

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

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Representing:

DIVISION OF BOND FINANCE  
FINANCIAL SERVICES COMMISSION, FINANCIAL REGULATION  
FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION  
ADMINISTRATION COMMISSION  
FLORIDA LAND AND WATER ADJUDICATORY COMMISSION  
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before  
THE FLORIDA CABINET, Honorable Governor Crist presiding,  
in the Cabinet Meeting Room, LL-03, The Capitol,  
Tallahassee, Florida, on Tuesday, January 26, 2010,  
commencing at approximately 9:07 a.m.

Reported by:

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Registered Professional Reporter  
Florida Professional Reporter  
Notary Public

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## APPEARANCES:

Representing the Florida Cabinet:

CHARLIE CRIST  
Governor

CHARLES H. BRONSON  
Commissioner of Agriculture

BILL McCOLLUM  
Attorney General

ALEX SINK  
Chief Financial Officer

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(Presented by BEN WATKINS)

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## P R O C E E D I N G S

(The agenda items commenced at 9:19 a.m.)

GOVERNOR CRIST: Our next Cabinet meeting will be Tuesday, February 9th.

Now the Division of Bond Finance, Ben Watkins. Good morning, Ben.

MR. WATKINS: Good morning, Governor, Cabinet members.

Item 1 is approval of the minutes from the January 12th meeting.

GOVERNOR CRIST: Is there a motion on the minutes?

COMMISSIONER BRONSON: Motion on Item 1.

ATTORNEY GENERAL McCOLLUM: Second.

GOVERNOR CRIST: Moved and seconded. Show it approved without objection.

MR. WATKINS: Item Number 2 are resolutions authorizing the issuance and competitive or negotiated sale of up to \$320 million of Public Education Capital Outlay Refunding Bonds.

GOVERNOR CRIST: Is there a motion on Item 2?

COMMISSIONER BRONSON: Motion for approval of Item 2.

CFO SINK: Second.

GOVERNOR CRIST: Moved and seconded. Show it

1 approved without objection.

2 MR. WATKINS: Item Number 3 is adoption of a  
3 resolution authorizing the competitive or  
4 negotiated sale of \$57 million in Everglades  
5 Restoration Bonds for the Department of  
6 Environmental Protection. This is the last piece  
7 of the authorized but unissued bonds for this  
8 program.

9 ATTORNEY GENERAL McCOLLUM: Move Item 3.

10 COMMISSIONER BRONSON: Second.

11 GOVERNOR CRIST: Moved and seconded. Show it  
12 approved without objection.

13 MR. WATKINS: And Item 4 are resolutions  
14 authorizing the issuance and competitive or  
15 negotiated sale of up to \$475 million of Lottery  
16 Revenue Refunding Bonds and up to \$180 million of  
17 new money Lottery Revenue Bonds.

18 CFO SINK: Move it.

19 ATTORNEY GENERAL McCOLLUM: Second.

20 GOVERNOR CRIST: Moved and seconded. Show it  
21 approved without objection.

22 MR. WATKINS: And lastly, Item 5 is a report  
23 of award on the negotiated sale of \$349,865,000 in  
24 Florida Forever Revenue Bonds. This is the last  
25 piece of funding that has been authorized by the

1           Legislature for this program.

2           The bonds were sold as a combined both new  
3           money issue and refunding issue. The new money  
4           issue was for \$262 million, and the refunding issue  
5           was for \$87 million. On the new money issue, it  
6           was a combined tax-exempt and Build America bond  
7           sale and resulted in a true interest cost of  
8           4.1 percent on the new money component. And then  
9           the refunding was 87.9 million, and it was sold at  
10          a true interest cost of 1.69 percent.

11          When you put all of that together, the  
12          interest rate on the combined loan, new money and  
13          refunding, was 3.91 percent. Using the Build  
14          America bond program resulted in an estimated  
15          interest cost savings of 22 basis points, which  
16          when you do the bond math is approximately  
17          \$7.3 million in lower interest costs over the term  
18          of the loan. And the refunding transaction, by  
19          lowering the interest rate on the bonds that were  
20          outstanding, reduced our interest cost on that debt  
21          by another \$7 million.

22                 GOVERNOR CRIST: Is there a motion on Item 5?

23                 ATTORNEY GENERAL McCOLLUM: I move Item 5.

24                 GOVERNOR CRIST: Is there a second?

25                 COMMISSIONER BRONSON: Second.

1                   GOVERNOR CRIST: Moved and seconded. Show it  
2 approved without objection.

3                   MR. WATKINS: Thank you, sir.

4                   GOVERNOR CRIST: Thank you, Ben.

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1 GOVERNOR CRIST: Office of Financial  
2 Regulation, Angela Moreland. Good morning.

3 MS. MORELAND: Good morning. First let me  
4 begin by offering Commissioner Cardwell's regrets  
5 for not being here this morning. Yesterday he  
6 attended a meeting with FDIC Chairman Sheila Bair  
7 to discuss issues on financial institutions and was  
8 not able to make it back in time for today's  
9 meeting. I believe that the CFO may have also  
10 attended that meeting, but apparently you had more  
11 efficient travel arrangements than the  
12 Commissioner.

13 In the Commissioner's absence, he has asked  
14 that I present our agenda. We have two items  
15 before you today. Item number 1, the Office is  
16 requesting approval of the minutes of the  
17 November 17, 2009 meeting.

18 COMMISSIONER BRONSON: Motion on Item 1.

19 ATTORNEY GENERAL McCOLLUM: Second.

20 GOVERNOR CRIST: Moved and seconded. Show it  
21 approved without objection.

22 MS. MORELAND: Item Number 2, the Office  
23 requests approval to file for final adoption Rule  
24 69W-600.0021 relating to the effect of law  
25 enforcement records on applications for

1 registration as associated persons. Associated  
2 persons are stockbrokers.

3 This rule imposes disqualifying periods for  
4 which a person is not eligible for licensure if  
5 they have certain crimes in their backgrounds.  
6 These rules are similar to the ones that you have  
7 adopted in the area of mortgage brokers and money  
8 services businesses. We are asking for approval to  
9 file these rules for final adoption.

10 ATTORNEY GENERAL McCOLLUM: I move Item 2.

11 COMMISSIONER BRONSON: Second.

12 GOVERNOR CRIST: Moved and seconded. Show it  
13 approved without objection.

14 Thank you very much, Angela.

15 MS. MORELAND: Thank you.

16 CFO SINK: Governor.

17 GOVERNOR CRIST: Yes, ma'am.

18 CFO SINK: As a part of us sitting as the  
19 Financial Services Commission, I did want to bring  
20 up that -- an item that I'm going to request be put  
21 on the agenda for the next meeting, which is around  
22 the issue of debt collectors.

23 You're all familiar with the reporting, very  
24 fine reporting that was done late last year by the  
25 *Orlando Sentinel*. And as a result, it pointed out

1           that our laws don't really have strong teeth when  
2           it comes to going against these abusive debt  
3           collection practices.

4           So our office and I have been working on some  
5           draft legislation in an attempt to solve this  
6           problem. And it's pretty comprehensive, puts a lot  
7           more teeth.

8           We went back, and as we analyzed the existing  
9           laws, it just appears that the laws have all been  
10          written in the favor of the debt collection  
11          industry, with a bunch of rigmarole about how  
12          people can file complaints. And some of the  
13          practices are pretty egregious, little kids getting  
14          phone calls from these debt collectors saying that  
15          their parents are going to jail and just outrageous  
16          stuff.

17          So it's clear that we've got to solve this  
18          problem. So in this attempt, I have drafted this  
19          legislation. We worked very collaboratively with  
20          the Office of Financial Regulation.

21          I know that late last year, General McCollum,  
22          your staff was in a meeting with all three parties  
23          and suggested certainly strongly that the Attorney  
24          General needs a lot more enforcement powers on  
25          these debt collectors.

1           So I just want to request that we put as an  
2 agenda item for our next Financial Services  
3 Commission meeting in two weeks -- and certainly  
4 Commissioner Cardwell will probably have something  
5 to say about this -- that all four of our offices  
6 review this draft legislation that I've prepared  
7 and speak with one voice to the Legislature about  
8 the importance of passing these laws that's going  
9 to -- that should help solve this problem of the  
10 abusive debt collectors and enable all of us to  
11 have stronger enforcement capacity around this  
12 issue.

13           ATTORNEY GENERAL McCOLLUM: If I might.

14           GOVERNOR CRIST: General, of course.

15           ATTORNEY GENERAL McCOLLUM: I just would like  
16 to comment, CFO Sink, that I certainly agree with  
17 you. We need to strengthen those laws. My staff  
18 is very concerned that certain portions of what  
19 you've proposed may weaken what we already have as  
20 existing authority. And I know there was a meeting  
21 set Friday that got canceled for whatever reason,  
22 but I hope before we bring it back up to discuss it  
23 here, our staffs can meet over that, because I  
24 think it's really important we all, as you say,  
25 agree as much possible.

1 I also know that the Banking and Insurance  
2 Committee in the Senate has a report out proposing  
3 certain changes, too, that differ somewhat from  
4 what you've proposed, and so I think it would be  
5 good if we listened to them, discussed it all  
6 together. And I know Senator Richter is very  
7 engaged in this. As he has been with our office,  
8 I'm sure he has been with yours.

9 So I welcome the opportunity to come back and  
10 discuss it at another Cabinet meeting.

11 CFO SINK: Well, thank you. You know,  
12 somebody just needed to get the ball rolling, and  
13 that's what we've done. You know, I don't care  
14 where the enforcement piece of it ends up. I just  
15 want to be sure that we have -- whatever happens,  
16 that we have teeth in the laws so that consumers  
17 are protected from these abusive practices.

18 ATTORNEY GENERAL McCOLLUM: Well, we look  
19 forward --

20 CFO SINK: And obviously, we'll --

21 ATTORNEY GENERAL McCOLLUM: We look forward to  
22 meeting with your staff, then.

23 CFO SINK: Good. Great.

24 GOVERNOR CRIST: Very good.  
25

1                   GOVERNOR CRIST: Office of Insurance  
2 Regulation. Commissioner McCarty, good morning,  
3 sir.

4                   MR. McCARTY: Good morning, Governor and  
5 members of the Commission. Agenda Item Number 1 is  
6 adoption of the minutes of the Financial Services  
7 Commission from November 17, 2009.

8                   GOVERNOR CRIST: Is there a motion on Item 1?

9                   COMMISSIONER BRONSON: Motion on Item 1.

10                  ATTORNEY GENERAL McCOLLUM: Second.

11                  GOVERNOR CRIST: Moved and seconded. Show it  
12 approved without objection.

13                  MR. McCARTY: Number 2, the Office requests  
14 for approval for final adoption amendments to  
15 proposed Rule 690-189.003, Workers' Compensation  
16 Application and Audit Procedures.

17                  Pursuant to the Florida Labor Code, the  
18 Financial Services Commission is to promulgate  
19 rules for applications for workers' compensation  
20 coverage for employers as well as processes and  
21 procedures for audits of payroll and classification  
22 of workers.

23                  The changes to the rule allows for the use of  
24 electronic signatures in accordance with Florida  
25 law. The rule also sets out explicit processes and

1 procedures as established by the National Council  
2 on Compensation Insurance.

3 And lastly, it raises the threshold for  
4 on-site audits from 5,000 to 10,000. Those smaller  
5 audits will be continue to be done, but they'll be  
6 done as desk audits.

7 GOVERNOR CRIST: Motion on Item 2?

8 CFO SINK: Move it.

9 ATTORNEY GENERAL McCOLLUM: Second.

10 GOVERNOR CRIST: Moved and seconded. Show it  
11 approved without objection.

12 MR. McCARTY: Agenda Item Number 3 is a  
13 request for publication of Proposed Rule  
14 690-137.002 on the model audit rule.

15 The proposed item here allows the Office to  
16 establish rules in accordance with the National  
17 Association of Insurance Commissioners to modify  
18 the rule in accordance with changes established by  
19 the Florida Legislature through section 624.424,  
20 Florida Statutes. This puts us in uniformity with  
21 the rest of the country and is necessary in order  
22 to maintain our accreditation.

23 CFO SINK: Move it.

24 COMMISSIONER BRONSON: Second.

25 GOVERNOR CRIST: Moved and seconded. Show it

1 approved without objection.

2 MR. McCARTY: Lastly, we request for approval  
3 for publication of proposed Rule 690-157.302 to  
4 .304 on long-term care and business rates.

5 Chapter 627 regarding long-term care requires  
6 that the premium increases for existing consumers  
7 are not to exceed those that are charged in the  
8 current marketplace. Every year the Office does a  
9 survey of the companies and establishes the new  
10 business rate which protects seniors from spiraling  
11 increases. This item pertains to facility rates,  
12 home health rates, and comprehensive rates.

13 GOVERNOR CRIST: Is there a motion on Item 4?

14 ATTORNEY GENERAL McCOLLUM: I move Item 4.

15 COMMISSIONER BRONSON: Second.

16 GOVERNOR CRIST: Moved and seconded. Show it  
17 approved without objection.

18 MR. McCARTY: Thank you.

19 GOVERNOR CRIST: Thank you, Commissioner.

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1                   GOVERNOR CRIST: Administration Commission,  
2 Lisa Saliba. Good morning.

3                   MS. SALIBA: Good morning, Governor and  
4 Commission members. We have three items for the  
5 Administration Commission. Item 1 is approval of  
6 the minutes from the November 17, 2009 meeting.

7                   COMMISSIONER BRONSON: Motion on Item 1.

8                   CFO SINK: Second.

9                   GOVERNOR CRIST: Moved and seconded. Show it  
10 approved without objection.

11                  MS. SALIBA: Item 2, we request approval of  
12 the minutes from the December 8, 2009 meeting.

13                  GOVERNOR CRIST: Is there a motion?

14                  COMMISSIONER BRONSON: Motion on Item 2.

15                  ATTORNEY GENERAL McCOLLUM: Second.

16                  GOVERNOR CRIST: Moved and seconded. Show it  
17 approved without objection.

18                  MS. SALIBA: And Item Number 3 for your  
19 consideration today is a Recommended Order issued  
20 by the Division of Administrative Hearings in a  
21 proceeding arising from the challenge of a  
22 small-scale development amendment to the Citrus  
23 County Comprehensive Plan.

24                  Citrus County adopted the small-scale  
25 amendment, which changed the future land use

1 designation of a 9.9-acre parcel from Low Intensity  
2 Coastal and Lakes District to Recreational Vehicle  
3 Park District. The property in question would have  
4 changed from a total of one unit per 20 acres to a  
5 total of -- under the new designation, it would  
6 have been up to five, given certain circumstances  
7 in the case.

8 Mr. Ronald Fagan, the petitioner, filed a  
9 petition with DOAH challenging the amendment as not  
10 in compliance and was asking for a determination  
11 that it was internally inconsistent with certain  
12 policies in their plan.

13 The administrative law judge hearing the case  
14 recommended that the Commission enter a final order  
15 determining the small-scale development amendment  
16 not in compliance.

17 We do have two speakers today. Ms. Denise Lyn  
18 is representing Dr. Ronald Fagan, the petitioner,  
19 and we have Mr. Clark Stillwell representing  
20 Katherine's Bay, the intervenor. And we can start  
21 with Denise Lyn. Thank you.

22 GOVERNOR CRIST: Good morning.

23 MS. LYN: Good morning, Governor and Cabinet  
24 members. My name is Denise Lyn, and I have the  
25 privilege of practicing law in Citrus County. I

1 represented Dr. Fagan in filing his petition with  
2 the Division as well as various proceedings before  
3 the Board of County Commissioners in Citrus County  
4 and their Planning Board.

5 Dr. Fagan challenged the redesignation of  
6 Citrus -- Citrus County's redesignation of the  
7 property across the street from his house. At the  
8 time he purchased his property and as he has been  
9 living there, the property is designated for one  
10 dwelling unit per 20 acres. Its designation on the  
11 land use map is Low Intensity Coastal and Lakes.

12 The applicant, his neighbor across the street,  
13 moved to have that changed to a designation of  
14 Recreational Vehicle Park. The maximum allowable  
15 density under that designation is five RV park  
16 spaces per acre, so potentially he could have 49 RV  
17 spaces across the street from his house.

18 Dr. Fagan felt that this redesignation was  
19 inconsistent with Citrus County's Comprehensive  
20 Plan and filed a challenge with the Division of  
21 Administrative Hearings, unfortunately, after  
22 having been unsuccessful before the Planning and  
23 Development Review Board at Citrus County as well  
24 as the County Commissioners. Citrus County adopted  
25 this redesignation in May of 2009.

1           Once we filed a petition with the Division,  
2           your Administrative Law Judge Alexander held a  
3           hearing in Citrus County in August of 2009. Judge  
4           Alexander at that hearing, of course, held the  
5           hearing. He reviewed the application that was  
6           filed. He heard testimony from numerous witnesses.  
7           He considered Citrus County's Comprehensive Plan  
8           and the land development regulations.

9           After hearing all of that and hearing argument  
10          of counsel -- of course, I represented Dr. Fagan,  
11          as well as the County Attorney's office represented  
12          the County, and the applicant had counsel at that.  
13          After considering all of that, he entered a written  
14          recommendation for your consideration that the  
15          change was not in compliance with Citrus County's  
16          Comprehensive Plan.

17          I understand your limited role in reviewing  
18          that recommended order is to find whether or not  
19          the order is supported by competent and substantial  
20          evidence and whether or not the process that was  
21          provided by Judge Alexander was fair. We believe  
22          that the order is amply supported by competent and  
23          substantial evidence in the record, and we believe  
24          that the proceeding was fair.

25          Dr. Fagan urges you to please consider the

1 Recommended Order and to affirm that. We have had  
2 an opportunity to review the draft order that has  
3 been prepared by your staff, and Dr. Fagan  
4 completely agrees with your adoption of that  
5 Recommended Order.

6 And I'm here to answer any questions if you  
7 need. Thank you.

8 MS. SALIBA: Next we have Mr. Clark Stillwell.

9 MR. STILLWELL: Good morning, Governor and  
10 Cabinet members. For the record, my name is Clark  
11 Stillwell, and my professional address is 320 South  
12 Highway 41, Bank of Inverness Building, Inverness,  
13 Florida, and I represent the intervenors in this  
14 matter, the property owners, Katherine's Bay, LLC.

15 The facts as outlined by Ms. Lyn are  
16 substantially accurate with the exception of two  
17 critical points. Existing on my client's property  
18 now is a vested 18-unit RV park that has been there  
19 forever, essentially as long as Dr. Fagan's  
20 single-family residence. And immediately adjacent  
21 to my client's property, as reflected in the  
22 record, is a 330-unit RV park.

23 So the question becomes, with these dominant  
24 land uses adjacent to the single-family residential  
25 units and adjacent to an eclectic use of

1 non-conforming uses, generally commercial in  
2 nature, whether or not the findings of the hearing  
3 office are supported by competent and substantial  
4 evidence.

5 Now, on the issue of compatibility, the only  
6 witness was Dr. Fagan, and he spoke to issues of  
7 light, noise, property values, and other  
8 generalized unsupported conclusions about impacts  
9 potentially on his property. The problem with that  
10 testimony and the acceptance of it by the hearing  
11 officer is, in a case called Pollard vs. West Palm  
12 Beach in 1990, the Fourth District refuted that  
13 type of testimony in land use matters as competent  
14 and substantial evidence.

15 What the hearing officer has done here is, he  
16 ignores the general principle that the staff  
17 report, which was positive and which was supported  
18 by the testimony at the hearing, is entitled to  
19 great deference, and that decision of the Board of  
20 County Commissioners came to the hearing officer  
21 with a presumption of correctness. So he had a  
22 presumption of correctness and a staff report  
23 that's entitled to great deference, and he rejects  
24 the staff report and accepts the undocumented,  
25 unsubstantiated testimony of the abutting neighbor.

1           That's the problem.

2                   And the second issue is, he says that the map  
3           is internally consistent because of the  
4           environmental constraints on the particular piece  
5           of property. He cites two issues, karst and  
6           wetlands. The unrefuted testimony of Dr. Pitts, a  
7           Ph.D. in land use planning, and the county staff,  
8           an expert on wetlands, was that the karst rules  
9           were complied with 100 percent, and wetlands and  
10          the potential for impact is expressly prohibited.  
11          So, yes, the site had some constraints, but the  
12          regulatory framework found within Citrus County  
13          deals with those constraints.

14                   The hearing officer ignores the more specific  
15          policies about siting of RV parks in our community.  
16          He took a very generalized provision of our  
17          Comprehensive Land Use Plan and relied upon that,  
18          ignoring the more specific goals, policies, and  
19          objectives that apply to an RV park. And the  
20          general rule of law is that more specific points  
21          control over the generalized.

22                   So that's our position. My client owns  
23          47 acres. He can do two houses on it. He has an  
24          18-unit RV park right in the middle of his 47 acres  
25          which is zoned commercial, which is also right

1 across from Dr. Fagan's street, so he could expand  
2 his existing RV park and bring it up to community  
3 standards. I guess now he tears it down and builds  
4 a 12,000 square foot strip mall across from  
5 Dr. Fagan, which is an authorized use.

6 These are the type of issues we have to deal  
7 with in Citrus County. We hate to bring them to  
8 you in this format. But we think the presumption  
9 of correctness and the decision of the Board of  
10 County Commissioners was the correct one.

11 Questions?

12 GOVERNOR CRIST: Thank you, sir.

13 MR. STILLWELL: Thank you, Governor.

14 GOVERNOR CRIST: Appreciate it.

15 MS. SALIBA: Governor, if there are any  
16 questions, I'm prepared for those.

17 GOVERNOR CRIST: General.

18 ATTORNEY GENERAL McCOLLUM: I'm wondering if  
19 we could have comments from the first speaker about  
20 what was just presented to us.

21 MS. SALIBA: Okay.

22 ATTORNEY GENERAL McCOLLUM: Tell us why the  
23 legal rationale would be something you wouldn't  
24 agree with that was just presented to us.

25 MS. LYN: The difficulty is, of course, that



1           you all have not had the opportunity that either  
2           Mr. Stillwell or I have had of dealing with this  
3           case for a number of years.

4           The first comment that there is a vested  
5           mobile home -- or RV park already on the property  
6           is actually incorrect. The applicant owns  
7           47.5 acres. He has only requested a change on  
8           9.9 acres, and we all understand why, to be under  
9           the 10-acre threshold so that he can do a  
10          small-scale comp plan amendment. The RV park  
11          that's vested that they're referring to is actually  
12          not even part of the application. It's a small  
13          enclave at the front of the property. And the  
14          hearing officer considered Mr. Stillwell's  
15          arguments as well as mine at the time and did  
16          determine correctly, we believe, that that enclave  
17          is not part of the application and shouldn't be  
18          considered.

19          So to say that there's already a vested RV  
20          park is true; however, it's not part of the  
21          application. We're only considering those 9.9  
22          acres.

23          Many of the -- a lot of the testimony, of  
24          course, the hearing officer or the administrative  
25          law judge considered. He considered Dr. Pitts'

1 testimony, a county employee, Dr. Pitts. He  
2 considered my client's testimony. He considered  
3 the testimony of some of the other abutting  
4 property owners who did have some of the --  
5 Mr. Stillwell refers to the eclectic nature of the  
6 neighborhood.

7 Well, what the hearing officer recognized is  
8 that there are many nonconforming uses in this  
9 area. We're dealing with an area of Homosassa,  
10 Florida. I don't know whether you all have been  
11 there or not, but it's an old fishing village, a  
12 two-lane road that -- Halls River Road where we're  
13 talking about is a two-lane road that heads out to,  
14 you know, some larger neighborhoods. And along  
15 this road, development has been occurring for many,  
16 many years. Old fishing camps exist there. The  
17 eclectic nature, it exists. We understand that.

18 However, we're trying to learn from our past  
19 mistakes, and the Citrus County Commission adopted  
20 a Comprehensive Plan planning for the future,  
21 planning for the fact that we are in an  
22 environmentally sensitive area, planning for one  
23 unit per 20 acres.

24 We don't need to be having heavy development  
25 in this area, this fragile karst environment that

1 Mr. Stillwell refers to. I don't know if you're  
2 familiar with what karst environment means, but  
3 basically we've got a bunch of limerock out there,  
4 and we don't need to be putting heavy or intense  
5 development in that area.

6 The hearing officer considered all of this  
7 testimony, considered Dr. Pitts' testimony,  
8 considered this staff report that the County  
9 prepared, and still in the face of all that said,  
10 "No, Citrus County. You have planned for this  
11 area. You have planned for one unit per 20 acres.  
12 What has changed to make you change your mind and  
13 say that now it's appropriate to put five units per  
14 acre? Something has had to have changed."

15 Nothing has changed except that this developer  
16 has requested this change. The hearing officer  
17 said, "No, we're rejecting that. Citrus County,  
18 you planned for this in your Comp Plan. You  
19 planned for it in your future land development, so  
20 stick to it. You've done the research. You know  
21 the environment is sensitive out there."

22 Specifically, the administrative law judge  
23 keyed in on the Comprehensive Plan's requirements  
24 in this environmentally sensitive area. I feel  
25 like there's so much to tell you and so much went

1 on at that hearing that I just -- in five minutes,  
2 of course, I don't have time to tell you all that.

3 But I trust that you put faith in your  
4 administrative law judge and the fact that he did  
5 have a hearing and he considered all of the  
6 evidence that Mr. Stillwell brought up, as well as  
7 I did, and in spite of all of that, still found  
8 that this was not a proper use for this  
9 environmentally sensitive area and was not  
10 compatible with the neighborhood. I trust that you  
11 will rely on your administrative law judge and  
12 uphold his findings.

13 COMMISSIONER BRONSON: I have a question.

14 GOVERNOR CRIST: Yes, Commissioner.

15 COMMISSIONER BRONSON: Well, if all of that is  
16 the case, I think we heard -- so you don't put the  
17 mobile homes or whatever -- however you want to  
18 list the way that he was going to use the property  
19 that was granted by the County that's now been told  
20 you can't go against your plan, but you can build a  
21 strip mall that's legal on the same piece of  
22 property.

23 I'm having problems here trying to figure it  
24 out. You're going to have a lot more people coming  
25 to a strip mall that's going to affect that

1 property than you will building five mobile homes  
2 or whatever they're going to put on there, or an RV  
3 park. I guess it's not really a mobile home park.  
4 It's an RV park, which is a bit different, which  
5 means people are going to be coming in and going  
6 out. I'm getting lost in the reasoning on this.

7 MS. LYN: I think I can clear that up very  
8 easily for you. The CLC, which is Coastal Lakes  
9 Commercial, is the small enclave that's at the  
10 front of the property. When Mr. Stillwell referred  
11 to the strip mall, he was referring to the small  
12 enclave that's CLC that's not part of this  
13 application.

14 So I agree with Mr. Stillwell that perhaps  
15 they can come to the County and they can ask that  
16 the CLC portion be changed. However, that's not  
17 part of this application. We're dealing with the  
18 9.9 acres that surrounds this enclave. So if they  
19 want to do something with that CLC, which is only  
20 vested at this point in time for 18 RV spots, they  
21 can do that. But we're not dealing with that.

22 And I'm sorry that he raised that and I  
23 believe is confusing the issue, because this  
24 application deals with a completely separate 9.9  
25 acres adjacent, but not part of this application.

1           So if they want to do that, that will be another  
2           day.

3           CFO SINK:   Excuse me for interrupting, but I  
4           think it would be helpful -- do they have the map?  
5           Why don't you put the -- Lisa, is that all right?  
6           They can put the map up.  I think that will help  
7           the discussion.

8           MS. LYN:    Thank you.

9           CFO SINK:   Well, I was talking about -- well,  
10          is that one better than the one I have?

11          MS. SALIBA:  It does show the --

12          CFO SINK:   This one is better?

13          MS. LYN:    I don't know if this is close enough  
14          for you to -- can we zoom in?

15          CFO SINK:   That's good.

16          MS. LYN:    Thank you.  This is Dr. Fagan's  
17          piece right here.  The vested piece that we're  
18          talking about that's currently vested --

19          CFO SINK:   Show us where the CLC is.

20          MS. LYN:    The CLC piece is this portion that  
21          you see right here.

22          MS. SALIBA:  Maybe this would show it better.

23          MS. LYN:    Oh, yes, this actually would, if we  
24          can zoom in.

25          CFO SINK:   I believe that one is better,

1           actually, for purposes of this discussion.

2           MS. LYN: The CLC piece that we're talking  
3           about is here, and it is vested, and it has existed  
4           for a very long time. It is not part of this  
5           application.

6           CFO SINK: That's a different landowner,  
7           correct?

8           MS. LYN: No, same landowner.

9           CFO SINK: Same landowner.

10          MS. LYN: Different situation. Remember,  
11          we're only dealing with 9.9 acres because, of  
12          course, we're trying to get in under the  
13          small-scale comp plan rules. The applicant  
14          actually owns a much larger piece, which is this CL  
15          designation here. He owns this, but he's only  
16          applying on this orange piece right here.

17          And so conceivably, yes, they can try and do  
18          something with that CLC, but I believe that's for  
19          another day. We're only dealing with this here,  
20          and right now it's zoned CL, and it's zoned for one  
21          unit per 20 acres.

22          GOVERNOR CRIST: General.

23          ATTORNEY GENERAL McCOLLUM: In other words,  
24          the nine acres is part of this bigger CL that he  
25          owns, so all the rest of this property he has would

1 be covered by the same land use plan --

2 MS. LYN: It is CL. All the -- yes, the rest  
3 of it is.

4 ATTORNEY GENERAL McCOLLUM: He's just asking  
5 for the nine acres to be changed that surround that  
6 little enclave.

7 MS. LYN: Correct.

8 ATTORNEY GENERAL McCOLLUM: Okay. I got it.  
9 But the enclave could, because of its nature, be  
10 developed. Is that what you're saying?

11 MS. LYN: Potentially, but we're dealing with  
12 the fact that -- the reason it's CLC is because it  
13 was around long before we ever had zoning in --

14 ATTORNEY GENERAL McCOLLUM: It was  
15 grandfathered in, so to speak.

16 MS. LYN: It's a nonconforming, a valid  
17 nonconforming use, vested for 18 spots. And the  
18 administrative law judge specifically considered  
19 all of these nonconforming uses, fish camps.  
20 There's a marina. You know, there was ample  
21 testimony in the record about all of these  
22 nonconforming uses, and the administrative law  
23 judge said, "I recognize" -- and it's in the order.  
24 He said, "I recognize that these are nonconforming  
25 uses, but that's the past, and Citrus County,



1           you're planning for the future. You're granting a  
2           land use designation today that allows something  
3           that shouldn't be." These old existing uses we  
4           recognize.

5           ATTORNEY GENERAL McCOLLUM: I got it. I just  
6           wonder if we shouldn't let Mr. Stillwell make an  
7           additional comment if he wants to.

8           MS. LYN: Oh, I'm sorry. I'm sorry.

9           ATTORNEY GENERAL McCOLLUM: It probably would  
10          be fair.

11          MR. STILLWELL: In Citrus County, if you give  
12          Denise five minutes, she takes ten. It's a common  
13          phenomenon. We all understand her and respect her.

14          Basic fact: 2006 and 1990. In 1990, this  
15          policy that the hearing officer relied on was  
16          adopted. At the same time in 1990, the initial  
17          Comp Plan, the policy that said these RV parks,  
18          these temporary tourist accommodations should be  
19          authorized in the Coastal and Lakes District was  
20          similarly passed. You have to read those two  
21          policies in pari materia -- that's what our lawyers  
22          call it -- together to reconcile them.

23          But then in 2006, the County Commission  
24          adopted another policy for RV parks, more  
25          stringent, and reduced the density, prohibited

1 wetland impacts, and said you have to have regional  
2 sewer and water to have an RV park in the Coastal  
3 and Lakes area. We met all of those standards. So  
4 we had a generalized policy that was done in 1990  
5 for the whole county followed by two specific  
6 policies which are applicable to RV parks, which  
7 the unrefuted testimony of the professional land  
8 use planner was that we met.

9 And Dr. Pitts said, "Look, we evaluated this  
10 project for maximum build-out. That's what we do  
11 in land use." But notwithstanding the 49-some  
12 units, this piece could be developed for some RV  
13 uses, maybe not at maximum potential without  
14 wetland impacts. And again, the unrefuted,  
15 unrebutted testimony of the experts was it could be  
16 developed to meet karst, unrefuted, unrebutted.

17 So what it comes down to is what I would call  
18 this narcissistic approach of Dr. Fagan about  
19 protecting his personal property rights versus my  
20 client sitting here with this 40 acres that they  
21 could do two houses on with a commercial piece  
22 right in the middle. We have to achieve a balance.

23 The Citrus County land use plan and its land  
24 development code honors nonconforming uses to the  
25 same level as any other land use district. So you

1 can't ignore the fact that these land uses are all  
2 around, restaurants, mobile home parks, bigger RV  
3 parks, fish camps, hotels, motels, single-family  
4 residence, marinas, all of that within a quarter  
5 mile of Dr. Fagan's house. When he bought his  
6 house, there were two RV parks in the neighborhood.

7 That's why we felt that the presumption of the  
8 Board of County Commissioners should be honored.  
9 They know this piece of property, and they know  
10 what's there, and they know the neighborhood.

11 Questions?

12 CFO SINK: Yes, I do have a question for  
13 clarification. My information does indicate that  
14 this -- the current owner bought this property in  
15 2007. Is that correct?

16 MR. STILLWELL: That's when the transfer was  
17 made to the LLC. This property had been in my  
18 client's family for years.

19 CFO SINK: Oh, okay. That clarifies that.

20 MR. STILLWELL: It was a corporate decision.

21 CFO SINK: Governor, I'm prepared to make a  
22 motion.

23 COMMISSIONER BRONSON: Well, if I could,  
24 before you make that motion, I would appreciate it.

25 You know, I'm looking at this overall map, and

1 I see two RV parks. I see platted areas in between  
2 those in the pink area. I guess you would call  
3 that pink. It looks pink to me. So the corner of  
4 this one parcel meets pretty close to one of the RV  
5 parks that's already there.

6 With the current economy of trying to figure  
7 out how in the world we're going to bring our  
8 economy back around, if you put an RV park where  
9 basically other development is already there and  
10 other RV parks are there and people are going to  
11 bring their trailers or their RVs -- and some of  
12 these RVs are worth hundreds of thousands of  
13 dollars, I might add. It's not like they're, you  
14 know, pieces of cardboard hooked to a trailer. And  
15 they're going to use it to stay and fish and spend  
16 money in these restaurants and all in Citrus County  
17 or -- what county was it in again?

18 MS. LYN: Citrus, yes.

19 GOVERNOR CRIST: Citrus.

20 COMMISSIONER BRONSON: Citrus. You know, if  
21 it helps generate some economy in the area and the  
22 person who owns the land is going to dedicate that  
23 in that way, it looks consistent to me with what  
24 the County is looking at.

25 I'm -- originally when I heard this, I wasn't

1 so sure I would vote against the administrative  
2 order. But I'm looking at this map, and I'm  
3 thinking that I don't see anything inconsistent  
4 with the whole developed area here and the platted  
5 area that's sitting here.

6 It's not like these are full-time homes that  
7 are going stay. It's an RV park. People are going  
8 to go and come, and it's going to generate  
9 business. So I'm more inclined to vote against the  
10 administrative hearing order.

11 CFO SINK: Well, just to get -- I'll just make  
12 -- excuse me. I'll just move that we approve the  
13 -- or that we reaffirm the judge's, the ALJ's order  
14 for this item, just to get the ball rolling.

15 GOVERNOR CRIST: And is there a second?

16 Okeydokey. Is Mike Barry here?

17 MS. SALIBA: Yes, sir.

18 GOVERNOR CRIST: Mike, could you have some  
19 input for our benefit, please?

20 MR. BARRY: Sure. Good morning, Governor and  
21 members --

22 GOVERNOR CRIST: You're the attorney for the  
23 Commission.

24 MR. BARRY: Yes, I'm counsel to the  
25 Commission.

1           And I think what's important to remember is  
2           that the parties had a full opportunity to litigate  
3           this issue before the DOAH judge. The statute sets  
4           up a very clear process for appealing small-scale  
5           comprehensive plan amendments and for calling  
6           witnesses, introducing evidence before the  
7           administrative law judge. That was done in this  
8           case. The administrative law judge made a number  
9           of findings of fact and a number of conclusions of  
10          law.

11          And under the statute, that recommended order  
12          is entitled to deference by this Commission, in  
13          that so long as his findings of fact are based on  
14          competent and substantial evidence, which the staff  
15          believes it is, and that the process comports with  
16          the essential requirements of the law, that the  
17          Commission should adopt the recommended order.

18          And I think what has gone on today is sort of  
19          a rehashing of the same issues that were raised in  
20          the hearing and an attempt to relitigate the  
21          issues, and I would urge you to not do that, to  
22          rely on the administrative law judge in this case  
23          and to adopt the recommended order, which is the  
24          staff's recommendation.

25          GOVERNOR CRIST: Yes, Commissioner. I'm

1           sorry.

2           COMMISSIONER BRONSON: Well, Governor, to that  
3 point, I mean, most of the time I do go along with  
4 the recommended order if it appears that all  
5 factors were considered. But I heard something  
6 stated -- and maybe it was misstated. I don't  
7 know.

8           But the administrative judge said to the  
9 County Commissioners, "Well, you did this plan in  
10 1990. Stick with it. You shouldn't go against the  
11 plan that you put in place." That's to say that  
12 counties who may take a look at a particular area  
13 for various reasons and want to change the scope of  
14 that particular area for any reason, based under  
15 what the administrative law judge said, you can't  
16 do that because you've already made -- you know, a  
17 previous County Commission made a decision, which  
18 kind of says that the new County Commission cannot  
19 reconsider what a previous County Commission did.

20           Now, you know, we reconsider stuff all the  
21 time that has been done by past boards to take a  
22 look under the current conditions and today's  
23 standards whether we should reconsider submerged  
24 land use or a number of things that we may want to  
25 take a look at.

1           So I see this as the same way. We're looking  
2           at what's available here. I'm looking at this map.  
3           It shows two RV parks, a developable area that's  
4           got a platted area right there next to it on that  
5           side of the road.

6           I mean, that's to say that a county commission  
7           can never overturn a previous county commission's  
8           ideas. If that's the case, then Florida would have  
9           never been developed, because I don't think many  
10          county commissions dreamed that things were going  
11          to change in the substantial way that would change  
12          the opinion of a current county commission's  
13          ability to do that. I mean, this is a flowing  
14          issue here. It's not completely in concrete.

15          And the County Commission took all of these  
16          issues in hand when they looked at the availability  
17          of putting an RV park, does it have correct sewage  
18          and water and some of the things that they've got  
19          to do, and do they meet the karst or don't meet the  
20          karst, and does it or does it not encroach on  
21          wetlands. The County Commission must have looked  
22          at all that. I mean, they're the duly elected  
23          people of the county.

24          So I can't say that 100 percent -- and in this  
25          case, surely, I'm not going to agree this time that



1 maybe everything that truly was done was done  
2 properly -- that was not done properly in making  
3 their decision. I think they considered it and it  
4 was done properly.

5 GOVERNOR CRIST: Thank you, Commissioner.  
6 General, did you have a point?

7 ATTORNEY GENERAL McCOLLUM: Well, the only  
8 point I have to make is that I really agree with  
9 Commissioner Bronson about this piece of property.  
10 What bothers me, though, is that our counsel is  
11 telling us that we have a very narrow area of  
12 ability, as I understand the law, as my team has  
13 expressed it to me, for this Cabinet to overturn an  
14 administrative law judge's ruling.

15 And I'm not sure -- even on the discussion, if  
16 I were the administrative law judge, I would have  
17 found it differently. I'm not sure that we have  
18 been given enough or that we can make that judgment  
19 here today to do that. Perhaps we can. But my  
20 counsels continue to tell me that we don't have  
21 that authority, that we've got to make some very  
22 specific finding as to where the administrative law  
23 judge went awry in terms of what he saw or didn't  
24 see, et cetera, et cetera.

25 So that's what bothers me. Can you clarify

1           that for us a little bit? I know you did just a  
2           minute ago.

3           MR. BARRY: Sure.

4           ATTORNEY GENERAL McCOLLUM: But I want to be  
5           sure that if I voted with Commissioner Bronson, I'm  
6           not violating my duty to follow the law.

7           MR. BARRY: Sure. Well, as I mentioned  
8           before, the process that's set up for reviewing  
9           small-scale comp plan amendments is pretty clear.  
10          A citizen has the right to challenge a comp plan  
11          change. In this case, it was a neighbor. A  
12          private citizen who objected to what the County did  
13          brought a challenge before DOAH.

14          An ALJ conducted a full and fair hearing, took  
15          evidence, made findings of fact and conclusions of  
16          law. That is then forwarded to the Commission as a  
17          recommended order, and the Commission considers  
18          that recommended order. And so long as it's based  
19          on competent and substantial evidence and the  
20          conclusions of law are within the parameters of the  
21          statute, then the Commission should adopt it.

22          ATTORNEY GENERAL McCOLLUM: In other words,  
23          the question is whether he based his decision on  
24          competent and substantial evidence. We would have  
25          to find that he didn't have competent and

1 substantial evidence --

2 MR. BARRY: That there was nothing --

3 ATTORNEY GENERAL McCOLLUM: Not that we  
4 disagreed with him or wouldn't agree with him, but  
5 that he made -- he had no basis -- we would  
6 basically have to find that he had no basis for  
7 doing this.

8 MR. BARRY: Essentially, yes, because the ALJ  
9 is the finder of fact. He's the trier of fact in  
10 this case just like a trial judge. An appellant  
11 judge has no discretion to reweigh the evidence.  
12 That's the job of the trial judge.

13 ATTORNEY GENERAL McCOLLUM: Now, if we were to  
14 rule to uphold this, Counsel, Mr. Stillwell would  
15 have an opportunity to appeal, but it would be a  
16 technical appeal to a court; is that right?

17 MR. BARRY: To the First DCA, yes.

18 COMMISSIONER BRONSON: Well, Governor --

19 GOVERNOR CRIST: Commissioner.

20 COMMISSIONER BRONSON: Can I ask one question?

21 GOVERNOR CRIST: You can ask more than one.

22 COMMISSIONER BRONSON: Why are we hearing  
23 these cases, then? If we're going to just --

24 GOVERNOR CRIST: That's a very good point.

25 COMMISSIONER BRONSON: If we're just going to

1 take the administrative law judge's decision, why  
2 are we spending 15, 20 minutes discussing this if  
3 we're just supposed to accept whatever decision is  
4 given?

5 GOVERNOR CRIST: Commissioner --

6 COMMISSIONER BRONSON: There has to be some --

7 GOVERNOR CRIST: There is. I would assert --

8 COMMISSIONER BRONSON: We're here by this  
9 group as the Commission to take a look at these and  
10 make a determination was it completely considered.  
11 Maybe there were some things that weren't fully  
12 considered. I gave you one just a minute ago.

13 How does an administrative law judge tell a  
14 county commission, a duly elected county commission  
15 they can never go back and change something that  
16 was looked at before, but maybe never in the  
17 context of what this decision is? If his decision  
18 is, "Well, you can't do that. You've already made  
19 your plan. You can't change your plan," I'm not  
20 too sure that that's a correct assessment.

21 MR. BARRY: If I could, I think you're  
22 alluding to the nonconforming use issue. As I  
23 understand it, that's a county policy that they set  
24 up some time ago to restrict themselves from  
25 considering future land use changes that no longer

1           comply with their own Comprehensive Plan. So  
2           that's a county policy that they could revisit if  
3           they want to reconsider the issues that you just  
4           raised. That's within their discretion. But as it  
5           stands right now, there's a rule against using  
6           nonconforming uses as a precedent for future  
7           development. That's the way things are set up  
8           currently.

9           COMMISSIONER BRONSON: I guess that's why I'm  
10          not a lawyer. I still don't agree with it, and I'm  
11          still not going to vote for it.

12          GOVERNOR CRIST: You don't have to.

13          Counselor, I think it might be beneficial --  
14          you've given us a good amount of verbiage as it  
15          relates to the process of this procedure. If you  
16          could weigh in on the substance of the two  
17          competing arguments and sort of separate the wheat  
18          from the chaff, it would be very helpful, I think,  
19          to this panel if you could summarize that.

20          MR. BARRY: Sure. Well, again --

21          GOVERNOR CRIST: I don't mean to put you on  
22          the spot, but --

23          MR. BARRY: No.

24          GOVERNOR CRIST: -- I assume you have pretty  
25          good knowledge on this.

1           MR. BARRY: No problem. Again, I think the  
2 way I see it, the ALJ collected the evidence.  
3 There was testimony for the amendment and against  
4 the amendment. There were concerns from local  
5 residents, neighboring residents. There was some  
6 expert testimony. And the ALJ concluded that  
7 basically there were two issues, that there were  
8 some environmental concerns that were supported by  
9 the record -- there was evidence and testimony in  
10 the record that it would have potential  
11 environmental impacts, karst and wetland impacts --  
12 and compatibility issues.

13           And those are two areas that the Citrus County  
14 Comprehensive Plan specifically -- not prohibits,  
15 but there are guidelines in the Citrus County  
16 Comprehensive Plan that raise concerns about  
17 compatibility and environmental impacts. And to  
18 make a land use change, it needs to be compatible  
19 and not have environmental impacts. Those are  
20 right there in the Citrus County Comprehensive  
21 Plan.

22           So the fact that there was evidence in the  
23 record that there were these considerations and  
24 these concerns raises the prospect that this is  
25 inconsistent with their own plan, that they set up

1           these rules -- there's testimony that it does raise  
2           these concerns, compatibility and environmental  
3           impact. Therefore, it's not consistent with the  
4           plan. So I think that the conclusions are based on  
5           the record and are sound conclusions.

6           Now, you could argue it both ways. And like  
7           you said, General, if you or I were the ALJ, we may  
8           have come to a different conclusion. But again,  
9           he's the trier of fact, and his conclusions and his  
10          findings of fact are entitled to deference.

11          ATTORNEY GENERAL McCOLLUM: The bottom line is  
12          that the real issue is, is it a violation or not by  
13          the County of its Comprehensive Plan, and the ALJ  
14          is finding that the County violated its  
15          Comprehensive Plan. They can go back and readdress  
16          this in some way, but not in this manner. That's  
17          really what it boils down to. So I'm going to  
18          reluctantly support and second CFO Sink's motion.

19          GOVERNOR CRIST: Is there any other  
20          discussion? All in favor say aye.

21                 (Affirmative responses.)

22          GOVERNOR CRIST: Opposed, like sign.

23          COMMISSIONER BRONSON: Aye.

24          GOVERNOR CRIST: The motion carries. Thank  
25          you very much.

1                   GOVERNOR CRIST: Florida Land and Water  
2                   Adjudicatory Commission. Lisa, again, hi.

3                   MS. SALIBA: Thank you, Governor and  
4                   Commission members. Item number 1, we respectfully  
5                   request approval of the minutes from the May 13th  
6                   meeting.

7                   CFO SINK: Move it.

8                   COMMISSIONER BRONSON: Second.

9                   GOVERNOR CRIST: Moved and seconded. Show it  
10                  approved without objection.

11                  MS. SALIBA: Item Number 2, we respectfully  
12                  request the approval of the minutes from the May  
13                  27th meeting.

14                  ATTORNEY GENERAL McCOLLUM: Move it.

15                  COMMISSIONER BRONSON: Second.

16                  GOVERNOR CRIST: Moved and seconded. Show it  
17                  approved without objection.

18                  MS. SALIBA: Item number 3, we're requesting  
19                  the Commission's authorization to file proposed  
20                  rules for final adoption or repeal as needed. In  
21                  the case -- there's a request to merge the Split  
22                  Pine Community Development District and the  
23                  Tolomato Community Development District. In this  
24                  case, the Tolomato Community Development District  
25                  is the surviving entity, and the request is to



1 repeal the Split Pine rule, and they would be  
2 consolidated into one.

3 We have available for questions today Cheryl  
4 Stewart representing the petitioner. Are there any  
5 questions, Governor?

6 CFO SINK: Move it.

7 COMMISSIONER BRONSON: Second.

8 GOVERNOR CRIST: Moved and seconded. Show it  
9 approved without objection.

10 MS. SALIBA: Item Number 4, we request  
11 authorization to file the proposed rule for final  
12 adoption merging the Seven Oaks Community  
13 Development District I with the Seven Oaks  
14 Community Development District II. The surviving  
15 entity is the Seven Oaks Community Development  
16 District.

17 We have Mr. John McKay representing the  
18 petitioner if there are any questions.

19 CFO SINK: I move approval.

20 COMMISSIONER BRONSON: Second.

21 GOVERNOR CRIST: Moved and seconded. Show it  
22 approved without objection.

23 MS. SALIBA: Thank you.

24 GOVERNOR CRIST: Thank you, Lisa.  
25

1 GOVERNOR CRIST: Board of Trustees, Secretary  
2 Sole. Good morning, Secretary.

3 MR. SOLE: Governor, Cabinet members.

4 GOVERNOR CRIST: How are you?

5 MR. SOLE: I'm doing well this morning.

6 With your indulgence, Governor, I would like  
7 to --

8 GOVERNOR CRIST: You have it.

9 MR. SOLE: Thank you.

10 GOVERNOR CRIST: We're adults.

11 MR. SOLE: I'm grateful.

12 I want to recognize a member of the DEP family  
13 who came to Florida in 1964, was a non-native,  
14 actually started in the film industry and can be  
15 seen in films such as *Daktari* and was actually on  
16 the *Art Linkletter Show*. Do you remember that, way  
17 back when?

18 GOVERNOR CRIST: I do.

19 MR. SOLE: While he was at the state park,  
20 unfortunately, there was some controversy about his  
21 citizenship, with heritage from Africa, which led  
22 to Governor Lawton Chiles actually having to  
23 intervene in granting this DEP family member  
24 special citizenship in Florida.

25 With that, this member has been an important

1 part of Florida's history, and I ask that you join  
2 me in wishing Lou the Hippopotamus a happy 50th  
3 birthday. Thank you.

4 GOVERNOR CRIST: Wow.

5 CFO SINK: It's Lou's birthday?

6 MR. SOLE: It is his 50th birthday today.

7 GOVERNOR CRIST: Where is Lou located?

8 MR. SOLE: Lou is at Homosassa Springs, and  
9 has been part of the spring since, I want to say,  
10 1964. We acquired the spring in 1989. And in  
11 1991, there was actually true controversy on  
12 whether he could stay at the spring, and Governor  
13 Chiles had to intervene and say, "No, no. We'll  
14 make him an honorary Florida citizen. He gets to  
15 stay at Homosassa Springs." And he has been an  
16 icon there ever since.

17 ATTORNEY GENERAL McCOLLUM: Governor, I've got  
18 to comment on this, because about a month ago,  
19 Senator Fasano asked me to go there to look at the  
20 manatee issue with him when it was a big issue, and  
21 Lou was there. I took a tour of the whole  
22 facility. It's a great park. I mean, it really --  
23 what we've done, what you've done in the park  
24 system to put all of the natural wildlife there.  
25 This critter is, of course, not --

1 MR. SOLE: He sticks out a bit.

2 ATTORNEY GENERAL McCOLLUM: Yes, he sticks  
3 out. He's not part of Florida's native species.  
4 But what is there, while we're talking about Lou,  
5 is that all surrounding him are flamingos and  
6 animals and panthers and so forth. It's a great  
7 place. I think it's the only collection in the  
8 State of Florida we have of this nature.

9 It's a beautiful place to visit, and I would  
10 commend my fellow Cabinet members to take a tour of  
11 that, take your grandchildren or children there  
12 sometime. It's just a great place. And Lou the  
13 kids are going to love. They're going to love Lou.

14 MR. SOLE: Absolutely, absolutely.

15 GOVERNOR CRIST: What is the typical longevity  
16 of a hippopotamus?

17 UNIDENTIFIED SPEAKER: Sixty years in  
18 captivity, 40 to 50 out of captivity.

19 MR. SOLE: Sixty years in captivity, 40 to 50  
20 out of captivity. So Lou is getting on in years,  
21 in hippo years.

22 GOVERNOR CRIST: That's great.

23 ATTORNEY GENERAL McCOLLUM: He's long in the  
24 tooth.

25 MR. SOLE: Yes, sir. He does look a little

1 long in the tooth, General.

2 GOVERNOR CRIST: Thank you.

3 MR. SOLE: All right. Thank you. I  
4 appreciate the indulgence.

5 GOVERNOR CRIST: Of course, of course. A  
6 little levity is pretty nice always.

7 MR. SOLE: Yes, sir. All right. Item number  
8 1, submittal of the minutes from the October 27,  
9 2009 Cabinet meeting.

10 ATTORNEY GENERAL McCOLLUM: Move it.

11 COMMISSIONER BRONSON: Second.

12 GOVERNOR CRIST: Moved and seconded. Show the  
13 minutes approved without objection.

14 MR. SOLE: Thank you. The next several items  
15 are somewhat cleanup items. Item Number 2 is a  
16 request to convey roughly 8.8 acres of land in  
17 Collier County back to the Department of  
18 Transportation. This is land that was originally  
19 acquired in partnership with DOT for the I-75  
20 project. Unfortunately, inadvertently DOT conveyed  
21 that land to the Board of Trustees. And there is  
22 an interchange on that land, so we wish to convey  
23 it back to the Department of Transportation.

24 GOVERNOR CRIST: Is there a motion on Item 2?

25 COMMISSIONER BRONSON: Motion on Item 2.

1 ATTORNEY GENERAL McCOLLUM: Second.

2 GOVERNOR CRIST: Moved and seconded. Show it  
3 approved without objection.

4 MR. SOLE: Thank you. Item Number 3 is a  
5 similar cleanup. It's a South Florida Water  
6 Management District conveyance. We request to  
7 convey two five-acre parcels of state-owned  
8 conservation lands. This was part of the Corkscrew  
9 Regional Ecosystem Watershed. It actually was  
10 acquired by the South Florida Water Management  
11 District using their mitigation funds, but  
12 inadvertently deeded to the Board of Trustees. We  
13 wish to convey it back to South Florida.

14 ATTORNEY GENERAL McCOLLUM: I move Item 3.

15 COMMISSIONER BRONSON: Second.

16 GOVERNOR CRIST: Moved and seconded. Show it  
17 approved without objection.

18 MR. SOLE: Thank you. Item Number 4, this is  
19 a request to transfer the Board of Trustees'  
20 interest and future -- excuse me, future interest  
21 in title to the Megginnis Arm of Lake Jackson in  
22 Leon County. The Board of Trustees gained that  
23 future interest through an agreement with Northwest  
24 Florida Water Management District. Northwest  
25 Florida Water Management District intends to convey

1           this parcel to the City of Tallahassee to manage a  
2           stormwater pond, which is the purpose.

3           The interest of the Board that we currently  
4           have in the agreement basically refers to that the  
5           property must continue to be used to protect the  
6           Megginnis Arm. The City plans to do so. We wish  
7           to put that interest in a deed restriction that  
8           will go with the property.

9           GOVERNOR CRIST: Is there a motion on Item 4?

10          CFO SINK: Move it.

11          COMMISSIONER BRONSON: Second.

12          GOVERNOR CRIST: Moved and seconded. Show it  
13          approved without objection.

14          MR. SOLE: Thank you. Item Number 6 -- excuse  
15          me. Item Number 5, this is a request to quit-claim  
16          a possible interest in roughly .97 acres of land on  
17          the border of the Point Washington State Forest in  
18          Walton County; also a request to enter into a  
19          settlement agreement in lieu of litigation in order  
20          to resolve a boundary dispute.

21          Historically, it's worth noting that when the  
22          Board of Trustees acquired Point Washington State  
23          Forest, that acquisition occurred somewhat in a  
24          hasty moment through auction. And a lot of the  
25          boundary effort was not done that we normally do,

1 so we've run into several of these boundary  
2 disputes over time. And in fact, we've had  
3 previous board delegation to work on resolving  
4 these boundary disputes because of that hasty  
5 acquisition.

6 We're also seeking delegation for one  
7 additional parcel that we expect will come to the  
8 table that we need to resolve.

9 CFO SINK: Move it.

10 COMMISSIONER BRONSON: Second.

11 GOVERNOR CRIST: Moved and seconded. Show it  
12 approved without objection.

13 MR. SOLE: Thank you. Item Number 6, this is  
14 a request to modify deed restrictions regarding the  
15 setback requirements on Beta Fraternity House at  
16 the University of Florida. The Board of Trustees  
17 has a deed restriction on the parcel that pertains  
18 currently to setbacks. We are requesting  
19 authorization or approval to change those deed  
20 restrictions.

21 Also, we're requesting to allow the president  
22 of the university the authority to approve future  
23 architectural plans and specifications, as well as  
24 we're seeking delegation to the Department to deal  
25 with some of these minor deed restriction issues



1 associated with construction, building, number of  
2 residents for fraternity and sorority houses there  
3 at the University of Florida.

4 CFO SINK: Move it.

5 ATTORNEY GENERAL McCOLLUM: Second.

6 GOVERNOR CRIST: Moved and seconded. Show it  
7 approved without objection.

8 MR. SOLE: Thank you. Item Number 7, request  
9 to publish proposed revisions to Chapter 18.1,  
10 Florida Administrative Code. This is our state  
11 land acquisition procedures rule. These changes  
12 are pursuant to legislative changes in 2008 and  
13 also allow us to update the Uniform Standards of  
14 Professional Appraisal Practices.

15 GOVERNOR CRIST: Is there a motion on Item 7?

16 CFO SINK: I move it.

17 ATTORNEY GENERAL McCOLLUM: Second.

18 GOVERNOR CRIST: Moved and seconded. Show it  
19 approved without objection.

20 MR. SOLE: Thank you. Item Number 8, this is  
21 a request for a five-year lease with one five-year  
22 renewal to a non-for-profit, Lake Okeechobee  
23 Habitat Alliance. This is for a fish and wildlife  
24 habitat area with resource-based recreation  
25 containing roughly 2,700 acres located around Curry

1 Island in Glades County.

2 This is also -- because this land will be open  
3 to the public for hunting and recreation, we also  
4 seek board approval -- a determination that it's  
5 not contrary to the public interest.

6 Governor and Cabinet, this is an innovative  
7 public-private partnership that has been going on  
8 for a while trying to seek getting access to some  
9 of these lands. Lake Okeechobee Habitat Alliance,  
10 South Florida Water Management District, Glades  
11 County, all have been participating in this effort  
12 with great consideration to trying to better the  
13 land and also provide opportunity for the people of  
14 the area and visitors to that area to use that  
15 land.

16 I will tell you there's no monetary  
17 consideration for this, but any funds associated  
18 with operating this facility has to go back into  
19 management of the property, as well as, while this  
20 is a lease, the Lake Okeechobee Habitat Alliance  
21 has agreed to do a management plan like we do with  
22 other state-owned lands, and we will continue to  
23 look at that and make sure the land is managed  
24 appropriately.

25 Finally, I do want to point out that the

1 County is very excited about this effort. Glades  
2 County Commissioner Beck was a great partner and  
3 instrumental in making this project move forward.  
4 And we have Mr. Jeff Allen from Lake Okeechobee  
5 Habitat Alliance here to speak on this item.

6 Jeff.

7 MR. ALLEN: Good morning, Governor and Cabinet  
8 members. The sportsmen, sportswomen, and  
9 conservationists of Florida thank you for  
10 partnering with the Lake Okeechobee Habitat  
11 Alliance on this project. It is a proven fact that  
12 the sportsmen of this country are willing to roll  
13 up their sleeves, get their hands dirty for the  
14 wildlife, the land, and the waterways that we love  
15 so much.

16 We look forward to working with FWC, the local  
17 communities, as well as other non-profit  
18 organizations such as Ducks Unlimited to make this  
19 pilot program work.

20 I would also like to thank everybody at DEP  
21 for their hard work over the past two years on  
22 making this project and this dream become a  
23 reality. Thank you.

24 ATTORNEY GENERAL McCOLLUM: Is there a motion  
25 on this item?

1                   COMMISSIONER BRONSON: Motion on Item 8 for  
2 approval.

3                   CFO SINK: I'll second it, but I also want to  
4 make a comment that let's go find more of these.

5                   MR. SOLE: Absolutely.

6                   CFO SINK: It's fantastic. It's fantastic for  
7 the economy, and for the people, and for the State  
8 of Florida. It's nice to have a private landowner  
9 looking after or protecting our land, so I strongly  
10 second the motion.

11                  ATTORNEY GENERAL McCOLLUM: And I would echo  
12 that, and Item 8 is approved without objection.

13                  MR. SOLE: Thank you. Last item, Item Number  
14 9, this is a request from Florida Gas Transmission  
15 Company for a total of four upland easements across  
16 state-owned lands for a natural gas transmission  
17 line. It's worth noting that there is already an  
18 existing easement to FGT, Florida Gas Transmission.

19                  Their proposal is to expand capacity within  
20 the State of Florida, which will achieve some  
21 820 million cubic feet per day of additional  
22 capacity here in the State of Florida. The good  
23 news is that FGT has maximized use of their  
24 existing easements as well as transmission lines  
25 and road rights-of-way to minimize impacts. The

1 additional encroachment on Board of Trustees and  
2 Fish and Wildlife Conservation Commission owned  
3 land is only some 30 acres, a little less than 30  
4 acres.

5 It's also worth noting that the proposal -- as  
6 part of the proposal, a consideration for the  
7 easements will be basically the appraised value of  
8 the impacted property plus 1.5 times that value.  
9 And we have been working with FGT in a way that  
10 that consideration will come back to the State in  
11 the form of replacement land as well as some  
12 monetary funds.

13 The Department recommends approval on this  
14 item.

15 CFO SINK: Could I just make a couple of  
16 comments about this one?

17 MR. SOLE: Absolutely.

18 CFO SINK: First of all, I think we have to be  
19 pretty enthusiastic about 316 more acres in the  
20 beautiful Blackwater River State Forest. That's  
21 pretty exciting. And while it's difficult for us  
22 to decide to convey this, the project is critically  
23 necessary.

24 And I just wanted to point out that we went  
25 back and did some research -- I hope you'll bear

1           this out, Secretary Sole. This project is going to  
2           provide almost 1,500 jobs for Floridians and be in  
3           a position to start almost right away. And while  
4           probably half of these jobs will be assumed by  
5           people coming from out of state because of their  
6           particular skills in building this kind of  
7           facility, they will be occupying our hotels and  
8           motels and eating in our restaurants, and then the  
9           other half will be Floridians who will be able to  
10          get back to work. So it will be temporary, but for  
11          the next 12 to 18 months, this is huge for us. And  
12          I commend you for working with FGT to expedite this  
13          project.

14                 So I move the item.

15                 ATTORNEY GENERAL McCOLLUM: Second.

16                 GOVERNOR CRIST: Moved and seconded. Any  
17          other questions? Show it approved without  
18          objection.

19                 CFO SINK: Governor, could I just take a point  
20          of personal privilege?

21                 GOVERNOR CRIST: Certainly.

22                 CFO SINK: My staff is after me, and I'm just  
23          anxious to say something about Bud Vielhauer. Were  
24          you --

25                 MR. SOLE: I was hoping someone would

1 introduce that issue.

2 CFO SINK: Well, I'm prepared.

3 Governor and Cabinet members, all our staffs  
4 are in mourning over losing Bud Vielhauer. Is he  
5 here to stand up and take the music?

6 I guess yesterday or today is your last day  
7 with DEP. About a week or so ago when we heard the  
8 word that you were moving over to be the general  
9 counsel -- we're not losing you completely, general  
10 counsel of Fish and Wildlife. My staff has been  
11 coming to me and expressing just what a terrific,  
12 unsung public servant you are, how trustworthy,  
13 what frank and good advice and guidance you give on  
14 these many complex and complicated issues that they  
15 have to deal with, and then they get to come and  
16 explain them to me.

17 And I just think so often we have so many  
18 public servants here working for the State of  
19 Florida that are just outstanding. And we want to  
20 thank you for your service at DEP and particularly  
21 for the relationship and for the good counsel that  
22 you have given our staffs and wish you the best,  
23 and we're glad you're not going too far from us.

24 MR. VIIEELHAUER: Thank you.

25 (Applause.)

1           MR. VIIELHAUER: It has been an honor and a  
2 privilege to serve the State of Florida and to  
3 serve this Board and DEP, and I appreciate the  
4 support that I've gotten over the years from  
5 Secretary Sole. And last but not least, thank you,  
6 Staff. Thank you, Cabinet Aides. It has been an  
7 honor and a pleasure to work with you. Thank you.

8           (Applause.)

9           MR. SOLE: Thank you, Governor. I note that  
10 Sandra Stockwell, who will be our new deputy  
11 general counsel, is here this morning, and I  
12 guarantee she will serve us very well as well.

13          (Applause.)

14          MR. SOLE: Thank you, Governor and Cabinet  
15 members.

16          ATTORNEY GENERAL McCOLLUM: Could I ask a  
17 question?

18          GOVERNOR CRIST: General.

19          ATTORNEY GENERAL McCOLLUM: Before you go,  
20 that's a good note to leave on, but I just want to  
21 ask about something. I understand that making  
22 movement in a new direction for the Port of St. Joe  
23 is something coming along in the pipeline. Can you  
24 give us an idea of when that's going to be  
25 appropriate to discuss here? How far along are we



1 with getting ready for us to hear about that  
2 development?

3 MR. SOLE: General, I appreciate the question.  
4 The Department has received an application from  
5 Port St. Joe to actually improve at the port. It's  
6 relatively inactive now, and they're seeking ways  
7 to improve activity at Port St. Joe. We're still  
8 in the review phase. I would ask that you give me  
9 a couple of weeks to a month to go through. It  
10 could take more, but I'll be happy to come and  
11 brief you as the review becomes a little bit more  
12 ripe.

13 ATTORNEY GENERAL McCOLLUM: Thank you. I  
14 appreciate that very much. I support that.  
15 St. Joe is an important port for us.

16 MR. SOLE: Yes, sir.

17 ATTORNEY GENERAL McCOLLUM: It will be great  
18 to hear some progress on it.

19 GOVERNOR CRIST: One of our 14 ports.

20 MR. SOLE: Absolutely.

21 GOVERNOR CRIST: Thank you, sir.

22 MR. SOLE: Thank you, Governor and Cabinet.  
23  
24  
25

1                   GOVERNOR CRIST: Ash Williams, State Board of  
2 Administration.

3                   See you, Commish. Have a good day.

4                   MR. WILLIAMS: Good morning, Governor and  
5 Trustees.

6                   GOVERNOR CRIST: Good morning, Ash. How are  
7 you?

8                   MR. WILLIAMS: Fine, thank you.

9                   GOVERNOR CRIST: Good, good.

10                  MR. WILLIAMS: I feel given the luminaries  
11 that we've just celebrated, it's a tough position  
12 I'm in here on the tail end of the agenda and  
13 following great talent like Lou the Hippo, very  
14 tough.

15                  GOVERNOR CRIST: Not at all. You'll do great.

16                  MR. WILLIAMS: Item 1, request approval of the  
17 minutes of the December 8 meeting.

18                  ATTORNEY GENERAL McCOLLUM: I move it.

19                  CFO SINK: Move it.

20                  ATTORNEY GENERAL McCOLLUM: Second.

21                  GOVERNOR CRIST: Moved and seconded. Show the  
22 minutes approved without objection.

23                  MR. WILLIAMS: Item 2 is a fiscal sufficiency,  
24 State Board of Education Lottery Revenue Refunding  
25 Bonds.

1 GOVERNOR CRIST: Is there a motion?

2 CFO SINK: Move it.

3 ATTORNEY GENERAL McCOLLUM: Second.

4 GOVERNOR CRIST: Moved and seconded. Show it  
5 approved without objection.

6 MR. WILLIAMS: Item 3, request approval of a  
7 fiscal sufficiency, State Board of Education Public  
8 Education Capital Outlay Refunding Bonds.

9 ATTORNEY GENERAL McCOLLUM: I move it.

10 CFO SINK: Second.

11 GOVERNOR CRIST: Moved and seconded. Show it  
12 approved without objection.

13 MR. WILLIAMS: Item 4, request approval of a  
14 fiscal sufficiency for State of Florida Board of  
15 Education Lottery Revenue Bonds.

16 ATTORNEY GENERAL McCOLLUM: I move it.

17 CFO SINK: Move it.

18 ATTORNEY GENERAL McCOLLUM: Second.

19 GOVERNOR CRIST: Moved and seconded. Show  
20 Item 4 approved without objection.

21 MR. WILLIAMS: Item 5, request approval of a  
22 fiscal sufficiency for the Florida Department of  
23 Environmental Protection Everglades Restoration  
24 Revenue Bonds.

25 ATTORNEY GENERAL McCOLLUM: I move Item 5.

1 GOVERNOR CRIST: Is there a second?

2 CFO SINK: Second.

3 GOVERNOR CRIST: Moved and seconded. Show it  
4 approved without objection.

5 MR. WILLIAMS: Item 6, request approval of the  
6 SBA quarterly report required by the Protecting  
7 Florida's Investments Act. The report is attached.

8 With regard to Sudan, there have been no new  
9 companies added to the scrutinized list. Three  
10 companies were added to the continued examination  
11 list. Two companies were removed from the  
12 continued exam list.

13 And with regard to Iran, there were no  
14 additions to the scrutinized list, three were  
15 removed from the scrutinized list, and no companies  
16 either added or removed from the continued  
17 examination list.

18 CFO SINK: Move it.

19 ATTORNEY GENERAL McCOLLUM: Second.

20 GOVERNOR CRIST: Moved and seconded. Show it  
21 approved without objection.

22 MR. WILLIAMS: Item 7, request approval of a  
23 draft letter to the Joint Legislative Auditing  
24 Committee affirming that the Trustees have reviewed  
25 and approved the monthly Local Government

1 Investment Pool Management Summary reports and  
2 actions taken, if any, to address material impacts.  
3 The quarterly report is attached. There are no  
4 material impacts.

5 ATTORNEY GENERAL McCOLLUM: I move Item 7.

6 CFO SINK: Second.

7 GOVERNOR CRIST: Moved and seconded. Show it  
8 approved without objection.

9 MR. WILLIAMS: Item 8, request approval of,  
10 and authority to file, a notice of proposed rule  
11 for the five rules listed below on behalf of the  
12 Florida Hurricane Catastrophe Fund.

13 GOVERNOR CRIST: Is there a motion on Item 8?

14 CFO SINK: Move it.

15 ATTORNEY GENERAL McCOLLUM: Second.

16 GOVERNOR CRIST: Moved and seconded. Show it  
17 approved without objection.

18 MR. WILLIAMS: Item 9 relates to the master  
19 contract that is currently in discussion with  
20 various law firms that we've looked at for  
21 securities litigation activity going forward.

22 At our last meeting, there was discussion of  
23 how to handle a \$50 million cap on fees. We would  
24 like some further clarification from the Trustees  
25 as to whether we should include that cap at the

1 level of the master agreement versus the agreements  
2 with the individual firm or firms involved in any  
3 individual actions.

4 ATTORNEY GENERAL McCOLLUM: If I could,  
5 Governor, I would move that we instruct the State  
6 Board of Administration executives to put in that  
7 \$50 million cap that we discussed last time for  
8 these contracts. And I think it would be a very  
9 prudent thing to do for transparency, for  
10 accountability, and for making sure that the  
11 taxpayers of Florida get the biggest return, and  
12 most importantly, the pensioners get the biggest  
13 return for whatever recoveries there may be in  
14 these suits or these claims that we might have. So  
15 I move that we put the 50 million cap there and  
16 instruct you to do that.

17 CFO SINK: Governor, I'm prepared to second  
18 the -- to offer a second with an amendment to  
19 strengthen the issue, because the issue is the fees  
20 that we pay for these law firms. And what I would  
21 like to offer is an amendment, in addition to what  
22 the General has offered, is that we get -- we have  
23 these firms. When we choose the litigation that we  
24 believe we have good reason to -- that we've had  
25 losses, that we open up the opportunity -- we've

1           selected our five or maybe six firms, that what we  
2           do then is that we have these five or six firms  
3           compete for and offer up to the SBA -- and this  
4           would be the director's call -- their individual  
5           proposals for how they would handle the case and  
6           what they see as their potential fees being, so  
7           that we actually have an opportunity to get the  
8           best deal for the taxpayer and keep our fees as low  
9           as we possibly can. And the only way to do that  
10          really is to inject competition amongst these five  
11          or six hungry law firms.

12                    ATTORNEY GENERAL McCOLLUM: I would accept  
13           that very friendly amendment. It conforms with my  
14           thinking and what we proposed to the Legislature to  
15           pose in my office and what we use as a rule on  
16           seeking outside counsel with these contingency  
17           fees. So that's a very good amendment, and I  
18           accept it.

19                    GOVERNOR CRIST: So it maintains the cap, but  
20           also encourages competition among the firms that  
21           are involved?

22                    CFO SINK: Yes, yes. And I think it goes  
23           without saying that, because this is a policy  
24           matter, if in fact we were to have some  
25           multi-billion-dollar case and the law firm -- and

1 we had to go revisit the cap, that whoever the  
2 board is could always assume that -- or decide on a  
3 case-by-case basis that there may be some rare case  
4 where there's more at stake here.

5 So that's not part of my amendment. I'm just  
6 clarifying that that's what we're doing here.  
7 We're setting our policy currently with the  
8 \$50 million cap on fees, which by our calculations,  
9 it would be rare that that would even be an  
10 occurrence, but that we are injecting competition  
11 into the system.

12 ATTORNEY GENERAL McCOLLUM: And we are writing  
13 into this master contract the \$50 million cap.

14 GOVERNOR CRIST: Right. Show it approved  
15 without objection.

16 MR. WILLIAMS: Thank you.

17 GOVERNOR CRIST: Thank you, Ash. We're  
18 adjourned.

19 (Proceedings concluded at 10:32 a.m.)  
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CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 72 are a true and correct record of the aforesaid proceedings.

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

DATED THIS 15th day of February, 2009.

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