatic preserve. This is Turkey Point right here.
12 They're going on both sides of the Florida State Marine
13 Lab.

14 CFO GALLAGHER: Can you point that out on the
15 other map that you had up there a minute ago, the one
16 that had the habitat?

17 MR. ASHLEY: On this map?

18 GOVERNOR BUSH: The map that you had before, the
19 one right before.

20 CFO GALLAGHER: The one with gray on it.

21 MR. ASHLEY: Oh, this one.

22 GOVERNOR BUSH: Yes, sir.

23 CFO GALLAGHER: Look where you have it, look up on
24 the TV so you get it in the right spot.

25 MR. ASHLEY: Right there. Summer Camp, this is

1 Turkey Point here. It's on both sides.

2 CFO GALLAGHER: Well, that doesn't look like it
3 affects what you were talking about.

4 MR. ASHLEY: That doesn't. That doesn't. But
5 McIntyre certainly is. All of this area that's red
6 here, the McIntyre FLUM amendment --

7 CFO GALLAGHER: We didn't see that, where you just
8 pointed. We've only got one map in front of us here.

9 MR. ASHLEY: Okay. I'm sorry. Summer Camp is not
10 within the bear habitat, you're correct.

11 CFO GALLAGHER: Look, they have a right to develop
12 their land. We have a responsibility to protect the
13 environment as much as possible and the bear habitat.
14 But where you've pointed out is still open and wild,
15 and maybe we should be looking at purchasing some of
16 that to have that done. But that wouldn't stop that
17 development down there at the bottom.

18 MR. ASHLEY: No, it certainly wouldn't.

19 CFO GALLAGHER: And shouldn't maybe.

20 MR. ASHLEY: In fact, I agree with you on that.
21 That should not do that. But here is what the citizens
22 of Franklin County were promised. If Summer Camp could
23 move forward -- at the same time that Future Land Use
24 Policy 11.11 was adopted, the County adopted 11.12 and
25 11.13 simultaneously.

1 What both of those policies did was established
2 and assured the citizens, if you let Summer Camp move
3 forward, we'll admit to you our comp plan is out of
4 date, we'll admit to you that some of the planning and
5 the assessments may not have all been conducted for
6 Summer Camp. But if this one can move, we'll adopt
7 these new policies in 2003 and assured the citizens
8 that you'll get better planning for the future. You'll
9 have assessments on natural resources, cultural
10 heritage, economic development, affordable housing,
11 emergency management, concurrency infrastructure.

12 We were promised all of those things. We think
13 those promises were broken. When it came time for the
14 visioning process, took -- again, took the citizens 18
15 months, we were told there would be no FLUM amendments.
16 This was a visioning process to imagine what we wanted
17 Franklin County to look like in the year 2020.

18 It wasn't until the final visioning meeting
19 that -- we didn't even know what flumes were. We
20 weren't growth management experts. Suddenly someone
21 who did know asked a question, could there be FLUM
22 amendments attached to this transmittal of the comp
23 plan.

24 For the first time the citizens discovered, yes.
25 And those FLUM amendments added 3,440 additional homes

1 to St. James Island in the first pass.

2 CFO GALLAGHER: Would you point out where they go?

3 MR. ASHLEY: Yes.

4 CFO GALLAGHER: Now, I wish you'd use that other
5 map because it makes it much easier.

6 GOVERNOR BUSH: We're getting comfortable with
7 that other map.

8 CFO GALLAGHER: We like the map with the
9 environmental stuff on it. Use that map, please.

10 MR. ASHLEY: Well, I will use that map. I just
11 want to show you what was presented as the overlay map,
12 which was held out to the citizens to be an assessment
13 of your natural resources, your cultural heritage, your
14 affordable housing concerns, your emergency management.

15 But here is the vision map that was originally
16 submitted as the overlay map. It's simply a
17 development map that not only points out the four St.
18 Joe FLUM amendments that were approved at the time the
19 plan was transmitted. It includes six more FLUM -- six
20 more development areas on St. James Island.

21 The experts that looked at this map said that's
22 probably at least 10,000 homes on St. James Island.
23 Without a designated delineated corridor -- I'll be
24 glad to show you this again. And I like it when these
25 what I consider bureaucratic responses, you get the

1 answer, well, there's nothing that precludes us doing a
2 connecting corridor in the future. There's nothing
3 that will preclude us from protecting these strategic
4 habitat areas in the future.

5 Citizens had the right to ask, why aren't we doing
6 it now? You're getting your entitlements. You're
7 getting your 3,400 homes. Tell me why the bears of
8 Bear Creek aren't entitled to their 5,000 acres under a
9 conservation easement. Why aren't the citizens of
10 Florida entitled to connect Tate's Hell State Forest to
11 Bald Point State Park where we know there's at least
12 four or five black bears? There's no reason that we
13 should be isolating --

14 GOVERNOR BUSH: That's a good question, and it's
15 going to be a question that hopefully will be answered
16 by the time we finish here. The ten-minute thing, we
17 went by that a few minutes ago. We're giving him extra
18 time, like a soccer game, because we've asked a few
19 questions. We're in overtime now.

20 MR. ASHLEY: I will move rapidly forward. We're
21 simply standing up as citizens, because I think that's
22 what citizens need to do. You had DCA planners who
23 wrote a memo May 6 that knew this plan wasn't in
24 compliance. They knew the plan wasn't in compliance.

25 And with all due respect to everyone, we at least

1 achieved some level of vindication as citizens to say
2 we used the administrative challenge process, we proved
3 the plan was not in compliance. It is going back to
4 the citizens and the County for amendment.

5 What we're asking you to do is simply don't take
6 away from us one of the issues that we won. We won
7 that the affordable housing was inaccurate. We won on
8 the issue that the coastal high hazard area did not
9 comply either with the hurricane evacuation study or
10 with your new state law establishing the coastal high
11 hazard area.

12 We won that the plan lacks the capital
13 improvements element that's required in the statute.
14 And we won that there's lack of a five-year planning
15 period. We believe we also won that 11.12 and 11.13
16 should have been retained, that promise made to the
17 citizens should have been retained until the rest of
18 the plan was brought into compliance.

19 This takes nothing away from St. Joe. They can
20 come right back, propose their land use amendments. It
21 takes nothing away from the County. It simply says,
22 keep your promise to the citizens. If I could
23 distribute this -- and I really will go quickly through
24 it.

25 GOVERNOR BUSH: We're getting -- why don't you

1 just give it to us and close your statement.

2 MR. ASHLEY: I'm asking you for an amendment. I'm
3 asking you for an additional remedial amendment that is
4 here that simply retains land use policies 11.12 and
5 11.13. And then I point out to you on a single piece
6 of paper where that's provided for in a conclusion law.

7 It's inconceivable to me that the Administration
8 Commission can actually overturn a conclusion of law
9 that we won in the administrative court and say that we
10 don't have to retain 11.12 and 11.13, when the ALJ very
11 clearly said that you won on this point.

12 I've simply pointed out three areas in your draft
13 final order that say exactly the same thing, that in
14 fact it should have been retained and in order for the
15 plan to be in compliance, 11.12 and 11.13 should have
16 been contained. I will -- I think I will end it with
17 that.

18 GOVERNOR BUSH: Thank you.

19 MR. ASHLEY: I really want you to consider this
20 amendment. Pamela and I don't want to take this
21 further. And I want to say this the right way. This
22 is not a threat. I'm just simply telling the State of
23 Florida, if the State of Florida doesn't look more
24 favorably on citizens, particularly when they have to
25 overcome a fairly debatable standard, we need a level

1 playing field in these counties, particularly in rural
2 counties.

3 We need a level playing field to try to plan and
4 balance future growth. That's all this is about.
5 We're not going to give up. We're going to continue as
6 long as we can to try to make these changes for the
7 betterment of the state of Florida.

8 If you will add this remedial action, Pamela and I
9 can go back to Franklin County instead of to the
10 appellate court and we can work on affordable housing.
11 Governor Bush, you appointed Pamela. I know you don't
12 know all your appointees, but you appointed her to the
13 needy housing -- to the Northwest Florida Housing
14 Authority. We are very much involved in trying to help
15 solve these problems.

16 We want you to let us go back and work to solve
17 problems, not continue to fight in Tallahassee or in
18 the courtroom. This amendment allows us and allows the
19 citizens to do that. Thank you.

20 GOVERNOR BUSH: Thank you for coming. I'm glad
21 that your health --

22 MR. ASHLEY: And I made it through. Thank you.

23 GOVERNOR BUSH: You did very well. In fact, I
24 don't know why you need a lawyer, to be honest with
25 you. No offense.

1 MR. BURNAMAN: Just to clarify the handout,
2 Governor --

3 GOVERNOR BUSH: He explained it quite well. We
4 don't need to have further explanation.

5 CFO GALLAGHER: I'd just like to have it, please.

6 MS. TINKER: If you could just give us a second to
7 take a look at it and make sure there's nothing on the
8 document that's outside the record, and then we'll get
9 it up to you, and understand what it is that they're
10 asking. Just give me a minute, please.

11 GOVERNOR BUSH: Who is next?

12 MS. TINKER: Governor, I think it might be
13 appropriate to go next to a number of citizens that are
14 here. They've agreed to limit their comments to a
15 minute each. And then we can move to the Department
16 and the County, who I think will be able to answer
17 several of the questions that have come up and might
18 come up as a result of the speakers.

19 GOVERNOR BUSH: All right.

20 MS. TINKER: And I'm just going to go ahead and
21 name the eight people. And if they'll just come line
22 up right here, I think we can move fairly quickly.
23 David McLain, Gathana Parmenas, Dan Tonsmeire, Joyce
24 Estes, Manley Fuller, Leslie Cox, Ann Maruszak and Vann
25 Lewis. And while they're coming, I just want to

1 recognize Representative Will Kendrick in the audience,
2 who represents Franklin County.

3 GOVERNOR BUSH: David, how are you doing? You're
4 on.

5 MR. McLAIN: Good morning, sir. I am David
6 McLain. I live in Eastpoint, and I've been a taxpayer
7 in Franklin County for over 30 years. I was actively
8 involved in the 18 months worth of visioning process
9 directed by DCA to document what the concerns and hopes
10 were of the citizens of our county for the management
11 of the future growth through comprehensive plan
12 revision.

13 The version of that comprehensive plan that was
14 transmitted to DCA in March 2005 contained none, none
15 of the student -- or none of the citizens'
16 recommendations that had been documented.

17 As to my views with respect to the citizens, as a
18 citizen of Franklin County, this comp plan, even with
19 the remedial actions presented in the draft final
20 order, the current comp plan is inadequate for three
21 primary reasons.

22 It allows for wholesale land use change in the
23 eastern end of the county without adequate impact
24 assessments, as you've already heard, approving over
25 3,000 dwelling units without supporting demand data.

1 Secondly, there is inadequate provision for prohibiting
2 potential development in the coastal high hazard area
3 as it stands right now.

4 And, thirdly, there is no provision for
5 enforcement of the goals, objectives and policies of
6 the comp plan.

7 The County has -- this lengthy process has
8 resulted, however, in the County Commission passing by
9 resolution a process which offers the citizens the
10 opportunity to come twice a year to make
11 recommendations to the County. This is laudable.

12 Governor Bush, on the approval of Babcock Ranch
13 there, you were quoted at least as saying, Florida has
14 a commitment to protect the future by preserving the
15 past. I commend that.

16 We're a small, rural fishing community with
17 seafood at its heart. We have no aspiration to compete
18 with Destin. We need a reasonable, understandable and
19 enforceable plan. Thank you.

20 GOVERNOR BUSH: Thank you. If everybody could try
21 to keep their remarks within a minute, I'd be really
22 grateful. Who is next?

23 MS. PARMENAS: Good morning. My name is Gathana
24 Parmenas. I'm a Franklin County resident, a
25 commissioner in the city of Carrabelle, and I've been

1 very involved for a number of years in issues regarding
2 public safety, emergency response and our local
3 mitigation strategy.

4 I find it very disquieting that over these years,
5 Franklin County has seemingly resisted adopting a
6 proper coastal high hazard area. And I salute you,
7 Governor, for your study group which enables the
8 coastal high hazard area to be finally defined in a
9 scientific manner based on best available data.

10 If it's true, as I heard this morning, that
11 Franklin County would have, shall we say, no immediate
12 repercussions if they failed to adopt a science-based
13 coastal high hazard area as the remedial action
14 requires, then I'm very disquieted.

15 Last year in Hurricane Dennis it became abundantly
16 clear to all that Franklin County's development in
17 coastal high hazard areas leads not only to a great
18 loss of property but great life endangerment. I urge
19 you to send Franklin County back to the drawing board
20 on the FLUM amendments, to look at the appropriateness
21 of the placing of every one of these as far as -- as
22 far as soils, as far as human safety, as far as
23 evacuation.

24 Not unlike the Keys, we are told that we have a
25 very brief evacuation time. What that doesn't state is

1 that all these people in St. James Island are likely to
2 evacuate through Wakulla County. Our evacuation time
3 just takes them across the line into Wakulla County,
4 where they may have up to 23 additional hours to get to
5 a shelter.

6 GOVERNOR BUSH: Thank you. Thank you very much.
7 Thanks for being here. Try to comply with the
8 one-minute rule. I know it's hard. So far we're 0 for
9 two.

10 MR. TONSMEIRE: Good morning. I'm Dan Tonsmeire,
11 director of Apalachicola Riverkeeper. Our organization
12 expended significant resources during the two years of
13 process surrounding the update of the plan. We will
14 continue to work with the County to improve the plan to
15 protect Apalachicola River and Bay.

16 My brief comments address the question of what can
17 be accomplished by returning the plan and FLUM
18 amendments to Franklin County with specific guidance to
19 make the plan better.

20 The opportunities include first that these and
21 future land use amendments will meet state standards
22 for coastal high hazard area, affordable housing and
23 generally accepted good planning criteria, which these
24 amendments do not and as future amendments will not if
25 the standards are not required to be adopted here and

1 now.

2 Second, that other potential impacts from the
3 vague and less than accurate wording of the proposed
4 FLUM amendments that were found to be fairly debatable
5 by the hearing officer could be appropriately
6 addressed.

7 It would allow an opportunity to require land use
8 amendments to meet State recommended requirements
9 providing for adequate water supply planning, improved
10 wetland protections, realistic needs assessment, public
11 access, critical wildlife protection and site
12 suitability.

13 To return this plan with specific guidance for
14 appropriate assessments will require developers that
15 are in the door or at the door in Franklin County today
16 to recognize the needs in Franklin County and improve
17 rather than reduce protections for our wildlife,
18 wetlands, water quality, public access and waterfront
19 developments, including our seafood industry.

20 GOVERNOR BUSH: Thank you very much. Now, when
21 that little red light goes off, that starts blinking,
22 that's a minute.

23 MS. MARUSZAK: I'll get an A.

24 GOVERNOR BUSH: You're going to get an A?

25 MS. MARUSZAK: Less than a minute here. Ann

1 Maruszak, Alligator Point.

2 GOVERNOR BUSH: What's your name? I'm sorry.

3 MS. MARUSZAK: Ann Maruszak, Alligator Point,
4 Franklin County.

5 GOVERNOR BUSH: You get an extra five seconds.

6 MS. MARUSZAK: On behalf of the 360 members of the
7 Alligator Point Taxpayers' Association, we support
8 Mr. Ashley's statement. We thank Commissioner Sanders
9 and the Franklin County Commission for establishing the
10 Franklin County visioning process. The exceptional
11 work by members of that former group continues today,
12 and we thank the Ashleys for continuing that effort.

13 GOVERNOR BUSH: Thank you.

14 MR. FULLER: Manley Fuller, Florida Wildlife
15 Federation. I want to say I'm very proud of Don and
16 Pam Ashley. They're both life members of the
17 federation and Don is a past board of director. The
18 Florida Wildlife Federation took part in the visioning
19 exercise in Franklin County. One of the main reasons
20 we did it is the critical natural resources Franklin
21 County -- the bear habitat has been discussed, the
22 nearshore habitat quality, grouper spawning, clam
23 farming, oyster, world-renowned oyster resource.

24 We recognize that St. Joe and other people are
25 going to develop in the county, but we felt like this

1 planning process, that if we had honored -- if we
2 better honored the visioning process, we wouldn't be
3 here having this -- we wouldn't have had this
4 deliberation the last year and a half.

5 We'd like to see that the Ashleys' recommendations
6 be considered and acted upon. We have worked with the
7 land owner, St. Joe, in addition to the Tate's Hell
8 State Forest and to the Bald Point State Park. And we
9 really do believe that there needs to be a significant
10 habitat corridor between those properties and also
11 buffering of our coastal areas. And we think the plan
12 currently doesn't do that job sufficiently. Thank you.

13 MR. LEWIS: Good morning.

14 GOVERNOR BUSH: Good morning, sir.

15 MR. LEWIS: My name is Vann Lewis. My family on
16 both sides has been involved in St. James Island since
17 1874 or earlier. I have for over 63 years. I live on
18 St. James Island now and commute to work in my clam
19 boat. Thank you very much for that. For me St. James
20 Island and the Alligator Harbor Aquatic Preserve are
21 holy and sacred as surely they were to the Native
22 Americans before me.

23 You must be aware by now that Tallahassee has made
24 Wakulla Springs into an integral part of its sewer
25 system. Water sprayed on the spray field boils out at

1 Wakulla Springs in a week. How long do you think it
2 will take if you allow a spray field on St. James
3 Island, with the toilets of St. James Island to empty
4 into the aquatic preserve?

5 Chief Joseph is famously reported to have said the
6 white man would suffocate in his own waste. It appears
7 that we are trying to prove him right.

8 St. James Island gives us one of the primary
9 possibilities in Florida to help in humanity's primary
10 task, which is reintegrating ourselves into nature
11 before nature gets rid of us. We are failing
12 miserably.

13 GOVERNOR BUSH: Thank you, sir.

14 MS. COX: Good morning. My name is Leslie Cox.
15 I'm a Franklin County resident, taxpayer. I just want
16 to reiterate what everybody else has said, that this is
17 prime habitat. A wildlife corridor should be in
18 negotiations for public protection.

19 There was no capital improvement plan for any of
20 the future land use map changes, and everybody said it
21 before me, so I'll cut mine short.

22 GOVERNOR BUSH: Thank you. Thank you, ma'am.

23 MS. TINKER: We're going to move to the Department
24 of Community Affairs and the County now. Secretary
25 Cohen from DCA.

1 MR. COHEN: Good morning.

2 GOVERNOR BUSH: Good morning.

3 MR. COHEN: As you can clearly see from the
4 speakers, they've been very passionate about their
5 concerns for what's happening in Franklin County and
6 the areas in which they live. We also share that
7 concern. And clearly it came to our attention in 2002
8 that there may be, through that visioning process, some
9 shortcomings that were brought out in the planning
10 process.

11 As you've heard, the Ashleys filed a petition.
12 That was then reviewed. All issues have been fully
13 heard by the administrative law judge. And I think
14 where we are is the fact that, as they've indicated,
15 there were three areas that needed to be remedied, the
16 capital improvements area, coastal high hazard and
17 affordable housing.

18 And as we understand it, the County is fully
19 prepared to go forward with those remedial actions.
20 They will adopt the corrections to their plans by the
21 end of the month. And we think that with those
22 corrective measures taken, the Department stands behind
23 where we are currently, which is it's time for us to
24 move forward.

25 Through the process, when it goes through the

1 adoption possess, the citizens will have another
2 opportunity to express their concerns about any
3 shortcomings they have in those particular areas, and
4 they also have the ability -- and I think you'll hear
5 from your staff -- to challenge that process.

6 So we think that through the visioning that
7 occurred over the last 18 months, the fact that this
8 has been fully aired and vetted, this is an opportunity
9 for us to go ahead and work with Franklin County, their
10 commissioners, their citizens and move forward. Thank
11 you.

12 CFO GALLAGHER: Secretary Cohen, if I may.

13 GOVERNOR BUSH: Treasurer.

14 CFO GALLAGHER: What does that do with 11.12 and
15 11.13, in your opinion?

16 MR. COHEN: We were huddling on that. And what
17 you have is you have the judge that says that the
18 County had the ability to delete those provisions. And
19 as we understand the petitioners, they've asked, if you
20 include them, they would only be included for a limited
21 period of time, through the end of this month when the
22 County moves for adoption. And then they could be
23 deleted at that point.

24 So it's been fully expressed, I think, through the
25 conversations we had in front of the administrative law

1 judge, as to the merits of being able to keep those
2 policies. It was the discretion of the County to
3 delete those, and we support that movement. It says,
4 notwithstanding the deletion, we're still in
5 compliance, we being the County is still in compliance.

6 CFO GALLAGHER: My question is this. I'm sure the
7 County has the ability to delete them.

8 MR. COHEN: Yes.

9 CFO GALLAGHER: But the County is the one that put
10 them in there.

11 MR. COHEN: Correct.

12 CFO GALLAGHER: So why would one be led to believe
13 that the County would delete them?

14 MR. COHEN: I'm not sure I follow that.

15 CFO GALLAGHER: What you're telling me is that the
16 County has the ability to delete them.

17 MR. COHEN: Which they have done when they
18 transmitted it to us at the DCA, and we found that the
19 plan was in compliance.

20 CFO GALLAGHER: The County deleted them?

21 MR. COHEN: Prior to their transmission to us, and
22 we found the plan being in compliance. And that's what
23 we reviewed and have found in compliance.

24 CFO GALLAGHER: You found it in compliance --

25 MR. COHEN: In compliance.

1 CFO GALLAGHER: -- without those two.

2 MR. COHEN: Without those two provisions, that's
3 correct.

4 CFO GALLAGHER: So I understand, if they send them
5 back to you when they take care of the other issues
6 that are spelled out clearly here, which is the capital
7 improvements --

8 MR. COHEN: Correct.

9 CFO GALLAGHER: -- and the coastal high hazard
10 area --

11 MR. COHEN: And affordable housing.

12 CFO GALLAGHER: -- and affordable housing, if they
13 send it back to you with those three taken care of and
14 these 11.12 and 11.13 are still in there, would they be
15 found out of compliance?

16 MR. COHEN: I don't believe that we would find it
17 not in compliance. We would find it in compliance.
18 Correct? We would find it in compliance.

19 CFO GALLAGHER: If they were still in there.

20 MR. COHEN: If they were in.

21 CFO GALLAGHER: And if they were out, they would
22 be in compliance.

23 MR. COHEN: They would be in compliance.

24 CFO GALLAGHER: So I guess my question is, that if
25 we don't make any direction here in regards to 11.12

1 and 11.13, the County could very easily leave them in,
2 send them to you and you'd say okay.

3 MR. COHEN: That's correct, they could.

4 CFO GALLAGHER: Okay.

5 COMMISSIONER BRONSON: I've got a question, too.

6 GOVERNOR BUSH: Commissioner.

7 COMMISSIONER BRONSON: Mr. Secretary, also -- and
8 I guess I probably should ask this later of the St. Joe
9 Company. But one of the things that seems to be an
10 issue here is trying to make sure or to secure a
11 corridor between those -- the park and Tate's Hell
12 State Forest and some of those natural areas.

13 There's nothing that precludes St. Joe from
14 providing a corridor or having a corridor set aside in
15 their final agreement or their final plans either. Is
16 that correct? I mean, there's still room, even with
17 their projected plan, to leave a corridor between those
18 natural areas. Is that not correct?

19 MR. COHEN: That's correct. And part of what the
20 gentleman showed you was part of that visioning
21 process. So they had a vision map saying, here is what
22 we believe we can do over a long period of time as we
23 work our way through our development process, as they
24 work their way through their development process.

25 GOVERNOR BUSH: Isn't that a little -- I'm not

1 going to say disingenuous, but wouldn't it make more
2 sense to, if you're approving the development rights
3 up front and then saying, well, the corridor thing is
4 still available, why wouldn't that conversation take
5 place at the same time?

6 MR. COHEN: But part of what has occurred in this
7 process is, is when that vision map is presented and
8 people come forward and say, you're entitled now to be
9 able to do 10,000, whatever number of units through an
10 entitlement through a vision map, through a vision map,
11 then the County pulls that map back and says, "Well,
12 we're not doing that. We're not providing that level
13 of entitlement. What we're doing is providing a
14 concept of what we think our future can be."

15 But when others interpret that as giving
16 entitlement, in order to avoid that contest, you remove
17 that map. And in so doing, with it goes future
18 corridor conversations. So you pull that off the table
19 when people misconstrue what a visioning map should be.
20 And that's where we are currently.

21 CFO GALLAGHER: I'm one of those people that
22 misconstrue it, too.

23 MR. COHEN: Beg your pardon?

24 CFO GALLAGHER: I'm one of those people that
25 misconstrue it, too.

1 MR. COHEN: Well, what happens is, do you get the
2 entitlements through the visioning process. And what
3 we've tried to say, at least it's important for us -- I
4 may be going off the ramp here now, so y'all pull me
5 back, because we're doing visioning around the state.

6 What you're saying is a vision is not an
7 entitlement. A vision says, here is where we think we
8 may go. And later when you start refining your
9 comprehensive plan based on that vision is when you
10 start getting into that level of detail.

11 But if you have those concerns up front as to
12 whether or not there's entitlement, then conservation
13 easements and a lot of other conversations that you can
14 also have wind up being constricted. And I think
15 that's where we find ourselves currently.

16 GOVERNOR BUSH: All right. Let's hear from the
17 other speakers. I'm getting thoroughly confused here.
18 So if that was the objective --

19 MR. COHEN: No, it was --

20 GOVERNOR BUSH: No, not you.

21 MR. COHEN: Oh, I'm sorry.

22 MS. TINKER: The next speaker is Commissioner
23 Cheryl Sanders.

24 GOVERNOR BUSH: Good morning, Commissioner.

25 MS. SANDERS: I'm going to be brief and we're

1 going to cut to the chase, but I do want to recognize
2 somebody. Back in January of 1999 I had the pleasure
3 of coming up here and standing before Governor Bush
4 when he was a newly elected governor and I was a newly
5 elected county commissioner. And at that time I said,
6 Governor Bush, you're mandated to do a prison down in
7 Franklin County, and you've got to do a prison now. I
8 don't know if he remembers it.

9 And he said -- what did he say? He said, Franklin
10 County needs to help theirselves before you expect us to
11 help you. So, Governor Bush, since then I have tried
12 to help Franklin County by trying to get the staff and
13 other commissioners and trying to get all the grants
14 available to Franklin County.

15 But this time, let's talk about the issues that's
16 before y'all today, three issues, three issues only;
17 Coastal high hazard, affordable housing and capital
18 improvement element.

19 I would ask you all to put this baby to rest, move
20 forward on the three issues that's before y'all and let
21 Franklin County get back to working for the people.
22 Thank you very much.

23 GOVERNOR BUSH: Thank you, Commissioner. Any
24 other speakers?

25 MS. SANDERS: If you'll allow me the time, I'm

1 sorry --

2 GOVERNOR BUSH: You've got ten minutes. I hope
3 that --

4 MS. SANDERS: I'm sorry. We have a full slate of
5 our commissioners here. Let me introduce them. You
6 have Commissioner -- as I introduce you, Commissioners,
7 stand up. We have Commissioner Noah Lockley, District
8 3.

9 GOVERNOR BUSH: Commissioner.

10 MS. SANDERS: Commissioner Bevin Putnal, District
11 5.

12 GOVERNOR BUSH: Thank you, sir.

13 MS. SANDERS: Commissioner Joseph "Smokey"
14 Parrish, District 4, newly elected.

15 GOVERNOR BUSH: Congratulations, Commissioner.

16 MS. SANDERS: And we have Commissioner Russell
17 Crofton, District 1. And also at this time we have our
18 county attorney, Michael Shuler, and our staff person,
19 administrative director and county planner, Alan
20 Pierce.

21 But, Governor, please, y'all -- let's go on.
22 Let's move on, let Franklin County get down to work.

23 GOVERNOR BUSH: Thank you.

24 CFO GALLAGHER: Can I ask one quick question, if I
25 may, Commissioner?

1 MS. SANDERS: Sir?

2 CFO GALLAGHER: I have a question for you.

3 MS. SANDERS: Yes.

4 CFO GALLAGHER: On 11.12 and 11.13, you're
5 familiar with those?

6 MS. SANDERS: We deleted them, yes.

7 CFO GALLAGHER: You deleted them?

8 MS. SANDERS: We deleted them at the time of the
9 transmittal to the State, yeah. We have our county
10 planner up here that can pretty much tell you a little
11 bit more about it than what we do. We go on the
12 recommendation of our staff. Alan, if you'll come
13 forward.

14 CFO GALLAGHER: What I was wondering is, do you
15 all foresee the positives of having a corridor and a
16 connection?

17 MS. SANDERS: A connecting corridor from Bald
18 Point State Park to Tate's Hell State Park? As you all
19 know, because y'all have been sitting here and
20 approving all the land sales in the past few years,
21 Franklin County is owned 80 percent by the State of
22 Florida. With that, you have 300,000 acres in Tate's
23 Hell Forest. And I'm very proud that it's the largest
24 state forest in the state, if I'm not mistaken.

25 At some time there can be that. But are we here

1 to dictate to the private landowner what they do? I
2 mean, I don't have no problem getting into
3 conversations with them.

4 CFO GALLAGHER: I don't think it's a dictate, but
5 what ends up happening usually is that a private
6 landowner wants to increase their density and get
7 approval from you all to do certain things. And in
8 trade you can say, well, we want to make sure that we
9 have a corridor and we protect the environment, too.
10 And so let's work together on getting some of the --

11 GOVERNOR BUSH: In fact, we have bought land from
12 St. Joe Company to achieve just that.

13 MS. SANDERS: And that's what I was fixing to say.

14 GOVERNOR BUSH: This isn't a new concept for
15 anybody. This is something that we do in concert.
16 Lands are dedicated. Lands are purchased. We've
17 worked in many different ways with landowners to
18 achieve corridors, which are an important part of our
19 strategy.

20 CFO GALLAGHER: And I recognize that, if I may,
21 Governor, that when we do buy these lands, they're
22 taken off the tax roll and puts you all in a bind. But
23 at the same time, the other side of this is that the
24 increased density and what St. Joe builds, wherever it
25 is, it's -- I personally think they do a good job and

1 it's quality. And the values certainly produce a
2 tremendous amount of taxes. So there's a positive
3 there also.

4 MS. SANDERS: Officer Gallagher, the road where
5 you've got it now, along 98, Highway 98, that is the
6 wildlife corridor, right along there. And that's one
7 of the issues. If you go inland in there, they're
8 still going to use that 98 no matter what you do. I
9 mean, an animal don't know any barriers.

10 CFO GALLAGHER: Well, maybe, you know, there are
11 some areas where we've made a deal to move 98 and
12 basically use a different road back further upland.

13 MS. SANDERS: And let me tell you one concern of
14 mine as a commissioner and as a sixth generation
15 Franklin Countian and proud of it. You have Bald Point
16 State Park, who is managed underneath DEP, whose normal
17 management policies do not coincide with the
18 traditional uses as far as hunting.

19 You have Tate's Hell who hunts, we hunt. So if
20 you could ever get DEP and the Division of Forestry on
21 the same table to allow the hunting and not allow the
22 hunting or whatever, to where it mixes and -- you know,
23 makes the right thing, I wouldn't have no problem with
24 it. But I have never seen DEP and Division of Forestry
25 ever get to where --

1 GOVERNOR BUSH: So you're telling me that all
2 those critters are escaping Tate's Hell to get away
3 from the hunters, and so all the more reason to have a
4 critter corridor heading to the park.

5 MS. SANDERS: That's about right. That was my
6 concern. That was my concern, is because the way the
7 management policies are now, DEP doesn't allow any of
8 the hunting on their land. With Forestry they do and
9 they promote it, and I thank God for it because I'm an
10 avid hunter, too, also.

11 GOVERNOR BUSH: Who else is here to speak?

12 MS. SANDERS: That was it, unless y'all have any
13 more questions.

14 GOVERNOR BUSH: I think we're good. Teresa, real
15 quick, do we have any other speakers?

16 MS. TINKER: Alan Pierce is here, and I think we
17 probably ought to hear from him on the issue of these
18 two policies. Alan is -- what is your position now?

19 MR. PIERCE: Well, I'm the county planner and have
20 been for 18 years, except for a three-month period of
21 time. Basically 11.12 and 11.13 were stricken because
22 during the update of the comp plan, we felt we met the
23 requirements and provided the data analysis for those
24 policies. And so we felt we complied with the terms of
25 those policies and provided that data analysis to the

1 public as well as the Department of Community Affairs.

2 So the Department of Community Affairs was
3 satisfied that we had met the requirements of the
4 policy, and since we put them in there voluntarily, we
5 could then delete them voluntarily. I mean, if there's
6 some window for which you all want to have additional
7 time to look at these, we think we've met the policies
8 already.

9 GOVERNOR BUSH: Well, let me ask you something.
10 What difference does it make if we -- if we kept these
11 in as has been proposed, as I understand it, then it
12 goes back. The County approves this agreed final
13 order. It comes back here. And as part of that, you
14 could delete these items then, right?

15 MR. PIERCE: To my knowledge, yes, sir.

16 GOVERNOR BUSH: So what's the -- it seems like the
17 request is a fairly humble one.

18 MR. PIERCE: I don't want to mislead anybody. We
19 think we've met the requirements already and if we keep
20 them in place --

21 GOVERNOR BUSH: Well, if it doesn't make any
22 difference, why don't you -- if that's the request, if
23 it doesn't make any difference, what's --

24 MR. PIERCE: The only difference is come December
25 19th --

1 GOVERNOR BUSH: Why don't we just close this out
2 then and just move on?

3 MR. PIERCE: Because you'll hear the same argument
4 December 19th, after we adopt the amendment without the
5 policies. On the 19th, we'll be back here saying, once
6 again, keep them in. We think we've met the --

7 GOVERNOR BUSH: Okay. Well, then we have the
8 discussion then. We're going to have to have it again
9 anyway, it sounds like.

10 MR. PIERCE: Well, you might.

11 GOVERNOR BUSH: Is there any legal reason, Gladys,
12 why we could not accept the suggestion that's been
13 provided us?

14 MS. PEREZ: Well, this was raised today. However,
15 we could revisit the issue and recommend -- but I do
16 agree with the county planner, and this issue was
17 addressed in Exception 24 of your draft final order.
18 The reason why staff recommended what we did is fully
19 explained there.

20 CFO GALLAGHER: The reason you recommend what you
21 recommend is fully explained where?

22 MS. TINKER: There's a paragraph in the draft
23 final order. It's Exception Number 24, I believe. And
24 essentially those policies are not requirements of
25 Chapter 163. They're not requirements of 9J-5, which

1 is the implementing rule for the growth management
2 statute.

3 The County added those policies to its plan
4 several years ago at its discretion. And they removed
5 those policies based on the County's discretion to do
6 so. Since those policies are not requirements of law,
7 we did not believe that that exception should be
8 granted, and we're recommending that it be denied, that
9 the exception be denied.

10 The practicality of the situation, quite frankly,
11 is those policies are in the plan today. The plan
12 amendment that strikes those policies is not effective
13 and will not become effective until the County either
14 fixes the noncompliant issues and submits a new plan
15 and DCA finds it in compliance and it's not challenged
16 or the County chooses to move forward and adopt this
17 plan amendment even though you may enter today an order
18 finding it not in compliance.

19 GOVERNOR BUSH: Teresa, just in English, because
20 this -- I'm going to give everybody -- I have to admit
21 this. Eight years, I've never really understood why we
22 have an Administration Commission, to be honest with
23 you.

24 If we accepted this suggested change, in essence,
25 in plain-spoken English, this is an effort to live to

1 fight another day.

2 MR. PIERCE: Yes.

3 GOVERNOR BUSH: So two weeks from now, other items
4 might be considered that we could, as the
5 Administration Commission, reject out of hand two weeks
6 from now, or we could support. But it's, in essence,
7 an effort to -- unless this creates some legal basis to
8 make the case stronger in the appellate court, I don't
9 know. I'm trying to get a legal --

10 MS. PEREZ: Well, this wouldn't be revisited in
11 the Administration Commission in two weeks. What would
12 occur is, if the Commission decides to accept the
13 suggested change, the draft final order would be
14 amended after review and research. And at that point a
15 final -- the final order is appealable and they would
16 have to pursue that venue. It would not immediately
17 come back here. It would be a whole different process
18 through DCA, et cetera, et cetera, and the provisions
19 of 163 that would make it appear before the Commission.

20 CFO GALLAGHER: What Commission? This one?

21 MS. PEREZ: You all, yes, the Administration
22 Commission. Right now your final decision, whether you
23 agree to accept the suggested changes, which we would
24 have to research and recommend, that would be
25 immediately appealable to the District Court of Appeal.

1 GOVERNOR BUSH: Okay. We have one more speaker,
2 it looks like.

3 MR. BUZZETT: Good morning. My name is Billy
4 Buzzett with the St. Joe Company. I've been involved
5 in this project since its inception. I just wanted to
6 clarify a couple of things, especially about St. James
7 Island. It's about 44,000 acres. You saw a map and
8 folks talking about visioning and what the public
9 wanted.

10 One of the things that the public's appetite was
11 very strong was about preservation of land out there,
12 identified about 44 percent of that land to be
13 preserved. But long before the visioning went forward,
14 long before this process concluded, we agreed to work
15 with you all and with the State for acquisition. That
16 acquisition occurred. It happened.

17 I think it's important to understand the timing of
18 how we did that. People in the visioning process
19 wanted to make sure there was more water access. We
20 provided some water access for that clam aquaculture
21 that you've heard about today.

22 People talked about having an internal Highway 98.
23 We've wanted to work on that, too. And I wanted to
24 make sure very clearly that you all understood that the
25 Florida Wildlife Commission has looked at the issue.

1 You saw that map. They generated that map. We didn't.

2 And one of the things in the letter that they sent
3 to the St. Joe Company and also to the County and DCA
4 was acknowledging that there was a work effort for an
5 internal Highway 98. And at that point in time,
6 depending on where that road may end up, might be the
7 appropriate place to have a wildlife corridor adjacent
8 to it.

9 In all due respect, this has been going on for,
10 honestly, since almost four and a half years. You have
11 three areas of remedial amendments that have been
12 proposed in the draft order. And I would respectfully
13 ask that you support that. And we continue to want to
14 work with the County and with the citizens.

15 CFO GALLAGHER: Where are you all in regards to a
16 corridor? That land that creates that corridor is
17 still in your possession, I gather.

18 MR. BUZZETT: We own that land that's in the
19 corridor. Those FLUM amendments you've heard about
20 were specifically designed not to conflict with a
21 potential corridor. But, again, the location of that
22 corridor is going to be contingent upon where an
23 internal road might go.

24 CFO GALLAGHER: And that's one of the things I
25 talked about. We've been looking at moving 98 for a

1 lot of reasons.

2 MR. BUZZETT: Exactly.

3 CFO GALLAGHER: It's a road that when a hurricane
4 comes, it becomes impassable. And it's just a bad
5 place. It's a beautiful road to drive down, but it's a
6 bad place for a road.

7 MR. BUZZETT: Yes, sir.

8 GOVERNOR BUSH: Commissioner.

9 COMMISSIONER BRONSON: One question -- thank you,
10 Governor -- that I probably need answered here because
11 if we change the order as the Commission and vote to
12 change the order to add 11.12 and 11.13, which were
13 deleted by the County, according to the order, because
14 it was either a duplication or exceeded the statutory
15 requirement, as the administrative law judge obviously
16 ruled, does this then mean that this may set this out
17 into another lengthy potential challenge if the
18 Commission adds that back and goes over the law judge
19 to add it back? Does this mean this takes it into
20 another year or two of potential challenges?

21 MR. BUZZETT: I think potentially it does. 11.12
22 was a requirement to update the plan. And 11.13 was a
23 requirement that in the interim, before the plan was
24 updated, if you advanced any land use amendments, you
25 had a certain requirement to review.

1 Now, with the remediation, those amendments, this
2 plan is now updated. It's final. And those two, 11.12
3 and 11.13 are then obsolete. I question what it means.
4 If you were leave it in, I think it does open up an
5 opportunity for future litigation. This issue was
6 vetted before the administrative law judge and before
7 the Department, and both concluded that it was
8 appropriate and legal to remove.

9 COMMISSIONER BRONSON: And one more question,
10 Governor, if you will. Does this in any way change the
11 owner of the property, the company, and their position
12 on wildlife corridors and so forth, to work with the
13 petitioners and others on setting up a wildlife
14 corridor between those two properties?

15 MR. BUZZETT: It does not. At every turn,
16 Commissioner, we have tried to work with the community
17 on issues of preservation and wildlife. And I stand by
18 what we've done, not only with the two tracts you've
19 mentioned so far, but also with the Box-R tract further
20 west in Franklin County.

21 So we're going to look. We're concerned. We're
22 interested, and we want to be good stewards, and I
23 think at every turn we try to do that.

24 GOVERNOR BUSH: All right.

25 CFO GALLAGHER: Could we hear from the requester?

1 GOVERNOR BUSH: The applicant?

2 CFO GALLAGHER: The citizen, Mr. Ashley.

3 GOVERNOR BUSH: Yeah.

4 MR. ASHLEY: If I could have one minute. I wasn't
5 a timekeeper, but please.

6 CFO GALLAGHER: Go ahead.

7 MR. ASHLEY: There's one thing that was said that
8 just simply is not true. The administrative law judge
9 did not say that it was okay to delete 11.12 and 11.13.
10 If you'll read conclusion of law 103 -- I think I'm
11 going to put it in the record because I think it's
12 going to be a slam dunk if we have to take this
13 somewhere else.

14 As found, most of the issues by the petitioners
15 were fairly debatable, but the last sentence, finally,
16 to be in compliance, deleting future land use element
17 policies 11.12 and 11.13 should await a finding that
18 the rest of the 2020 plan is in compliance. It's a
19 legal --

20 GOVERNOR BUSH: Let me ask you something.
21 Notwithstanding any -- put aside whether or not we
22 accept your amendment here to the order, are you going
23 to appeal anyway?

24 MR. ASHLEY: I'm not certain, Governor. I want to
25 believe that the state of Florida will in fact --

1 GOVERNOR BUSH: Let me ask it another way. If we
2 agree to your suggested change, does that mean you
3 won't appeal?

4 MR. ASHLEY: It doesn't mean that we won't appeal.
5 It does mean that if it goes back, according to 103 --
6 all we're asking you to do is not take away a
7 conclusion of law that we won in the administrative
8 chambers.

9 GOVERNOR BUSH: All right. Thank you for your
10 honesty.

11 MR. ASHLEY: If the citizens have a chance, I
12 think we're going to be okay. I'm just trying to
13 answer the question honestly. We'll be okay if we have
14 a chance to go back and implement 11.12 and 11.13.

15 CFO GALLAGHER: And I took the time up here to
16 read 11.12 and 11.13. And basically what they do is
17 they, it appears to me -- somebody can straighten me
18 out if I'm wrong. It appears to me to go through a
19 list of things that pretty much we've been talking
20 about today, but a list of things that are -- that
21 protect cultural heritage, promote economic
22 development, promote emergency management, adequate
23 provision of public facilities and services, including
24 transportation, water supply, wastewater treatment
25 facilities, provision for affordable housing, a list of

1 allowable uses, all the things that we've been
2 basically talking about that the hearing officer says
3 need to be done are included in these two. They're
4 both pretty much exactly the same on --

5 MR. ASHLEY: With one exception, Mr. Gallagher.
6 Think about this. I don't want to reargue the case,
7 but think about this on affordable housing. The
8 Franklin County comprehensive plan reduced the
9 commitment to affordable housing in Franklin County by
10 75 percent.

11 How could they possibly have done that assessment?
12 More than 50 percent of that need for affordable
13 housing is in Carrabelle. I can show you some of the
14 most dilapidated substandard homes in the state of
15 Florida. How could they have conducted the assessment
16 and then come up with a policy that reduced the
17 commitment by 75 percent?

18 CFO GALLAGHER: That change of the plan has to
19 come to Community Affairs, and they're going to look at
20 that. And if it doesn't comply with what they're
21 supposed to have, they're going to have to change it.

22 MR. ASHLEY: That's correct. My only point is --

23 CFO GALLAGHER: And that's part of what the
24 hearing officer said, look at that and change it.

25 MR. ASHLEY: And he also said keep 11.12 and 11.13

1 until the rest of the plan is in compliance. We have
2 citizens, I believe, that are going to come before this
3 County Commission and say, you promised us better
4 planning. We're going to try to hold 11.12 and 11.13.
5 Let's cut to --

6 CFO GALLAGHER: I understand. But what I'm saying
7 here is that I like the language in 11.12 and 11.13.
8 It pretty much spells out what the law is.

9 MR. ASHLEY: It's the short form for growth
10 management for citizens.

11 CFO GALLAGHER: Exactly.

12 MR. ASHLEY: That's what it is. And it's a good
13 thing.

14 CFO GALLAGHER: It is a good thing. But
15 understand, whether it's in there now or not in there
16 now, it's pretty much what they have to do, either way.

17 MR. ASHLEY: With this exception, Mr. Gallagher.
18 If we go back and 11.12 is stricken, in my judgment
19 against the law, Franklin County is going to say, we
20 don't have to discuss any of that with you citizens
21 anymore. We are going to adjust the numbers on
22 affordable housing. We're not going to look at the
23 assessment of where it's needed. We're just going to
24 adjust the number to 2,200 units that's now the
25 backlog, and then we're going to move forward with

1 3,440 upscale units and no commitment to affordable
2 housing.

3 CFO GALLAGHER: Now, they could probably do that.
4 But in my personal opinion, I don't believe the
5 Department of Community Affairs would accept it that
6 way.

7 MR. ASHLEY: They accepted it the first time,
8 Mr. Gallagher.

9 COMMISSIONER BRONSON: I take exception to that
10 statement simply because the secretary basically said,
11 if you want to use it in these terms, this is a gross
12 plan of how everybody wants to take a look at this
13 property and the surrounding area. The net plan, after
14 you deduct all of these things and it has to go back to
15 DCA and the County has to look at all those minute
16 details, DCA or somebody else may decide that they
17 haven't considered all of those provisions yet, and the
18 net plan will have to pick those up. This is just the
19 big oversight plan. They still have to meet
20 requirements in front of DCA and others, including the
21 County. It's going to have to meet those plans.

22 And I think we're looking at this from two
23 complete different pictures. They've still got a lot
24 of things to do before their final plan is adopted.
25 That's the way I'm looking at it.

1 MR. ASHLEY: Mr. Bronson, I don't disagree. I'm
2 just simply asking the Florida Administration
3 Commission, how can you take away from a citizen a
4 conclusion of law that we won fair and square in the
5 administrative court? How can you take that away from
6 us?

7 This conclusion of law specifically says, from the
8 administrative law judge, that to be in compliance,
9 11.12 and 11.13 should remain until the rest of the
10 plan is in compliance. It's just -- I can't imagine --

11 CFO GALLAGHER: We understand that. But the
12 argument would be, from our Commission, is that they
13 can't send it forward unless -- whether we put it in or
14 not, they still have to comply with all those when they
15 send it forward.

16 MR. ASHLEY: Actually, Mr. Gallagher, there are
17 some things in there that they don't have to comply
18 with. If you'll look at some of the weasel words, they
19 say most of the requirements of Chapter 163 and 9J-5.

20 I can tell you what some of those are; cultural
21 heritage, access to the waterways in Franklin County,
22 boat ramps and adequate parking. That's why there's
23 not a capital improvements plan in this plan.

24 Now, I've tried to be polite about this to
25 Franklin County. I've tried not to be critical. But I

1 want you to think about this. When Franklin County
2 transmitted this plan the first time, it had a capital
3 improvements element.

4 I questioned the county planner on the stand, how
5 did that capital improvements element get out between
6 transmittal and adoption? Was there a vote? Is there
7 any other way to change a comp plan other than a vote?
8 No. Was there a vote? No. So you just reached in,
9 took a statutorily required capital improvements
10 element out, and you want us to have confidence that
11 we're going to go back and they're going to do the
12 right thing.

13 What I'm saying is, give us a chance. Give the
14 citizens a chance to hold the promise they were given.
15 If they can't hold it, you didn't -- you just gave us
16 the chance. If we can't hold it, we can't hold.

17 GOVERNOR BUSH: All right. Thank you. Let's get
18 Teresa back on the podium here, try to summarize where
19 we are, and let's pull the trigger here.

20 MS. TINKER: The petitioners filed an exception
21 for a finding of fact in the final order of the
22 administrative law judge. That finding of fact dealt
23 with those two policies. Staff is recommending that we
24 do not overturn that finding of fact of the
25 administrative law judge.

1 After review of the record, we believe that there
2 is competent substantial evidence in the record,
3 testimony in the record to support what the hearing
4 officer found.

5 Where we believe the hearing officer went a step
6 further was to say that removing those two policies
7 makes the plan not in compliance and those policies
8 should remain in the plan until remedial amendments are
9 done and the plan is found in compliance. That is not
10 a requirement of the growth management law. Those
11 overlay policies are not required under Chapter 163.
12 They are not required under 9J-5, which is the
13 implementing rule.

14 We do not believe that those policies must remain
15 in the plan in order for the plan to be found in
16 compliance. Our recommendation is to go with the draft
17 final order as proposed by staff.

18 CFO GALLAGHER: Let me ask a question, if I may,
19 Governor.

20 GOVERNOR BUSH: Yes.

21 CFO GALLAGHER: You're recommending -- say that
22 again so I understand exactly what you're saying.

23 MS. TINKER: We're recommending that you not
24 accept the one sentence of conclusion of law 103 that
25 deals with those two findings of -- those two policies

1 remaining in the plan in order for the plan to be found
2 in compliance. It's one sentence of a larger paragraph
3 in the order. The paragraph deals with the fact that
4 the CIE is not in compliance.

5 CFO GALLAGHER: You're talking about paragraph
6 103?

7 MS. TINKER: 103.

8 CFO GALLAGHER: Well, let me ask you a question.
9 Why are you -- you're going with the hearing officer
10 all the way along. And I'm looking at 103 right now.
11 And what it says in that final line is, "Finally, to be
12 in compliance, deleting flumes 11.12 and 11.13 should
13 await a finding that the rest of the 2020 plan is in
14 compliance." Now, why would we take that out?

15 MS. TINKER: Again, we believe that those policies
16 were added at the discretion of the County and they
17 were removed at the discretion of the County.

18 CFO GALLAGHER: But we have a hearing officer who
19 has looked at this and basically says, sure, the County
20 can still take it out, I agree with that, but they
21 can't take it out until there's a finding that the rest
22 of the 2020 plan is in compliance. And what's wrong
23 with that, is what I don't understand.

24 MS. TINKER: We don't believe that's required by
25 law. We believe the hearing officer erred in his

1 interpretation of the statute on that sentence.

2 CFO GALLAGHER: You know, it's interesting. All
3 of a sudden we can think the hearing officer erred on
4 something that we might not think, but if the other
5 side thinks that, we get recommended, absolutely, you
6 can't do that, the hearing officer is always right.

7 Now, how can it be both ways or not be both ways?
8 And so I am convinced at this point -- and I'm going to
9 make a motion to the fact -- that 103 is left as the
10 hearing officer recommended it in full, without taking
11 the last sentence out. And maybe I'll get support or
12 maybe I won't.

13 But either we're going to go with what the hearing
14 officer says or we're not. And I've been riding along
15 all along thinking that the hearing officer basically
16 took it out and upon, after the recommended order, he
17 concluded that 103, said it ought to stay there until
18 they're in final compliance. And I don't see anything
19 wrong with that.

20 And yes, it is the discretion of the County
21 Commission to do what they please, and I'm sure they
22 will do the right thing when it comes to it. But let's
23 do what the hearing officer said across the board and
24 make 103 be as he sent it to us. I move that we move
25 the order forward, including all of 103.

1 GOVERNOR BUSH: Is there a second?

2 ATTORNEY GENERAL CRIST: Second.

3 GOVERNOR BUSH: Second?

4 ATTORNEY GENERAL CRIST: Yes.

5 GOVERNOR BUSH: All right. There's a motion and a
6 second. Do you want to restate the motion that we're
7 considering so that it's clear?

8 CFO GALLAGHER: Do you want to do it as you heard
9 it and I'll make sure that you're right, in my opinion?

10 MS. TINKER: My understanding, Commissioner, is
11 you want to leave conclusion of law 103 intact as the
12 hearing officer stated in his final order.

13 CFO GALLAGHER: For our final order.

14 MS. TINKER: For your final order, right.

15 CFO GALLAGHER: That is correct. That is the
16 motion.

17 GOVERNOR BUSH: All in favor say aye.

18 CFO GALLAGHER: Aye.

19 ATTORNEY GENERAL CRIST: Aye.

20 COMMISSIONER BRONSON: Aye.

21 GOVERNOR BUSH: All opposed? No. The motion
22 passes. Thank you for being here.

23 MS. TINKER: Thank you.

24

25

1 GOVERNOR BUSH: Florida Land and Water
2 Adjudicatory Commission. Thank you all for coming.

3 MS. TINKER: Item Number 1, recommend approval of
4 the minutes of the November 14th, 2006 meeting.

5 CFO GALLAGHER: Motion.

6 COMMISSIONER BRONSON: Second.

7 GOVERNOR BUSH: There's a motion and a second.
8 Without objection the item passes. Item 2?

9 MS. TINKER: Item Number 2, recommend approval of
10 proposed amendments to Rules 42-2.013 and 42-2.0132 and
11 authorize the secretary to proceed with final
12 rulemaking.

13 CFO GALLAGHER: Motion on 2.

14 COMMISSIONER BRONSON: Second.

15 GOVERNOR BUSH: There's a motion and a second.
16 Without objection the item passes. Thank you. Teresa,
17 by the way, you do fantastic work. I'm going to miss
18 working with you. Gladys, everybody else, Barbara,
19 thank you.

20 MS. TINKER: Likewise.

21 GOVERNOR BUSH: I assume we're not coming back.
22 You don't have another agenda item on December 19th?

23 MS. TINKER: Actually we do.

24 GOVERNOR BUSH: Okay. Well, then I'll say goodbye
25 then.

1 CFO GALLAGHER: And there will be more.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 GOVERNOR BUSH: Department of Agriculture and
2 Consumer Services.

3 CFO GALLAGHER: Motion on the minutes.

4 COMMISSIONER BRONSON: Second.

5 GOVERNOR BUSH: There's a motion and a second.
6 Without objection Item 1 passes. Item 2.

7 MR. WILHAM: Staff is seeking authorization to
8 issue a ten-year three-acre oyster and clam lease in
9 Volusia County to Mr. Ted S. Douglas, III, and Ted S.
10 Douglas, IV.

11 CFO GALLAGHER: Motion on 2.

12 COMMISSIONER BRONSON: Second.

13 GOVERNOR BUSH: There's a motion and a second.
14 Without objection the item passes. We welcome
15 Mr. Douglas back to the business.

16 MR. WILHAM: Thank you very much.

17 GOVERNOR BUSH: Thank you.

18 MR. WILHAM: Merry Christmas.

19

20

21

22

23

24

25

1 GOVERNOR BUSH: Siting Board.

2 CFO GALLAGHER: Motion on the minutes of September
3 19th.

4 COMMISSIONER BRONSON: Second.

5 GOVERNOR BUSH: There's a motion on Item 1 and a
6 second. Without objection Item 1 passes. Item 2.

7 MR. OVEN: Good morning, Governor.

8 GOVERNOR BUSH: You're not Colleen Castille.

9 MR. OVEN: No. I'm Buck Oven. I'm the
10 coordinator administrator of the siting coordination
11 office.

12 CFO GALLAGHER: Thank you.

13 MR. OVEN: Item 2 is consideration of an
14 administrative law judge's recommended order of finding
15 the Seminole Electric Co-Op power plant site in Putnam
16 County to be in compliance with local land use plans
17 and zoning ordinances. This is a site that was found
18 in compliance back in 1979 by your predecessor siting
19 board, and they wish to add a third coal-powered unit
20 at this site.

21 CFO GALLAGHER: Motion on 2.

22 COMMISSIONER BRONSON: Second.

23 GOVERNOR BUSH: There's a motion and a second. Do
24 we have any speakers?

25 MR. OVEN: I don't believe so.

1 GOVERNOR BUSH: Very good. Motion and a second.

2 Without objection the item passes. Thank you.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CFO GALLAGHER: Board of Trustees.

2 MS. CASTILLE: Mr. Buck Oven will be leaving us in
3 the upcoming year as well. He's in the end of his DROP
4 term. Fifth year, right?

5 MR. OVEN: 31 January.

6 MS. CASTILLE: 31 January.

7 GOVERNOR BUSH: Thank you for your service.

8 MS. CASTILLE: There will be a lot of knowledge
9 walking out that door.

10 GOVERNOR BUSH: I hope you've passed on all the
11 Secret Squirrel stuff to the next guy or gal.

12 MR. OVEN: We're working on it, sir.

13 MS. CASTILLE: Governor and members of the
14 Cabinet, thank you again for that wonderful recognition
15 this morning. It will --

16 GOVERNOR BUSH: Let's get to work.

17 MS. CASTILLE: -- stay with me always. Board of
18 Trustees, Florida Yacht Club, Item 1. This is
19 consideration for an application for a five-year
20 sovereignty submerged lands lease containing 159,395
21 square feet for the operation of an existing private
22 marina. This is for a yacht club membership that was
23 established in the late 1920s at its current location
24 on the St. Johns River in Duval County.

25 As you can see on the screen, there is an enclosed

1 facility there with a pier wall on either side of it to
2 protect from wave action and current action, to protect
3 the boats.

4 Numerous dock configurations have existed since
5 the facility's inception. And the applicant has filed
6 a Butler Act disclaimer for a 4,770-square-foot portion
7 of the submerged lands, which we have granted, in
8 return for a quitclaim deed for all the other submerged
9 land.

10 DEP staff recommends that the lease fees in
11 arrears with interest be assessed from the date of the
12 expiration of the grandfathering program, which was
13 January 1, 1998, to January 1, 2007, and the total
14 amount in arrears is \$211,240 and has been determined
15 based upon the total preempted area. It has not been
16 collected pending a decision by the Board of Trustees.

17 GOVERNOR BUSH: Not been collected since 1998
18 pending a decision?

19 MS. CASTILLE: There's been a dispute and --

20 GOVERNOR BUSH: Yeah, I know, but we've been here
21 for eight years, and now you're saying we're going to
22 -- well, let's get to the --

23 MS. CASTILLE: We've been asking for the funds.
24 There's been a dispute. In most cases a leaseholder
25 would put the money in an escrow account, but in this

1 case they have not.

2 GOVERNOR BUSH: Well, I'm not sure how good this
3 process has been managed, to be honest with you, but --
4 do we have any speakers?

5 MS. CASTILLE: Yes. Steve Lewis.

6 GOVERNOR BUSH: Mr. Lewis, welcome.

7 MR. LEWIS: Thank you. Governor, members of the
8 Board, my name is Steve Lewis, with the law firm of
9 Lewis, Longman & Walker. We represent the yacht club
10 on this matter. We certainly don't have any objection
11 to putting this under lease, but there are some
12 equitable points that I'd like to at least mention to
13 the board before it makes its decision.

14 The first point is that we're a not-for-profit
15 club and the land was donated to us in the early 1920s.
16 The location is not a good location to put a facility,
17 but it was donated. And because of the large fetch on
18 the St. Johns River, the configuration you see is
19 necessitated because of the wave action.

20 There's no mooring of any kinds of boats on the
21 outer side of the facility. Nonmembers have never been
22 excluded from this area. People come in there for safe
23 harbor. People have come in to fish from time to time.
24 As a not-for-profit, it's really never been a big
25 revenue generator, very minimal, in the neighborhood of

1 about \$50,000 a year.

2 Under your percentage calculation of six percent,
3 it would obviously be only about three, four thousand
4 dollars a year in revenue versus the preempted
5 calculation, which is quite a bit higher.

6 The club, as was stated, did have a legitimate
7 Butler Act claim. We at one time, until the Supreme
8 Court decided exactly what fell under the Butler Act,
9 whether dredging was included, we were talking about a
10 swap with the Trustees and negotiating with the staff,
11 and it just never came through.

12 GOVERNOR BUSH: What would happen if you
13 extinguish your Butler Act claim and we extinguish the
14 \$233,000 and you agreed to pay rent over the -- the
15 full amount going forward?

16 MR. LEWIS: Well, actually, we're going to say
17 there are two different options here that we'd like you
18 to consider.

19 GOVERNOR BUSH: Would you like that one?

20 MR. LEWIS: I think our folks would not be upset
21 about that, no, sir.

22 GOVERNOR BUSH: Because you had an argument -- I
23 mean, it didn't sound like you were arguing it anymore,
24 that that was somehow not leasable, whatever the area
25 inside of the enclosurement is.

1 MR. LEWIS: Right.

2 GOVERNOR BUSH: That's clearly our -- that's the
3 people's property, right?

4 MR. LEWIS: Yes, sir. No question.

5 CFO GALLAGHER: Once we do -- and I'm willing to
6 make that motion, Governor. But once we do that, they
7 basically could put a sign out front there saying that
8 this is leased by the club and it's not open to the
9 public because we're taking that --

10 GOVERNOR BUSH: But you're willing to maintain
11 your current policies as it relates to access to the
12 public for safe harbor or for whatever?

13 MR. LEWIS: Well, we certainly would not deny
14 anybody coming in there for safe harbor. Your lease
15 condition, actually, for the preempted area has that
16 condition in it that gives us control over it.

17 CFO GALLAGHER: Safe harbor?

18 MR. LEWIS: Yes, sir. The only other point I
19 wanted to make is that there is precedent, if you go
20 back and look at other leases, current existing leases,
21 where they have gone in -- and I hate to use the word
22 gerrymander, but they've kind of identified the actual
23 areas that were preempted by vessels. So there is some
24 precedent for it.

25 You know, whatever -- I would just like to remind

1 everybody it's Christmas, and we're here asking for
2 forgiveness, I guess.

3 CFO GALLAGHER: Now, that's some serious groveling
4 there. Did you hold this off until December just for
5 that?

6 MR. LEWIS: Actually, I thought about deferring it
7 one cycle to get a little closer but --

8 GOVERNOR BUSH: Well, just in terms of making sure
9 we're not creating a precedent here, saying, well,
10 everybody that comes during the December Cabinet
11 meeting to not pay their rent, in essence, there is a
12 legitimate claim that you have that you're
13 extinguishing.

14 MR. LEWIS: Yes, sir, absolutely.

15 GOVERNOR BUSH: The record should reflect that.

16 MR. LEWIS: We will waive our Butler Act claim.

17 GOVERNOR BUSH: This is not an act of compassion.
18 This is a good, solid business deal, is the way I look
19 at it. All right?

20 CFO GALLAGHER: Governor, I will make that motion
21 that we --

22 GOVERNOR BUSH: I'm Ebenezer Scrooge.

23 CFO GALLAGHER: -- that we waive the lease fees in
24 arrears and the interest thereto in order to -- in
25 trade for them giving up their Butler Act claim and

1 that we lease them the entire internal area of that as
2 you had recommended.

3 GOVERNOR BUSH: At the rate established going
4 forward.

5 CFO GALLAGHER: At the rate established going
6 forward. I believe the lease fee annually would be
7 \$21,916.81.

8 MR. LEWIS: That's correct.

9 CFO GALLAGHER: I so move that.

10 GOVERNOR BUSH: Is there a second?

11 ATTORNEY GENERAL CRIST: Second.

12 GOVERNOR BUSH: Any discussion?

13 ATTORNEY GENERAL CRIST: Question.

14 GOVERNOR BUSH: Yes.

15 ATTORNEY GENERAL CRIST: I'm just curious. What's
16 the dollar figure comparative between the lease and the
17 Butler Act claim, if there is one?

18 MR. LEWIS: It would be hard to calculate it
19 because the Butler Act claim, it's about five, six
20 thousand square feet, in that range. It's very hard to
21 determine exactly. You have to go back to old aerials
22 and stuff. But it's perpetual. Essentially, it would
23 be a fee interest that we're giving back to the
24 Governor and the Cabinet, really to the public,
25 forever.

1 GOVERNOR BUSH: Just as you're going to have a
2 lease that --

3 MR. LEWIS: It's kind of like --

4 CFO GALLAGHER: They're going to lease 159,395
5 feet and pay rent on that pretty much forever.

6 MR. LEWIS: Yes.

7 CFO GALLAGHER: So it's a fair deal.

8 MR. LEWIS: It's fair, and we're comfortable with
9 that.

10 GOVERNOR BUSH: All right. There's a motion and a
11 second. Any more discussion?

12 COMMISSIONER BRONSON: Yes. Thank you, Governor.
13 I'm sorry, but I want to make sure that it's stated
14 that it also is still going to stay open for safe
15 harbor for the public.

16 MR. LEWIS: Yes. Like I said, this area, it
17 doesn't take much of a wind for things to get pretty
18 choppy, and if somebody needed to come in there,
19 obviously, they'd be welcome.

20 GOVERNOR BUSH: All in favor say aye. Aye.

21 CFO GALLAGHER: Aye.

22 ATTORNEY GENERAL CRIST: Aye.

23 COMMISSIONER BRONSON: Aye.

24 CFO GALLAGHER: All opposed? The motion carries.
25 Thank you.

1 MR. LEWIS: Thank you and merry Christmas.

2 GOVERNOR BUSH: Happy holidays. Item 2.

3 MS. CASTILLE: Item 2 is the Intracoastal Marina
4 of Melbourne. This is consideration of an application
5 to modify an existing ten-year sovereignty submerged
6 land lease to combine two existing leases into one
7 lease, to increase the total existing preempted area
8 from 204,717 square feet to 308,995 square feet for a
9 commercial marina open to the public, and to modify the
10 existing ten-year sovereignty submerged land lease by
11 extending the term to 25 years and approve a 25-year
12 sovereignty submerged lands private easement containing
13 76,968 square feet for a wave break and access channel
14 to a commercial marina.

15 The project is located on the western shore of the
16 Indian River in Brevard County, currently has two
17 sovereignty submerged lands leases for an 81-slip
18 marina and a 40-slip marina.

19 Of the total, 145 boat slips will be rebuilt and
20 141 will be open to the public on a first come first
21 serve basis. The remaining four slips will be reserved
22 for government vessel use, including law enforcement,
23 fire and rescue.

24 We are recommending that this lease agreement be
25 approved. Just a note, that this was a hurricane --

1 this was a marina that was ravaged by the hurricanes in
2 the first year, two thousand and --

3 CFO GALLAGHER: Four.

4 MS. CASTILLE: And we had, as per we are allowed
5 under the executive order signed by you, Governor, that
6 we have waived lease fees until the applicant has come
7 under a new application for rebuilding. And we gave a
8 rebuilding application.

9 However, this particular developer has decided to
10 reconfigure this dock facility. And under that we have
11 a different policy for beginning lease fees when the
12 application is approved.

13 GOVERNOR BUSH: Yes, Treasurer.

14 CFO GALLAGHER: I have a motion.

15 GOVERNOR BUSH: Yes.

16 CFO GALLAGHER: And that would be that there's a
17 good trade-off, I think, here. One of them is that we
18 have an agreement here. Although he's building some
19 pretty large upland -- I'm going to guess condominiums.

20 MS. CASTILLE: Condominiums, yes.

21 CFO GALLAGHER: That he's going to keep the marina
22 open to the public on a 90 percent first come first
23 serve basis and will not privatize it. He's also
24 giving four of the newly constructed slips that he's
25 going to do at no charge to the government so that --

1 that's about \$44,000 to be donated to state and local
2 government so they can put their marine resources
3 there. And obviously everybody opens up, of course, as
4 a clean marina and he's going to do that.

5 And I would like to do this. As you know, I like
6 more marinas for people because we have a lot of boats
7 that need a place to be tied up. And so this is moving
8 in the right direction as far as I'm concerned.

9 And so I'd like to move that this marina, which
10 will provide both wet and dry slips and also provide
11 four slips to local government, as I mentioned, and
12 with that I recommend applying the \$40,330 that was
13 paid in lease fees while the marina was in disrepair be
14 applied as a credit to the future lease fees and
15 approve this item.

16 COMMISSIONER BRONSON: Second.

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

19 ATTORNEY GENERAL CRIST: Aye.

20 CFO GALLAGHER: Aye.

21 COMMISSIONER BRONSON: Aye.

22 GOVERNOR BUSH: All opposed? The motion passes.

23 CFO GALLAGHER: And I'd like to ask Colleen one
24 question. I believe you are also leasing this
25 applicant the channel that goes into the marina from

1 the intracoastal waterway.

2 MS. CASTILLE: An easement, yes.

3 CFO GALLAGHER: An easement. Which means that
4 he's basically paying for what most other people don't
5 pay for, which is an open water channel in. And he's
6 willing to pay that, I gather, because I haven't heard
7 anybody say that he's not.

8 If he did not lease that, would that eliminate the
9 ability to have that channel dredged?

10 MS. CASTILLE: I can't answer that without looking
11 at what the original approval document was for the
12 dredging. It may allow maintenance dredging.

13 CFO GALLAGHER: Which is one of the reasons, if I
14 was him, I wouldn't want to lease it. But if he does
15 lease it, then does that give him the right to dredge?

16 MS. CASTILLE: It gives him the right to ask for
17 dredging.

18 CFO GALLAGHER: Well, my goodness, anybody can
19 ask. It's whether he's going to get approval or not.

20 GOVERNOR BUSH: They're all -- the team is nodding
21 behind you.

22 MS. CASTILLE: Yes.

23 CFO GALLAGHER: So it gives him the right to
24 dredge because he's leasing it. That's why he's not up
25 here arguing against it, I gather, and better have a

1 sure thing than one that you're not sure of, so okay.

2 That's all I need. Thank you.

3 MS. CASTILLE: Treasurer, I --

4 GOVERNOR BUSH: Thank you. Item 3.

5 CFO GALLAGHER: We're moving on.

6 MS. CASTILLE: Item 3, we're asking for withdrawal
7 of this item.

8 CFO GALLAGHER: Motion.

9 ATTORNEY GENERAL CRIST: Second.

10 GOVERNOR BUSH: There's a motion to withdraw and a
11 second. Without objection, the item is withdrawn.
12 Item 4.

13 MS. CASTILLE: Item 4 is Key West Marina
14 Investments, consideration of an exchange under which
15 the Board of Trustees will convey 6.44 acres of
16 sovereignty submerged land to the Key West Marina
17 Investments in exchange for 9.57 acres of privately
18 owned submerged land adjacent to that lagoon and 8.01
19 acres of privately owned uplands in one of the Florida
20 Keys Ecosystem Florida Forever Projects in Saddlebunch
21 Key.

22 CFO GALLAGHER: Motion on 4.

23 COMMISSIONER BRONSON: Second.

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

1 MS. CASTILLE: Item 6 (sic) is Holly Hill
2 Associates. This is consideration of a determination
3 that .087 acres of filled formerly submerged lands in
4 Volusia County be exchanged for a .76-acre parcel of
5 filled formerly submerged lands owned by Holly Hill.

6 CFO GALLAGHER: Motion on 5.

7 ATTORNEY GENERAL CRIST: Second.

8 GOVERNOR BUSH: There's a motion and a second.
9 Any discussion? Without objection the motion passes.

10 MS. CASTILLE: Item 6 is consideration of a
11 determination that a 1.34-acre parcel of State-owned
12 land in Indian River County is no longer needed for
13 conservation purposes and that the property no longer
14 needs to be preserved in furtherance of the P-2000 Act,
15 a determination that the exchange will result in a net
16 positive conservation benefit to the State by virtue of
17 a trade with Windsor Properties and the County.

18 Additionally, Windsor Properties will provide a
19 million dollars for development of recreation
20 facilities at this location.

21 CFO GALLAGHER: Motion on 6.

22 ATTORNEY GENERAL CRIST: Second.

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

25 MS. CASTILLE: That concludes our agenda.

1 GOVERNOR BUSH: Thank you.

2 MS. CASTILLE: Thank you.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 GOVERNOR BUSH: State Board of Administration.

2 CFO GALLAGHER: Motion on the minutes.

3 ATTORNEY GENERAL CRIST: Second.

4 GOVERNOR BUSH: There's a motion and a second.

5 Without objection Item 1 passes.

6 MR. STIPANOVICH: Item 2 is a request for approval

7 of fiscal sufficiency of amount not exceeding 160

8 million State of Florida, State Board of Education

9 Lottery Revenue Bonds.

10 GOVERNOR BUSH: There's a --

11 CFO GALLAGHER: Motion.

12 GOVERNOR BUSH: -- motion.

13 ATTORNEY GENERAL CRIST: Second.

14 GOVERNOR BUSH: And a second. Without objection

15 the item passes.

16 MR. STIPANOVICH: Thank you, Governor, members.

17 GOVERNOR BUSH: That's it?

18 MR. STIPANOVICH: That's it.

19 GOVERNOR BUSH: Thank you.

20 (Whereupon, the proceeding was concluded at 11:55

21 a.m.)

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, Jo Langston, Registered Professional Reporter,
do hereby certify that the foregoing pages 5 through 131,
both inclusive, comprise a true and correct transcript of
the proceeding; that said proceeding was taken by me
stenographically and transcribed by me as it now appears;
that I am not a relative or employee or attorney or counsel
of the parties, or a relative or employee of such attorney
or counsel, nor am I interested in this proceeding or its
outcome.

IN WITNESS WHEREOF, I have hereunto set my hand
this 22nd day of December, 2006.

JO LANGSTON
Registered Professional Reporter

