

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, INSURANCE REGULATION  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
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, November 9, 2010,  
commencing at approximately 9:12 a.m.

Reported by:

MARY ALLEN NEEL  
Registered Professional Reporter  
Florida Professional Reporter  
Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.  
2894 REMINGTON GREEN LANE  
TALLAHASSEE, FLORIDA 32308  
(850)878-2221

## APPEARANCES:

Representing the Florida Cabinet:

CHARLIE CRIST  
Governor

CHARLES H. BRONSON  
Commissioner of Agriculture

BILL McCOLLUM  
Attorney General

ALEX SINK  
Chief Financial Officer

\* \* \*

## I N D E X

DIVISION OF BOND FINANCE  
(Presented by BEN WATKINS)

ITEM	ACTION	PAGE
1	Approved	5
2	Approved	5
3	Approved	6
4	Approved	6
5	Approved	7
6	Approved	7
7	Approved	9

FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION  
(Presented by KEVIN McCARTY)

ITEM	ACTION	PAGE
1	Approved	10
2	Approved	11

## INDEX CONTINUED

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
(Presented by JULIE JONES)

ITEM	ACTION	PAGE
1	Approved	24
2	Approved	32
3	Approved	33
4	Approved	34
5	Approved	35
6	Approved	35
7	Approved	36
8	Approved	37
9	Approved	37
10	Approved	38
11	Approved	39

ADMINISTRATION COMMISSION  
(Presented by MIKE BARRY)

ITEM	ACTION	PAGE
1	Approved	40
2	Approved	40
3	Approved	42
4	Approved	55

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION  
(Presented by MIKE BARRY)

ITEM	ACTION	PAGE
1	Approved	56
2	Approved	94

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
(Presented by MIMI DREW)

ITEM	ACTION	PAGE
1	Approved	95
2	Approved	96
3	Approved	155
4	Approved	157
5	Approved	157
6	Approved	158
7	Approved	182

## INDEX CONTINUED

STATE BOARD OF ADMINISTRATION  
(Presented by ASH WILLIAMS)

ITEM	ACTION	PAGE
1	Approved	183
2	Approved	183
3	Approved	184
4	Approved	184
5	Approved	184
6	Approved	185
7	Approved	185
8	Approved	185
9	Approved	186
10	Approved	186
11	Approved	186
CERTIFICATE OF REPORTER		187

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

(The agenda items commenced at 9:15 a.m.)

GOVERNOR CRIST: Division of Bond Finance, Ben Watkins. Good morning, Ben.

MR. WATKINS: Good morning, Governor and Cabinet members. Item 1 is approval of the minutes of the September 14th meeting.

COMMISSIONER BRONSON: Motion for approval of Item 1.

ATTORNEY GENERAL McCOLLUM: Second.

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

MR. WATKINS: Item Number 2 is a resolution authorizing the competitive sale of \$310 million of right-of-way refunding bonds to be sold for debt service savings.

ATTORNEY GENERAL McCOLLUM: Move Item 2.

COMMISSIONER BRONSON: Second.

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

MR. WATKINS: Item 3 is a mixed issue of new money and refunding bond. It requests adoption of resolutions to authorize the issuance and competitive sale of up to \$16 1/2 million of parking facility revenue bonds for construction of

1 a parking garage at FSU and \$8 1/2 million of  
2 refunding bonds for debt service savings.

3 CFO SINK: Move it.

4 ATTORNEY GENERAL McCOLLUM: Second.

5 GOVERNOR CRIST: Moved and seconded. Show  
6 Item 3 approved without objection.

7 MR. WATKINS: Item 4 authorizes \$17.3 million  
8 of student health fee revenue bonds for  
9 construction of a student wellness center at the  
10 University of North Florida.

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

12 CFO SINK: Move it.

13 ATTORNEY GENERAL McCOLLUM: Second.

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

16 MR. WATKINS: Item Number 5 is the report of  
17 award on the competitive sale of 223.4 million of  
18 Lottery revenue refunding bonds. The bonds were  
19 awarded to the low bidder at a true interest cost  
20 of 2.34 percent, and the transaction generated  
21 gross debt service savings of \$34.1 million, about  
22 \$3.4 million a year or \$30.4 million on a present  
23 value basis.

24 COMMISSIONER BRONSON: Motion for approval of  
25 Item 5.

1 CFO SINK: Second.

2 ATTORNEY GENERAL McCOLLUM: Second.

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

5 MR. WATKINS: Item Number 6 a report of award  
6 -- again a mixed issue of combined new money and  
7 refunding bonds. It's a report of award on the  
8 competitive sale of \$53.4 million of capital outlay  
9 bonds. Approximately \$30 1/2 million were new  
10 money for school construction and 23 million were  
11 for refunding purposes. The combined issue was  
12 sold at an interest rate of 3.03 percent, and the  
13 refunding generated debt service savings of  
14 approximately \$3.4 million.

15 ATTORNEY GENERAL McCOLLUM: I move Item 6.

16 COMMISSIONER BRONSON: Second.

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

19 MR. WATKINS: And lastly, Item 7 is a report  
20 of award on the competitive sale of \$167.2 million  
21 of public education capital outlay bonds. The  
22 bonds were sold at competitive sale and awarded to  
23 the low bidder at a true interest cost of 4.04  
24 percent.

25 ATTORNEY GENERAL McCOLLUM: I have a question,

1 Governor.

2 GOVERNOR CRIST: Certainly.

3 ATTORNEY GENERAL McCOLLUM: Ben, I've been  
4 looking at the percentages here. I know these are  
5 bids, so you don't have any control over that  
6 directly, but why are the interest rates so varied  
7 here? I mean, one of them is almost -- a little  
8 over 2 percent. This one is 4 percent. I know  
9 they're different types of bonds. Maybe it's the  
10 life. Tell us why.

11 MR. WATKINS: It's the life of the bonds,  
12 General. In other words, the refunding issue with  
13 the 2.34 percent was about a 10-year loan, because  
14 we structure the funding to exactly match the  
15 remaining life of the bonds that we're paying off,  
16 and so that accounts for the difference in interest  
17 rate. For example, in Item 7 are PECO bonds, and  
18 that's a 30-year loan or a 30-year maturity  
19 structure on that transaction, as opposed to the  
20 Lottery refunding, which is a 10-year loan. And so  
21 that's the reason for the differential in interest  
22 rates between these particular transactions being  
23 reported.

24 ATTORNEY GENERAL McCOLLUM: Thank you. I  
25 appreciate it, Governor.



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

2 CFO SINK: Move it.

3 COMMISSIONER BRONSON: Second.

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

6 Thank you, Ben.

7 MR. WATKINS: Thank you.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1                   GOVERNOR CRIST: Insurance Regulation,  
2 Commissioner McCarty. Good morning.

3                   MR. McCARTY: Good morning, Governor and  
4 members of the Commission. The first agenda item  
5 is a request for approval or adoption of the  
6 August 10th minutes of the Financial Services  
7 Commission.

8                   ATTORNEY GENERAL McCOLLUM: I move Item 1.

9                   COMMISSIONER BRONSON: Second.

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

12                  MR. McCARTY: Agenda Item Number 2 is a  
13 request for approval for publication for amendments  
14 to proposed Rule 690-170.0155, which is the Uniform  
15 Mitigation Verification Inspection Form.

16                  This rule is being amended to update the  
17 inspection form to reflect changes that were made  
18 in the legislative session in 2010. Primarily,  
19 these amendments update the form to require anyone  
20 who signs the form who is not a licensed engineer  
21 or contractor has to personally inspect that  
22 property. The updated form will also provide  
23 notice that anyone who fails to adhere to the  
24 requirements and makes a false form is subject to  
25 revocation of their license and potential criminal

1 prosecution.

2 ATTORNEY GENERAL McCOLLUM: Move Item 2.

3 CFO SINK: Second.

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

6 MR. McCARTY: And our last agenda item, sir,  
7 we would like to take this opportunity to once  
8 again update you on the State of the Florida  
9 insurance marketplace for the second quarter. We  
10 have the second quarter results regarding our  
11 Florida property insurance markets for homeowners  
12 and commercial residential properties.

13 For the first two quarters of this year, 125  
14 of 199 companies or about 63 percent of the  
15 companies reporting posted some net increases in  
16 their surplus. The remaining 74 companies reported  
17 losses to their surplus. And a more important  
18 matter is the underwriting performance. Nearly  
19 42 percent of the companies reported underwriting  
20 gains for the first two quarters, while 58 percent  
21 posted underwriting losses.

22 The second quarter financial data for the  
23 Florida property insurance market is substantially  
24 similar to the reports we've given in the past.  
25 Overall, the results have not appreciably changed

1 from the report that I gave at the March Cabinet  
2 meeting. Please note that the data is for  
3 companies that are doing business and reporting  
4 business in Florida, but these are national  
5 numbers.

6 As I previously reported to the Financial  
7 Services Commission, after extensive consultation  
8 with members of -- our Florida CEOs and claims  
9 managers, looking at and delving into some of the  
10 cost drivers of the system, we identified, of  
11 course, the cost of reinsurance, which is a  
12 critical part of the cost of doing business for  
13 Florida insurance companies; the use of replacement  
14 cost methodology as a result of legislative changes  
15 a few years ago; the increased incidence and  
16 frequency of fraud -- some of that is fraud in  
17 general, and some of it is specific to the  
18 mitigation form, the question and issue about the  
19 mitigation discounts and whether or not the  
20 discounts are too substantial with respect to the  
21 result of their exposure; and lastly, the reported  
22 sinkhole claims, which is what I would like to talk  
23 about next.

24 As many of you know, Florida embarked on a  
25 very comprehensive sinkhole data call of our

1 insurance companies that are doing business in  
2 Florida. The goal of this call was to try to  
3 quantify the frequency and the severity of sinkhole  
4 claims and whether there is a distinguishable trend  
5 with regard to the impact in the marketplace.

6 I have provided you each with a draft copy of  
7 our generated data call, and I would like to take a  
8 few minutes just to highlight three findings of  
9 that report. Although it was a comprehensive data  
10 call, I would like to focus on the claims  
11 frequency, the sinkhole expenses, and the  
12 geographic dispersion.

13 With respect to sinkhole frequency, the  
14 evidence is overwhelming. In 2006, the first year  
15 of our study, there were 2,360 sinkhole claims  
16 filed in Florida. In 2009, the last full year of  
17 data, there were 7,244 sinkhole claims. Basically,  
18 that means that sinkhole claims have tripled in  
19 three years. Projections based on the data that  
20 we've received, just partial data for 2010  
21 indicates that the sinkhole claims will be in the  
22 neighborhood of 9 to 10,000 in frequency.

23 Number two, I would like to talk about the  
24 sinkhole expenses. During the sample period for  
25 2006 to 2010, Florida insurers have paid out

1           1.4 billion in sinkhole claims. However, within  
2           our study, there are still thousands of open claims  
3           which are just getting in the pipeline. Based on  
4           our projections, this number could increase to  
5           nearly 2 billion once the claims have been paid.

6           And lastly, I would talk about the geographic  
7           dispersion of sinkhole claims. Historically,  
8           sinkholes have been found in Hernando County,  
9           Pasco, Hillsborough, and Pinellas. They have  
10          accounted for the majority of the sinkhole claims,  
11          often referred to in studies as "Sinkhole Alley."

12          While this is still true, the data is showing  
13          a dramatic increase in sinkhole claims in other  
14          counties. Miami-Dade County has had 22 sinkholes  
15          in 2006. It had 111 claims in 2009, a small  
16          increase, but still representing a fivefold  
17          increase in the number of claims for that reporting  
18          time period. Similarly, there were increased  
19          sinkholes in Broward, an eleven-fold increase in  
20          Broward County.

21          Traditionally, when people think of a  
22          sinkhole, it conjures up an image of a large ground  
23          opening that swallows up a house in whole or part.  
24          In Florida, the Legislature has defined that as a  
25          catastrophic ground collapse. The result of our

1 data suggests that only 1 percent of the total  
2 claims fall into this category. This means that  
3 the remaining claims reported are the result of  
4 anything from small cracks in the walls or  
5 driveways to minor structural damage that impacts  
6 the foundation of the home. It does not mean the  
7 home is uninhabitable.

8 In conclusion, there appears to have been a  
9 dramatic increase in the frequency of our insurance  
10 claims, the overall cost of these claims, and the  
11 geographic dispersion of where these claims occur.

12 It is important to recognize that our state  
13 has had many challenges over the years. In the  
14 aftermath of Hurricane Andrew, the Florida  
15 Legislature wisely created the Florida CAT Fund to  
16 bring stability to our marketplace. Governor Crist  
17 and the Legislature acted decisively in January of  
18 2007 by enacting Legislation to address the  
19 increases in reinsurance costs.

20 Now we have a new set of challenges that  
21 includes cost drivers in an unfavorable  
22 environment. While we do not have a perfect  
23 system, I'm confident that we can work to solve  
24 this problem and any other problems facing the  
25 Florida property market.

1           To explore potential solutions in the  
2 marketplace, last month the Office hosted a  
3 symposium in Orlando that featured presentations  
4 from experts from around the insurance industry,  
5 the academic community, and the investment  
6 community. The goal was to have an open and frank  
7 discussion about the Florida marketplace and to  
8 generate a discussion and ideas for how these  
9 solutions may be addressed in the future. We look  
10 forward to the report from that symposium at the  
11 end of the month.

12           Governor, that concludes my report.

13           GOVERNOR CRIST: Thank you, sir. General.

14           ATTORNEY GENERAL McCOLLUM: Do you have any  
15 way of knowing, Kevin, if this increase in claims  
16 is related to an increase in more sinkholes or more  
17 people being aware of sinkholes and of cracks and  
18 of the fact that their insurance covers it? Do you  
19 have any way of knowing that?

20           MR. McCARTY: Well, that is difficult to  
21 ascertain. Companies don't maintain all that  
22 information. We have had some individual companies  
23 that have been able split out those that have  
24 attorney participation and those who have public  
25 adjuster participation and how that affects some of



1 the outcome. It's difficult to make that on an  
2 aggregated basis, but there does appear to be a  
3 correlation with increased activity, with increased  
4 participation of public adjusters.

5 You know, one of the concerns we had going  
6 into this was an increase in the amount of fraud,  
7 but we found very few fraud referrals. So there is  
8 the potential there for people who are responding  
9 to advertisements, et cetera, that have been  
10 enticed to make a filing for a minor claim.

11 What you've got to remember here is that the  
12 cost of claims are high enough. They're probably  
13 30, \$40,000. But the real cost of this is boring  
14 into the soil and doing the testing, which varies  
15 anywhere from 9 to \$15,000 just to determine  
16 whether or not the potential is there for a  
17 sinkhole. The problem is that it's very difficult  
18 to make a determination with any degree of  
19 certainty whether a sinkhole exists.

20 ATTORNEY GENERAL McCOLLUM: Well, as you know,  
21 I believe the sinkhole issue is related to our  
22 underground water system and whether or not the  
23 supply of water has been pulled away or drained.  
24 That Hernando-Pasco business I think had a lot to  
25 do with, to be frank, Governor, your home city of

1 St. Petersburg drawing a lot of water years ago --  
2 at least that's what the scientists would tell us  
3 then.

4 But in any event, we've got a depletion of  
5 underground water to some extent in our state, and  
6 I was just curious if you had any data on that.  
7 You obviously personally don't, or the Office  
8 doesn't, but --

9 MR. McCARTY: We don't have any updated  
10 geological information from the studies that have  
11 been done. I think the latest one was done in  
12 2006. In that time, of course, as you pull water  
13 out of the aquifer, the salt water intrusion, or  
14 during dry periods, et cetera, you will experience  
15 increases of frequency of sinkholes.

16 But one concern we have is that in areas that  
17 are not geologically exposed in the past, we're  
18 seeing increases, and that does cause us some  
19 concern.

20 ATTORNEY GENERAL McCOLLUM: Well, are you  
21 suggesting today when you say we have new problem  
22 in the sense of what we had to face in the  
23 aftermath of the hurricanes and so forth, that we  
24 need a fund for this or there's going to be a  
25 problem with the insurance rates going up?

1 Obviously, if you have more claims to be paid,  
2 there's going to be some pass-on effort. Insurance  
3 companies are going to be coming to you saying,  
4 "We've got make this up with our, you know, claims  
5 up," to be made up with increased premiums, I'm  
6 sure. Is there some solution to this other than  
7 just, hey, we're all going to have to face the  
8 reality that premiums are going to go up a bit  
9 because we've got more sinkholes?

10 MR. McCARTY: Well, we're looking at this on  
11 the many fronts, and there's probably a continuum  
12 of public policy options that are available. First  
13 of all, we're looking at the definition of  
14 structural damage, maybe working in the contract to  
15 determine. But that, of course, will then lead to  
16 litigation, which, of course, adds additional cost  
17 to the system.

18 There has been discussion over a number of  
19 years about the establishment of a sinkhole  
20 facility that might be used, that just is used not  
21 as a new Citizens facility, but as a facility that  
22 just goes in there to effectuate repairs, that goes  
23 in to make engineering determinations of whether or  
24 not there is a sinkhole and that was the cause. In  
25 some cases, it's simply settlement of the property,

1           that it's unrelated to sinkholes, and sometimes  
2           it's poor construction.

3           GOVERNOR CRIST: Thank you. Commissioner.

4           COMMISSIONER BRONSON: This whole issue is so  
5           old that -- it's been around a long time. We've  
6           had a lot of series of sinkhole problems. I know  
7           in my lifetime, I've seen at least three major  
8           sinkhole issues in Florida.

9           And our substrate with all of the different  
10          crossings of underground streams, both shallow and  
11          deep water, with the hydrologic curve that we've  
12          had over the years of water being withdrawn, either  
13          by man or naturally through droughts and other  
14          things because of that water supply, the geologic  
15          issue of the types of -- the soil types. As we  
16          heard, there are three counties -- Polk County also  
17          is another one of those counties that tends to have  
18          sinkholes at times because of the substructure.

19          And if we -- I think they've done everything  
20          they possibly can do without being a soothsayer to  
21          determine where these sinkholes are before man got  
22          here heavily. Almost all of our major springs are  
23          old sinkholes from eons ago due to the shifting of  
24          the earth. And also, you know, we do have a fault  
25          line in Florida, and sometimes we have tremors, and

1           those tremors will set these things off, as small  
2           as they are, as the amount of water withdrawn.

3           So we're going to go through a series of these  
4           over the next few years, 20, 30, 50 years, and  
5           we'll have more. And I guess that's why the  
6           building process and how big a structure you can  
7           put, all of those things are determined by those  
8           core drills. They can go down and -- just like --  
9           I know when I built my house up here, I had to go  
10          deeper with the footer because we have pipe clay so  
11          close to the top of the soil here. It's a very  
12          fine clay.

13          So these issues have been here for a long  
14          time. They're going to be here a long time to  
15          come. Actually, most sinkholes are caused by the  
16          rehydration of those areas more so than just the  
17          water dropping. It's when the water comes back in  
18          that causes them to rehydrate and cave in.

19          So that's going to be an issue we're going to  
20          be facing for a long, long time. I don't know  
21          where we're going to go. The next group that comes  
22          in here, they'll be hearing the same stories over  
23          the next few years. So where we go from the  
24          standpoint of people making claims from their house  
25          settling -- and that's what most of those claims

1           that we're hearing are about, house settlings.  
2           That's an issue that's going to be a tough one to  
3           ever get your hands around. So I don't know where  
4           we could go as a Cabinet on this issue, because  
5           subsequent Cabinets are going to be looking at this  
6           for a long time.

7                   GOVERNOR CRIST: Thank you, Commissioner.

8                   MR. McCARTY: Before I conclude, I would like  
9           to take this opportunity, with your permission,  
10          Governor, to personally thank you and the members  
11          of the Commission for the trust you have put in me  
12          to serve as your Insurance Commissioner. This is  
13          the last meeting I will be at for this year. I  
14          hope to be here for the next Cabinet meeting in  
15          January.

16                  But with that, I would like to again express  
17          my appreciation for the pleasure it has been to  
18          serve with you in these very challenging times.  
19          Thank you all very much.

20                  GOVERNOR CRIST: Well, Commissioner, let me  
21          thank for your great service to the people of  
22          Florida and trying and working very, very hard to  
23          get insurance rates down for our people. You've  
24          done an extraordinary job.

25                  MR. McCARTY: Thank you, Governor. Thank you,

members of the Commission.

GOVERNOR CRIST: Happy New Year to you.

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

1 GOVERNOR CRIST: All right. Department of  
2 Highway Safety and Motor Vehicles, Director Jones.  
3 Hi, Julie.

4 MS. JONES: Governor and Cabinet members, I  
5 have 11 agenda items.

6 GOVERNOR CRIST: What?

7 MS. JONES: I'm going to go quickly, though,  
8 sir.

9 GOVERNOR CRIST: Did you say 11?

10 MS. JONES: Eleven.

11 GOVERNOR CRIST: Yes, that's what I thought.

12 MS. JONES: I was saving them especially for  
13 today.

14 Item Number 1, we respectfully request  
15 approval of the minutes from the August 10th  
16 Cabinet meeting.

17 GOVERNOR CRIST: Is there a motion on the  
18 minutes?

19 COMMISSIONER BRONSON: So move.

20 CFO SINK: Second.

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

23 MS. JONES: Item Number 2, we respectfully  
24 request approval of the Department's substantive  
25 legislative package for the upcoming 2011 session.



1 We've kept these items to items that are technical  
2 in nature or noncontroversial. You'll find that  
3 our package focuses on legislative changes that  
4 further our mission for safety and security through  
5 education, service, and enforcement.

6 The proposal before you clarifies some areas  
7 of law that are inconsistent or unclear. For  
8 example, health care professionals may notify law  
9 enforcement when it has been determined that a  
10 driver is involved in a crash that has an alcohol  
11 content in their blood above the .08 level.

12 However, current law does not allow the same  
13 information string to occur for drivers that have  
14 been driving under the influence of an illegal  
15 substance, and we wish to clarify this.

16 We create consistency between sections of law  
17 within our governing statutes. An example would be  
18 that following the statutory change last session  
19 for penalties for driving on an expired license, a  
20 situation has been created whereby driving on a  
21 license that's suspended for less than four months  
22 has one penalty, a suspended license over six  
23 months has a different penalty, and five and six  
24 months has no penalty. So we need to go back in,  
25 and again, it's just a plan to fix that

1 inconsistency.

2 Governor, pursuant to your expressed interest,  
3 I have a placeholder in our legislative package for  
4 distracted driving legislation. We've initiated  
5 discussions with our legislative partners in the  
6 law enforcement community to put a task force  
7 together to see how such a law would be crafted.  
8 This is what a number of other states have been  
9 looking at.

10 GOVERNOR CRIST: You mean like no texting  
11 while driving?

12 MS. JONES: That's correct, sir. And the  
13 criticism of the no-texting regulation has always  
14 been, well, what about doing your nails, makeup,  
15 reading, reading newspapers? And so rather than  
16 focus at one symptom, we would like to get the law  
17 enforcement community and our legislative partners  
18 to weigh in on something that's a little bit more  
19 comprehensive and enforceable. So we'll be  
20 reporting back probably to the next -- to the new  
21 Cabinet on what that might look like, but that will  
22 be a placeholder in our legislative package.

23 As a follow-up to the August 10th Cabinet  
24 meeting, I wanted to address your question  
25 regarding the cap on registration and processing

1 fees. This was the car dealer issue.

2 After a lot of research, we've determined that  
3 we don't have the authority to do rulemaking, but  
4 we can go forward with something that's  
5 legislative. So I want to address your concerns.  
6 I'm proposing a work group comprised of consumer  
7 advocates, industry, and other affected  
8 stakeholders to come together and determine what  
9 that cap would be and how expansive that cap would  
10 be. There's a lot of entities, private, franchise,  
11 private businesses that might be covered by this,  
12 and we want to understand the stakeholder base and  
13 then determine what that cap -- what that amount  
14 would be and then bring that forward again back to  
15 the new Cabinet.

16 So with that, I'm happy to answer any  
17 questions and would request approval of this item.

18 GOVERNOR CRIST: Commissioner.

19 COMMISSIONER BRONSON: Thank you, Governor. I  
20 guess, Julie, one of the things that hit me on the  
21 substance issue is, if someone is not on a  
22 prescription that has the same basic chemical  
23 content to be charged with substance abuse while  
24 driving, and if that same chemical substance has  
25 been prescribed by medical doctor for a medical

1           reason, and an accident occurs on the road and that  
2           person is checked, how are you going -- and what is  
3           going to be the reaction between someone who may  
4           have been stopped and the blood alcohol or a blood  
5           test run to find out if there's substance abuse if  
6           it has been prescribed as a medical condition? Is  
7           it now going to be -- the doctor's going to tell  
8           that person you shouldn't drive while you're on  
9           this medication? How is all that going to play  
10          into the issue of substance as compared to alcohol?  
11          We know what that is. That's .08. How are you  
12          going to handle that part of it through the law  
13          that's going to have to be enacted here?

14                 MS. JONES: Commissioner, your question has  
15                 two elements. The first element, our proposal is  
16                 relative to illegal substances, not legally  
17                 prescribed drugs. Today, if you misuse a legally  
18                 prescribed drug and you are not capable of driving  
19                 and you cause an accident, that's a contributing  
20                 factor that our investigative -- that our traffic  
21                 homicide investigators or our traffic investigators  
22                 would take into consideration.

23                 It's common to go to a crash scene and in the  
24                 course of the investigation, especially with a  
25                 fatality where you would gather a lot more

1 information, arrest someone and go through their  
2 purse or their glove box and find prescribed drugs.  
3 We check to see what those prescribed drugs are,  
4 were they prescribed properly, and then was it a  
5 contributing factor to an accident. We do that  
6 now.

7 This is relative to illegal drugs, marijuana,  
8 cocaine, things that you would not normally have in  
9 your possession, and certainly not legally.

10 COMMISSIONER BRONSON: Well, Governor, I  
11 understand that. I mean, I understand that you're  
12 looking at illegally obtained factors in a car  
13 accident, let's say, or if you're stopped and it's  
14 determined that your focus is not where it needs to  
15 be when you're driving, and you can have a test  
16 done, and that type of thing.

17 But you're still going to have the potential  
18 of accidents from prescribed -- now, supposedly,  
19 presumably you wouldn't be charged with a vehicular  
20 charge of criminal intent, but you're still going  
21 to have that issue as to whether that person should  
22 have been told not to drive on a prescribed  
23 medication that has the same result as an illegally  
24 obtained drug of the same type. So I was just  
25 trying to figure out how that's going to work in

1           this process and whether that's going to create  
2           even more work, or are basically doing all of that  
3           now anyway?

4           MS. JONES: Governor and Cabinet members, I  
5           would submit to you that we're already doing that  
6           now. But we have an opportunity, especially when  
7           you have a serious accident where the individual  
8           that is possibly at cause, you go to the hospital,  
9           they draw blood, and we don't have access to the  
10          information on illegal substances like we do for  
11          alcohol.

12          We're just trying to get a level playing  
13          field. Although alcohol is a legal substance,  
14          above a certain amount it becomes illegal, and  
15          we're trying to get the other illegal substances at  
16          least to give law enforcement a fighting chance to  
17          figure out what happened and make the appropriate  
18          charges.

19          ATTORNEY GENERAL McCOLLUM: I just have a  
20          curiosity question. What kind of substances and  
21          things are we going to be experimenting with on  
22          license plates other than metal? Is it plastic?  
23          You've got a proposal to allow the license plates  
24          to -- to look at other alternatives, but no  
25          explanation of really what that might be.

1 MS. JONES: South Carolina has a plate that's  
2 actually a plastic polymer. And it's not raised,  
3 but it has a special film on it that would last  
4 longer than our current plates.

5 And you can actually print on demand. And so  
6 if we got to that point -- it's not tomorrow, but  
7 it's a future technology. Instead of having car  
8 dealers and tax collectors have large volumes of  
9 inventory, they could actually print a plate on  
10 demand.

11 Specifically what we're considering in this  
12 pilot, there are some new plates that actually have  
13 a chip in them that display your tag number on the  
14 plate. It's pretty cool technology. And the  
15 future would be, you have a plate that could  
16 display your specialty plate of choice in the  
17 background. As it went through a tolling facility,  
18 the background goes away, and the numbers are  
19 displayed very distinctly so there's no  
20 distraction. If your plate expires, the chip  
21 automatically knows and displays "expired" on the  
22 tag. This is wave of the future. The law right  
23 now does not allow us to pilot some of this new  
24 technology, and we just want to be able to do it  
25 with our own tags.

1           ATTORNEY GENERAL McCOLLUM: All right. Thank  
2           you.

3           MS. JONES: Yes, sir. We're getting sneaky.

4           ATTORNEY GENERAL McCOLLUM: I move Item 2.

5           CFO SINK: Second.

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

8           MS. JONES: Item 3, we respectfully request  
9           approval of the Department's legislative budget  
10          request for 2011-12. Recognizing tough economic  
11          times, the Department is requesting only six  
12          critical items.

13          Our total request is just over \$30 million,  
14          but 25.7 million of that 30 is replacement of  
15          Florida Highway Patrol pursuit vehicles. The  
16          vehicle replacement issue replaces 997 vehicles  
17          that will be over 100,000 miles by June 30, 2012.  
18          Our current base budget only allows for the  
19          replacement of 111 vehicles. We have a significant  
20          backlog, obviously, for replacement. This is a  
21          critical officer safety issue. Highway Patrol  
22          troopers regularly drive vehicles at high rates of  
23          speed on crowded interstate highways, so from an  
24          officer safety standpoint, high mileage vehicles  
25          are very dangerous.



1           The remaining requests are either related to  
2           the safety of our members or use of technology, to  
3           save state resources and operate more efficiently.  
4           The request includes funding for mold remediation  
5           in field offices, the replacement of the Highway  
6           Patrol's personal protection equipment, license  
7           plate readers, enhancement of our license  
8           verification system, and funding to start the  
9           merger of our driver's license and motor vehicle  
10          data.

11           I'm happy to answer any questions.

12          CFO SINK:   Move Item 3.

13          COMMISSIONER BRONSON:   Second.

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

16          MS. JONES:   Item 4, we respectfully request  
17          approval for the Department's first quarter annual  
18          performance measures.   We are just getting started  
19          this fiscal year, so it's early to note significant  
20          progress on our measures.   However, Governor, I  
21          would like to update you on the significant  
22          improvements we've made in the driver's license  
23          customer service in Dade County.

24          GOVERNOR CRIST:   Thanks.

25          MS. JONES:   Last July we initiated an

1 improvement plan by redirecting resources and  
2 improving processes. Since that time, we've seen  
3 over 7,000 customers before 8:00 a.m. As of this  
4 morning, we have served over 300,000 customers in  
5 this 15 weeks alone in that one county. We set a  
6 new benchmark last week of 5,000 customers in an  
7 office in one day. Our director of driver's  
8 license said she would buy any office lunch, every  
9 member in that office lunch if they made over 1,000  
10 in a day, and they've been creeping up 900, 999 in  
11 one office. And this is handing people a  
12 credential, not just pushing you in and out. You  
13 leave with a credential, so 5,000 in one day.

14 The 32 positions we reallocated to Dade County  
15 are filled and are working independently on the job  
16 now as of this month.

17 So with that, I would respectfully request  
18 approval of this item.

19 ATTORNEY GENERAL McCOLLUM: I move Item 4.

20 COMMISSIONER BRONSON: Second.

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

23 MS. JONES: Item 5, request approval for final  
24 adoption of Rule 15-1.012, which relates to the  
25 Department's delegation of authority. This rule

1 has not been updated since 1998. The changes  
2 provide the Department with operating authority  
3 comparable to that of other Cabinet agencies, while  
4 maintaining transparency through reporting.

5 CFO SINK: Move it.

6 COMMISSIONER BRONSON: Second.

7 ATTORNEY GENERAL McCOLLUM: Second.

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

10 MS. JONES: Item 6, we respectfully request  
11 approval for the final adoption of 15A-12. This  
12 relates to the Florida Rider Trainer Program. The  
13 rule sets standards for motorcycle education safety  
14 programs, including approving course curriculum and  
15 certifying of instructors. This program has been  
16 in place for 15 years using a contract to prescribe  
17 participation requirements for vendors. The Joint  
18 Administrative Procedures Committee, JAPC, has  
19 asked that we codify the contract requirements in  
20 rule.

21 CFO SINK: Move it.

22 COMMISSIONER BRONSON: Second.

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

25 MS. JONES: Item 7, we respectfully request

1 approval for final adoption of Rule 15C-17. This  
2 is the electronic temporary plate transfer rule.

3 The purpose of this rule is to implement a  
4 secure electronic process for the temporary  
5 transfer of license plates. This program allows  
6 all temporary plate issuers to electronically  
7 report the temporary transfer of plates to the  
8 Department in real time. So when you leave with a  
9 temporary tag or a temporarily transferred metal  
10 tag from a dealer, law enforcement has that  
11 information immediately.

12 ATTORNEY GENERAL McCOLLUM: I move Item 7.

13 COMMISSIONER BRONSON: Second.

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

16 MS. JONES: We request approval -- Item 8, we  
17 request approval for final adoption of Rule 15C-18.  
18 This is the electronic filing system. This system  
19 allows dealers to electronically submit title and  
20 registration transactions, which includes the  
21 issuance of a metal license plate. Real-time  
22 access again to this data provides critical  
23 information to law enforcement. This rule sets  
24 standards for participation, certification of  
25 service providers, system requirements, and

1 enforcement authority.

2 CFO SINK: Move it.

3 ATTORNEY GENERAL McCOLLUM: Second.

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

6 MS. JONES: Item 9, we respectfully request  
7 approval to initiate rulemaking for Rule 15A-10,  
8 which relates to DUI programs. We've actually been  
9 working on this rule with stakeholders for about  
10 two years, and we're ready to go live now.

11 The rule sets standards for the licensing and  
12 operation of DUI program providers, certification  
13 of the DUI program personnel, and the monitoring of  
14 the ignition interlock device clients.

15 This chapter has not been amended since 1997  
16 and needed to be updated.

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

18 COMMISSIONER BRONSON: Motion on Item 9.

19 ATTORNEY GENERAL McCOLLUM: Second.

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

22 MS. JONES: Item 10, we respectfully request  
23 approval to initiate rulemaking on 15A-10.009.  
24 This relates to probation and DUI program  
25 jurisdiction.

1           The update of this rule prohibits private  
2           probation service providers from self-referral of  
3           clients to a DUI program that is owned in whole or  
4           part by that probation service provider. This  
5           codifies a statutory change that was made by the  
6           2009 Legislature.

7           CFO SINK: Move it.

8           ATTORNEY GENERAL McCOLLUM: Second.

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

11          MS. JONES: Item 11, we respectfully request  
12          approval for a four-year extension to the  
13          appointment of six of our Medical Advisory Board  
14          members. Dr. Ricardo Ayala, Dr. Jeffrey Raskin,  
15          Dr. Francis Skilling, Dr. Ira Goodman, and  
16          Dr. David Huang are all licensed to practice  
17          medicine in Florida and are in good standing with  
18          the Florida Medical Association. Dr. Frederick  
19          Flink is licensed to practice optometry in Florida  
20          and is in good standing with the Florida Optometric  
21          Association.

22          These board members generously volunteer their  
23          time and expertise to review the status of at-risk  
24          drivers, and we appreciate their willingness to  
25          continue to serve and contribute to keeping

1 Florida's roads safe.

2 ATTORNEY GENERAL McCOLLUM: I move Item 11.

3 COMMISSIONER BRONSON: Second.

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

6 MS. JONES: I realize it's a lengthy agenda  
7 item, but I too would like to thank my bosses. You  
8 guys have been wonderful. I'm sort of the newbie  
9 around here. As a collegial group, I thank you  
10 very much for your leadership and everything that  
11 you've done to help the Department, and also your  
12 respective staffs. You probably know that they're  
13 your guardians, but they've been also great guides  
14 to us. So your Cabinet staff, I really hope to be  
15 serving with them in the future as well. But thank  
16 you very much for everything that you've done.

17 GOVERNOR CRIST: Thank you, Julie. We  
18 appreciate you very much.

19

20

21

22

23

24

25

1                   GOVERNOR CRIST: Administration Commission  
2 Mike Barry.

3                   MR. BARRY: Good morning, Governor and members  
4 of the Commission.

5                   GOVERNOR CRIST: Nice tie.

6                   MR. BARRY: Thank you.

7                   GOVERNOR CRIST: You're welcome.

8                   MR. BARRY: We have four items on the agenda  
9 this morning. The first is a request for approval  
10 of the minutes of the January 26, 2010 meeting.

11                  CFO SINK: Move it.

12                  COMMISSIONER BRONSON: Second.

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

15                  MR. BARRY: The second item is a request for  
16 approval of the minutes of the May 25th, 2010  
17 meeting.

18                  ATTORNEY GENERAL McCOLLUM: I move it.

19                  COMMISSIONER BRONSON: Second.

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

22                  MR. BARRY: Thank you. The third item is  
23 consideration of the 2010 Statewide Emergency  
24 Shelter Plan. This plan is a guide for local  
25 hurricane shelter planning. We have David Halstead



1 here, the director of the Division of Emergency  
2 Management, to present this item.

3 GOVERNOR CRIST: Director.

4 MR. HALSTEAD: Governor and Cabinet, I would  
5 like to present our 2010 Statewide Emergency  
6 Shelter Plan.

7 I'm happy to report some good news. In  
8 cooperation with our good partners at the  
9 Department of Education, we are continuing to  
10 reduce the shelter deficit for those that need  
11 shelter during hurricanes and other tropical  
12 events. About 77 percent of the deficit has been  
13 eliminated, much of this due to the new school  
14 construction building to a newer higher standard,  
15 so this has been very important. We've got about  
16 28 of our counties that can now demonstrate that  
17 they have actually a surplus in the shelter  
18 deficit.

19 We're still working with our other partners  
20 and again working on more a regional approach as we  
21 continue to develop new shelter spaces with our  
22 shelter retrofit plan, and again, as I said before,  
23 by working with the Department of Education.

24 So with that, I would like to present that  
25 plan for approval.

1                   COMMISSIONER BRONSON: Motion for approval of  
2 Item 3.

3                   ATTORNEY GENERAL McCOLLUM: Second.

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

6                   MR. BARRY: Thank you. The fourth and final  
7 item on this agenda this morning is a request for  
8 consideration of the Recommended Order submitted by  
9 the Division of Administrative Hearings in the case  
10 of Tierra Verde Community Association, Inc., Maura  
11 J. Kiefer, and Michael Mauro vs. the City of  
12 St. Petersburg.

13                   This is a land use case out of St. Petersburg  
14 in Pinellas County. The land at issue in this case  
15 is approximately 18 acres located on a barrier  
16 island known as Tierra Verde. It's on the southern  
17 end of Pinellas County. I've got a map here for  
18 you. This map shows the entire Pinellas County  
19 peninsula, and the island of Tierra Verde is  
20 located down here.

21                   The 18 acres at issue in this case was located  
22 in unincorporated Pinellas County. Then in  
23 November of 2008, the City of St. Petersburg  
24 annexed the property, and as part of that  
25 annexation process, adopted an ordinance changing

1           their Comprehensive Plan to incorporate the  
2           property into their Comprehensive Plan.

3           Currently, under the County's plan, there are  
4           two separate land use designations for this  
5           property. Seventeen of the acres is Commercial  
6           General, and five lots comprising one acre is  
7           designated Residential Low.

8           I've got a closer shot, an aerial of the  
9           actual properties here. And you'll see this is the  
10          Pinellas Bayway here entering from the north, State  
11          Road 679. This is Madonna Boulevard here. And the  
12          two separate properties comprising 18 acres are  
13          outlined in black here. So this section here is  
14          designated Commercial General. Most of this here  
15          is Commercial General. The one acre is that is  
16          currently Residential Low is right here, and it's  
17          five separate parcels that are currently vacant.

18          Now, the City's change would assign the same  
19          classifications to these properties, but there's  
20          one significant different that would allow greater  
21          development. The residential is basically the  
22          same. The commercial designation under the City's  
23          plan would allow not only greater commercial  
24          development, but would actually allow residential  
25          as well.

1           So the reason for the difference is, under the  
2           County's plan, there's an overlay protection that  
3           restricts development to certain height and bulk  
4           restrictions that are compatible with the  
5           surrounding areas. The City's plan has no such  
6           overlay restriction, so it would allow more  
7           development.

8           As such, if this Comp Plan Amendment goes  
9           through, the new Commercial General designation  
10          under the City's plan would allow up to 30  
11          residential units per acre, which would be up to a  
12          total of 518 units on this land. On the commercial  
13          side, it could allow up to 40 rooms of transient  
14          units, which are basically hotel rooms, per acre,  
15          for a total of up to 691 units, which would be the  
16          equivalent of over 1,000 guests per day  
17          potentially. So it's a lot more potential  
18          development coming onto this property.

19          As far as the legal proceeding goes, Tierra  
20          Verde Community Association and two residents  
21          appealed this Comprehensive Plan change under  
22          Chapter 163. Their basic claim is that the change  
23          is not in compliance with state and local land  
24          planning requirements, that it would basically  
25          allow too much development on this island.

1           The proceeding went to DOAH by a full and fair  
2 hearing by an administrative law judge. The  
3 parties had the opportunity there to present their  
4 evidence and their arguments, many of which you'll  
5 probably hear again today.

6           The judge determined that the plan change was  
7 in fact not in compliance with the Polk -- excuse  
8 me, the Pinellas County Comprehensive Plan and  
9 other state and local land use regulations.

10          The three main points in his recommended order  
11 are that the change would adversely impact  
12 hurricane evacuation times, which as you probably  
13 know are already some of the worst in the country;  
14 it would adversely impact storm shelter capacities,  
15 which are also deficient already as we stand here  
16 today.

17          Secondly, there was no demonstration of need  
18 for this additional development, particularly for  
19 the residential development. That's actually found  
20 right in the City's Comprehensive Plan, that  
21 there's no additional need for more residential  
22 development on Tierra Verde.

23          And the third main point in his recommended  
24 order is that the proposed development would be  
25 incompatible with surrounding uses. So the judge

1 has entered a Recommended Order that the Commission  
2 find this Comprehensive Plan Amendment not in  
3 compliance.

4 The staff has reviewed the exceptions that  
5 have been filed to this Recommended Order by the  
6 City, and we have determined they are without merit  
7 and should be denied. Further, the staff believes  
8 that the Recommended Order is appropriate. The  
9 findings of fact are based on competent and  
10 substantial evidence, the conclusions of law are  
11 reasonable, and we recommend adoption of the Draft  
12 Final Order.

13 Let me just tell you real quickly what the  
14 Draft Final Order would do. It would direct the  
15 City to rescind the ordinance that passed the  
16 Comprehensive Plan Amendment, and they've got to do  
17 that within 45 days. It also lays some  
18 restrictions on any future Comprehensive Plan  
19 change, and the basic parameters are that they can  
20 make a new Comprehensive Plan amendment so long as  
21 it comports to what is currently found on the  
22 property, which is that it's restricted to the  
23 height and bulk intensities that are currently on  
24 the property. They would be free to redevelop it,  
25 but it's got to stay pretty much at the same

1 intensity and density that it is right now, and  
2 they've got to address the hurricane evacuation  
3 times and the storm shelter capacities. So as long  
4 as they meet those parameters, they would be free  
5 to pursue a new Comprehensive Plan amendment.

6 We have three speakers here today representing  
7 the parties. In the interest of time, we've asked  
8 the parties to limit their remarks to four minutes  
9 if possible. And I would remind you that this  
10 proceeding is governed by the record from the  
11 hearing by the DOAH judge.

12 And with that, I would ask Tom Reese, who is  
13 representing the petitioners, to come to the  
14 podium.

15 GOVERNOR CRIST: Good morning.

16 MR. REESE: Good morning, Governor and members  
17 of the Cabinet. I'm glad to be here. I represent  
18 the petitioners, which is the Tierra Verde  
19 Community Association and two of their members that  
20 lived on and still do live on Tierra Verde. I am  
21 co-counsel. John Thomas is my co-counsel. He is  
22 here with me, as well as three members of the  
23 community association have traveled to Tallahassee  
24 to stress to you how important this Recommended  
25 Order is.

1           Tierra Verde is a barrier island located at  
2           the mouth of Tampa Bay, as you've seen these maps.  
3           You know very well, being from St. Petersburg, it's  
4           in between St. Petersburg Beach and the mainland.

5           Now, it's currently unincorporated Pinellas  
6           County, and 18.25 acres was annexed by the City.  
7           The evacuation route from this area goes through a  
8           Coastal High Hazard Area. The Bayway is Coastal  
9           High Hazard. The County, their Comprehensive Plan  
10          has Commercial General as the designation, but it  
11          prohibits residential development. There was no  
12          residential development allowed because they didn't  
13          think it was appropriate. They also have an  
14          overlay which requires compatibility with the  
15          adjacent property on Tierra Verde, which is  
16          essentially single-family and multifamily with a  
17          limit of five stories.

18          What the City did was, they adopted Commercial  
19          General, which allows 24 units an acre, with a  
20          potential bonus, and also allows additional  
21          transient motel type development.

22          We asked for an administrative hearing and had  
23          a three-day hearing in front of Administrative Law  
24          Judge Bram Canter. He entered a fairly thorough  
25          Recommended Order making detailed findings of fact,



1 finding that there was no need for this, that it  
2 adversely affected the hurricane evacuation times  
3 and shelter capacity, that it was incompatible  
4 based on the criteria that's actually in the City's  
5 plan at this time, policies and objectives that are  
6 in the plan, that it was incompatible with some of  
7 those and it's incompatible with the development.

8 What we're recommending is that you adopt your  
9 staff's Draft Final Order. We agree that it  
10 essentially rejects all 19 exceptions, that the  
11 City is attempting just to reargue the findings of  
12 fact that the judge made. It's also making a  
13 recommendation that when the City looks at this  
14 issue after the y repeal this amendment and look at  
15 how to put a proper amendment on there, that they  
16 have an overlay for property that would be  
17 substantially similar to what the County has at  
18 this time, and also that it not adversely affect  
19 hurricane evacuation and shelter capacity.

20 And since the Recommended Order was issued,  
21 Brian Smith, the planning director of Pinellas  
22 County, has communicated with your staff,  
23 indicating that it's their position that the  
24 Recommended Order be adopted and that the findings  
25 were appropriate and supported by competent and

1 substantial evidence.

2 This having been heard by the administrative  
3 law judge, his findings are detailed. And it's my  
4 opinion that there's very little discretion here  
5 with the Administration Commission to reverse  
6 those, because it is supported by competent and  
7 substantial evidence.

8 And at this time, I would like you to hear  
9 from the president of the Tierra Verde Civic  
10 Association. Thank you.

11 GOVERNOR CRIST: Thank you.

12 MR. BARRY: This is Paul Murray, president of  
13 the Tierra Verde Community Association.

14 MR. MURRAY: Good morning.

15 GOVERNOR CRIST: Good morning.

16 MR. MURRAY: Governor Crist, Cabinet members,  
17 and staff.

18 You've heard all of the facts in this matter  
19 already. You'll hear some more. But as the  
20 president of the association, I came here with two  
21 other of our directors, Mr. Jack Parker and Ben  
22 Liner, and I could have had the whole board here  
23 and half the island. The people are very  
24 passionate about this. We support administrative  
25 law judge's ruling.

1           We do not want more congestion on the island.  
2           We live with traffic jams now that are untenable.  
3           We have to come in over a one-lane bridge. It's  
4           kamikaze highway. It was built in 1961. It's  
5           obsolescent. There's no money to change it.  
6           They're going to repair it. When it goes up and  
7           doesn't come down like it did 10 days ago, we were  
8           without access to the island for 45 minutes to an  
9           hour. That happens once a month at least. If our  
10          fire truck is off the island supporting  
11          St. Petersburg, we have no fire protection on the  
12          island. We do not need any more congestion, high  
13          buildings, or increased density.

14                 Thank you.

15                 GOVERNOR CRIST: Thank you.

16                 MR. BARRY: On behalf of the City of  
17          St. Petersburg, we have Jeanne Hoffman.

18                 MS. HOFFMAN: Good morning. I'm Jeanne  
19          Hoffman. I'm one of the assistant city attorneys  
20          for the City of St. Petersburg. I'm here with my  
21          co-counsel, Kim Jackson. We were the two attorneys  
22          that tried this case.

23                 Obviously, based on the fact that we filed 19  
24          exceptions to the Recommended Order, the City does  
25          have serious concerns with that order. We're here

1           today to ask you not to adopt the final order with  
2           those recommendations that have been outlined by  
3           staff. Just briefly, I just want to cover some of  
4           the issues that we had concerns with.

5           First all, I would like to say, though, that  
6           the City does care about its citizens. In reading  
7           the Recommended Order, it gives the impression that  
8           the City does not care about the citizens that will  
9           be located on the barrier island now that that  
10          property has been annexed. And we gave much though  
11          to the land use change out there. We also followed  
12          Chapter 163 and Rule 9J-5 and Rule 9J-11 for this  
13          land use change.

14          I do want to correct a couple of things. The  
15          Commercial General designation only allows 24 units  
16          per acre by right. There is a workforce housing  
17          bonus, but that is subject to consideration as part  
18          of the development of the project. Clearly, we're  
19          not at this stage. So the number of units that  
20          you're looking is only 24 units per acre by right,  
21          not the 30 units per acre that was suggested.

22          Additionally, I just want to make it clear  
23          that in reviewing some of the documents produced by  
24          staff, that the ALJ did not find that there was an  
25          issue with roadway capacity. I know it has been

1 mentioned that there was some concern about the  
2 bridge. At least on the ALJ's findings related to  
3 the City's analysis, the ALJ did not have a problem  
4 with the roadway analysis that the City had done.

5 More importantly, the City complied with 163  
6 and Rule 9J-5. We provided, as required pursuant  
7 to the statute, the Plan Amendment to the other  
8 state and local agencies. This is under the  
9 expedited process. Pinellas County is one of those  
10 counties at the time -- and now with the changes to  
11 163, this is broader, but at the time, we were one  
12 of the counties that were allowed to proceed under  
13 the expedited process, which is what we did, and we  
14 did provide the Plan Amendment to all the agencies.

15 The DCA did not have any comments. The Tampa  
16 Bay Regional Planning Council, the entity that  
17 comes up with the regional hurricane evacuation  
18 plan, determined that we were in compliance. We  
19 also had a number of state agencies, including the  
20 Department of Education and Department of State,  
21 that had no comments.

22 We did receive comments from FDOT and Pinellas  
23 County. All these comments or lack of comments  
24 were taken into consideration by the staff and  
25 included in the report. However, the statute

1 provides no additional direction once you receive  
2 those comments, whether you have scrap the plan  
3 amendment, whether you just weigh those comments.  
4 We felt we weighed the comments and we still moved  
5 forward with the Plan Amendment, and we were still  
6 in compliance with the statute.

7 Also, in terms of this property, it's not  
8 located in the Coastal High Hazard Area. It's not.  
9 I appreciate that it's on a barrier island, but it  
10 is not in the Coastal High Hazard Area. And the  
11 current SLOSH model does not place it in the  
12 Coastal High Hazard Area.

13 The statute for 163 and 9J-5 directs  
14 population concentrations from the Coastal High  
15 Hazard Area. It is not intended to be stretched to  
16 be interpreted to mean that if you have to drive  
17 over a bridge from your property that is not in the  
18 Coastal High Hazard Area, that that somehow means  
19 that you are now driving through the Coastal High  
20 Hazard Area, and the government entity is not  
21 directing coastal populations away from the Coastal  
22 High Hazard Area.

23 I give Pinellas County as an example. I for  
24 one live in an area that is not in a Coastal High  
25 Hazard Area. If I was to drive and need to

1           evacuate, I would have to drive through a Coastal  
2           High Hazard Area. Does that mean that the area  
3           that I live in in St. Petersburg cannot be  
4           redeveloped? I don't think the statute was  
5           intended to be read that broadly. If it's not in a  
6           Coastal High Hazard Area and the Department of  
7           Community Affairs agreed, then you do not provide  
8           -- you do not need a determination whether or not  
9           we need additional hurricane evacuation routes, and  
10          we do not need additional shelter.

11                   And with that, I think that's my presentation.  
12           Thank you.

13                   MR. BARRY: So to wrap up, the staff  
14           recommends you approve the staff recommendation  
15           directing the Secretary to adopt the draft final  
16           order.

17                   GOVERNOR CRIST: Do we have such a motion?

18                   ATTORNEY GENERAL McCOLLUM: So moved.

19                   GOVERNOR CRIST: Is there a second?

20                   CFO SINK: Second.

21                   GOVERNOR CRIST: Moved and seconded. Show it  
22           approved as recommended with the Draft Final Order.

23                   Thank you.

1                   GOVERNOR CRIST: Florida Land and Water  
2                   Adjudicatory Commission, Mike remains. There you  
3                   are.

4                   MR. BARRY: Thank you. Thanks for having me  
5                   back.

6                   GOVERNOR CRIST: You're welcome. Good to have  
7                   you.

8                   MR. BARRY: We have two agenda items on this  
9                   agenda. The first is a request for approval of the  
10                  minutes of the September 14, 2010 meeting.

11                  COMMISSIONER BRONSON: So move.

12                  ATTORNEY GENERAL McCOLLUM: Second.

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

15                  MR. BARRY: The second item is a request for  
16                  consideration of a Recommended Order submitted by  
17                  the Division of Administrative Hearings in the case  
18                  of Department of Community Affairs vs. Polk County  
19                  and Safari Wild. This is another land use case.

20                  The case is here before you today because it  
21                  involves land situated inside the Green Swamp,  
22                  which is an Area of Critical State Concern. Here  
23                  are some facts from the record: Green Swamp is  
24                  only one of four Areas of Critical State Concern in  
25                  the state. It was designated in 1974 by the



1           Legislature to protect Florida's water supply. The  
2           Green Swamp has the Floridan Aquifer underneath it,  
3           and it has been considered the heart of Florida's  
4           water supply. The aquifer provides most of the  
5           water for the peninsula of Florida, from Ocala  
6           south.

7           So this area clearly has natural resources of  
8           statewide importance, and that's why it was  
9           designated an Area of Critical State Concern. As a  
10          result, there are greater restrictions on what can  
11          be done in this area in order to protect those  
12          resources, and the State through this Commission  
13          has both an interest and a duty in protecting these  
14          resources.

15          Some background information on the case. This  
16          is a map of the Green Swamp. It's in central  
17          Florida just north of Lakeland, and it includes  
18          Polk County, Lake County, Sumter, Pasco, and  
19          Hernando. The actual Green Swamp is highlighted by  
20          this yellow area here, but the Area of Critical  
21          State Concern is designated by this red line here.  
22          So it's a somewhat smaller subset of the entire  
23          Green Swamp area. But inside the red line is where  
24          the extra protections are provided.

25          The property at issue in this case is in this

1 vicinity, so it's sort of in the southwest corner  
2 of the Area of Critical State Concern, northwest  
3 Polk County. The site is an old cattle ranch.  
4 It's roughly 260 acres in total. The current land  
5 designation is Agriculture and Rural Residential,  
6 and that's what it has been used for for  
7 generations.

8 In 2005, the current owners of the property  
9 bought the land, fully aware of these restrictions.  
10 They wanted to build and operate what they call a  
11 game park called Safari Wild, and the idea was they  
12 would have both farm animals and wild animals in a  
13 natural setting for public display where they would  
14 bring the general public onto the land to tour the  
15 property and view the animals. They would have had  
16 exotic animals like monkeys and hippos, as well as  
17 farm animals like cows and horses.

18 The Department of Community Affairs raised  
19 concerns about this proposed enterprise early on  
20 through e-mails and letters and other means, yet  
21 Polk County approved a development order that would  
22 authorize this project in October of 2009.

23 The project as originally envisioned would  
24 have had what they call a welcome barn, which is  
25 about 10,000 square feet of heated and cooled

1 space, and a number of other structures, including  
2 a restaurant, public rest rooms, trails and roads.  
3 At one point they were discussing overnight cabins,  
4 which would be authorized under the development  
5 order. They have since retreated from that plan  
6 considerably, but I would just point out that  
7 what's before you now is the original development  
8 order that authorizes the full extent of the  
9 original enterprise.

10 As far as the legal proceeding, the Department  
11 of Community Affairs appealed the development  
12 order, claiming that the proposed project was not a  
13 permissible use within the Green Swamp area. It  
14 went to DOAH for a full and fair hearing before an  
15 administrative law judge. The parties again were  
16 able to present their evidence and arguments, and  
17 some of these you'll hear again.

18 The judge determined that the development  
19 order was inconsistent with applicable state and  
20 local requirements that apply in the Green Swamp  
21 area specifically, and I'll just outline those very  
22 quickly for you.

23 First, the judge determined that the proposed  
24 use was in fact development and not agriculture.  
25 And again, this is Agriculture and Rural

1 Residential property. So first he decided it was  
2 development. Next he decided it was commercial, a  
3 commercial use, not agriculture, not residential,  
4 so it does not fit the local land use designation  
5 that's currently applicable to the land.

6 The third finding was that it would impact the  
7 land too much in terms of the water resources and  
8 other natural resources that were intended to be  
9 protected by this Green Swamp Area of Critical  
10 State Concern designation.

11 The fourth finding was that the development as  
12 originally approved would improperly impact  
13 wetlands and flood plains.

14 And finally, from a local standpoint, it was  
15 inconsistent with the Polk County Comprehensive  
16 Plan itself, in that the Comprehensive Plan there  
17 has a use table with a list of itemized uses that  
18 are permitted in different areas of the Green  
19 Swamp, and it's considered an exhaustive list. If  
20 it's not on there, you can't do it. And whatever  
21 the characterization of this game farm was -- there  
22 was testimony to different effects as far as how  
23 you would characterize it, because it's kind of a  
24 combination of activities. The judge determined  
25 that no characterization fit into any category on

1 the use table, and so therefore, it's expressly  
2 prohibited.

3 So those were the five main points. He  
4 entered a Recommended Order accordingly and has  
5 submitted it to the Commission for consideration.  
6 No exceptions were filed in this case, which is  
7 significant. In the Recommended Order, he  
8 recommends that the Commission find the development  
9 order inconsistent both with the local  
10 Comprehensive Plan standards, but also the state  
11 regulations concerning the Green Swamp due to its  
12 statewide importance.

13 Staff has reviewed the Recommended Order and  
14 believes it is appropriate in terms of findings of  
15 fact and conclusions of law, and we recommend  
16 adoption of the Draft Final Order. And again, just  
17 to give you a quick overlay of the Draft Final  
18 Order, it would quash or deny the development order  
19 that was originally approved, but allow the current  
20 structures already in place to stay there so long  
21 as they were used for legitimate agricultural  
22 purposes. So there would be no diminution in the  
23 activity that's currently going on. It just  
24 wouldn't allow the full extent that was permitted  
25 under the development order.

1           We have four speakers here today. The parties  
2           are here to discuss it, as well as a couple of  
3           local residents.

4           I would again remind you that this proceeding  
5           is governed by the record from the hearing before  
6           the DOAH judge. And we have asked -- as with the  
7           last proceeding, we've asked the parties to limit  
8           their remarks to four minutes. And for the members  
9           of the general public, we've asked them to confine  
10          their limits to one to two minutes.

11          First up, we have on behalf of the Department  
12          of Community Affairs Secretary Tom Pelham.

13          MR. PELHAM: Governor and Commission members,  
14          good morning.

15          GOVERNOR CRIST: Good morning.

16          MR. PELHAM: I would like to emphasize at the  
17          outset that the Department does not write the laws  
18          or the rules for the Green Swamp. Those laws were  
19          written by the Legislature when it designated the  
20          Green Swamp critical area. The Governor and  
21          Cabinet adopted the critical area rules that  
22          control, and then Polk County adopted local  
23          regulations which are consistent with your rules  
24          and the statute.

25          The Department is given the responsibility and

1 the duty to enforce those laws and to take appeals  
2 from local development orders when there is cause  
3 to think that they violate those rules. That is  
4 what happened in this case. I want to assure you,  
5 however, that the appeal was not taken lightly.  
6 This project was carefully reviewed by staff. I  
7 received an extensive briefing from staff, and I  
8 personally reviewed the regulations, including the  
9 land use chart that Mr. Barry mentioned, myself to  
10 assure myself that there were indeed violations of  
11 those regulations.

12 I also took into account the magnitude of this  
13 project to assure myself that it was not just a  
14 minor project or a de minimis violation of the  
15 rules. This is a large, impactful project. It  
16 consists of 260 acres. It includes educational,  
17 commercial, amusement, entertainment, and  
18 agricultural aspects. It has a two-story welcome  
19 barn with a commercial kitchen and bathroom  
20 facilities for visitors. It contains other -- two  
21 other large barns. It has a bird aviary.

22 It also has a license to allow the viewing of  
23 up to 750 Asian and African grazing animals, which  
24 would include everything from monkeys to lions and  
25 tigers, and the license also would allow up to 500

1           paying visitors per day. In our view, this simply  
2           was not an agricultural enterprise.

3           And then finally, I also took note of the fact  
4           that this does not appear to be a good faith  
5           mistake. In fact, the Department informed Safari  
6           Wild before it ever bought the property that  
7           commercial uses are not allowed on the property  
8           under the critical area regs. Safari Wild bought  
9           the property anyway.

10          And two years later we discovered through  
11          complaints from local citizens and local Polk  
12          County officials that construction activities had  
13          already commenced on the land. We further  
14          discovered that Safari Wild never obtained the  
15          required building permits from Polk County to  
16          construct these structures.

17          We also discovered that there were other  
18          activities on the project involving altering the  
19          drainage patterns that required Southwest Florida  
20          Water Management District permits that had not been  
21          obtained. In fact, the Water Management District  
22          at one point took enforcement action against the  
23          project.

24          When we discovered that no building permits  
25          had been obtained from Polk County, we informed



1 Safari Wild that those were required and should be  
2 obtained, but it took a notice of violation from  
3 the Department before that was ever done.

4 So when we take into consideration all of  
5 those factors, we simply felt that we had no choice  
6 but to appeal this development order. And the  
7 administrative law judge has agreed with our  
8 analysis. This is a commercial use that is not  
9 allowed on this land. If it is in fact an  
10 agricultural tourism project, that is not a use  
11 allowed under the regulations. So we would urge  
12 the Commission to uphold the staff's recommendation  
13 and approve the Recommended Order.

14 GOVERNOR CRIST: Thank you.

15 MR. BARRY: And on behalf of the respondent,  
16 Safari Wild, Dr. Stephen Wehrmann, who is one of  
17 the co-owners of the property and one of the  
18 principals of Safari Wild.

19 DR. WEHRMANN: Good morning, Governor and  
20 Commission and fellow staffers. I appreciate the  
21 opportunity to speak.

22 First of all, respectfully, I would like to  
23 take some exceptions to the comments made by  
24 Secretary Pelham about our project before I get  
25 into my presentation.

1                   GOVERNOR CRIST: I'm sorry, sir. Could you  
2 speak a little bit closer to the microphone?

3                   DR. WEHRMANN: Oh, sure.

4                   GOVERNOR CRIST: Thanks.

5                   DR. WEHRMANN: Respectfully, I would like to  
6 take exception to a couple of comments of Secretary  
7 Pelham in regards to our proposed project.

8                   There are no kitchen facilities out there.  
9 There was proposed in the development order to have  
10 a simple kitchen. There are no kitchen facilities  
11 built out there. There's no bathrooms for people  
12 out there in this welcome barn. Those were all --  
13 these were all proposals, but they were never  
14 carried out.

15                   The buildings -- there are two permitted  
16 agricultural structures on our property, and that's  
17 the only buildings that are on the property. I do  
18 take exception to the fact that they've always said  
19 -- DCA has always maintained that there was  
20 unauthorized construction.

21                   Rick Bliss, who is a large agricultural  
22 builder in the state of Florida -- I think he has  
23 built over 12,000 buildings in the state of  
24 Florida, well known all throughout the state. He  
25 built those buildings. He obtained the necessary

1 ag permits for those buildings. Those were always  
2 intended to be ag buildings. And that's where we  
3 got into all this trouble, whether it was an ag  
4 building or a commercial building. The commercial  
5 part of it set off the whole chain of events. But  
6 anyway, I have in my briefcase building permits by  
7 Polk County for agricultural purposes.

8 As far as anything about buying this property,  
9 obviously, we would not want to buy this property  
10 if we didn't think we could pursue the ideas and  
11 the dreams we had for this property. We had  
12 contingencies on the property. We went to Polk  
13 County initially and explained what we wanted to  
14 do. They thought it was a terrific idea. They  
15 rendered this administrative determination, and  
16 they said that would -- the way it was explained to  
17 us, this would go to DCA, and they would have 30  
18 days in which to appeal or not appeal this  
19 administrative determination.

20 Well, 30 days went by, and they did not appeal  
21 it. And apparently there was some correspondence  
22 after that that we never received personally. But  
23 it was not appealed. The County called us and was  
24 all excited and said, "The DCA has not appealed  
25 your administrative determination." And so it was

1 plain to us that our basic concept was allowed.  
2 You know, there might be details, of course, to be  
3 worked out later on. So we proceeded with  
4 agriculturally exempt activities, if that's what  
5 they're referring to.

6 We did two things on this property, and that's  
7 the only two things we've ever done to this  
8 property. We built fences, double perimeter game  
9 fences for our animals, and we built two barns, and  
10 those are the only structures on our property. The  
11 aviary is not a -- it doesn't even qualify as an ag  
12 structure, because it's just netting on the dirt.  
13 It's not -- there's no impervious surface. There's  
14 no roof. It didn't even require an ag permit. So  
15 it's not really a building. Those are the only two  
16 buildings on the property, and that's the only two  
17 buildings we would ever want to have.

18 By the way, my name is Steve Wehrmann. I'm  
19 one of the co-owners of the property. I'm a USDA  
20 accredited, Florida licensed veterinarian. I've  
21 owned and operated a veterinary clinic in  
22 St. Petersburg for the past 30 years.

23 This been a long, arduous process that has  
24 taken over five and a half years of my life and  
25 lots of people's lives and savings. We've spent

1           literally hundreds of thousands of dollars in  
2           studies and permits to satisfy this process and go  
3           through this process, and basically we've ended up  
4           becoming just a plain old ag farm.

5           In the interest of brevity, I won't go into  
6           the details of that entire process, except to say  
7           that in the final analysis, we gained the approval  
8           and permits of over 10 local, state, and federal  
9           agencies, including all the county permits, Water  
10          Management District ERP permit, which was  
11          considerable, USDA permits. The Florida Department  
12          of Agriculture made an on-site visit. EPA, Florida  
13          Department of Environmental Protection, and FEMA  
14          were all involved in this and all permitted and  
15          accepted. DCA is the only agency that rejected  
16          this.

17          I also want to say that I'm not here,  
18          obviously, to appeal this development order in this  
19          proceeding. That's not my intention. I'm not here  
20          to burn bridges. I'm here to build bridges. But I  
21          think our story needs to be told.

22          This whole thing was really kind of determined  
23          about whether we were ag and ag exempt. Nobody  
24          quite knew how to categorize us, because I think  
25          Secretary Pelham was correct: There are elements

1 of a little bit of everything. The Water  
2 Management District didn't know quite what to do,  
3 so they contacted FDACS for a site visit to make an  
4 assessment on what our agricultural status was.

5 So in 2009, FDACS came down, and I have in my  
6 briefcase a two-page summary of their findings.  
7 And their findings were that we were not unlike a  
8 cow/calf operation, with bovid, cervid, and equine  
9 species. We had minimal impact on the environment.  
10 And their final conclusion was that, yes, we were  
11 engaged in agricultural activity, and we would  
12 qualify for an ag exemption.

13 Just to give you an idea of what we have out  
14 there -- and they also said that we were 99.8  
15 percent open space, so there's not much out there.  
16 We have two barns. We have -- the rest of our  
17 property is hay fields and open pastures.

18 The animals we have, which has been a little  
19 contention, we have a variety of animals. We have  
20 over 50 head of registered Dexter cattle. We have  
21 Ankole cattle, Watusis. We have water buffalo. We  
22 have lots of bovid species. We have zebras. We  
23 have camels, ostrich, a variety of hoof stock. The  
24 majority of our animals in terms of numbers are  
25 small cervids, which are the deer family, axis

1 deer, fallow deer, Eld's deer, that are less than a  
2 hundred pounds.

3 And by the way, all the monkeys have been  
4 relocated. They're off the property, which suits  
5 me just fine.

6 We also produce our own hay. We grow our own  
7 hay. We bale it and sell it if we have extra.  
8 Bahia seed, same thing. We sell animals that breed  
9 on our property just like any cow/calf operation.

10 As far as DCA, you know, we were involved with  
11 DCA right from the beginning. We got mixed signals  
12 from them. We tried to work with them all the way  
13 through the proceedings, even up until the time  
14 that they appealed our development order.

15 We offered to settle with them after they  
16 appealed, which is I think required. And in good  
17 faith, we basically abandoned all the aspects that  
18 they considered commercial, no cabins, no kitchen  
19 facilities, no welcome barn, just a basic  
20 agritourism farm tour. And they outright rejected  
21 that, no mediation, no counteroffer. They just  
22 said, "We're going to a hearing." So that's our  
23 experience.

24 I find it a little bit ironic that the mission  
25 of DCA as stated today is to protect the Green

1 Swamp and water resources, which I fully respect.  
2 Yet our property is legally zoned -- we could sell  
3 this property and divide it up into 10-acre  
4 homesites, or we could develop a cluster  
5 development with up to 26 homes, and it would have  
6 all that development, and to me, that would be real  
7 development.

8 When you look at us, we are 99.8 percent open  
9 space, very little -- less than surrounding cattle  
10 farms and sod farms. We use less than 1 percent of  
11 the water of sod farms. So I just don't quite  
12 understand that.

13 Most of the neighbors have been very  
14 supportive. There's a vocal minority that has  
15 never visited the property. We've had several  
16 people stop by and want to work for us.

17 Lastly, I would like to say in this election  
18 cycle, I've heard virtually every candidate state  
19 that their number one priority is jobs and jobs  
20 creation. And we are prepared to hire 30 people in  
21 green, eco-friendly, agricultural based jobs in a  
22 rural area of the county that has one of the  
23 highest unemployment rates in the state, and I  
24 would just ask you, what could be so wrong with  
25 that?



1           So in closing, I would like to thank  
2           Commissioner Bronson and his department and staff  
3           for providing lots of encouragement and support. I  
4           know Commissioner Bronson has been a champion of  
5           agritourism, and I think it's really a paradigm of  
6           the future. It's a way for small farms to  
7           supplement their incomes and survive, you know, in  
8           these economic times.

9           So I sincerely appreciate the opportunity to  
10          speak and your consideration. Thank you.

11          GOVERNOR CRIST: Thank you. Any questions,  
12          General?

13          ATTORNEY GENERAL McCOLLUM: I do, Governor.

14          What makes -- you say you're not appealing  
15          this, but it's obviously a commercial decision. I  
16          mean, you were going to do agritourism. I guess  
17          that's the heart of this, is bringing or allowing  
18          people to come there. And Secretary Pelham  
19          discussed -- I don't know, 500 people within a  
20          period of time.

21          DR. WEHRMANN: That was --

22          ATTORNEY GENERAL McCOLLUM: Can you tell us  
23          what today -- if you were permitted to go forward,  
24          what would you envision in regard to the, quote,  
25          commercial aspects of this?

1 DR. WEHRMANN: That's an excellent question.  
2 I'm glad you brought that up, yes. With the  
3 development order, you know, that's over. We  
4 realize that. What we would like to go forward  
5 with here, we are by everybody's definition an ag  
6 exempt, licensed game farm. That's what we are.  
7 That's what we do. We've done this for five and a  
8 half years with no commercial activity. We've had  
9 nobody on the property for any kind of tours for  
10 revenue. What we would like to do is maintain this  
11 licensed game farm and be allowed to engage in a  
12 basic agritourism activity, no facilities, no  
13 anything, just a basic agritourism farm tour, which  
14 is allowed all over, and the way I read the  
15 agritourism statutes, would be proper no matter  
16 where you are if you're a agriculturally exempt  
17 property.

18 ATTORNEY GENERAL McCOLLUM: Well, if you  
19 weren't doing the agritourism and you were not  
20 permitted, obviously, once this goes through, what  
21 happens to this? You have the property there.  
22 What happens to it?

23 DR. WEHRMANN: Well, that's a good question.  
24 You know, land, even in the Green Swamp, is not  
25 cheap. We bought this five years ago. There's a

1           considerable mortgage on the property. We have  
2           animals to feed and bills to pay, and we struggle.  
3           Frankly, we struggle to meet -- we've been doing  
4           this for five years. I still have a full-time  
5           veterinary job. We struggle to make ends meet.  
6           And agritourism, the way I understand it, the  
7           Legislature designed agritourism to be able for  
8           farmers and ag people to be able to supplement  
9           their income.

10           ATTORNEY GENERAL McCOLLUM: So you would not  
11           be able financially, you don't believe, to sustain  
12           the property in the traditional way without the  
13           tourism feature?

14           DR. WEHRMANN: Yes, I think it would be very  
15           difficult. And I think most people I've talked to  
16           in the state on all levels, buying property like we  
17           did, it's almost impossible to sustain it as a  
18           traditional cattle farm.

19           ATTORNEY GENERAL McCOLLUM: But would the  
20           order today that we finalize allow you to do it if  
21           it was just pure agriculture?

22           DR. WEHRMANN: It would be very, very  
23           difficult.

24           ATTORNEY GENERAL McCOLLUM: I understand that,  
25           but it would be permissible?

1 DR. WEHRMANN: It would be permissible, yes.

2 ATTORNEY GENERAL McCOLLUM: The only issue  
3 before us today is the commercial feature to this.

4 DR. WEHRMANN: Correct, correct. The final  
5 order is four items. We've already complied with  
6 all four of those items, by the way, between the  
7 Water Management District and the --

8 ATTORNEY GENERAL McCOLLUM: Well, you said  
9 you're not really here to contest it today, that  
10 you wanted to discuss it. I'm not quite sure  
11 what -- you know, if you've complied with all this,  
12 what are you in violation of? Why are we even here  
13 today?

14 DR. WEHRMANN: Well, I guess I'm just here  
15 because I've never had an -- you know, I just  
16 wanted an opportunity to tell our story.  
17 Basically, I'm not here to appeal the final order.

18 ATTORNEY GENERAL McCOLLUM: You never -- I  
19 guess technically you never filed any exceptions  
20 with the administrative law judge, so the only  
21 thing that we could do for you would be to suggest  
22 you work with DCA more to come up with some  
23 resolution.

24 I don't like what I see here from listening to  
25 you. I don't know the amount of tourism traffic

1           that would be there, the impact of all that, and  
2           we're not the judge who have heard all this. But  
3           I'm sure you understand with filing no exceptions,  
4           we have no technical role here --

5           DR. WEHRMANN: Correct.

6           ATTORNEY GENERAL McCOLLUM: -- other than to  
7           ratify what has been done. And yet you've  
8           presented a very compelling case to me for  
9           something that doesn't sound that harmful to the  
10          environment as much as it sounded when I heard the  
11          other side's presentation.

12          So I'm a bit disappointed that we don't have  
13          the opportunity to do anything to encourage you to  
14          be able to sustain what you've obviously put a lot  
15          of money into. And I personally would rather see  
16          you succeed at this than have a bunch of homes out  
17          there, if that's what you're suggesting might be  
18          the option here.

19          DR. WEHRMANN: I appreciate the comments. You  
20          know, we're willing to work with this. You know,  
21          originally in the development order, it was 500  
22          people. You know, we've said, "Tell us what's  
23          acceptable."

24          There were a lot of studies done with this  
25          thing. We paid a lot of money for studies. With

1           26 homes, that would generate over 200 trips a day,  
2           you know, with just homesites. So we could go way  
3           below that and not be a nuisance to anybody out  
4           there.

5           The other thing, this property is a half a  
6           mile off the road. That's the other thing. People  
7           don't even know we're there. We've been there five  
8           and a half years, and people don't even know we're  
9           out there, we're so isolated. That's one of the  
10          reasons we picked the property. It's beautiful;  
11          it's isolated; it's rural. Our animals don't like  
12          nuisance noise and activity.

13           ATTORNEY GENERAL McCOLLUM: Thank you.

14           DR. WEHRMANN: Thank you. Thank you very  
15          much.

16           COMMISSIONER BRONSON: Governor, I guess I  
17          need to make a comment on this. This is the  
18          conundrum that we're in. We have bought so much  
19          state land. We've preserved so much for the people  
20          of this state based on what the people wanted to  
21          do, and yet now we're in a real bind of how do we  
22          take care of those millions of acres of state  
23          lands. And the federal government has the same  
24          issue.

25           We have people who are willing to do a private

1 situation where they're going to acquire the land,  
2 keep it in green space. The State is not having to  
3 pay a dime for it. They're going to hire the  
4 people to do the work on the farm.

5 And I would like to remind you, like some of  
6 the other issues we're going to discuss here in a  
7 few minutes, we seem to have a difference of  
8 opinion of the same type of program, whether it's  
9 state sponsored or whether it's a private sponsored  
10 issue.

11 We have on our own state forests and our own  
12 state parks bathrooms for the general public to use  
13 as they come out and view those state lands that  
14 have been bought on behalf of the public. In the  
15 forest areas, we even have camping space, and we  
16 have bathrooms, and we have all of those things  
17 that go with taking care of the public to come out  
18 and see these open green spaces.

19 They're paying for the land. They're paying  
20 for the upkeep. Yes, unless he can breed enough  
21 animals out there and sell them to whoever is  
22 willing to buy those animals, it's going to be  
23 tough for him to make a living out there on that  
24 piece of property growing hay and feeding all these  
25 animals.

1           Just the idea alone of bringing children out  
2           there to see animals that unless they went to a zoo  
3           somewhere in a big city, they would never see up  
4           close and personal, that's a big issue. Bringing  
5           veterinary students from the University of Florida  
6           to work on these animals as part of their  
7           curriculum, that's a big deal, because where are  
8           they going to work on these animals unless they're  
9           assigned to a zoo somewhere?

10           This thing meets just about every criteria I  
11           can think of for the same type of program we're  
12           doing at the state level by allowing the public on  
13           these properties, providing bathrooms for them,  
14           teaching facilities in some cases, all the things  
15           that we're actually doing on state land, and it's  
16           because of the Green Swamp.

17           But, now, I would dare to have somebody,  
18           including U.S. Fish and Wildlife, our own Fish and  
19           Wildlife, to tell me how many species of animals  
20           and bird species that live in the Green Swamp. I  
21           can tell you it's pretty big. So having a few  
22           extra animals out there next to that Green Swamp  
23           area to be used for education and other purposes I  
24           think is a good deal. It's a good deal for the  
25           public. He's going to hire people to work out



1           there.

2           You know, to me, this was a perfect way for  
3 private industry to come in and do something and  
4 keep all that open green space and pay for it  
5 themselves, and the upkeep, which we can't even do  
6 with all the land we have, because the upkeep is  
7 getting more expensive every day with all the  
8 non-native invasive species and everything that we  
9 have.

10           So, you know, I've got to give you credit for  
11 doing something that was a good proposal. We may  
12 have to agree with the judge's final agreement.  
13 But I do believe that DCA shouldn't take it upon  
14 themselves to decide what's good and what's not  
15 good in this issue. They need to be working with  
16 people who are willing to put people to work,  
17 because I can tell you what's going to happen. The  
18 Legislature is going to get ahold of this, and  
19 they're going to put some things in the law that's  
20 going to make some of these things happen.

21           And so, you know, I'm sorry that he has had to  
22 go through all this. I thought it was a great  
23 potential program. You know, I'm probably going to  
24 have to vote to go with the judge's order, because  
25 we have no other direction to go.

1           But I think DCA has overstepped their  
2           assessment of what's going on out here and whether  
3           or not -- and by the way, under the state law, I've  
4           got two buildings on my property for my hay farm,  
5           60-by-100 feet. They're aluminum constructed  
6           buildings. I didn't have to get anything but a  
7           general permit for agriculture to build those  
8           buildings. So you don't have to go through extra  
9           hoops to build certain buildings under the  
10          agricultural production. That's already in state  
11          law, and that's what was out there.

12           So, you know, I think this is a tough  
13          situation. I hate that it has happened to him.

14          GOVERNOR CRIST: Thank you. CFO.

15          CFO SINK: Yes. I just have a question. I  
16          don't know who I should address it to, maybe  
17          Secretary Pelham. Given the sentiment that you're  
18          hearing from up here, what would be a feasible,  
19          common-sense solution to this problem?

20          DR. WEHRMANN: Well --

21          CFO SINK: You don't see, but Secretary Pelham  
22          is going to stand up, and maybe he should tell us.

23          DR. WEHRMANN: Oh, okay.

24          MR. PELHAM: Thank you, Commissioner.

25          As I pointed out at the outset, the Department

1 of Community Affairs does not write the laws or the  
2 rules. I think it's extraordinarily unfair for  
3 legislatures and administrative bodies to give us  
4 the responsibility to enforce the laws that were  
5 written by the Legislature and the Commission and  
6 then point the finger of blame at us when we do  
7 what we're charged under the law to do.

8 I don't question that there may be merits to  
9 this proposal. In fact, the Department believes it  
10 would be an excellent project in the right  
11 location. And if this Commission thinks that this  
12 location is appropriate for this kind of activity,  
13 all you have to do is change your rules, plain and  
14 simple, amend your rules. And I would suggest  
15 respectfully that that's where the responsibility  
16 is.

17 You know, it's very discouraging to public  
18 servants who are given a mission and a  
19 responsibility under the law to enforce laws  
20 enacted by others to be constantly bashed for doing  
21 their job, very discouraging and demoralizing.

22 So there is a simple solution here if the  
23 Commission wants to endorse this kind of activity.  
24 Change your rules, and the Department of Community  
25 Affairs will have no trouble whatsoever in

1 following those rules.

2 CFO SINK: Well, Governor, it was made clear  
3 to me by my staff that we don't have much choice in  
4 this action today, but that it's Chapter 120 that  
5 governs our actions here. It should probably be  
6 amended by the Legislature to allow greater  
7 discretion in situations like this.

8 MR. PELHAM: I think the administrative law  
9 judge was like the Department. It was bound by the  
10 rules that were put before them. And that's why a  
11 simple change of your rules would be helpful.

12 In fact, what you might include in your order  
13 is a recommendation to Polk County that it consider  
14 evaluating the appropriateness of agritourism  
15 industries in the Green Swamp, and they could do it  
16 also. They could change their Comprehensive Plan  
17 and their rules and regulations to open the door  
18 for a consideration of this kind of activity.

19 But if we ignore the laws, we are accused of  
20 rewriting them. Our job is not to write the laws.  
21 It's to implement the laws written by those who  
22 have that responsibility, and we take our  
23 responsibility seriously. And I can assure you  
24 that if the laws written by others allowed this  
25 activity in this location, we would have no problem

1           whatsoever with it.

2                       Now, some of the neighbors may feel  
3           differently. There are surrounding landowners who  
4           have sold off their development rights to make sure  
5           that this area continues to be rural and  
6           agriculture who don't like this in this location,  
7           and you're probably going to hear from a couple of  
8           those.

9                       ATTORNEY GENERAL McCOLLUM: I would like to  
10          suggest in light of Secretary Pelham's comments  
11          that our order, if it's appropriate, or if not,  
12          just a consensus up here, that we ask staff, both  
13          the DCA as well as our own, to consider bringing  
14          forward, if we can do something by rule, whatever  
15          rule proposed change might allow DCA the  
16          flexibility they apparently don't have in this  
17          regard, and that, as he suggested, maybe we could  
18          encourage Polk County to look at the agribusiness  
19          issue.

20                      I don't know whether we have that authority,  
21          but if we do, as you suggest, Mr. Secretary, I  
22          certainly would like to take a look at it, and we  
23          could have, you know, arguments pro and con. Maybe  
24          we could even do this as early as the December  
25          meeting, which would be the last time we're

1 together as a group, rather than passing this on to  
2 some new body that -- there's going to be four new  
3 people up here who haven't heard this before. But  
4 I don't know if we can do it that quickly, but if  
5 we can, Governor, I would suggest that.

6 GOVERNOR CRIST: Okay. Is that a formal --

7 ATTORNEY GENERAL McCOLLUM: I would make it a  
8 motion.

9 COMMISSIONER BRONSON: I would like to second  
10 that.

11 CFO SINK: Yep.

12 GOVERNOR CRIST: Okay. All right. I think  
13 there's no objection.

14 ATTORNEY GENERAL McCOLLUM: Thank you.

15 GOVERNOR CRIST: Did you say there's a couple  
16 of other individuals who would like to speak to the  
17 issue at hand?

18 MR. BARRY: Yes. We have two local residents  
19 who have asked to speak, first Kenneth Sherrouse.

20 GOVERNOR CRIST: Good morning.

21 MR. KENNETH SHERROUSE: Good morning,  
22 Honorable members of the Florida Cabinet. As he  
23 said, my name is Kenneth Sherrouse. I live  
24 approximately three miles north of the Safari Wild  
25 development. And I obtained my degree, my ag

1 degree from the University of Florida. I've been  
2 involved in agriculture my entire life. I own and  
3 operate a cattle ranch that has been in my family  
4 for about three generations, and I'm very involved  
5 in local agricultural support activities and  
6 associations.

7 I speak with you today not only for myself,  
8 but for many other property owners and residents  
9 along Moore Road and near the Safari Wild  
10 development that are also involved in agricultural  
11 interests as well.

12 We have been actively involved in this process  
13 concerning the Safari Wild development since it  
14 first became known to us in 2008. It was clear to  
15 us from the beginning that this type of development  
16 was a definitely commercial tourist operation and  
17 not an agricultural operation, as the owners  
18 attempted to claim late in the process. In  
19 addition, it was also clear that the process  
20 followed by Polk County government was flawed.

21 We attended the three-day hearing in Bartow in  
22 April '010, and I personally spoke at the public  
23 comment session in May. It was very gratifying for  
24 us when the administrative law judge agreed with  
25 the reasons for many of our objections.

1           The benefits that are allocated to bona fide  
2           agricultural operations are much appreciated and  
3           needed. However, those benefits were in danger of  
4           being misused by business interests like Safari  
5           Wild and others who are far removed from the real  
6           business of agriculture. When attempts are made to  
7           blur the line between agriculture and tourism,  
8           agriculture will suffer.

9           We would like to publicly recognize and  
10          applaud the efforts of DCA throughout this process.  
11          Their interpretation and application of the rules  
12          and regulations established for the procedure --  
13          protection of the Green Swamp are invaluable. We  
14          urge you to follow through with the findings and  
15          conditions which are outlined in the Draft Final  
16          Order.

17                 Thank you very much.

18                 GOVERNOR CRIST: Thank you, sir.

19                 MR. BARRY: We have one other speaker today,  
20          Kendall Sherrouse, who is speaking on behalf of  
21          Lois Murphy, who is unable to attend today.

22                 MR. KARCH: Thank you. Good morning.

23                 GOVERNOR CRIST: Good morning, sir.

24                 MR. KARCH: As he said, I'm speaking in place  
25          of my aunt, Lois Sherrouse Murphy, who could not be



1 here. These are her words that she has written:

2 "Greetings, Honorable Cabinet members. I had  
3 every intention of appearing at this Cabinet  
4 meeting to share my thoughts on the Safari Wild  
5 project. However, once the matter was postponed to  
6 November 9th, it became impossible for me to attend  
7 due to longstanding travel plans. Therefore, it is  
8 my pleasure to have my nephew Kendall render my  
9 statement in lieu of a much preferred personal  
10 appearance.

11 "I became involved in the opposition to the  
12 Safari Wild project in May 2008 once the  
13 development became public knowledge. I've spent  
14 the last two and a half years of my life  
15 researching and educating myself on all aspects of  
16 the development and the process that was followed  
17 or not followed, as the case may be.

18 "I have worked for over 20 years in the field  
19 of eminent domain real appraisal litigation. In  
20 that role, I have routinely reviewed and studied  
21 many land development codes and comprehensive  
22 plans, not only in Polk County, but throughout the  
23 State. I do not claim to be an expert in land  
24 planning issues, but I do have something more than  
25 a layman's understanding.

1           "When I heard about the Safari Wild  
2           development, I immediately recognized that the  
3           location of the Safari Wild development within the  
4           Green Swamp Area of Critical State Concern was  
5           problematic. I attended all three days of the  
6           hearing in Bartow in April 2010 and testified for  
7           the Department of Community Affairs from the  
8           witness stand. In May 2010, I also spoke at the  
9           public comment component of that hearing.

10           "My family arrived in the Green Swamp area in  
11           the 1850s. We have continued to live and engage in  
12           the practice of agriculture within the Green Swamp,  
13           primarily that of cattle ranching, with some  
14           limited farming, just as my ancestors did. The  
15           Green Swamp and its continued protection is very  
16           near and dear to my heart.

17           "My concerns with the Safari Wild development  
18           are many, but I'll limit my statement to just one:  
19           The potential precedent-setting nature of allowing  
20           a commercial tourist use within the Green Swamp  
21           Area of Critical State Concern.

22           "The majority of land owned by my family has  
23           been under a land protection agreement or  
24           conservation easement since 1999. Land protection  
25           agreements severely restrict development, but allow

1 the continued practice of agriculture. Many land  
2 owners along Moore Road and throughout the Green  
3 Swamp also have land protection agreements.

4 "If Safari Wild is to be accepted as an  
5 agricultural development allowed within the Green  
6 Swamp Area of Critical State Concern, then those  
7 land protection agreements and the millions of  
8 dollars invested by the State are in jeopardy. I  
9 cannot the imagine the landowners or the DEP ever  
10 envisioned that something like the Safari Wild  
11 development would be allowed as an agriculture use  
12 -- agricultural use." Excuse me.

13 "There will be challenges made in the future  
14 to these agreements if this new brand of  
15 agriculture known as Safari Wild is allowed to take  
16 hold to the detriment of the Green Swamp. There is  
17 a place for a facility like Safari Wild, but that  
18 place is not as an agricultural use in the  
19 protected area of the Green Swamp.

20 "I am honored by the opportunity to share my  
21 thoughts today and especially appreciative of the  
22 role that DCA has played in advocating for the  
23 Green Swamp regulations and protection. I  
24 respectfully request that you finalize the draft  
25 order as written.

1           "Thank you for your consideration. Lois  
2           Sherrouse Murphy."

3           Thank you.

4           GOVERNOR CRIST: Thank you, sir.

5           MR. BARRY: So to wrap up, I would just remind  
6           you that the only issue before you today is the  
7           development order as approved last year. That's  
8           it.

9           The property owner has since scaled back his  
10          plans considerably and has essentially conceded the  
11          point that the development order violates a number  
12          of regulations and here today indicated his  
13          approval of the Draft Final Order. So it appears  
14          that the way this case is postured currently,  
15          there's consent between the parties in favor of  
16          adopting this Draft Final Order, and accordingly,  
17          staff recommends you approve the staff  
18          recommendation directing the Secretary to enter the  
19          draft final order.

20          ATTORNEY GENERAL McCOLLUM: So moved.

21          GOVERNOR CRIST: Is there a second?

22          COMMISSIONER BRONSON: Second, but I also have  
23          a comment.

24          GOVERNOR CRIST: You want to comment before or  
25          after? It's up to you.

1           COMMISSIONER BRONSON: Well, first of all, let  
2 me say that -- and I understand the feelings of the  
3 two gentlemen that just came up as far as those in  
4 the cattle production area of Florida. A lot of  
5 families have been here a long, long time,  
6 including mine, doing the same thing.

7           We also breed and raise racehorses. They  
8 don't pull a wagon. They don't do anything on the  
9 farm, but they race on racetracks, and it is an  
10 agricultural entity. We breed other animals for  
11 various production areas of agriculture, so we do  
12 have a difference of agricultural production  
13 standards that are out there.

14           The Green Swamp area is a hot button issue for  
15 a lot of people, especially people who have lived  
16 in that area for a long time.

17           I think the question brought up by the  
18 Attorney General was, can we look at the issues of  
19 the Green Swamp, how do we protect them, how do we  
20 get something that's doable and agreeable as far as  
21 this idea of raising these animals, including some  
22 farm animals, I might add. It's not all non-native  
23 animals. There are a number of farm type animals  
24 there too. And can we do this in a way that  
25 benefits the general public, benefits education,

1 benefits other people, and still do what we can to  
2 protect the Area of Critical State Concern, which  
3 is the Green Swamp.

4 And I still believe we need to take a look at  
5 that as we go forward on this project, and just to  
6 say and make sure this board understands that there  
7 are many, many, many forms of agricultural  
8 production in this state, as evidenced by the  
9 University of Florida in the teaching of all those  
10 different things. So some may disagree with the  
11 use, and others may not, but that's the only  
12 difference I see here.

13 GOVERNOR CRIST: Well, it has been moved and  
14 seconded. I assumed there are no objections, so it  
15 passes unanimously.

16 MR. BARRY: Thank you.  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 GOVERNOR CRIST: Board of Trustees, Mimi Drew.

2 MS. DREW: Good morning, Governor and members  
3 of the Cabinet.

4 GOVERNOR CRIST: Good morning.

5 MS. DREW: The first item is submittal of the  
6 minutes from the September 14, 2010, and September  
7 28, 2010 Cabinet meetings.

8 COMMISSIONER BRONSON: Motion for approval of  
9 Item 1.

10 ATTORNEY GENERAL McCOLLUM: Is there a second?

11 CFO SINK: Second.

12 ATTORNEY GENERAL McCOLLUM: It's approved  
13 without objection.

14 MS. DREW: Thank you. Item 2 is a request for  
15 consideration to determine that a two-acre vacant  
16 improved parcel of state-owned land is surplus and  
17 the sales contract to sell the property located in  
18 Brevard County for \$245,001 to Astro Too, Inc., a  
19 Florida corporation, to be deposited in the  
20 Internal Improvement Trust Fund.

21 COMMISSIONER BRONSON: Motion for approval of  
22 Item 2.

23 ATTORNEY GENERAL McCOLLUM: Is there a second?

24 CFO SINK: Second.

25 ATTORNEY GENERAL McCOLLUM: It's approved

1 without objection.

2 MS. DREW: Thank you. Item 3 is the  
3 Department of Transportation public easement. And  
4 Anita Bain with the South Florida Water Management  
5 District is here today to present the item.

6 CFO SINK: Move it. Item 3?

7 ATTORNEY GENERAL McCOLLUM: The motion is on  
8 Item 3 to approve it; is that correct?

9 COMMISSIONER BRONSON: And I can second that.

10 ATTORNEY GENERAL McCOLLUM: You second that?  
11 I think there was some discussion on this item, was  
12 there not, though?

13 MS. DREW: Correct. There are several people  
14 here to speak on the item. Is that acceptable?

15 ATTORNEY GENERAL McCOLLUM: Yes, please, if we  
16 can. I think this is one of some debate.

17 MS. BAIN: Good morning, members of the  
18 Cabinet. My name is Anita Bain for the South  
19 Florida Water Management District. I'm here to  
20 speak on Item 3, Little Lake Worth Bridge.

21 This is a request for a public easement for  
22 the replacement of an existing bridge. This is  
23 located in Palm Beach County at the connection  
24 between northern Lake Worth Lagoon and a water body  
25 known as Little Lake Worth.



1           Being it's the replacement of an existing  
2 bridge, the District has already issued a notice  
3 general permit, which is minor type of permit for  
4 this project. But because it did not have a public  
5 easement on the existing bridge, one was required  
6 for the replacement. The bridge will essentially  
7 be the same, except that there will be current  
8 standards met, and the DOT is proposing to raise  
9 the minimum clearance of the bridge from 8.7 feet  
10 currently to a minimum of 12 feet over mean high  
11 water.

12           The map that you see shows the location of the  
13 bridge generally in the area with the yellow  
14 rectangle, and there's a closer up version of the  
15 photograph at the top of the page.

16           Essentially, this is located in Class III  
17 waters. It's not an Outstanding Florida Water  
18 Body. Palm Beach County is a designated manatee  
19 county with an approved plan. Little Lake Worth  
20 itself is not a manatee aggregation area, but there  
21 is a manatee speed zone at that location. There  
22 are no impacts to submerged or aquatic resources  
23 proposed within the vicinity of the bridge.

24           Just briefly, this is a photograph of the  
25 existing bridge. The bridge was built in 1965, so

1           it's got a little less than 50 years of active  
2           life. Back in 2006, DOT determined that the bridge  
3           was structurally deficient and functionally  
4           obsolete. They have spent several hundred thousand  
5           dollars over the last 12 years or so fixing the  
6           bridge, and now they're at the point where it needs  
7           to be replaced.

8           DOT staff is here as well to answer questions  
9           about the actual bridge design and to fill you in a  
10          little bit about kind of the decision-making for  
11          the actual bridge construction.

12          This next photograph just gives you a closer  
13          idea about the conditions on the site. If you look  
14          to the south of the bridge at the bottom of the  
15          picture, you'll see the very shallow depths all in  
16          the middle of the water body there, minus 2, minus  
17          1s, and there's a deeper water channel, minus 6 or  
18          so, along the west side of that southern water  
19          body. The only way to access this bridge and go  
20          under it into little Lake Worth is at the location  
21          where it's minus 3, so it's a very constricted  
22          area. And then folks are able to get under this  
23          bridge, which is currently only 8.7 feet above mean  
24          high water.

25          You'll see on the north side there are three

1           boats moored there. These boats range in size from  
2           about 20 feet to 28 feet. That's about the average  
3           size of boats that are located in Little Lake Worth  
4           today.

5           The Little Lake Worth water body has a seawall  
6           all the way around it, so there's no natural  
7           shorelines in that water body.

8           At this point, the access is an issue just for  
9           public safety reasons. One of the things that you  
10          may hear today is that folks in the northern part  
11          of the water body, some of the folks are concerned  
12          about the potential for liveaboard vessels to move  
13          into Little Lake Worth and moor there. And you  
14          can't see it on this photograph, but there are  
15          maybe 30 or so liveaboard vessels south of the  
16          bridge. Those vessels are too large even with the  
17          new bridge to access into that water body. That's  
18          one thing.

19          But also, Palm Beach County has passed an  
20          ordinance prohibiting liveaboards in Little Lake  
21          Worth. They have enforcement ability there. And  
22          that authorization has been overseen and approved  
23          by FWC, so they agree with that ordinance.

24          And also, FWC has signed off on the manatee  
25          issues with this project and has indicated that

1           there will not be any impacts to manatees.

2                   This is a little hard to see, but there is  
3           only one small area of seagrasses, the green dot in  
4           the southeast corner of this figure in yellow.  
5           It's only about four square feet. There are a lot  
6           of seagrasses to the south of this area. However,  
7           we are looking just at the proposal for the  
8           replacement of the existing bridge.

9                   There's no dredging proposed for navigation  
10          here. The only severance at all will be 239 cubic  
11          yards for the rip-rap placement along the edges of  
12          the bridge. So there's no dredging proposed by  
13          DOT. There's none anticipated in this area. So  
14          any deeper depths or anything like that are  
15          certainly not a consideration at this point for  
16          this proposal.

17                  One other issue that you'll hear is about the  
18          potential for larger boats in general to access  
19          either the northern part of the water body or for  
20          larger boats to moor in Little Lake Worth and then  
21          move south into the larger area. There are  
22          literally thousands of boats south of this bridge  
23          that congregate around Munyon Island and John D.  
24          MacArthur State Park. They go into the  
25          Intracoastal Waterway, and they do not come up to

1 Little Lake Worth because (1) the access, and (2)  
2 it just -- there's nowhere for them to go. It  
3 doesn't go out to the inlet, so it's just an  
4 enclosed water body.

5 One question came up last week that we did  
6 find an answer to, which is, there was a question  
7 about the fact that DCA had determined that this  
8 project is consistent with the Comp Plan. There is  
9 in fact a process for DCA to comment on  
10 transportation projects. It's in the Florida  
11 Statutes. DOT comes up with work plans every so  
12 many years, and DCA takes an opportunity at that  
13 point -- if they believe a project is inconsistent,  
14 that's their opportunity to send a letter. That  
15 did not happen in this case, so essentially, they  
16 did determine that it's consistent with the Comp  
17 Plan.

18 So just to finish up, DOT is requesting  
19 approval of a 50-year public easement, severance of  
20 239 cubic yards of materials for rip-rap, 195 cubic  
21 yards of rip-rap, and a waiver of the survey  
22 requirements due to this being a public project.  
23 And the item meets the requirements of 18-21.

24 And we have someone here from DOT to talk a  
25 little bit about the bridge specifications.

1 MS. DREW: Would you like to hear from DOT, or  
2 would you like to go right to the public, the folks  
3 who are here to talk about -- because really, the  
4 issue focuses in on 8 feet versus 12 feet height.  
5 We do have someone here from DOT if you would like  
6 to hear that discussion.

7 GOVERNOR CRIST: It's up to you, Secretary,  
8 whatever you recommend.

9 MS. DREW: I think it would be useful for you  
10 to hear it.

11 MR. PRASAD: Good morning, Governor and  
12 Cabinet members. My name is Ananth Prasad. I'm  
13 Assistant Secretary for Engineering and Operations  
14 with Florida DOT.

15 As Anita mentioned, Little Lake Worth Bridge  
16 was constructed in 1965. We had done repairs in  
17 '90, '94, and a major rehab in 1996. The current  
18 vertical clearance is about 8 1/2 feet, and the  
19 bridge has been rated structurally deficient. The  
20 reason for it being structurally deficient is that  
21 the deck, the bridge surface that we ride on, and  
22 the superstructure is in poor condition, partly  
23 because of the extreme amount of chloride content  
24 in the water body. We deem this water body as  
25 being extremely aggressive. The amount of chlorine

1 in this water exceeds three times the limit that we  
2 have in our guidance.

3 As you can probably see briefly in the  
4 picture, the underside of the bridge has several  
5 spalled areas. There's parts of concrete falling  
6 off, with exposed and corroded rebar. In  
7 engineering terms, we refer to it as 40 percent  
8 section loss. So the bridge is structurally --  
9 it's safe, but it needs a significant amount of  
10 repair. The concrete caps also exhibit several  
11 vertical and diagonal cracks with rust straining.

12 In bridges, when we build bridges in this  
13 extremely aggressive environment, the Department's  
14 policy, based on engineering data, is to build  
15 bridges at a 12-foot vertical clearance. Part of  
16 that is to avoid any splash of water with boat  
17 traffic and to get the bottom of the bridge away  
18 from any moisture that's laden with salt. Bridges  
19 with a clearance of 12 foot historically have  
20 lasted 75 to 80 years versus bridges with 8 1/2  
21 foot clearance, which we have built with certain  
22 preventive measures, will not last as long as the  
23 75 to 80 years.

24 As Anita mentioned before, all the  
25 environmental impacts have been addressed as part

1 of this project, and it's basically an engineering  
2 decision.

3 At this point, I would also like to show you a  
4 map of the public involvement the Florida DOT did  
5 as part of this project. As you know, every  
6 project, we go through an extensive amount of  
7 public outreach.

8 As part of the public involvement, DOT  
9 surveyed all the property owners, as you can see in  
10 the highlighted area, along Little Lake Worth and  
11 along Little Lake Worth Lagoon. If you look at  
12 some of the surveys, the result basically shows  
13 that folks who live north of the bridge  
14 overwhelming support raising the bridge to a  
15 12-foot clearance. It was 110 in support and 54  
16 opposed. Folks who live south of the bridge  
17 basically oppose the bridge being raised to a  
18 12-foot clearance. There were 26 in support and 62  
19 opposed.

20 The South Florida Water Management District as  
21 part of their permit issuance went through a public  
22 comment and received a significant amount of public  
23 input, and so did the U.S. Coast Guard. Based on  
24 that, we had 465 responses in support of the bridge  
25 being raised to 12 foot versus 350 opposed to



1 raising it and leaving it at 8 1/2 foot.

2 Based on that public input and lack of  
3 clear-cut direction, the Department decided to go  
4 ahead with the bridge at a 12-foot clearance, with  
5 the basic premise that we want to build  
6 infrastructure that lasts the longest and pays off  
7 the investment.

8 You will hear from folks here who are for and  
9 against, and in this scenario, that maybe we could  
10 build the bridge at 12 foot, but artificially  
11 restrict the clearance of the bridge by building a  
12 nonstructural horizontal member, which can be done.  
13 There are things that we can do in the bridge that  
14 will extend the service life of the bridge, nowhere  
15 near to the 75 to 80 years.

16 There are a couple of issues that I would like  
17 Cabinet to consider as you deliberate that option,  
18 that the Department currently has a Coast Guard  
19 permit for building the bridge at a 12-foot  
20 vertical clearance. Any change now, we would have  
21 go back and reapply for a permit, which will again  
22 require public input, and we believe the same  
23 debate is going to be debated again when we go for  
24 a revised permit for an 8 1/2 foot clearance.

25 We have talked to the U.S. Coast Guard about

1 the issue, about lowering the vertical clearance to  
2 8 1/2 foot by an artificial member, and we have  
3 been informed that that decision will have to be  
4 made in Washington and not in Miami because of the  
5 fact that we would be requesting a reduction of the  
6 vertical clearance of a permitted bridge by an  
7 artificial member.

8 And that concludes my comments.

9 MS. DREW: There are a number of people who --  
10 did you have a question, CFO?

11 CFO SINK: No.

12 MS. DREW: There are a number of people who  
13 are here to speak for the 12-foot option as well as  
14 the 8-foot option. I would like to start with  
15 Chris Karch, Karch & Associates.

16 MR. KARCH: Good morning, Governor and Cabinet  
17 members. Thank you for having us. I'm here on  
18 behalf of a large constituency in and around the  
19 Little Lake Worth area, and I want to thank you for  
20 the opportunity that you've afforded us to speak  
21 our piece here.

22 We've put together a little presentation. We  
23 call it "Facts vs. Fiction," because we feel that  
24 some of these items have been misrepresented by the  
25 opposition. We are in favor of the 12-foot design

1 unencumbered. And I want to -- well, my  
2 understanding is that what we're here today to do  
3 is to approve a sovereign submerged lands permit  
4 for the construction of the Little Lake Worth  
5 Bridge.

6 The design of the bridge has already been  
7 approved. It has already been designed, and so I  
8 don't believe -- and it has already been permitted  
9 with the exception of this particular permit.

10 The opposition has brought up six major points  
11 here. I'll present on 1, 3, and 5, and just make  
12 comments on the others.

13 Stop additional boat traffic, we'll get to  
14 that. Stop larger vessels. Basically, this bridge  
15 height does not limit the vessels. What limits the  
16 vessels is the depth of water. We have sometimes  
17 less than 3 feet of water going into this bridge.  
18 The existing vessels that are in the lake cannot  
19 safely navigate this channel. I can show you  
20 pictures of why that is.

21 And also, you'll hear some testimony today  
22 that this bridge construction will provide  
23 shoreline degradation, but there is no shoreline.  
24 It's a solid seawall the entire way.

25 You'll hear adverse enviromental impacts on

1 Munyon Island grass beds. Liveaboards in Little  
2 Lake Worth, as was mentioned, there's an ordinance  
3 against it, and they cannot fit under the bridge  
4 anyway.

5 You'll hear that the DOT survey was flawed,  
6 with lots of opposition. I'll give you some facts  
7 on that. And you've also heard in the staff  
8 meeting last Wednesday that Nicholas has wanted to  
9 put a 100-foot boat back there, which is unfounded  
10 and untrue.

11 Little Lake Worth is a dead end, basically.  
12 It's a cul-de-sac. 99 percent of the boat traffic  
13 in Little Lake Worth is the current residents that  
14 live there. We get maybe three visitors a week, a  
15 couple of kids that maybe want to jet ski or  
16 perhaps run around on wake boards and a couple of  
17 fisherman. Little Lake Worth is state waters. I  
18 think it's incumbent for us to provide access to  
19 state waters and to provide prudent access and safe  
20 access.

21 One of the things that hasn't been brought up  
22 and I want to bring up is that Palm Beach County in  
23 November of 2004 passed a \$50 million bond  
24 referendum to provide access to waterfront  
25 properties. Bringing this bridge down to 8 foot

1 would be inconsistent with that, and it would be  
2 right in the face of that program. And we've  
3 already spent a large number of dollars on that  
4 program since then.

5 The adverse impact I've heard about in the  
6 staff meeting Wednesday on the north side of Munyon  
7 Island, in the past six to eight months, the entire  
8 north end of Munyon Island has been dredged and  
9 filled. There are no grass beds that exist there.

10 Furthermore, there is a channel that currently  
11 exists coming from the Intracoastal Waterway into  
12 the northern end of Lake Worth. That channel is  
13 sufficient to carry 200-plus-foot vessels. Tiger  
14 Woods' boat is at Old Port Cove. It's huge. It's  
15 beautiful. I'll show you some pictures. The  
16 Munyon Island area is roughly 2,500 to 3,000 yards  
17 from this channel. We're talking half a mile.

18 And the DEP and the South Florida have already  
19 addressed these environmental concerns, which were  
20 dismissed with prejudice. I think it's important  
21 and incumbent for this Board to understand that  
22 these battles, these legal battles that have been  
23 brought up by basically two gentlemen who have the  
24 wherewithal to hire an attorney, have already been  
25 ruled on. They've already been dismissed with

1 prejudice. And I believe that this forum is being  
2 abused. We have zero shoreline, and there are no  
3 wading birds in the vicinity.

4 The first picture I want to show you is the  
5 distance from the channel to Munyon Island. You  
6 know, you're talking about a very large distance.

7 The next picture is a sampling on the south  
8 dock at Old Port Cove of the size of the vessels  
9 that are traversing from the Intracoastal Waterway  
10 into the north end of Lake Worth, large vessels.  
11 There's a close-up of the next vessel. This is a  
12 140-, 150-foot vessel. Okay. There's another  
13 vessel that is on the south dock of Old Port Cove,  
14 130 feet, 140 feet perhaps.

15 There's a sampling -- the next one is a  
16 sampling of the vessels, of the boats, the motor  
17 yachts, the sport fishes, the working boats that  
18 are in the south dock of Old Port Cove. These  
19 boats are currently traveling in and out of this  
20 channel unencumbered. This is deep water access.  
21 They're not having any kinds of issues to the grass  
22 beds on Munyon Island. Here's a picture of a  
23 little sport fish going through, and you can see  
24 that there's two channel markers there.

25 And the next picture is from where that boat

1 was looking back towards the Intracoastal, and you  
2 can see there's -- I don't know if you can really  
3 see it, but there's three sets of channel markers  
4 on either side going to the Intracoastal Waterway.  
5 This is deep water here. Munyon Island again is a  
6 couple thousand yards to the south here.

7 Looking back -- sitting in the Intracoastal  
8 Waterway looking back towards the north, here's  
9 another motor sailer going up into the lake.

10 You'll hear from the opposition that the DOT  
11 survey was flawed. I think one of the important  
12 things to understand here is that during the  
13 beginning of this process when most of the  
14 opposition came in, it was due to the fact that the  
15 MOT, the maintenance of traffic plans were not  
16 solidly in place. Subsequent to that -- and as a  
17 result, Lost Tree had a problem with the fact that  
18 they were worried about accessing their house and  
19 going around the other direction on the island, and  
20 so on and so forth.

21 Subsequent to that, the DOT came up with a  
22 design and a plan working with their contractor  
23 that would enable and allow two lanes of traffic  
24 opposing, one in each direction, during the entire  
25 duration of the construction project.

1           Currently, my office is right next to the  
2 Little Blue Heron Bridge that's currently under  
3 construction, and they're going the same thing  
4 there. There is zero delay in getting through  
5 there.

6           So as a result, that opposition basically  
7 evaporated once that new MOT plan came out, and we  
8 believe that there's not very much opposition at  
9 this point.

10           I want to bring up a few proponent points  
11 here. One, of course, is that the opposition's  
12 points were already dismissed with prejudice.  
13 We've had a judicial process that has already been  
14 ruled. The points that they're bringing up really  
15 lack any evidence. We don't have any evidence that  
16 says there's going to be additional boat traffic,  
17 and we don't have any evidence that says there's  
18 going to be larger boats. We do have some evidence  
19 that I'll show you here that there's very unsafe  
20 conditions right now.

21           The other thing is the access to state waters.  
22 We don't believe that two private individuals or  
23 three private individuals have the authority to ask  
24 you to restrict access to state waters. I grew up  
25 there. I've been on that lake since I was 10 years



1 old, and I can tell you that we've never had  
2 restrictions of any boats or vessels in there  
3 before.

4 The DOT design that's coming in front of you  
5 today is 12 years old. They've been building these  
6 12-foot bridges for 12 years. I'll show you in a  
7 minute.

8 Safety issues I want to bring to your  
9 attention, taxpayer dollars that have already been  
10 wasted, and petitions. We have 267 petitions that  
11 I'm going to give to you now that have been  
12 collected in the past two weeks. In addition,  
13 there's another gentleman that's going to give to  
14 you 72 letters. That's a total of 339 signatures  
15 that we've received in support of this just in the  
16 past two weeks since we learned that it was going  
17 to be coming in front of you for your decision.

18 Let's see. Let's please go to proponents'  
19 point number 2, access to state waters. I talked  
20 briefly about this. We believe it's inconsistent  
21 with Florida law. We have a 12-foot design. We  
22 would like for that to be built. We paid our tax  
23 dollars. And there have been 58 other bridges  
24 since 2000 that have been built 12-foot-plus. Only  
25 two bridges have been built less than that, one of

1           which is the Little Blue Heron Bridge, because it  
2           dovetails into the larger Blue Heron Bridge and it  
3           has to have some elevation mesh there. We don't  
4           know where the other one was, but God forbid, we  
5           don't want to be number 3 out of 61.

6           Like I said, Little Lake Worth is primarily  
7           used by the residents. It's an insignificant  
8           fishing spot, and it's not a good ski lake because  
9           it's solid seawalls, and when you go around it  
10          twice, it just becomes a bathtub.

11          The FDOT design, as I said, started in 1998  
12          for 12 years. And I apologize for the scratch-out  
13          in your proposal. I think you all have a copy of  
14          what I have here. I learned on the way up here in  
15          the car that it was not 20 years, that it was 12  
16          years. I believe that anything less than that  
17          would disallow us residents equal enjoyment and  
18          benefit to the opportunities that come with that.  
19          And it's substantiated. The existing bridge life  
20          since '65 to 2010 is 45 years. I've been told by  
21          DOT that the new 12-foot design is a 75- to 80-year  
22          life span. That's a significant difference.

23          The safety issues are huge here, and it's my  
24          pet peeve. The existing bridge height is unsafe.  
25          I'm going to show you some pictures that's going to

1 probably bring this clear into your mind.

2 I swordfish, and we come in in the middle of  
3 the night. And when you're coming in at 3:00 in  
4 the morning with a moonless night with the tide  
5 coming in and a wind behind you, the way you have  
6 navigate that channel, it's a huge, huge unsafe  
7 condition.

8 Emergency vessels, I'm going to show you some  
9 pictures. When I was a kid, I was hit by a ski  
10 rope and a boat, and I had 375 stitches and had to  
11 have emergency vessels pick me up out of the water.  
12 We can't get one emergency vessel into Little Lake  
13 Worth for my kids or any other kids that run little  
14 boats in Little Lake Worth, not one, and I'll show  
15 you why.

16 The waterfront police -- I spoke to the  
17 Sheriff's Department Sunday afternoon. They cannot  
18 get their vessels in there. They get calls for  
19 kids misbehaving, at night primarily. And the kids  
20 go in there because they know it's a safe haven.  
21 They cannot get in there to chase the kids out. So  
22 there's another issue.

23 Hurricane vessel evacuation, it's not on your  
24 sheet, but I'll tell you this. During the last  
25 flurry of three hurricanes, it took me two days to

1 get my boat out of there to get it on a trailer and  
2 to get safe. And that's not acceptable, especially  
3 when you have a 12-foot design that will afford us  
4 to opportunity to do it.

5 We have a society that advances, and so do  
6 bridge designs. We cannot go back to something  
7 that's technologically not advanced.

8 This picture is right here is a picture  
9 approaching Little Lake Worth from Great Lake  
10 Worth. The whole entire area in front of you is a  
11 sand bar. You have to approach this bridge from  
12 the rocks on the extreme right. And like I said,  
13 with that wind and tide working against you, you  
14 have to make an actual 90 degree turn in front of  
15 this bridge and get under that bridge. And what  
16 you have to do is, you have to stand on the gunnel  
17 of your boat, and you have to grab the bridge, and  
18 you have to hand over hand get under that bridge  
19 until your T-top is right here. You're up and down  
20 trying to work the throttles and get under that  
21 bridge and to keep your boat from being crashed on  
22 a concrete structure. It's a difficult situation.  
23 And I know you guys are probably all boaters. I  
24 came in alone the other night from fishing, and it  
25 was not pretty sight.

1           The next boat is the smallest Coast Guard  
2 vessel. They are the primary emergency vessels for  
3 Little Lake Worth. This is their smallest boat.  
4 That boat will not fit under Little Lake Worth  
5 Bridge. Okay? This boat is their next size up. A  
6 12-foot bridge would allow this boat to come under.  
7 Okay? So we would have ample opportunities to get  
8 safety vessels.

9           The next picture is the FWC boat. That bridge  
10 has a T-top and a radar. That bridge is not going  
11 to make it under Little Lake Worth Bridge.

12           The next picture is at Phil Foster Park, and  
13 it's where the Sheriff's Department keeps their  
14 fleet of boats. The next picture is a close-up of  
15 the sheriff's boat. That boat has a T-Top and a  
16 radar bar on top. That boat will not fit under  
17 Little Lake Worth Bridge. The next boat is a  
18 picture of the sheriff's boat similar to the Coast  
19 Guard's with an enclosed bridge there. That boat  
20 cannot fit under the Little Lake Worth Bridge.

21           This fellow I spoke to on the waterway Sunday  
22 afternoon, and he's the fellow that told me that,  
23 you know, they can't even address any police calls  
24 from a policing perspective or from an enforcement  
25 perspective with the Little Lake Worth Bridge.

1           The next bridge is a tow boat. If you break  
2 down in Little Lake Worth Bridge, God forbid, you  
3 can't get towed out of there unless you can find  
4 somebody with a dinghy to go in there and get you  
5 out. Here's the tow boat. They can't get under  
6 the bridge.

7           So those safety issues are huge to us. We  
8 need to get safety vessels into Little Lake Worth.  
9 We finally have that opportunity at our disposal  
10 here. We've already got the design. We've already  
11 got the permits. We've already paid for it with  
12 our tax dollars. Let's go ahead with it.

13           Proponents' number 5. Again, we've wasted  
14 money on these judicial proceedings. We've already  
15 had contractor mobilization, I've been told.  
16 Utilities have been put in. They've been delayed.  
17 We've got residents that are coming here from  
18 Tallahassee -- or to Tallahassee from West Palm  
19 Beach at their expense. We have probably 100 that  
20 would like to be here today that cannot due to  
21 whatever reasons. We believe that if anything  
22 other than just an approval of staff's  
23 recommendation today is done, we believe that there  
24 thereby further expenses in the legal aspects.

25           Schedule delays. This bridge was to be

1 originally submitted -- or let me rephrase that.  
2 This bridge was to be originally delivered to the  
3 people in two weeks, Thanksgiving. We haven't even  
4 started construction. Okay? And we have to pay  
5 the contractor to remobilize again.

6 We're wrapping up. Point number 6 is about  
7 the petitions. Conclusion, let's conclude here.  
8 Let's do what's right for the people. Let's build  
9 the latest technologically advanced bridge that we  
10 can. As a PE working primarily in municipal areas  
11 of water and wastewater, I can't remember one  
12 project where we put an outdated specification into  
13 effect. We cannot have a member at 8 1/2 feet. It  
14 will decapitate, at the very least, or injure our  
15 kids when they're coming through. We can't block  
16 access to our residents. We're here discussing the  
17 same issues that have already been done.

18 And the next two slides are basically pictures  
19 of the proposed bridge. But I want to thank you  
20 for allowing us the opportunity to bring this to  
21 your attention, and I also want to thank you all  
22 for your services to the State in the last years  
23 that you've been here, and we really appreciate  
24 your help and your service. Thank you very much.

25 GOVERNOR CRIST: Thank you.

1           MR. KARCH:  If you have any questions for me,  
2           I'll be -- okay.  Thank you.

3           MS. DREW:  Thank you.  The next speaker is  
4           Mr. Joe O'Neill, who is a Lake Worth resident.

5           Betty May Karch will be next, so if you want  
6           to get ready.

7           GOVERNOR CRIST:  Take your time, Joe.

8           MR. O'NEILL:  Thank you.  Thank you and good  
9           morning, and I appreciate the opportunity to  
10          present our case to you.  And I'll be brief.

11          At your Cabinet Aide meeting last week, the  
12          bridge was discussed, and a new request was made to  
13          limit access to the waterway.  As a resident  
14          representing a number of residents in the  
15          subdivision, I'm attaching a series of materials  
16          which I'll provide to your staff in support of  
17          raising the bridge to the minimum 12-foot state  
18          standard, and by so doing, providing boating access  
19          to residents in the same fashion it is enjoyed  
20          elsewhere in the state.

21          As you may be aware, the petitioners to the  
22          South Florida Water Management District were  
23          dismissed twice, first with leave to amend, and  
24          then subsequently with prejudice.  The petitioners  
25          are a discrete minority that do not all reside on



1 waterfront property, and their unsubstantiated  
2 claims, misrepresentations, allegations, and  
3 innuendo with little basis in fact, or evidence  
4 that has yet to be presented, have failed to  
5 persuade the FDOT or the South Florida Water  
6 Management District of any their allegations to  
7 date.

8 They tried to involve the U.S. Coast Guard  
9 through a personal relationship to no avail. And  
10 today, I'm ashamed and embarrassed to be here  
11 because the permit was not granted by the DEP due  
12 to undue political influence that in my opinion  
13 borders on violating the honest service provider  
14 obligation of government officials.

15 The bridge in question is one of the most  
16 decrepit in the entire state, according to the  
17 FDOT, and needs to be replaced. Therefore, there  
18 is no question a permit will be issued, and we're  
19 here only to politicize it. It is and has been  
20 referred to the Cabinet in an attempt to subvert  
21 the will of the people as presented through the  
22 large surveys, state standards, FDOT  
23 recommendations, and SFWMD recommendation.

24 In my opinion, this may result in an  
25 incredibly costly lawsuit against the State that

1 will bring into question irreparable harm to  
2 hundreds of high net worth waterfront residences  
3 north of the bridge in question. The provisions of  
4 the Bert J. Harris Act make it clear that this  
5 burden will be borne by the State, as property  
6 values are permanently depressed for the next 75  
7 years and affected, along with state property tax  
8 revenues, all because a few idle minds who do not  
9 live on the water and do not have access and are  
10 indifferent to the height of the bridge scheme to  
11 deprive the majority of the access to their  
12 waterfront homes by insisting that the replacement  
13 bridge be so low that it becomes a defacto gate.

14 This is nothing else other than a defacto  
15 gate, and we've gone around in circles for two  
16 years now. And this will preclude normal boat  
17 traffic enjoyed by all other Florida residents  
18 elsewhere in the state.

19 And I ask you and urge you to resist the  
20 effort to lower the bridge to restrict traffic.  
21 The issue is not complex, although the misdirection  
22 has been substantial. And essentially, no matter  
23 how unsubstantiated and unfounded the allegations  
24 are, these individuals seek to keep what, in my  
25 opinion, they consider to be their private

1 property, a Florida waterway, and to deprive access  
2 to everybody else that lives there.

3 Like was mentioned earlier by Chris, this is a  
4 cul-de-sac. There is no enjoyment. It's a very  
5 small body of water, and all residents are asking  
6 for is access. There are five neighborhoods that  
7 share that waterfront property, Seminole Landing,  
8 Captains Key, where I reside just south of  
9 Seminole, Hidden Key, Portage Landing, and Lost  
10 Tree.

11 Essentially, the objections seek to raise a  
12 "not in my backyard" issue to a level of heightened  
13 public concern and in my opinion are a ruse and an  
14 insult to the intelligence of all of us here, and  
15 all of us that have worked hard over the last  
16 several years, including our government officials  
17 with extreme good faith to accommodate all  
18 objections of the petitioners.

19 I look forward to your recommendation. But as  
20 a graphic example of what we've been arguing for  
21 and spending our taxpayer dollars for over the last  
22 two years, it's a hype that is less than the height  
23 of this crutch. We're asking to raise the bridge  
24 by a minimum to 12 feet to the state standard. And  
25 that what does is, it allows any center console

1 boat that is designed from water level to the top  
2 of the T-top to have a clearance of about 11 feet  
3 with an antenna to be able to pass under that  
4 bridge irrespective of the tide, because  
5 essentially what happens now, residents are locked  
6 out of their homes for four hours, because when the  
7 tide goes up and when the tide goes down, until it  
8 fluctuates enough -- and where we live, it  
9 fluctuates about 5 feet.

10 Thank you very much for your time. And if you  
11 have any questions, I would be happy to answer  
12 them. And thank you very much for your service  
13 over the last few years. It has been a privilege  
14 being a resident of the state with you in charge.  
15 Thank you.

16 MS. KARCH: Good morning, all. I'm Betty May  
17 Karch, and I've been a resident in Hidden Key for  
18 41 years, so I think I can really testify as to the  
19 nature of the development. It is definitely a  
20 boating community, no doubt about it. All of the  
21 children in Hidden Key generally have had little  
22 skiffs. They're all great fishermen. Some ski.

23 The safety issue is a big concern of mine,  
24 because when my son had his accident, I only thank  
25 God that he was in the Intracoastal. Had he been

1 in Little Lake Worth, he might not be here today.

2 Actually, the reason I came along is to  
3 apologize to you. I feel that this issue is a moot  
4 point. This was settled many years ago when the  
5 DOT set the minimum standard designs. And what  
6 we're doing here I don't know, because they have  
7 taken this through the court twice. The last time  
8 it was thrown out with a motion for no  
9 reconsideration. So here we are again. I just  
10 don't know where it's going to end. It seems so  
11 ridiculous. People who are only wanting what is  
12 their right to have and what other people are just  
13 enjoying everywhere all over the state, I see no  
14 reason why we can't enjoy these same things.

15 Actually, as you've heard, these are state  
16 waters. And when we purchase our property on the  
17 water at usually a significant increase over a  
18 piece we might purchase off the water, we are  
19 determined to use the water for recreation for our  
20 families and to be able to get to the ocean for  
21 fishing, and I see no reason why that should  
22 change. So I would really encourage you to help us  
23 stop this madness and get our bridge finished,  
24 because we've been waiting a long time.

25 Thank you very much for all your past

1 services. Thank you.

2 MS. DREW: Mr. Jerry Schumacher, and following  
3 him will be Mr. Christopher Merrill.

4 MR. SCHUMACHER: Governor and Cabinet, thank  
5 you for hearing from us. I'll be very brief.

6 I live in North Palm about two miles away from  
7 this bridge. My community has a 12-foot bridge,  
8 similar situation. We have a canal coming off of  
9 the Intracoastal that leads into our community. We  
10 don't see excess traffic, which is one of the  
11 objections from the opponents, due to our 12-foot  
12 span bridge.

13 It's a very quiet area, not near as quiet as  
14 this Hidden Key area. Little Lake Worth is much  
15 more private, much more secluded. Most boaters  
16 don't even know that area exists. As they said,  
17 it's a cul-de-sac. Our area is much more  
18 populated, but we don't see excess traffic.

19 You know, it's their right to have this  
20 12-foot standard bridge built as it has been  
21 designed.

22 Thank you.

23 MS. DREW: Christopher Merrill.

24 MR. MERRILL: Good afternoon. Just to  
25 summarize what has already been said before, I

1 don't have a lot of details in this matter except  
2 for very simple logic. As a taxpayer living on the  
3 water that pays for the Coast Guard, the Sheriff's  
4 Department, and the Police Department, I feel they  
5 should have access to protect my daughter who will  
6 be enjoying the lake and to provide those services  
7 we pay for.

8 The only objective that I feel might be  
9 brought up that makes any sense is the access to  
10 Munyon Island. And as Chris stated earlier on,  
11 anything south of the bridge, south of the bridge  
12 has yachts. Anything north of the bridge is  
13 simple, small boat owners who deserve the same  
14 access as those yachts and deserve the same access  
15 to security as those yacht owners. The yacht  
16 owners are closer to Munyon Island than we are.  
17 The yacht owners push through those waters closer  
18 than we do. There's not any substantial reason why  
19 this bridge shouldn't allow us to have the same  
20 rights as other individuals in the state.

21 Thank you.

22 MS. DREW: Now we're going to hear from those  
23 who would prefer the bridge to be at 8 feet, and  
24 Mr. Jake Varn is going to introduce that issue.

25 MR. VARN: Governor and members of the

1 Cabinet, my name is Jake Varn, and I am here today  
2 with several residents from the -- that live in the  
3 area of this bridge. We've tried to organize  
4 ourselves so we can be brief and to the point for  
5 you.

6 So you understand, I would like to draw  
7 attention to this drawing that I have so you  
8 understand where everything is. This is Little  
9 Lake Worth. This is the bridge they're talking  
10 about. This is the John D. MacArthur Beach State  
11 Park. This is Munyon Island. This is the power  
12 plant, the Florida Power & Light power plant in  
13 Riviera Beach.

14 And if you were leaving Little Lake Worth, you  
15 would follow this red dotted line and ultimately  
16 come down here to the Lake Worth Inlet, which is  
17 where the boat traffic will go from Little Lake  
18 Worth down to that point. And that's where we're  
19 coming from in terms of the problems that will be  
20 created.

21 This is a map that likewise I believe some of  
22 my speakers will make reference to. This is the --  
23 and you're hearing -- I believe I'm correct in  
24 these locations. This is the Twelve Oaks. This is  
25 on the south side. North is in this direction.



1 This is the channel that connects Little Lake Worth  
2 with what is referred to by most people as the  
3 Northern Lake Worth Lagoon. This is the Portage  
4 Landing area. This is Lost Tree Village. I  
5 believe the other two subdivisions, Seminole and  
6 others I think are in this area here that you've  
7 heard from.

8 I'm going to introduce our first speaker.  
9 We're going to have four gentlemen -- they're going  
10 to be very brief -- just talk to you from their  
11 perspective as to the adverse impact of this  
12 bridge, and then I'll wrap it up very briefly at  
13 the end of it.

14 I would first like to call Mr. Thomas.  
15 Mr. Thomas is a resident. He lives directly on the  
16 canal. And if I remember correctly, I believe this  
17 is the location of his house right here.

18 Mr. Thomas.

19 MR. THOMAS: Thank you, Jake. Good morning,  
20 Honorable Governor and members of the Cabinet. My  
21 name is John Thomas. I do live at 1938 Portage  
22 Landing North, and we've been privileged to live  
23 there for approximately 30 years. I live on the  
24 east bank of the canal, and we moved there because  
25 of the natural -- pardon me?

1           We moved there because of the natural  
2 tranquility that exists there. There is a great  
3 number of species of birds, fishes and, yes,  
4 manatee. And I'll comment about that more a little  
5 bit later.

6           We are concerned if the bridge is raised in  
7 terms of the impact of larger and more boats coming  
8 through, which has created an erosion problem. I'm  
9 going to show you some photographs that I've  
10 recently taken that support that.

11           The first one is mid point from our house to  
12 the bridge in question. It's not a great  
13 photograph, but you if look on the right-hand side,  
14 you can see part of the bridge, and you can see  
15 some mangroves that exist there.

16           These next three photographs are a better  
17 reveal of the mangroves that exist there, and  
18 you'll see there are some boulders in support of  
19 the seawall and also have some shown some erosion  
20 due to boat traffic. And there's a better close-up  
21 right there.

22           This next photograph is taken from our dock  
23 looking toward the bridge. You can't see the  
24 bridge per se, but you can see some of the effects  
25 of the erosion.

1           And I did photograph a jet ski showing,  
2           because the draft is so small from a jet ski, the  
3           draft creating yet still fairly good wake and wave  
4           action. And that next photograph shows the  
5           aftereffect of that, and that vehicle only draws  
6           about two inches.

7           This next photograph shows our seawall. And  
8           if you look carefully, you'll see there's a line of  
9           demarcation where the original barnacle line was,  
10          and if you look more carefully, the bottom three  
11          inches have shown some erosion. And the next two  
12          photographs support that in greater detail. That's  
13          a little closer look, as is that one.

14          It has also had an adverse effect on our dock.  
15          You might ask the question, well, how old is your  
16          dock? Is it just falling because of age? After  
17          Hurricane Wilma we had to replace the entire dock.  
18          Because the demand for nautical construction was so  
19          great, we couldn't get that done until 2006. So in  
20          the last four years, we've had some pretty good  
21          separation of our dock. So these are some impacts  
22          of the erosion from boat traffic which we think  
23          will be exacerbated with larger boats and more  
24          activity of boats.

25          But perhaps more concern to us is the impact

1 on the inhabitants that were there well before we  
2 ever got there, specifically on the manatee. We've  
3 heard statistics given by the DOT that there are  
4 not manatee in that area. Lady and gentlemen, I  
5 can tell you in the 30 years I've lived there, I've  
6 seen dozens of manatee during the winter period  
7 from about November through March, no more than  
8 perhaps two or three, maybe as many as four at one  
9 time, normally just one. I'm sure I've probably  
10 see the same manatee more than once. There's no  
11 way that they're marked that I'm aware of that I  
12 can determine if I've seen the same one.

13 But I can tell from the markings on their back  
14 that they've been marked from the accidents they've  
15 had from boating traffic. So we're very concerned  
16 about the impact to the natural resources that we  
17 have there that could be impacted by a greater flow  
18 of boats and larger boats coming through.

19 Our focus is on preservation, protection, and  
20 safety, and I would like to spend a couple minutes  
21 on safety, if I may.

22 Mr. Varn showed you an aerial photograph of  
23 where the bridge is. And the distance from the  
24 bridge to the entrance to our community is about  
25 500 feet. If a car is traveling at roughly

1           60 miles an hour, that means that it covers about  
2           88 feet every second, so there's a time of about  
3           six seconds to react from the apex of the bridge  
4           until you get to the entrance of either of our  
5           communities, Portage Landing North or South. That  
6           doesn't give some people very much time to react.

7           And I know that firsthand, because on April  
8           29th of 2005, I was waiting to make a left-hand  
9           turn into our community, and I was rear-ended by  
10          two cars that created about \$9,000 worth of damage  
11          to my car, more damage to the first car that was  
12          hit, and an individual went to the hospital. I  
13          don't know the extent of his injuries.

14          About 25 years ago, there was another accident  
15          where a fellow came over the bridge, somehow lost  
16          control, ran into a palm tree, and was killed.  
17          There have been some other fatalities, not in a  
18          vehicle, but by children crossing that bridge that  
19          were fishing, and a bicyclist about three or four  
20          years ago that had serious injuries.

21          So in summary, our concern is for protection  
22          and preservation of the environment and also safety  
23          for those of us that live there. Our children and  
24          our grandchildren enjoy the water. They swim in  
25          that canal and boat in the lake, and we would like

1 to see that preserved by keeping the bridge at the  
2 same height.

3 I thank you for your attention and for your  
4 considered thoughts on our position. Thank you.

5 I would like to introduce John Tory of Lost  
6 Tree Village.

7 MR. TORY: Thank you, John. Governor and  
8 Cabinet members, thank you for the opportunity to  
9 appear before you today. As has been mentioned, my  
10 name is John Tory, and my wife and I have had a  
11 home in Lost Tree Village, and it is on Little Lake  
12 Worth, and we've had that home since 1979. A major  
13 factor in our decision to buy the home was our  
14 desire to live on a quiet, sheltered lake. It is  
15 only about 50 acres in size. It has been described  
16 by some of the proponents of the bridge as a bath  
17 tub or a cul-de-sac, and I think that is the real  
18 issue here. And it seems obvious a higher bridge  
19 with higher navigational clearance will enable more  
20 and larger boats to enter this small lake, and the  
21 existing bridge is the only barrier to  
22 significantly increased boat traffic on that small  
23 lake. And, of course, this would involved  
24 sightseers, boats for fishing, partiers, and even  
25 those who might wish to anchor overnight or even

1           for days in a sheltered environment,  
2           notwithstanding the county ordinance that has been  
3           mentioned.

4           And as has also been mentioned, there's  
5           important environmental resources in the lake and  
6           the surrounding area, and more and larger boats  
7           with deeper drafts will have a very negative impact  
8           on these resources, including manatees, seagrasses,  
9           erosion of the seawalls, and the impact on use of  
10          the lake for canoeing, kayaking, et cetera.

11          I acknowledge there are some homeowners in  
12          Lost Tree Village who -- and they are the minority,  
13          as you'll hear from folks who will follow me -- who  
14          from in favor of the current proposal to raise the  
15          bridge. But they are clearly the minority, and  
16          they seem to have some disproportionate influence  
17          on the Florida Department of Transport that I quite  
18          frankly do not understand.

19          And I also do not understand why this small  
20          group do not share the concern of the majority of  
21          all the owners in our village that raising the  
22          bridge and giving greater access to more and larger  
23          boats will result in the serious environmental and  
24          other issues I've mentioned which will adversely  
25          affect all the homeowners in the village.

1           So thank you again for permitting me to  
2           address you, and I have urge you to deny any  
3           application involving the raising of the elevated  
4           bridge. Thank you very much.

5           Now I would like to Joe Hickey of Lost Tree  
6           Village, who is our next representative.

7           MR. HICKEY: Good morning, Governor Crist and  
8           members of the Cabinet. My name is Joe Hickey, and  
9           my wife and I have lived on Old Harbor Road in Lost  
10          Tree Village since 1982. We became permanent  
11          residents of Florida when I retired in 1988.

12          From 2002 through 2005, I was president of the  
13          Lost Tree Village Property Owners Association.  
14          Lost Tree is a 600-acre unincorporated community  
15          with approximately 530 residences, including single  
16          family homes, cottages, and condominiums. It is by  
17          far the largest community bordering Little Lake  
18          Worth. Lost Tree is blessed by being bordered on  
19          all four sides by environmentally sensitive and  
20          important features: On the east, the Atlantic  
21          Ocean; on the west, the Lake Worth Lagoon; on the  
22          south, MacArthur Beach State Park; and on the  
23          north, Little Lake Worth. It is only natural that  
24          our residents are concerned about and protective of  
25          the unique environment that surrounds them.



1           Recently we watched the events unfold in the  
2           Gulf with some trepidation, because the Gulf Stream  
3           comes closest to the shoreline of Florida right off  
4           of our village.

5           In 2003, I was president of the property  
6           owners association when the initial proposal to  
7           raise the Little Lake Worth Bridge was made. In  
8           October of that year, we conducted a survey of our  
9           members on the subject of raising the bridge. 364,  
10          or 62 percent, of our membership responded.  
11          Twenty-seven were in favor of raising the bridge,  
12          283 were opposed, and 54 had no opinion.

13          In July of 2008, our property owners  
14          association took another poll, this time asking the  
15          members to vote on the Department of  
16          Transportation's proposal to raise the bridge from  
17          8 feet to 12 feet. There were 292 responses,  
18          representing 57 percent of the membership.  
19          Forty-eight voted in favor of the 12-foot bridge,  
20          while 235 were opposed and 10 respondents had no  
21          opinion.

22          Finally, I would like to address the issue of  
23          safety on A1A, which is the only roadway in or out  
24          of our community. A 12-foot bridge will negatively  
25          affect the sight lines for traffic in both

1 directions. When you consider the average age of  
2 our nearly 1,000 residents is close to 70 years  
3 old, it makes little sense for this very busy  
4 roadway to be made less safe.

5 In closing, I would urge you to weigh the  
6 opinions of hundreds of us who are justifiably  
7 concerned about the environmental and safety issues  
8 involved in this proposal by the Department of  
9 Transportation against the relatively few who are  
10 in favor of increasing the height of the Little  
11 Lake Worth Bridge.

12 MR. BAER: Thank you. I was hoping I could  
13 say good morning. I think it's good afternoon.  
14 But, Governor Crist and members of the Cabinet, my  
15 name is Hank Baer. I live in Lost Tree, and I'm a  
16 newcomer. I've only been there for 12 years. But  
17 I'm here today as a past president of the Lost Tree  
18 Club.

19 The Lost Tree Club shares a lot of membership  
20 with Lost Tree Village, but they are two separate  
21 entities. The Lost Tree Club, as far as I know,  
22 owns the largest piece of waterfront property on  
23 Little Lake Worth, which I'm about to show you on  
24 this slide. We have 373 feet of waterfront  
25 property on Little Lake Worth at the bottom of the

1 picture.

2 I noticed, by the way, when the Department of  
3 Transportation spoke earlier, they said that  
4 everyone with property on Little Lake Worth had  
5 been surveyed. Lost Tree Club was never asked to  
6 participate in that survey, despite the fact that  
7 we do have the largest piece of waterfront  
8 property.

9 In addition to the property itself is a place  
10 called Pelican House, which is just beyond. That's  
11 again at the bottom of the picture. It is  
12 frequently used by Lost Tree Club members for all  
13 sorts of things. It's probably the most tranquil  
14 place in all of Lost Tree. It would be terrible to  
15 see that in any way destroyed or threatened.

16 As Mr. Hickey told you before, the vast  
17 majority of the residents of Lost Tree Village, and  
18 I will add, the vast majority of the members of  
19 Lost Tree Club, have voted to keep the bridge at 8  
20 feet. No one is opposed to replacing the bridge.  
21 We're just opposed to raising it to 12 feet. We  
22 think it would be very counterproductive not only  
23 for the residents on and around Little Lake Worth,  
24 but also the environment.

25 As far as I can tell, the major argument from

1 the Department of Transportation seems to be that  
2 raising the bridge to 12 feet would reduce the  
3 amount erosion caused by the of chlorine or the  
4 chloride in the water. On the other hand, common  
5 sense says to me that if you raise the bridge,  
6 you'll have more boats in and larger boats in, each  
7 of which will create more wake and will either  
8 offset any benefit you could have from the taller  
9 bridge, or perhaps even cause more erosion.  
10 Keeping the bridge at 8 feet will eliminate that  
11 risk.

12 I've served many roles in my life. I've been  
13 a lawyer, an arbitrator, and a mediator, and I've  
14 always found that balancing interests really is the  
15 key to solving a lot of problems. And I think this  
16 is a classic case where you are being asked to  
17 balance interests. On the one hand, you have the  
18 interests of a few boat owners who would like to be  
19 able to bring larger boats in, and the Department  
20 of Transportation, which for reasons which I still  
21 don't really understand are pushing hard for a  
22 12-foot as opposed to an 8-foot bridge. On the  
23 other hand you have the environment, which is and  
24 should be protected in Little Lake Worth, and a  
25 large number, the vast majority of the people who

1 live there, who are opposed to raising the bridge.  
2 So for those reasons, if we balance the interests,  
3 I think it comes out in favor of keeping the bridge  
4 at 8 feet.

5 In essence, what you have to look at, I think,  
6 is the balance between the recreational interests  
7 of a few and the environment on the other side of  
8 that balance. And when you add to the environment  
9 the wishes of most of the people who live on or  
10 near Little Lake Worth, I think it argues very much  
11 in favor for keeping the bridge at 8 feet.

12 I thank you very much for your time and  
13 attention. As I said, I hope you will --

14 ATTORNEY GENERAL McCOLLUM: Could I ask you a  
15 question, sir? Could I ask you a question --

16 MR. BAER: Certainly.

17 ATTORNEY GENERAL McCOLLUM: -- before you go?  
18 I haven't done that with any of the others, but I'm  
19 picking on you for a second.

20 The argument that's interesting and somewhat  
21 persuasive from the other side is about these  
22 rescue vessels, that they can't get in there  
23 because of the height, you know, whatever vessels  
24 they are, police, sheriff, law enforcement, rescue.  
25 What's the concern? Is there no concern by the

1           Lost Tree Village and Club or others about that  
2           problem? Is that a problem?

3           MR. BAER: It is not a problem. I should  
4           knock on wood when I say that. It has never been a  
5           problem as far as I know. Someone else mentioned  
6           security, that boats come in and might harass or  
7           steal from the home. That has not happened on  
8           Little Lake Worth.

9           And there is -- Lost Tree Club maintains a  
10          very professional security group, and included in  
11          that security is a boat which is in Little Lake  
12          Worth. So if there were an accident, Lost Tree  
13          security could respond to it with the boat that's  
14          already in Little Lake Worth. There would be no  
15          need to bring a Coast Guard boat or any other  
16          safety vessel under the bridge, so that safety  
17          concern should be -- could be addressed -- can be  
18          addressed at any time it arises.

19          ATTORNEY GENERAL McCOLLUM: Thank you.

20          MR. BAER: Thank you very much.

21          MR. VARN: Governor and members of the  
22          Cabinet, I'll wrap this up, and I'll be very brief,  
23          but there are a couple of issues that were raised  
24          in the discussion that I would like to address.

25          Relative to the Water Management District

1 dismissing the petitions, I've been practicing law  
2 for 40 years, and this is the first time in my life  
3 I've ever had a complaint dismissed for failing to  
4 allege that these people had standing in the  
5 matter. I've never experienced something like  
6 that. But there's a first time for everything, I  
7 guess. So we never really had a hearing. We just  
8 -- they never gave us the opportunity to have a  
9 hearing. All we did was file petitions, which were  
10 denied and dismissed.

11 Secondly, when they talk about the  
12 environmental studies on this lake that were done,  
13 we need to be very clear on that. The only  
14 environmental studies that were done at the bridge  
15 were limited to 200 feet south of the bridge and  
16 200 feet north of the bridge. Where the -- the  
17 important environmental resources are to the south  
18 down to the state park, the John D. MacArthur State  
19 Park, which is an interesting thing. Palm Beach  
20 County has adopted in its Comprehensive Plan what  
21 they call the John D. MacArthur Green Line Overlay,  
22 and they have identified geographically the area  
23 that contains resources that are important to that  
24 state park. Little Lake Worth is within that  
25 overlay, and it says under the County's

1 Comprehensive Plan that you need to protect those  
2 resources.

3 And that, if you will, if you get to the issue  
4 that should be before the Governor and Cabinet, the  
5 issue is resource protection. And if you'll look  
6 in your rules, specifically at Rule 18-21.004(2),  
7 Resource Management, it says the obligation first  
8 is to try to avoid any adverse impact. And you  
9 can't tell me that if you have larger boats  
10 navigating all the way down to that inlet that  
11 you're not going to subject that area to potential  
12 damage to the seagrasses or to the manatees.

13 This is the most heavily populated area in  
14 Palm Beach County where manatees exist, and Mr. Lee  
15 is going to follow me and show you some graphic --  
16 show you that this area by far has more manatee  
17 than anything. And DOT is under an obligation  
18 under your rules to avoid any adverse impacts. And  
19 the easiest way to avoid any adverse impacts is to  
20 build your 12-foot high bridge and maintain the  
21 same navigational clearance, and then you've got a  
22 win-win situation. There will be no difference in  
23 the environmental impacts associated with raising  
24 that bridge, and everyone comes out a winner.

25 And I would suggest to you that if you'll



1           apply your rules, that they will avoid those where  
2           possible. They haven't tried to avoid that. They  
3           have told you themselves that it's possible to put  
4           a member in there, and they can have their surface  
5           up to 12 feet, but they can have a member in there  
6           that will restrict the navigational clearance, and  
7           we would urge you to do that.

8           And with that, I would be glad to respond to  
9           any questions you might have, although I know  
10          Mr. Lee is another speaker yet to be heard. Thank  
11          you very much.

12                 GOVERNOR CRIST: Thank you.

13                 MS. DREW: Next is Charles Lee representing  
14          the Audubon society.

15                 MR. LEE: Governor and members of the Cabinet,  
16          Charles Lee representing Florida Audubon Society.  
17          You know, I haven't been up here to speak to you  
18          all about a lot of issues. But I want to say to  
19          you sincerely on behalf of Florida's oldest and  
20          largest environmental organization, Florida  
21          Audubon, there is an exceedingly serious state  
22          lands, sovereign lands management issue in front of  
23          you with this application.

24                 Now, Governor, generally your Department of  
25          Environmental Protection does a good job. And I

1           just want to say that this is a case where  
2           unfortunately I think they have failed to look at  
3           the big picture in terms of recommending the  
4           approval of this sovereign land use as it's  
5           proposed today.

6           We believe what you should do is that you  
7           should approve this sovereign land use, but do that  
8           in one of two ways:  Either by saying as the owner  
9           of the land across which this bridge will go that  
10          you should keep the bridge at the height that it  
11          has been at since 1965, or that you install a  
12          device, a structural member at the existing  
13          navigational level to keep the navigation height  
14          the same, which would allow you to raise the bridge  
15          deck to the level they want for engineering  
16          purposes.

17          Now, here's the reason we think you should do  
18          that.  The map you have in front of you is a map  
19          both of Little Lake Worth and its adjacent canals,  
20          which are outlined in yellow, and the north end of  
21          the Lake Worth Lagoon.  And what I want to draw  
22          your attention to is the yellow line that traces  
23          itself around the boundary of Little Lake Worth and  
24          its adjacent canals that are navigable today.  That  
25          body of water since 1965 has not been able to have

1 boats much larger than midsize outboards, certainly  
2 not oceangoing boats, to access that lake. If you  
3 look at a detailed aerial photograph of that lake,  
4 you'll see that the boats behind people's houses  
5 are basically small to midsize outboards, generally  
6 20 feet or less. Some of them are up around 24, 25  
7 feet, but for the most part, they're very small  
8 little boats.

9 If the dot in red you see on your map is  
10 increased by 4 feet in height, you will  
11 operationally allow the entirety of the area that  
12 is shown in that yellow to dock a completely  
13 different type of boat, a larger boat up into the  
14 35- or 40-foot oceangoing class, and you will  
15 change both the amount and the character of the  
16 boat traffic, not simply going under that red dot  
17 bridge that you see on the map, but what I invite  
18 you to do is to look south from the Lake Worth  
19 Lagoon and look at the large bright green area that  
20 you see that I've outlined on this map. That is  
21 the extent of the seagrasses, the most lush  
22 seagrass bed certainly in all of Palm Beach County  
23 and Lake Worth that exists in this area off of the  
24 John D. MacArthur State Park, which, of course, the  
25 taxpayers of Florida have preserved for its natural

1 values at the expense of many, many tens of  
2 millions of dollars.

3 What you'll also see is that the passageway  
4 between those seagrasses and the western side of  
5 the shoreline is very narrow. There happens to be  
6 nothing in the way of a good marked channel up in  
7 that area. The marked channel begins to the south  
8 -- and I'm going to use my finger to point  
9 something out. Right here, this is Intracoastal  
10 Waterway coming in. The marked channel goes to the  
11 south of that point, but there is no marked channel  
12 in the northern end.

13 And so what this sovereign lands decision you  
14 are invited to make on the agenda today will  
15 inevitably do is, it will effectively double the  
16 length of the shoreline north of that grass bed  
17 that is available for larger class oceangoing  
18 boats -- now, I'm not talking about 110-foot  
19 yachts. I'm talking about 35-, 40-foot boats.  
20 They will be able for the first time since 1965 to  
21 avail themselves of 2 1/2 miles of shoreline to  
22 dock in Little Lake Worth. That is a game-changer  
23 for this estuary. The game-changing effect will be  
24 many more boats and many more boats of a larger  
25 class that will, in order to reach their target,

1 which is going in and out of the inlet to get to  
2 the ocean, they're going to have to pass by,  
3 through, or over the grass bed that you can see to  
4 the south.

5 That is the environmental issue which  
6 unfortunately the Department of Environmental  
7 Protection missed in its evaluation of this issue.  
8 And it is the environmental issue that we would  
9 like you to pick up and consider in your  
10 deliberations today. And the way that you can  
11 consider and resolve this is to simply keep the  
12 status quo that has been in effect for the last 40  
13 or more years. Keep this bridge height in terms of  
14 how it performs for navigation exactly the same as  
15 it has been over the period since 1965. You can do  
16 that by simply amending your motion.

17 Now, I would like to show you one more chart.  
18 This is the 2009-2010 manatee survey for Palm Beach  
19 County, and this line shows the 600 manatees that  
20 showed up in the area on this map last year. Now,  
21 I'm not talking about the manatees that are down at  
22 the power plant, because when you read that survey,  
23 it says these are exclusive of the power plant.  
24 These are the manatees that are using the grass  
25 beds which you see here in the north end of Lake

1           Worth Lagoon in the wintertime. They are attracted  
2           here by the power plant, but they have to eat  
3           somewhere, and where they go to eat on days it's  
4           warm enough to get out of the channel of the power  
5           plant, they go up to these grass beds to feed.

6           So these manatees are going to be right in the  
7           area where all of these additional boats -- and  
8           remember, we're talking about larger boats swinging  
9           bigger propellers, capable of dredging a deeper cut  
10          in those grass beds or a deeper cut in those  
11          manatees that will be channeled through this area.

12          So what I ask you to do on behalf of Florida  
13          Audubon Society today is something straightforward  
14          and simple, and that is make a decision, let the  
15          DOT have the sovereign lands approval they need to  
16          let this bridge go forward, but direct that as to  
17          the navigational height that they keep it at the  
18          status quo.

19          Let me answer one question, General, that you  
20          asked to the other gentleman about safety  
21          watercraft, official boats. You know, right now  
22          there is comparatively little major boat traffic in  
23          Little Lake Worth because of the restrictions on  
24          that bridge. The call for safety watercraft of the  
25          size, the big rescue watercraft like you use

1 offshore or in the inlet, the ones the gentleman  
2 showed those pictures of, the call for them to go  
3 up into that little embayment is just not there.

4 But what I would ask you to consider is, if  
5 there was an actual need for those agencies to get  
6 those big watercraft under this bridge, don't you  
7 think you would have representatives of Palm Beach  
8 County or your own Marine Patrol or the Coast Guard  
9 up here today saying they need that additional  
10 access for those big boats? I don't think you  
11 would just have a gentleman from the audience  
12 waving a picture of those big boats at you. I  
13 think there would be something of record saying  
14 that's a problem. You don't have that.

15 And I just suggest that if we keep this  
16 passageway for boats the same way it has been since  
17 1965, we will be keeping the status quo for the  
18 environment of this area, and that's what we from  
19 the Audubon Society ask you to do. Thank you.

20 MS. DREW: Thank you. I believe that's the  
21 end of our public comment. Charles, thank you for  
22 staying. We usually do the right thing anyway.

23 Governor and Cabinet, did you have any  
24 questions for either DOT or the Water Management  
25 District based on what you've heard?

1 GOVERNOR CRIST: General.

2 ATTORNEY GENERAL McCOLLUM: I only want to  
3 clarify something. My understanding from DOT is  
4 that you could have this structural navigational  
5 limit. You would just have to go through an  
6 approval process that might delay this a little  
7 bit. Is that correct?

8 MR. PRASAD: Yes, General. The Coast Guard  
9 has given us a permit for a 12-foot clearance. In  
10 order to go back to 8 1/2 feet, which is what the  
11 existing clearance is, we'll have to go back and  
12 apply for a new permit.

13 ATTORNEY GENERAL McCOLLUM: But nonetheless,  
14 it doesn't effect the -- you still have the 12  
15 foot. You could still have this --

16 MR. PRASAD: Correct.

17 ATTORNEY GENERAL McCOLLUM: With that in mind  
18 -- I think while you were out, Madam CFO moved that  
19 we approve this, and I think Commissioner Bronson  
20 seconded to approve this. I would like to offer an  
21 amendment to that motion, if I could, to do what  
22 Charles Lee suggested, and it is to require the  
23 navigational clearance to be maintained at the  
24 8 1/2 foot level.

25 And I think staff has the language, but I



1           could read what I've got given to me. "The new  
2           bridge plan shall be revised to include a permanent  
3           part to the bridge that will maintain the existing  
4           vertical navigational clearance. The new bridge  
5           when constructed shall have a permanent part that  
6           will limit the vertical navigational clearance to  
7           the clearance that exists currently." And that  
8           would be my proposed amendment to the motion to  
9           approve this and allow the 12-foot bridge.

10           GOVERNOR CRIST: I just want to make sure I  
11           understand what you said. You would actually have  
12           it set back to the 8-foot?

13           ATTORNEY GENERAL McCOLLUM: Well, you would  
14           have the bridge at 12 foot, as the DOT explained.

15           GOVERNOR CRIST: That's why I'm asking that,  
16           General.

17           ATTORNEY GENERAL McCOLLUM: As the DOT  
18           explained, the actual bridge itself would be 12  
19           foot. It would be elevated to 12 feet, but there  
20           would be a structural device that would be put  
21           there, an artificial structure that would limit the  
22           ability for somebody to go under the bridge with  
23           any structure boat that would be higher in its  
24           structure than the present height, which I believe  
25           is 8 1/2 feet. I believe that's what Mr. Lee

1 suggested. Am I not right, Charles?

2 MR. LEE: It could be -- General, it could be  
3 a structural member. The other thing that it could  
4 be is, this bridge is heavily used by fishermen.  
5 If you go out there on a Saturday or a Sunday, you  
6 see 12 to 15 people easily fishing on the sidewalk  
7 of this bridge with currently no separation between  
8 them and the traffic.

9 Now, as I understand the design of the bridge,  
10 they are planning a separation to the sidewalk.  
11 But what you could easily do would be to simply  
12 hang a fishing catwalk the way you see them on many  
13 bridges like in the Keys or elsewhere. There are  
14 bridges in Tampa Bay and in Biscayne Bay where the  
15 fishing catwalk is hung lower than the road surface  
16 of the bridge. It makes it easier for the  
17 fishermen, and it separates them even further from  
18 the traffic. They could do that, or they could  
19 just engineer the archway under the bridge so that  
20 the road surface was up here, but the archway was  
21 lower and there was a structural member. Either  
22 way, it doesn't make any difference to me. From  
23 the landscape, from the environmental protection  
24 standpoint, both will preserve the status quo.

25 ATTORNEY GENERAL McCOLLUM: And I believe DOT,

1 Governor, explained at the beginning that they  
2 could do this. This is just a matter of going back  
3 and getting it permitted differently.

4 GOVERNOR CRIST: Right. Okay.

5 ATTORNEY GENERAL McCOLLUM: Anyway, that's my  
6 motion to amend it.

7 GOVERNOR CRIST: Is there a second to the  
8 motion to amend?

9 MEMBER OF AUDIENCE: No.

10 GOVERNOR CRIST: Apparently not. Thank you,  
11 General. So we're back to the original motion,  
12 which would support the 12-foot bridge; is that  
13 correct? Okay. And it has been seconded. Are  
14 there any objections?

15 ATTORNEY GENERAL McCOLLUM: I object.

16 GOVERNOR CRIST: Okay. Then it passes. Thank  
17 you.

18 MS. DREW: Thank you.

19 (Applause.)

20 MS. DREW: Item Number 4, consideration of an  
21 application for a 100-foot-wide, 25-year,  
22 nonexclusive sovereignty submerged lands public  
23 easement to Port Dolphin Energy, LLC, a subsidiary  
24 of Høegh LNG, a Norway-based corporation. It's for  
25 a proposed subaqueous natural gas transmission

1 pipeline for the offshore delivery and  
2 regasification of liquefied natural gas from the  
3 Port Dolphin Deepwater Port. It a use of  
4 sovereignty submerged lands for a 3,000-foot-wide  
5 temporary construction corridor with two potential  
6 mitigation sites.

7 This project would provide a competitive and  
8 alternative source of clean-burning natural gas to  
9 markets in Florida and will provide natural gas to  
10 meet Florida's anticipated future demand. In  
11 addition, the natural gas supplied by this project  
12 will become increasingly important as older power  
13 plants are required to convert to natural gas in  
14 order to meet air emission standards.

15 We have several folks here representing Port  
16 Dolphin, including Governor Martinez, and they're  
17 here to speak if you would like hear from them.

18 GOVERNOR CRIST: We'll be happy to.

19 MS. DREW: Otherwise, they're in support,  
20 obviously.

21 CFO SINK: Well, I'll move approval of it,  
22 Governor.

23 COMMISSIONER BRONSON: Second.

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

1 Governor, we're grateful that you came. Thank  
2 you.

3 MS. DREW: Thank you. Item Number 5 is a  
4 request for consideration of an application for  
5 modification of an existing conservation easement  
6 to allow for the expansion of the lease boundary  
7 and a 25-year sovereignty submerged lands lease in  
8 Lee County to increase preempted area approximately  
9 1,500 square feet for an existing 34-slip private  
10 residential multifamily docking facility with no  
11 additional slips. Consideration results in \$4,437.

12 ATTORNEY GENERAL McCOLLUM: I move Item 5.

13 COMMISSIONER BRONSON: Second.

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

16 MS. DREW: Thank you. Item Number 6 is a  
17 request for approval to publish a notice of  
18 proposed rulemaking regarding amendments to Chapter  
19 18-14 of the Florida Administrative Code regarding  
20 the assessment and collection of administrative  
21 fines for violations on state-owned submerged  
22 lands. You may recall we've been working on this  
23 issue for a while trying to streamline it and  
24 really do a better job of dealing with  
25 administrative fines and violations on state lands.

1 We've been working for the last year at least to  
2 try to do that and to resolve cases quicker and  
3 increase compliance.

4 COMMISSIONER BRONSON: Motion for approval of  
5 Item 6.

6 CFO SINK: Second.

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

9 MS. DREW: Thank you. Item Number 7 is a  
10 request for consideration of a modification of a  
11 10-year, sovereignty submerged lands lease for an  
12 existing 69-slip public docking facility. This  
13 item has been placed on today's agenda at the  
14 request of one of the board members. The staff  
15 recommendation to the Board is denial because the  
16 request is contrary to rule and inconsistent with  
17 the Board of Trustees policy as well as previous  
18 actions.

19 The City of Kissimmee is proposing to  
20 reconfigure the layout of its existing  
21 over-the-water structures within the lease area.  
22 The proposal includes demolishing an existing  
23 880-square-foot, non-water dependent bait shop and  
24 restaurant and constructing at another location a  
25 new larger, non-water dependent bait shop and

1 restaurant approximately 3,744 square feet,  
2 including picnic tables and walkways.

3 The lease currently states that the lessee  
4 shall not rebuild or restore the non-water  
5 dependent structures if 50 percent or more are  
6 destroyed. The new use of the non-water dependent  
7 structures included in the lease shall not be  
8 converted to a new use except as authorized by the  
9 lessor.

10 Since the 1970s, the Board's policy has been  
11 to restrict the use of sovereignty submerged lands  
12 to water dependent activities. DEP staff has been  
13 working with the applicant to try to negotiate  
14 using uplands in the new location that would  
15 provide a waterfront, I guess, cantilevered dock on  
16 the water, but we were unable to reach agreement  
17 with the City.

18 The City is here today, and you will hear from  
19 them that they consider that they would like to be  
20 able to show that it's in the public interest, I  
21 believe, to have this waterfront property since  
22 they already have a structure that they would  
23 simply be moving. They've also taken the position  
24 that it isn't a full-scale restaurant, it's snacks  
25 and other food items, items that are related to

1 fishing. However, the bait shop/restaurant  
2 currently holds the same license that the State  
3 requires of full-service restaurants.

4 Last week in the aides' meeting, the City  
5 expressed that they had spent considerable time and  
6 money on the design, which includes work that  
7 they've done in preparation for this project.  
8 However, in 2008, the district office, DEP district  
9 office advised the City that non-water dependent  
10 structures over the water are contrary to the  
11 policies of the Board of Trustees.

12 Board approval of retail dining activities  
13 over sovereignty submerged lands would signal a  
14 drastic departure from historic board policy on  
15 non-water dependent uses and could potentially  
16 affect current and past litigation undertaken by  
17 the Department on behalf of the Board against  
18 parties engaged in non-water dependent uses on  
19 sovereignty submerged lands. We are extremely  
20 concerned with the precedent that this would set  
21 for the future of this State and the lands that the  
22 Board has been tasked with preserving and  
23 protecting for the use and enjoyment of all people  
24 in the State of Florida.

25 With us today from the City of Kissimmee we



1 have Don Smallwood, who is the attorney for the  
2 City of Kissimmee, and Representative Darren Soto,  
3 who would like to speak on this issue.

4 COMMISSIONER BRONSON: Mr. Chairman, if I  
5 might make a statement.

6 GOVERNOR CRIST: Absolutely.

7 COMMISSIONER BRONSON: I am the board member  
8 identified here as asking this to be brought  
9 forward, and let me tell you why. Since I was a  
10 little boy on Lake Tohopekaliga, we have had two  
11 structures that have been there most of my life.  
12 One of them was the yacht club which overhangs the  
13 water on that lake, and this structure that we're  
14 discussing now, which has been active for many,  
15 many years. Because of hurricanes and other  
16 things, it has had to be shored up and so forth.  
17 But basically, historically, this structure has  
18 been over the water as it is now. And the fact is  
19 that they want to move this to a more advantageous  
20 place because of other issues involved on the  
21 lakefront.

22 I might also tell you that at one time back in  
23 the old days before anybody ever heard of DEP or  
24 anybody else, there used to be a huge set of cow  
25 pens on that lake where they used to bring in ships

1 to load cattle into the ships going to Cuba and  
2 other places. So there's a lot of things that has  
3 happened in this lake in the history of that chain  
4 of lakes.

5 I also asked for this, knowing the  
6 recommendation by DEP, because there are other  
7 facilities that have the same type of facilities  
8 over the water that have been approved, and some  
9 are on state lands, not only just over state water,  
10 but actually are part of the park system and other  
11 state lands.

12 One thing I will tell you is, this Board gets  
13 to make the final decision on these issues.  
14 Sometimes we go with the recommendation, and  
15 sometimes we don't. Sometimes there are  
16 extenuating circumstances that we vote on that's  
17 different than what has been recommended.

18 In this case, I feel this is one of those  
19 cases where there's going to be no impact to Lake  
20 Tohopekaliga because the issue was already there,  
21 and they watch it very closely as well. And I felt  
22 like the City of Kissimmee should be given the  
23 ability to make their point. I personally am to  
24 support the approval of this item because of the  
25 history that's already there on this lake.

1           ATTORNEY GENERAL McCOLLUM: I think we're  
2 ready for speakers, Governor.

3           GOVERNOR CRIST: Thank you, General.

4           MR. SMALLWOOD: Governor and Trustees, my name  
5 is Don Smallwood, and I'm the attorney for the City  
6 of Kissimmee. I would like to thank you for this  
7 opportunity today for us to present to you our  
8 story.

9           Before I begin, though, I want to introduce  
10 some guests that traveled up here that are in  
11 support of this. I would like to introduce  
12 Ms. Heather Moore. She's a citizen supporter of  
13 this. Raise your hand, Heather.

14           City Commissioner-Elect Wanda Rentas, City  
15 Commissioner Art Otero, City Commissioner Cheryl  
16 Grieb, Mayor Commissioner Jim Swan. We have Bea  
17 Meeks, who is the economic development director at  
18 the City of Mascotte. And then we have Dan  
19 Loubier, our director of parks and rec, and  
20 Mr. Steigerwald, the city of manager. Our last  
21 supporter here is Mr. Darren Soto, representative  
22 from our district.

23           Trustees, the issues before you today is,  
24 we're asking your approval to relocate our existing  
25 marina to another location within the submerged

1 land area, and we're asking you to do this as an  
2 exception because it serves a public purpose.

3 This project that the City embarked on is a  
4 \$30 million project. We've already spent  
5 approximately \$2 million in permitting, plans, and  
6 construction drawings. The City Commission  
7 obligated itself to 7.5 million in construction  
8 that's going on currently as I speak. And then  
9 just last week, they approved \$8 million in bonds  
10 for future improvements.

11 Now, this project is the result of about three  
12 years of planning, several town meetings with  
13 hundreds of citizens who came out and said -- and  
14 told us what they wanted their lakefront to look  
15 like. We have a visioning process, and the plan  
16 you have before you today is that vision that the  
17 citizens held dearest to them.

18 Now, I appreciate DEP's position in this  
19 matter, but the rule allows you, the Trustees, to  
20 make a public interest exception. And we know that  
21 you do make those exceptions.

22 For example, as mentioned by Commissioner  
23 Bronson, if you look at the state park located in  
24 St. Pete, you can see right there over the water is  
25 a non-dependent structure, a marina, and I submit

1 to you it's a lot bigger than what we're asking to  
2 do.

3 Our request is of the same class as that. It  
4 serves the same public purpose of that. And in our  
5 case, the public purpose that makes us unique is  
6 that we're asking to preserve the character of our  
7 waterfront. As Commissioner Bronson said, it's got  
8 a long history, and it's the heart and soul of the  
9 City of Kissimmee.

10 We're asking that you honor the vision of our  
11 citizens. They came forward and spent a lot of  
12 time and said this is what they would like to see.

13 And finally, it results in a net loss of  
14 enclosed non-water dependent structures by taking  
15 down the both the yacht club, as you can see there,  
16 2,000 square feet, and demolishing the marina,  
17 which is 880 square feet.

18 Our marina is a focal point for a lot of  
19 locals. They go there every day and sit out there  
20 and talk about fishing and all kinds of stuff.  
21 It's a gathering place for the locals, and it has  
22 been that way, as the Commissioner said, for years.  
23 And it's also a focal point for our visitors.

24 So I hope we've provided to you enough  
25 information that provides a sufficient basis for

1           you to exercise your discretion to grant us to  
2           relocate this marina to a different spot.  And I'm  
3           asking you on behalf of the citizens of the City of  
4           Kissimmee to honor that request and grant this  
5           exception.  Thank you.

6           GOVERNOR CRIST:  Thank you.  Any questions?

7           MS. DREW:  Our next speaker is Monica Reimer  
8           with Earth Justice.

9           MS. REIMER:  Good afternoon.  I guess it's  
10          afternoon, Governor and Cabinet.  My name is Monica  
11          Reimer.  I'm an attorney with Earth Justice, but  
12          I'm here today both on my own behalf and as a  
13          former Assistant Attorney General who represented  
14          the Board of Trustees on numerous sovereignty  
15          submerged lands cases.

16          I also have a personal interest.  I'm an avid  
17          canoeist, and I have a great deal of interest in  
18          seeing the lands beneath navigable waters preserved  
19          for public trust uses.

20          My comments today are going to be directed  
21          towards why the Board has a water dependent use  
22          rule for sovereignty submerged lands and why strict  
23          enforcement of that rule is extremely important.

24          Obviously, this agenda item concerns  
25          sovereignty submerged lands.  These are lands

1           beneath navigable waters. They are different than  
2           any other land in the State of Florida. They are  
3           not state forests. They are not state parks. They  
4           are protected by state law, by state judicial  
5           decisions, and by the state constitution for public  
6           uses.

7           The reason that they're preserved for public  
8           uses is because since Roman times, people have  
9           recognized that navigable waters are inherently  
10          public. Here in Florida, obviously, we have a  
11          constitution that recognizes that as well. They  
12          are called public trust lands because you do not  
13          own these lands like other state lands. You own  
14          them in trust for the public. That puts you in the  
15          position of a trustee, which has certain  
16          obligations that are different than when you're  
17          making decisions about other state lands here in  
18          the State of Florida.

19          As a trustee, you have a legal duty to  
20          preserve and control these lands for public trust  
21          uses. Those uses are concerned with uses normally  
22          made of public trust waters, swimming, fishing, the  
23          normal uses, not a restaurant.

24          What your water dependent use rule does is, it  
25          implements your duty to protect these lands for

1 public uses that are connected with the public  
2 waters themselves. The easiest way of explaining  
3 this is to compare it to your duty if you were a  
4 fiduciary trustee. If you had a brother or a  
5 sister who was married and they had children and  
6 they were killed in a car crash and you became the  
7 trustee of their assets for their son, your nephew,  
8 and you had a friend, and your friend came to you  
9 and said, "Gosh, he's got a lot of money. I've got  
10 this really great restaurant idea. Why don't you  
11 give me \$10,000," what would your answer be? It  
12 would be no. It would be no if it were \$10,000.  
13 It would be no if it was \$100. It would be no if  
14 it was \$10. And the answer needs to be no for  
15 non-water dependent uses of public trust lands as  
16 well.

17 Obviously, the law recognizes some exceptions.  
18 Those exceptions should only be used in rare and  
19 unusual circumstances. Those circumstances do not  
20 exist here. This is a non-water dependent use, and  
21 what they want to do is repeat a larger non-water  
22 dependent use. There is no reason this restaurant  
23 cannot be on uplands.

24 I understand. I think going to a restaurant  
25 over the water is wonderful. I am sure there are



1           lots of people around the State of Florida who  
2           would love to build restaurants on sovereignty  
3           submerged lands. But that is not your role. Your  
4           role is to protect these lands for water dependent  
5           uses.

6           I urge you to support your staff's  
7           recommendation, which is denial of this use, and I  
8           agree with them that this is an abrupt and serious  
9           departure from what has always been the Trustees'  
10          obligations and how they have viewed what those  
11          obligations when they were applying the water  
12          dependent use rule.

13          Thank very much.

14          COMMISSIONER BRONSON: I have a question for  
15          the City, Governor.

16          GOVERNOR CRIST: Yes.

17          COMMISSIONER BRONSON: I guess my question to  
18          the City is, is this property not being used by the  
19          general public, and is there a water dependent use  
20          of boat dockings and other things available on this  
21          piece of property? It sounded like it wasn't open  
22          to the public and so forth, and I want to get that  
23          on the record.

24          MR. SMALLWOOD: Yes, sir, it is open to the  
25          public. We have a floating dock there where the

1           boaters can come up, go up to the bait shop there  
2           and get their bait, do their shopping. You can  
3           come off of the seawall and walk out on the plank  
4           to it. So it is open to the public, and it does  
5           serve the fishing community there.

6           COMMISSIONER BRONSON: And it is a water  
7           dependent use?

8           MR. SMALLWOOD: Yes, sir. Yes, sir, no  
9           different than the St. Pete.

10          ATTORNEY GENERAL McCOLLUM: I want to ask a  
11          question too before you go away, if I could.

12          MR. SMALLWOOD: Yes, sir.

13          ATTORNEY GENERAL McCOLLUM: Am I correct we're  
14          just moving things around?

15          MR. SMALLWOOD: Yes, sir.

16          ATTORNEY GENERAL McCOLLUM: I mean, you're  
17          building something new, but you're essentially  
18          moving what already exists?

19          MR. SMALLWOOD: Right, and we're bringing it  
20          up to ADA standards.

21          ATTORNEY GENERAL McCOLLUM: So one could argue  
22          equally that what is there today shouldn't be there  
23          if you were on the other side of this argument, I  
24          suppose, because you're simply moving it from one  
25          point to another. And when you get done moving it,

1           what's going to happen to the places where --  
2           you're going to tear it down, right, what's there  
3           now?

4           MR. SMALLWOOD:   Yes, sir.   Yep.

5           ATTORNEY GENERAL McCOLLUM:   And then what is  
6           that going to be?

7           MR. SMALLWOOD:   Open water.

8           ATTORNEY GENERAL McCOLLUM:   Open water?

9           MR. SMALLWOOD:   Yes, sir.

10          ATTORNEY GENERAL McCOLLUM:   Restored to  
11          sovereign lands state in sort of a natural  
12          condition?

13          MR. SMALLWOOD:   Yes, sir.

14          ATTORNEY GENERAL McCOLLUM:   And hopefully  
15          grass will grow there, fish will play there, so  
16          forth?

17          MR. SMALLWOOD:   Yes, sir, that's exactly  
18          right.

19          GOVERNOR CRIST:   So currently there is a  
20          restaurant that's over the water?

21          MR. SMALLWOOD:   It's actually not a restaurant  
22          even though they call it a restaurant.   It's a  
23          snack bar.   It's got a counter.   When guys come in,  
24          he'll make them hamburgers or fry them eggs in the  
25          morning.   That's all it is.   It's a counter, a

1 lunch counter.

2 GOVERNOR CRIST: Why do you want to move it?

3 MR. SMALLWOOD: Because Game and Fish when  
4 they designed the original park, they had us close  
5 all our boat ramps on the front part of the lake  
6 and moved this down there to the south part, and  
7 they asked us to consolidate everything down there.  
8 So we're moving the bait shop that's here off of  
9 this open water inside a breakwater that already  
10 exists, inside it, so that the boaters that are  
11 launching, it's just going to be one continuous  
12 flow of traffic.

13 GOVERNOR CRIST: Thank you.

14 MS. REIMER: May I respond briefly?

15 GOVERNOR CRIST: Of course you may.

16 MS. REIMER: There's no problem with a marina.  
17 A marina is obviously a water dependent use. The  
18 problem is it's a restaurant. The problem is it's  
19 a private restaurant that's run for profit. The  
20 other problem is that it's a larger restaurant.

21 GOVERNOR CRIST: Let me ask a fairly obvious  
22 question. And maybe you're not the perfect party  
23 to respond. But if there was already a snack bar  
24 over the water, why was it allowed to be there?

25 MS. REIMER: It is not clear to me that it --

1 GOVERNOR CRIST: Does that make sense?

2 MR. SMALLWOOD: It was grandfathered in.

3 MS. REIMER: That it ever properly was. The  
4 original -- what was originally permitted was one  
5 dock with eight slips. And what the City did was  
6 came in and built two docks with 53 slips. So I am  
7 not sure exactly how it got there to begin with.

8 GOVERNOR CRIST: Thank you.

9 MR. RACH: Good morning. Tim Rach with DEP.

10 The existing structure, the non-water  
11 dependent restaurant and bait shop is in the  
12 current lease identified as a non-water dependent  
13 structure, so it's a grandfathered structure that  
14 was brought into the current lease. So that  
15 structure is authorized to be there. There is  
16 language in the lease that restricts what could be  
17 done in terms of repairs and stuff like that. So  
18 it's an authorized structure currently.

19 GOVERNOR CRIST: Sounds like you want to take  
20 the grandfather and move them down the road, or  
21 down the lake,

22 COMMISSIONER BRONSON: To a different  
23 location.

24 MS. DREW: Well, there is a significant size  
25 difference in the --

1 CFO SINK: And give him a little cosmetic  
2 surgery.

3 MS. DREW: Charles Lee would also like to be  
4 heard on this.

5 MR. LEE: Governor and members of the Board of  
6 Trustees, I have three things I would like to say  
7 to you about this matter.

8 The first one is that this issue of non-water  
9 dependent structures is a old, old issue. And  
10 frankly, for me personally, it goes back a long  
11 time, because sometime way back when, a guy by the  
12 name of George Firestone, who was Secretary of  
13 State and then on this Cabinet, put me on a thing  
14 called the Blue Ribbon Marina Committee at a time  
15 when the Trustees didn't have any rules. You all  
16 kind of flew by the seat of your pants back in the  
17 1970s, and there weren't any real submerged lands  
18 rules.

19 So the marine industry, people who sell, make,  
20 dock boats, and the environmental community were  
21 very concerned about this lack of rules, and one of  
22 the reasons the marine industry was concerned about  
23 this was because they were seeing a trend around  
24 the state where people were occupying shorelines  
25 with things like restaurants and office buildings.

1           There were even proposals to put condominiums on  
2           stilts out over the water. And there was a concern  
3           among the marine industry that the available  
4           docking space for boats in boats in environmentally  
5           acceptable areas was going to be kind of carpeted  
6           over by these other non-water dependent uses.

7           And, of course, we from an environmental  
8           standpoint were concerned about the fact that  
9           adding to the need to build marinas for boats,  
10          et cetera, you were going to have people who wanted  
11          to build all sorts of things on land that you and  
12          me as the public own for commercial purposes.

13          And so that led to a rule that was adopted  
14          beginning in 1981 that initially started out to say  
15          in its proposal, thou shalt not have any non-water  
16          dependent structures at all. And what happened  
17          then was, there was a gentleman by the name of  
18          Tibor Hollo in Miami-Dade County, then called Dade  
19          County it's been so long ago. And he happened to  
20          be in the process of building a big yacht club in  
21          Plaza Venetia out over the water at the time this  
22          was going on. And so the rule got written to say  
23          that you as the Trustees would have some limited  
24          discretion to grant an exception to the non-water  
25          dependent criteria that would generally exclude

1           these structures.

2                   And then a third thing happened, which was  
3           after the Tibor Hollo matter. In 1983 the rule was  
4           amended again, and that amendment is what appears  
5           -- if you look at your agenda item at the top of  
6           page 21, the rule was further modified on August 1,  
7           1983 to add a bunch of additional criteria.

8                   Now, let me take you for a second back to the  
9           Tibor Hollo case that really kind of cracked open  
10          the door for these non-water dependent structures.  
11          There was a facet of that case that is not present  
12          in the instant case with regard to the City of  
13          Kissimmee. The facet of that case was that there  
14          was no place on the land to put anything. There  
15          was a big hotel there. There was nothing, no room  
16          to have a yacht club building for this yacht club.  
17          And so that basically weighed on the Trustees as a  
18          matter of necessity as to why they should make this  
19          exception. And they crafted some pretty careful  
20          things about it, that it can only be on seawalls  
21          and not aquatic preserves, et cetera. But the  
22          issue of hardship because there was no space on the  
23          upland to put the yacht club was really what was  
24          driving that particular decision.

25                   And as much as I would like to be sympathetic



1 with my friends from the City of Kissimmee about  
2 this, there is a question in terms of DEP's  
3 criteria that they have not answered very well with  
4 regard to whether or not you should use your  
5 authority to make this narrow exception, and that  
6 is, is there a viable good place on the uplands in  
7 this area to put a restaurant that would have a  
8 view over the water and serve essentially the same  
9 purposes?

10 When you look at the maps and the aerial  
11 photos of this area, it's evident. It looks like  
12 the City of Kissimmee owns around 100 acres down  
13 there. They've got three-quarters of a mile of  
14 shoreline that they're moving things around on.  
15 And they're in the process of doing a big  
16 comprehensive plan, which I think overall is a very  
17 good plan, to revise the shoreline area as a park.

18 So one of the questions that I think needs to  
19 be answered is, is there a need for you to even  
20 consider an exception so they can have their  
21 restaurant, because by moving it back a few feet,  
22 you could have the restaurant in the same location,  
23 but it would be on their uplands and not out over  
24 your state-owned sovereign lands, still serving the  
25 same purpose.

1           Now, the City will say, "Well, we've already  
2           got our plan. We don't want to mess with our plan.  
3           We don't want to have to redo it." I understand  
4           those concerns and those motivations. But from the  
5           standpoint of you as the managers of state land,  
6           what I'm concerned about is that this exception be  
7           kept very narrow, because I can tell you there is a  
8           world of people out there that, if you crack this  
9           exception open very wide, would like to put a lot  
10          of things out over state lands, and I think that's  
11          a matter of concern.

12           In this case, they're replacing what's there.  
13          I understand that. That's a mitigating  
14          circumstance. If perchance you decide to go  
15          against the Department's recommendations and to go  
16          against my recommendations today, I would ask you  
17          to do one thing to make sure that you don't open  
18          this door, and that is to make very clear that is a  
19          replacement for an existing structure and that  
20          you're not allowing them to build something new out  
21          there. Make that a part of your decision so it  
22          heralds out to all others that in fact you're not  
23          generally letting people build things on state  
24          land.

25           But my primary thing to you is this, and that

1 is, the City has got generally a good plan. They  
2 can put this restaurant right on the uplands as  
3 part of that good plan. They don't need to put it  
4 out over the water. I think that's what you ought  
5 to do. You ought to follow your staff's  
6 recommendation and say no.

7 And now I want to say one final thing to you  
8 good people up there. Governor Crist, Bill  
9 McCollum, Financial Officer Sink, and Charlie  
10 Bronson, Commissioner of Agriculture, you have done  
11 overall a really good job for people of the State  
12 of Florida in your tenure as members of the Board  
13 of Trustees. Each of you has your own  
14 accomplishments.

15 Governor, the thing that you have done with  
16 regard to the U.S. Sugar purchase, which is now a  
17 done deal, implemented, going forward, to help save  
18 the Everglades, absolutely impressive.

19 Bill, what you have done, the things when you  
20 were in Congress, the Wekiva Wild and Scenic River,  
21 and I think you were a party to the creation of the  
22 Weeki Wachee Springs State Park, a tremendous  
23 achievement for the people of Florida.

24 I was going to say Comptroller Sink because  
25 that's what it used to be. Chief Financial Officer

1 Sink, your shepherding of the State's land  
2 acquisition programs has been tremendous, and your  
3 help on land acquisition items, we at Audubon have  
4 appreciated that from Pensacola to Key West.

5 And Commissioner Bronson, I'm proud to say  
6 that I live in a state that has the best state  
7 forest system in the United States. I don't think  
8 we have a -- I've been to state forests around the  
9 country, and I think that the things that you have  
10 been able to do with the state forests have been  
11 just absolutely remarkable, and we commend you for  
12 it.

13 COMMISSIONER BRONSON: Thank you.

14 MR. LEE: It's possible I won't get to see you  
15 all again before the end of your term, and I would  
16 just like to say on behalf of Audubon, thanks for  
17 everything that you have done, because it has been  
18 a lot. Thank you.

19 GOVERNOR CRIST: Thank you, Charles. CFO.

20 CFO SINK: I've heard what Charles said, and I  
21 have some thought that we really ought to affirm  
22 that, if we elect to not follow the staff's  
23 recommendation that, it's because of a very narrow  
24 circumstance here, because my staff has informed me  
25 that there is a longstanding Board of Trustees

1 policy to not encourage -- or to in fact discourage  
2 the building of these non-water dependent  
3 structures on state submerged lands.

4 But in my opinion, because of the fact that  
5 they're actually taking down two structures that  
6 are on the water now, the yacht club structure as  
7 well the existing bait and tackle structure, to  
8 replace it with something that the great people of  
9 Kissimmee, who had a lot of public input and  
10 believe that this is going to be true driver of  
11 economic development in their community and  
12 increased activity within their city, that I would  
13 be prepared to make a motion that we move for  
14 approval of the relocation of this project as it  
15 has been described to us, with the understanding  
16 and the clear intent for the future Board of  
17 Trustees that this is an exception, it's in the  
18 public interest of the people of Kissimmee, and it  
19 is not intended to be a signal that we as board  
20 members in a fiduciary capacity believe that there  
21 should be additional opening up of the longstanding  
22 policies of this Board through many administrations  
23 not to permit these non-water dependent structures.

24 ATTORNEY GENERAL McCOLLUM: I second that.

25 GOVERNOR CRIST: Any other discussion? Show

1           it adopted without objection.

2           CFO SINK:   And I would like to recommend that  
3           maybe they call it the Charles Bronson Bait and  
4           Tackle Shop.

5           (Laughter.)

6           MR. SMALLWOOD:   Thank you all very much.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

3 MR. CARDWELL: Good afternoon. Item 1,  
4 request approval of the minutes of the 14 September  
5 and 28 September meetings.

6 ATTORNEY GENERAL McCOLLUM: I so move.

7 CFO SINK: Second.

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

10 MR. WILLIAMS: Item 2, request approval of a  
11 fiscal sufficiency of an amount not exceeding  
12 \$310 million in State of Florida, full faith and  
13 credit, Department of Transportation right-of-way  
14 acquisition of bridge construction refunding bonds.

15 CFO SINK: Move it.

16 ATTORNEY GENERAL McCOLLUM: Second.

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

19 MR. WILLIAMS: Item 3, request approval of a  
20 fiscal sufficiency of an amount not exceeding  
21 \$17,300,000 State of Florida, Board of Governors,  
22 University of North Florida mandatory student fee  
23 revenue bonds.

24 ATTORNEY GENERAL McCOLLUM: I move Item 3.

25 CFO SINK: Second.

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

3 MR. WILLIAMS: Thank you. Item 4, request  
4 approval of a fiscal sufficiency of an amount not  
5 exceeding \$16,500,000 State of Florida, Board of  
6 Governors, Florida State University parking  
7 facility revenue bonds.

8 CFO SINK: Move it.

9 ATTORNEY GENERAL McCOLLUM: Second.

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

12 MR. WILLIAMS: Item 5, request approval of a  
13 fiscal sufficiency of an amount not exceeding  
14 \$8,500,000 State of Florida, Board of Governors,  
15 Florida State University parking facility revenue  
16 refunding bonds.

17 ATTORNEY GENERAL McCOLLUM: I move Item 5.

18 CFO SINK: Second.

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

21 MR. WILLIAMS: Thank you. Item 6, request  
22 approval of a fiscal determination of an amount not  
23 exceeding \$25,780,000 Florida Housing Finance  
24 Corporation multifamily mortgage revenue bonds.

25 CFO SINK: Move it.



1 ATTORNEY GENERAL McCOLLUM: Second.

2 GOVERNOR CRIST: Show it approved without  
3 objection.

4 MR. WILLIAMS: Thank you. Item 7, request  
5 approval of a fiscal determination of an amount not  
6 exceeding \$12,250,000 Florida Housing Finance  
7 Corporation multifamily mortgage revenue bonds.

8 ATTORNEY GENERAL McCOLLUM: I move Item 7.

9 CFO SINK: Second.

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

12 MR. WILLIAMS: Thank you. Item 8, request  
13 approval of a fiscal determination of an amount not  
14 exceeding \$9,500,000 Florida Housing Finance  
15 Corporation multifamily mortgage revenue bonds.

16 CFO SINK: Move it.

17 ATTORNEY GENERAL McCOLLUM: Second.

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

20 MR. WILLIAMS: Thank you. Item 9, request  
21 approval of the State Board of Administration  
22 quarterly report required by the Protecting  
23 Florida's Investments Act. Just in summary,  
24 there's no material action to report here, a couple  
25 of companies in, couple of companies out, no

1 material change one way or the other.

2 CFO SINK: Move it.

3 ATTORNEY GENERAL McCOLLUM: Second.

4 GOVERNOR CRIST: Show it approved without  
5 objection.

6 MR. WILLIAMS: Thank you. Item 10, request  
7 approval of a draft letter to the Joint Legislative  
8 Auditing Committee affirming that the SBA Trustees  
9 have reviewed and approved the monthly LGIP summary  
10 reports and actions taken, if any, to address  
11 material impacts. There were no material impacts.

12 ATTORNEY GENERAL McCOLLUM: I move Item 10.

13 CFO SINK: Second.

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

16 MR. WILLIAMS: Item 11, request reaffirmation  
17 of the executive director.

18 GOVERNOR CRIST: So move.

19 ATTORNEY GENERAL McCOLLUM: Second.

20 CFO SINK: All move.

21 GOVERNOR CRIST: Moved and seconded. Approved  
22 again without objection. Congratulations.

23 Thank you. We're adjourned.

24 (Proceedings concluded at 12:57 p.m.)

25

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 186 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 6th day of December, 2010.

---

MARY ALLEN NEEL, RPR, FPR  
2894-A Remington Green Lane  
Tallahassee, Florida 32308  
(850) 878-2221