

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:

FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
ADMINISTRATION COMMISSION
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

The above agencies came to be heard before
THE FLORIDA CABINET, the Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03, The
Capitol, Tallahassee, Florida, on Wednesday, March 9,
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Reported by:

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ADAM PUTNAM
Commissioner of Agriculture

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I N D E X

INFORMATIONAL ITEM
(Presented by DR. DAVID MATKIN)

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P R O C E E D I N G S

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

GOVERNOR SCOTT: All right. The next Cabinet meeting is Tuesday, April 5th, 2011.

Also, the Executive Clemency Board will meet immediately following the Cabinet meeting. If there's anyone in the Cabinet room that wishes to provide public comments during the meeting, please see Julie McCall in the lobby outside the Cabinet room. Thank you.

Julie, you want to stand up so everybody knows? Thank you.

All right. Cabinet members, I've asked Dr. David Matkin with the Askew School of Public Administration and Policy at Florida State University to give us a brief presentation regarding his research on Florida local government retirement systems. I asked for this presentation to be provided this morning when all THE Cabinet members are available.

Thank you, Dr. Matkin, for being here. Are you ready?

DR. MATKIN: Yes, I'm ready. Thank you so much, Governor, and to the Cabinet for the opportunity to present this research. It's

1 humbling to follow such distinguished guests before
2 me, but it's wonderful to have this attention to
3 what we believe to be a really important issue
4 facing Floridians.

5 Just a little bit of information. The Leroy
6 Collins Institute is a nonprofit, nonpartisan
7 research institute which studies and promotes
8 creative solutions to key issues facing the people
9 of Florida. And I would like to recognize our
10 chair, Allison DeFoor, and our director, Carol
11 Weissert, who are here with me, and also thank you
12 for the support of the Jessie Ball duPont Fund for
13 financing the research.

14 We really started with two big questions about
15 a year ago. The first one is how much do
16 retirement benefits cost local governments, and the
17 second is what's the liability associated with
18 those benefits, and are they being funded.

19 And so -- let's see. Do I have control of
20 this, or do -- okay. I can do that.

21 Okay. So here's sort of the -- the cost issue
22 falls this way. The cities, in fiscal year 2009,
23 about 8 percent, a little over 8 percent,
24 8.3 percent of their total governmental
25 expenditures can be attributed to costs associated

1 with retirement benefits. 5.6 percent of those are
2 associated with pension costs and 2.7 percent with
3 subsidies for obligations for its health benefits
4 and other post-employment benefits other than
5 pensions.

6 In counties, that looks pretty similar. It's
7 about 5 percent for the pension costs of total
8 governmental expenditures and 3.1 percent of that
9 obligation, of that annual cost for health care
10 benefits.

11 How has that trended over the last six years?
12 Well, it has risen for both counties and for
13 cities. There's been -- for counties, they've seen
14 a 42 percent increase from 2003 to 2009, and cities
15 have seen a 33 percent increase, again as a share
16 of total governmental expenditures.

17 If we look, though, at individual level data,
18 we'll see that there's some variation amongst
19 cities and amongst counties. There are some cities
20 that have a relatively small portion of their total
21 expenditures that go towards their pension
22 obligations, and there are some that have a very
23 large portion. In fact, the data that I'm showing
24 you on the left-hand figure is capped at 9 percent
25 because I want to show it in the same scale as I'm

1 showing the counties, but there are some that go up
2 above that 9 percent.

3 The take-home from this is that we see very
4 different situations in municipalities than in
5 counties. Municipalities clustered really around
6 their FRS required contribution. But cities (sic),
7 you see a wide amount of variation, and that really
8 is based on the variation in the quality of
9 benefits that are being provided, the methods that
10 are used to determine who qualifies for a benefit,
11 the salary levels, the number of employees they
12 have, and the proportion of their unfunded
13 liability that they're having to make up.

14 So if we move from cost over to the liability
15 issue, these graphs or these figures demonstrate
16 from 10 large cities in Florida and 25 plans in
17 2006, and then they added some pension plans in
18 2009, how many of those pension plans are fully
19 funded and how many are funded at a lower level.

20 And so if we look just in 2009, you can see
21 that 13 percent are funded more than 90 percent,
22 13 percent of those 25 plans; and 23 percent
23 between 80 and 90 percent, which is sort of a
24 concern level; and then 51 percent in something of
25 a danger level between 60 to 80 percent funded; and

1 then 13 percent falling below 60 percent, which
2 falls into something of an unsustainable funding
3 level.

4 Those funding levels have shifted from 2006.
5 A lot of the concern is, is it just a concern for
6 today and we're going to be fine? 2006 we would
7 usually say is outside of this danger, the current
8 economic crisis, but we can still see that we still
9 have 16 percent in the unsustainable range in 2006.
10 And while we had more that were in the stable and
11 well-funded range of more than 90 percent, we still
12 had many that were still in danger and of concern.

13 So it's not only a concern that's associated
14 with today. It has been a concern, and it has
15 become more of a concern. And we think that it
16 will become even more of a concern if we don't
17 start looking at this seriously and figure out
18 solutions for the problem.

19 GOVERNOR SCOTT: So the point is that it's not
20 getting better, it's getting worse.

21 DR. MATKIN: Right, it's getting worse.

22 GOVERNOR SCOTT: So when you say it's
23 10 percent underfunded, only 90 percent funded, in
24 theory, 10 percent of the people in the pension
25 plan are never going to get paid.

1 DR. MATKIN: Or they're going to have to
2 increase costs. They're going to have to catch up
3 on --

4 GOVERNOR SCOTT: Or reduce everybody's
5 benefits.

6 DR. MATKIN: Yes, lower benefits or increased
7 contributions to catch up.

8 One of the unique things about our research is
9 that we don't only look at pension obligations;
10 we're also looking at what are called OPEB
11 obligations. They're really health care subsidies
12 that have been promised to employees upon
13 retirement.

14 And the governmental accounting standards have
15 now required governments to be able to report their
16 funding levels for these benefits in order to be
17 compliant with Generally Accepted Accounting
18 Principles. So we can look at the annual financial
19 reports and see how well they're funded on these
20 important other elements of retirement benefits,
21 and the significant majority of cities and counties
22 are zero percent funded. They haven't put aside
23 any assets towards paying out those benefits.

24 GOVERNOR SCOTT: So under GAAP, if you're a
25 company, you have to put your liability out; right?

1 You have to say you have \$50 million liability?

2 DR. MATKIN: Right.

3 GOVERNOR SCOTT: So do the cities and counties
4 have to do that now?

5 DR. MATKIN: Yes, they do. And so we know
6 what their liabilities are, and we know that they
7 have zero assets for most cities towards those
8 liabilities.

9 GOVERNOR SCOTT: Do most employees realize
10 this?

11 DR. MATKIN: I don't think so. I don't think
12 most people are aware of the other post-employment
13 benefit issue. I don't think most employees are
14 aware.

15 So in our count, there are some that have
16 begun to put assets aside. And we may be
17 undercounting this, because the way that the
18 reporting goes, you have to have an actuarial
19 assessment that recognizes those assets. And so if
20 they put aside -- if a county or city has put aside
21 assets after the last time their actuary came in
22 and looked at it, it wouldn't show on the report as
23 having those.

24 But as of our count, there were five counties
25 that we counted as having qualified assets set

1 aside for that, and nine of the largest 100 cities
2 having some qualified assets set aside towards that
3 liability, so they're more than zero percent
4 funded.

5 And the significant variation in these
6 liabilities is really based on whether there is a
7 -- the size of the liability, I should say, is
8 based on whether there is an explicit benefit to
9 provide X amount of dollars after retirement
10 towards helping further -- subsidizing the health
11 care costs, or whether it's what's called an
12 implicit benefit, which is a requirement that all
13 local governments under the state statute provide
14 an implicit benefit, which just allows retirees to
15 buy into the health care plan that current
16 employees have at the current employee's benefit --
17 or cost. And so the retiree receives a benefit
18 because they pay this blended rate, not what they
19 would have to pay at their age-appropriate rate.

20 And so we see some cities and counties that
21 have very small liabilities because they only have
22 this implicit benefit, and some have very large
23 liabilities because they provide this explicit
24 benefit and they've put very little money towards
25 that benefit.

1 And so I just provide here on the slide some
2 examples of six of the highest liabilities
3 associated with these health care subsidies and
4 some of the lowest in the state. And you can see
5 that for some of them, as a percentage of even
6 total governmental expenditures, to be able to
7 cover that full liability is significant.

8 GOVERNOR SCOTT: That's their annual
9 expenditure; right? That's --

10 DR. MATKIN: This is annual.

11 GOVERNOR SCOTT: Their annual expenditure.

12 DR. MATKIN: Yes.

13 GOVERNOR SCOTT: So if they have a \$50 million
14 budget, so --

15 DR. MATKIN: Yes. So Bradenton, whatever
16 their total annual expenditure, they would need to
17 put away 2.4 percent times that total amount to
18 cover the full liability today.

19 They don't have to. According to governmental
20 accounting standards, they can amortize it over a
21 period and pay it so that they've caught up in as
22 much as 30 years. So no one is expecting everyone
23 to be covered today or tomorrow, but to begin to
24 cover that obligation.

25 And you can see that some of these -- there

1 are some governments that have significant -- very
2 low costs and liabilities in association to both
3 their payroll as well as their expenditures.
4 Wellington and Coral Springs have put money away to
5 cover their liability, and that's why this is the
6 unfunded portion.

7 So the Collins Institute has identified some
8 recommendations. The first set of recommendations
9 have to do with how we determine who should receive
10 a retirement benefit or pension benefit and what
11 income should be included in there. And we
12 recommend that local governments consider raising
13 the minimum age of retirement, as well as
14 reconsidering what sorts of income should be
15 included in that base salary.

16 In the board's report, we recommend that the
17 State considers repealing the current law that
18 requires an implicit subsidy for local governments
19 and also increases the amount of oversight, state
20 oversight over these health care benefits. As of
21 today, there's no agency to our knowledge that
22 systematically reviews the actuarial soundness of
23 these other post-employment benefit liabilities and
24 is monitoring these situations.

25 And this is our last group of recommendations,

1 which is -- these are focused on both state and
2 local governments. We recommend that some minimum
3 -- that governments consider some minimum level of
4 benefit -- or of contribution, so even during good
5 times they're contributing to their pension plans
6 so that they may even be a little overfunded during
7 those good times, so that when we get into bad
8 times, we don't -- we're not sort of always playing
9 at 100 percent during good times, and then during
10 any bad time, we shift into an underfunded status.

11 And then there are premium tax dollars that --
12 insurance premium dollars that the State collects
13 and then remits to the local governments, and we
14 recommend that there be some revision of how those
15 dollars are spent and allowed to be spent by local
16 governments so that they can be used to cover some
17 of these unfunded liabilities and not be an
18 incentive to just increasing liabilities.

19 GOVERNOR SCOTT: And that's the State that is
20 doing that; right?

21 DR. MATKIN: That's the State. That's
22 Chapters 175 and 185.

23 And then the last item is just that we are
24 recommending some increased transparency towards --
25 so taxpayers understand the skin they have in the

1 game, what's their obligation. And we know this
2 information is out there. It's in the financial
3 reports, but it's just not very clear and
4 transparent to the taxpayer, who is really the one
5 on the hook to pay these obligations, and they
6 should understand these costs better. And so some
7 state effort or local effort to make these costs
8 and issues more transparent to the people of
9 Florida is our final recommendation.

10 I would like to thank you, Governor and
11 Cabinet, for your time. Do you have any further
12 questions?

13 CFO ATWATER: Thank you, Governor. I
14 appreciate it. Thank you, Governor.

15 Doctor, I appreciate the information, and I
16 look forward to getting through all of it. I
17 appreciate it.

18 Did the research include interviews with local
19 officials?

20 DR. MATKIN: The research included primarily
21 gathering information off comprehensive annual
22 financial reports, but we did during the course of
23 our research talk with local officials at the
24 Florida League of Cities conference. I went to the
25 Florida League of Mayors conference and talked with

1 people about this research that we were engaged in.
2 We have local officials who are on the board of
3 directors.

4 CFO ATWATER: Could I have some follow up
5 here, Governor?

6 GOVERNOR SCOTT: Yes.

7 CFO ATWATER: Maybe just two quick ones.

8 There is -- obviously, the trend line is very
9 concerning. And I was curious in those
10 conversations if those elected officials shared
11 with your research team or the League shared what
12 their take on the trend line was and why it was
13 moving in that direction.

14 DR. MATKIN: I don't want to speak for the
15 local officials. The ones that -- the few that I
16 talked with about it either defend the condition
17 they're in as an issue of the state of the economy,
18 or they would talk about the difficulty they have
19 entering into negotiations in the past towards
20 these benefits, and that now they are hiring new
21 additional employees and raising salaries beyond
22 what they had expected, and so that is getting them
23 further into a hole.

24 The third element would be they often bring up
25 the 175 and 185 chapters of the statute that

1 required them to provide additional benefits in
2 order to get at these premium dollars that have
3 been capped at the rate, the amount they're
4 receiving in the past, and they can't receive the
5 additional dollars even if they've been collected
6 unless they provided additional benefits.

7 GOVERNOR SCOTT: Do you want to explain how
8 the premium dollars work, how that works, because I
9 think a lot of people don't understand that.

10 DR. MATKIN: Yes. The premium dollars are
11 insurance premium dollars captured at the state or
12 at the local level in a jurisdiction that -- for a
13 fire jurisdiction or for a police department's
14 jurisdiction. And --

15 GOVERNOR SCOTT: The premium dollars come from
16 where?

17 DR. MATKIN: They're insurance premium dollars
18 that are collected for casualty insurance and --
19 I'm drawing a blank on the other insurance source.
20 But they're collected at the local level. They
21 come to --

22 GOVERNOR SCOTT: So we all as taxpayers, if we
23 buy insurance, some of the insurance we buy,
24 there's a tax, basically, on that that goes to the
25 cities and counties?

1 DR. MATKIN: It goes to the State. The State
2 collects it and then remits that amount that the
3 governments qualify for for compensation to police
4 and fire pension plans, municipalities only.

5 And so the benefit is based on these local
6 governments providing a minimal benefit to their
7 police and firefighters for a pension plan, and
8 they therefore will qualify to receive this money
9 from the State to compensate them to provide a
10 uniform benefit, but also something a little extra.
11 The intent I think was to provide a little extra
12 for the police and fire.

13 And then those benefits -- the amount that
14 governments were receiving was capped in the '90s,
15 so that whatever you were receiving at that point
16 was the total amount you could receive on an annual
17 basis unless you negotiated to provide an increase
18 to the current benefit. And if you provided an
19 increase, you could then receive more of the
20 insurance dollars that were due to you to cover
21 that increase. And it only covered the increase in
22 that current year, but then it capped it. It set a
23 new cap. So the incentive is, to get more of those
24 dollars if they're accessible to you, you need to
25 increase benefits.

1 GOVERNOR SCOTT: Do you know how much those
2 dollars are?

3 DR. MATKIN: I can't say for that.

4 GOVERNOR SCOTT: So basically it creates an
5 incentive to provide a better benefit?

6 DR. MATKIN: Yes.

7 GOVERNOR SCOTT: I'm sorry. I think I got
8 that answered.

9 CFO ATWATER: Any research done that looked at
10 other states or laid us beside the other 49 states'
11 trend lines?

12 DR. MATKIN: Not at the municipal level.
13 There's a lot of research being done at the state
14 level, but there's very few groups that are looking
15 at municipal level pension and OPEB benefits
16 throughout the country. And we've been in some
17 negotiations with some groups to try and help get
18 some money so we can do some benchmarking.

19 CFO ATWATER: I wonder if you just might
20 explore the idea of -- in conversations I have had
21 with our local elected officials across Florida,
22 and certainly more frequently those in the place
23 where I had the privilege of representing for a
24 number of years, good people right on site making
25 tough decisions, they frequently expressed concern

1 that the difficulty of negotiating with, you know,
2 their own employees of the community, the city, the
3 town, village, county.

4 And they have raised the question as to an
5 independent entity, just as we might contract with
6 other entities to perform certain services, might
7 take out some of the dynamics that get in the way
8 of these conversations to be a partner. And I
9 don't know if you've come across that in any
10 research or recommendations.

11 DR. MATKIN: Yes, sir. Referring to pension
12 boards and the role of the pension boards in the
13 negotiation between the provider and the employees,
14 and that role of the pension board --

15 CFO ATWATER: I'm actually referring to the
16 City Council being able to . . .

17 DR. MATKIN: Negotiate.

18 CFO ATWATER: Negotiate.

19 DR. MATKIN: Yes. The negotiation process is
20 a significant issue in the increase in costs and
21 the interests of elected officials and what their
22 horizon is and whether they have a long-term
23 horizon enough to think about those benefits. The
24 cost of those benefits that they might promise in
25 the future is a concern that comes up frequently.

1 And one of our next stages is to really look more
2 at this negotiation process. I fully agree.

3 GOVERNOR SCOTT: Your report includes --
4 there's an appendix that shows all the different
5 counties and cities, all the governmental entities
6 and the numbers that they're underfunded; is that
7 right?

8 DR. MATKIN: No, not all of them, Governor.
9 We provide some information on some of the more
10 significant underfunding situations. You will see
11 in the packet I provided for the Cabinet, there is
12 some information on some of the largest governments
13 in Florida, and we provide that information as well
14 on our website, on the Leroy Collins Institute's
15 website.

16 And just to try to give you some information,
17 it's really not just that one city is doing well
18 and one city is not. Within one city, you could
19 have one plan doing really well and one plan doing
20 poorly. And so it's more of a plan-by-plan basis
21 that often is the concern. You could have a plan
22 in a city that is fully funded and then another one
23 that's 70 percent, 60 percent funded.

24 GOVERNOR SCOTT: Have you seen on any website
25 where they show the underfunding by city or county?

1 Is there anything out there that you've seen?

2 DR. MATKIN: There is some information that
3 you can get through the Department of Management
4 Services when they do their review of actuarial
5 reports to get a plan-by-plan report. We're
6 collecting this information and going through
7 producing some reports that provide some of this
8 that you're talking about.

9 But there's no sort of statewide, "Here's the
10 ones that are doing well, and here's the ones of
11 that are doing poorly." Even if you go into those
12 reports that are provided through the Department of
13 Management Services, it takes a knowledgeable eye
14 to know what you're looking for and what you're
15 reading.

16 GOVERNOR SCOTT: Okay. Any other questions?

17 Thank you. I mean, I think this is a big
18 issue for the State. I think we've got to make
19 sure that everybody understands the risks of these
20 pension plans and these health care liabilities
21 that we're at the local level creating that at some
22 point -- I don't know how it's going to ever get
23 paid. So thank you very much.

24 DR. MATKIN: Thank you, Governor. Thank you,
25 Cabinet.

1 GOVERNOR SCOTT: All right. Next we're going
2 to the Financial Services Commission, Office of
3 Insurance Regulation. The first agenda is the
4 Office of Insurance Regulation presented by
5 Commissioner Kevin McCarty.

6 MR. McCARTY: Good morning, Governor.

7 GOVERNOR SCOTT: Good morning.

8 MR. McCARTY: Good morning, members of the
9 Commission.

10 Before we move into the Office's agenda today,
11 I would like to first introduce Mr. John Forney.
12 He's the managing director with Raymond James
13 Financial. Mr. Forney serves as a financial
14 consultant and advisor for both Citizens Property
15 Insurance Corporation as well as the Florida
16 Hurricane Catastrophe Fund, and he's here today to
17 talk about the financial condition and status of
18 those entities. Mr. Forney?

19 GOVERNOR SCOTT: Thank you. Good morning.

20 MR. FORNEY: Good morning, Governor Scott,
21 CFO Atwater, General Bondi, Commissioner Putnam.
22 Greetings on this Ash Wednesday. For the record,
23 my name is John Forney. I work for Raymond James &
24 Associates. And it's an honor for me to be here
25 today to address you.

1 I know you have a lot of big issues on your
2 plate, but there are very few that have the type of
3 economic impact that the property insurance market
4 does in the State of Florida. And so I was asked
5 to come today to provide you a very brief
6 perspective from my standpoint on this issue, and I
7 was asked to do that for two reasons.

8 First, the firm that I represent, Raymond
9 James, which is based right here in Florida and is
10 over 4,000 employees strong in our state, and,
11 Governor Scott, adding jobs in Florida even as we
12 speak, is the financial advisor to Citizens, to the
13 CAT Fund, and to FIGA, the State's three primary
14 property insurance entities. And in that role,
15 what we try to do is to make sure that they can
16 meet the financial obligations that are given to
17 them to by the Legislature and other policymakers.

18 These are not competing entities, but rather
19 complementary entities with overlapping financial
20 obligations, and so it makes sense from the State's
21 standpoint to have a holistic view on how they're
22 approaching those obligations. We provide the
23 State that set of eyes. We also do similar work
24 for analogous entities in California, in Texas, in
25 Louisiana, and in North Carolina, so we bring a

1 national perspective as to how other states deal
2 with these same issues.

3 What I wanted to do today is give you just a
4 couple of brief facts about the market in the State
5 of Florida and what the implication of those facts
6 are, especially for the government's participation
7 in the market, and then I'll talk about some
8 commonsense ways to build a more successful
9 property insurance market in our state. From here,
10 this thing will take about 10 minutes.

11 First the facts. The biggest problem with the
12 property insurance market in Florida isn't what the
13 government has done. It's what Mother Nature has
14 done. We all know we're exposed to hurricanes in
15 this state, but this chart really puts it in
16 perspective.

17 Florida has more exposure to loss than all
18 other states from Texas to Maine combined, and that
19 really puts us in an entirely different financial
20 category than other states, so much so that there's
21 a plethora of academic studies that suggest the
22 size and nature of the catastrophic risk that
23 Florida faces is very difficult for the private
24 markets to insure under any circumstances.

25 But to paraphrase one of the old sayings from

1 a military unit I was in, "The difficult we can
2 always do; the impossible just takes a little bit
3 longer." And so these problems, while
4 exceptionally difficult, may in fact not be
5 intractable. But difficult they are, and this just
6 summarizes the modern era of insurance and where
7 these problems came from.

8 Starting with Hurricane Andrew in 1992, which
9 wiped out 50 years' worth insurance premiums that
10 had been collected in the State of Florida,
11 followed by the Northridge earthquake in California
12 two years later, which wiped out all earthquake
13 insurance premiums ever collected in the history of
14 California, and continuing in the last six years
15 with eight of the twelve most damaging events
16 happening in the United States during that time
17 period, private insurers have looked at this set of
18 facts and started to withdraw from these markets.

19 But property insurance is an essential
20 service. In Florida, you need it to get a mortgage
21 to buy a home. And so while our state was dealing
22 with an influx of residents over the last 20 years
23 that wanted to live the American dream and have a
24 home, private insurers were stepping away from the
25 market, and so the State stepped in to fill that

1 void.

2 And this schematic shows what the property
3 insurance market looks like in the State of Florida
4 right now. I'll just draw your attention to the
5 three blue objects. That's your participation, the
6 government's participation in that market through
7 Citizens, the CAT Fund, and FIGA, and it is big.
8 Citizens has about 20 to 25 percent market share in
9 its relevant markets, the CAT Fund about 50 percent
10 in its relevant markets, and FIGA is a contingent
11 entity standing by ready to pay the claims of
12 private insurers should they become insolvent.

13 I want to quantify for you what I mean by big.
14 But first, let's make sure we're on the same page
15 with what each of these entities is and what it
16 does.

17 The CAT Fund can be thought of as the State's
18 wholesale participant in the property insurance
19 market. Its customers are insurance companies, not
20 individuals. And it has very few of those
21 customers, less than 200, and therefore a very
22 small staff. And its sole function is to reimburse
23 those insurance companies for their statutorily
24 specified losses after a hurricane event. It pays
25 hurricane losses only, not sinkhole, and no other

1 property insurance losses.

2 Citizens can be thought of as the State's
3 retail participant in the property insurance
4 market. Its customers are primarily individuals.
5 It does have some commercial, but mostly
6 individuals, and it has lots of them, over a
7 million policies in the State of Florida, and a big
8 staff to service those policies. It pays hurricane
9 claims, it pays sinkhole claims, it pays fire and
10 theft and all the typical things that an insurance
11 company would pay.

12 FIGA, as I mentioned, is purely a contingent
13 entity. They stand by ready to step in and pay the
14 insolvencies of private insurers.

15 The one thing that all of these entities has
16 in common is that the State has endowed them with
17 special financial capabilities, including the
18 capability to levy assessments on policyholders
19 throughout the state and the ability to issue bonds
20 backed by those assessments. So let's turn now and
21 talk about what the level of those assessments and
22 bonding could rise to after events of various
23 sizes.

24 There are innumerable scenarios that you could
25 run to illustrate this. I've focused just on four,

1 and I'm going to summarize those on this page. The
2 following eight slides after this provide a lot
3 more detail on each one these events, and you're
4 free to look at those at your leisure. I promise I
5 won't go over all of those detailed numbers, but
6 this summarizes really the gist of it.

7 This is four different events, a hurricane
8 which might occur on average, statistically
9 speaking, once every 25 years, once every 50 years,
10 once every 100 years, and a reprise of Hurricane
11 Andrew, which is just under about a one-in-50-year
12 event, statistically speaking. It shows in each
13 case what Citizens' and the CAT Fund's
14 non-overlapping liability would be, what surplus it
15 would have available to meet those claims, and the
16 difference, what assessments they would have to
17 levy under the current statutory construct in order
18 to meet those claims, how much would be paid from
19 bonding.

20 There you can see that the surplus that these
21 entities has is large, as much as \$11.7 billion,
22 but their potential obligations are even bigger,
23 ranging from a low of \$17 billion in a
24 one-in-25-year event all the way up to
25 \$34.5 billion, or about 55 or 60 percent of the

1 total liability in the state just for those two
2 entities. That could result in assessments ranging
3 from \$7.5 billion to 22 billion, of which almost
4 19 billion would be required to be financed using
5 the bond markets after an event.

6 The good news is that because of the broad
7 powers that the State has given these entities and
8 the assessment base is so big, the actual annual
9 assessment required to support even that very large
10 amount of bonding is small, about 4.5 percent per
11 year. And the State has no legal, no financial,
12 and no moral obligation to support the debt of
13 these entities in any way.

14 The bad news is, those are big dollars.
15 \$19 billion is a very large amount of money, and
16 there are no guarantees that these entities would
17 have the ability to access the markets after
18 events, in the turmoil that could result, in order
19 to get the money to pay those claims.

20 I won't go over each one of these scenarios,
21 but I'll just orient you so when you look at them,
22 you'll know what you're looking at. Each one of
23 these shows Citizens on the left and the CAT Fund
24 on the right. The green is good; that's surplus.
25 The red is bad; that's assessments. And it shows

1 for each one of these scenarios how much
2 assessments and how much surplus would be
3 available, and then it details exactly for
4 different policyholders how much their assessments
5 would be in the one-in-100, the one-in-50, an
6 Andrew event, and then a one-in-25-year event.

7 So how do you reduce the reliance on
8 assessments in Florida and yet ensure that the
9 system as a whole and each company operating in it
10 can pay their claims in a timely manner after an
11 event?

12 I've listed some of the basic building blocks
13 here on this page, and I won't belabor them,
14 because many of them are contained in pending
15 legislation, especially Senator Richter's bill,
16 which really addresses the low-hanging fruit in the
17 Florida property insurance market. If you can
18 address wind mitigation credits, sinkholes, public
19 adjusters, the length of time after an event that
20 policyholders have to file a claim, and limiting
21 cash payments in advance of repairs, those five
22 things, you're going to go a long way towards
23 reducing the policies that are in Citizens.

24 With regard to Citizens and the CAT Fund,
25 whatever your policy is with regard to them,

1 whatever size you want to make them, it's important
2 -- these are quasi-governmental entities -- that
3 you provide them the resources to pay claims after
4 an event. And because of the nature of the
5 catastrophic events that we talked about at the
6 very beginning, that's always going to include
7 something more than just rates.

8 The last thing I'll mention on this page is
9 the bottom. The current system of post-event
10 ad hoc subsidized bailouts that we have at the
11 national level in this country, as demonstrated
12 most recently by Hurricane Katrina where, according
13 to the GAO, all of us wrote checks totaling
14 \$27 billion to make up property insurance
15 shortfalls in Louisiana, that system must end.

16 And there is a way to do a prefunded,
17 actuarially sound, nonsubsidized government program
18 at the federal level that will provide that
19 backstop and provide balance and stability to the
20 system nationally for the long term, and help
21 entice the large national insurers, particularly
22 State Farm and Allstate, which are conspicuously
23 absent in our market, but a big participant in
24 other markets, back into the market.

25 Commissioner Putnam, I know you voted for

1 similar legislation when it came before the
2 110th Congress. I think it's good public policy,
3 and all Floridians should consider that going
4 forward.

5 I'm going to close with some brief
6 observations on Citizens and the CAT Fund that
7 answer the questions that were raised at the last
8 Cabinet meeting.

9 First the CAT Fund. The CAT Fund provides a
10 powerful stabilizing force that complements private
11 reinsurance markets and balances the inherent
12 instability of those markets. It provides direct
13 financial benefits to every insurance company in
14 the state, and therefore, direct financial benefits
15 to every Floridian that has a homeowners policy. A
16 conservative estimate of the financial benefits
17 provided by the CAT Fund is \$3 billion a year that
18 goes back into the pockets of Floridians.

19 And even with the projected losses, the actual
20 unprojected losses that could exist in Florida,
21 I've prepared this table that calculates the return
22 on investment for the CAT Fund, and it has a very
23 powerful and very positive return on investment.
24 But it can only work if it's the right size. If
25 it's too big, if it fluctuates from year to year,

1 private companies can't plan around it, and
2 policyholders can't bank on it. We need both. So
3 the CAT Fund has got to be the right size and it's
4 got to have the right financing, and then it can
5 work.

6 The CAT Fund, when it looks at its obligations
7 every year, it looks at its surplus, and it
8 sometimes does pre-event financing in order to
9 bridge the gap between its \$6 billion of cash and
10 its \$18 billion of potential liability. That's
11 going to depend on market access factors that, CFO
12 Atwater, you mentioned at the last meeting, and
13 other things.

14 But it's important for you to know that
15 pre-event liquidity debt for the CAT Fund, and for
16 Citizens, for that matter, has no cost to the
17 State. It is not backed by assessments. It's paid
18 by rates levied on CAT Fund policyholders, and they
19 explicitly build in the cost of that financing into
20 their rates, and from investment income. So they
21 have to carefully consider whether they want it,
22 because it's not inexpensive in this liquidity
23 environment. But it's not something that costs the
24 State money, and it actually provides another
25 buffer between you and the CAT Fund not being able

1 to pay their claims after an event.

2 Your opportunity with Citizens is shown on the
3 charts on the right. The top is Citizens' inland
4 multi-peril business. The bottom is Citizens'
5 coastal wind-only business. If you look at the top
6 chart, these go back to 1996, and the line shows
7 the number of policies in Citizens went down
8 dramatically from almost a million to under
9 100,000, and then it has been allowed to go back up
10 to that million, or close to it, range again. This
11 is where all of those cost driver initiatives that
12 we talked about earlier can take a huge bite out of
13 the policies in Citizens.

14 You have more of a challenge in the lower
15 chart. This is the coastal wind-only policies,
16 which have not varied in quite a long time. It's a
17 policy decision that you have to make how
18 aggressively you want to pursue rates and other
19 initiatives which could shake loose some of those
20 policies that have been in Citizens and its
21 predecessors for quite a long time.

22 Citizens goes through the same process that
23 the CAT Fund does. It looks at its \$6 billion in
24 surplus, and it looks at its \$22 billion in
25 potential liability right now and says, "We might

1 want to bridge some of that gap with some liquidity
2 financing." It does that process every year with
3 its board and finance committee, which is composed
4 of some of the best and brightest business and
5 insurance minds in the State of Florida. And they
6 try to balance the costs of that, which are again
7 borne by Citizens policyholders, versus the
8 benefits of having cash on hand and not having to
9 worry after an event that policyholders are not
10 going to be able to be paid. So they go through
11 that process as well and end up with a pre-event
12 liquidity financing program, which again is
13 costless to the State.

14 I'll stop at this point and conclude. I'm
15 happy to answer any questions that any members of
16 the Cabinet have regarding Citizens, the CAT Fund,
17 or the general property insurance market in the
18 state.

19 GOVERNOR SCOTT: Thank you very much. Does
20 anyone have any questions?

21 CFO ATWATER: Thank you. John, thank you.

22 Did you mention in your issues that have to be
23 addressed the tail, the tail as it relates to
24 sinkhole claims?

25 MR. FORNEY: The tail that relates to sinkhole

1 and hurricane claims I think is a significant issue
2 that definitely needs to be addressed, yes.

3 GOVERNOR SCOTT: But I don't think it was --
4 John, you didn't have it in your report at all?
5 That was not in your report, anything about the
6 tail for the sinkhole?

7 MR. FORNEY: Not explicitly, no.

8 CFO ATWATER: And I think the last graph we
9 just had a chance to take a look at, that it would
10 be of note that where the high risk account has
11 been level, the growth is coming, I take it, from
12 insurance companies that are choosing to abandon
13 other areas because of sinkhole claims, or would
14 you feel like you could conclude that?

15 MR. FORNEY: I think that's certainly been a
16 big factor, the sinkhole claims, as well as those
17 other cost drivers of folks being able to get money
18 advanced to them before actually making repairs to
19 the house, the long ability to file claims five
20 years after a hurricane event, et cetera. All
21 those put pressure on folks that will cause them
22 not to want to write business in areas where you
23 would think they would be able to write more
24 business, the non-coastal areas.

25 GOVERNOR SCOTT: Part of it is, on top of the

1 time frame to file, you don't even have to go fix
2 your house; right?

3 MR. FORNEY: That's generally correct.

4 CFO ATWATER: I take it you would feel
5 something like Senate Bill 2044 from a year ago or
6 what's in maybe 408 this year would be very
7 helpful.

8 MR. FORNEY: I've read the bill, and there's a
9 lot of very positive measures in that bill that
10 move in the right direction on all of those issues.

11 GOVERNOR SCOTT: Does it move enough?

12 MR. FORNEY: That's really a policy judgment
13 that you have to balance. I think going too far
14 too fast can have a backlash in certain areas, but
15 moving in that direction is important. You don't
16 necessarily have to get it all done at once, but
17 we've got to start down that road.

18 COMMISSIONER PUTNAM: Thank you, Governor.

19 In '08 and '09 at the bottom, of the financial
20 crisis, the State Senate delegation was looking for
21 a federal guarantee of the Treasury and the Fed,
22 and to my knowledge, they were the only people told
23 no in a time when they were bailing out and
24 guaranteeing a lot of other entities.

25 Given the fact that the Fed and the Treasury

1 declined, what filled that void for that liquidity?
2 And given the fact that the political reality is
3 that there will not be a national CAT Fund anytime
4 soon, so -- I mean, we didn't do it after Andrew,
5 and we didn't do it after Katrina. After 9/11, we
6 did pass TRIA, which is in my opinion sort of the
7 best equivalent argument to why you would support a
8 hurricane national CAT fund or national natural
9 disaster CAT fund, because there's an implicit
10 recognition that we're all in this together, and if
11 the Feds are going to back it up somehow, someday,
12 anyway, we might as well plan for it. But all
13 those good arguments aside, it's not going to
14 happen anytime soon.

15 So what fills that gap? What are our options
16 there? Are there opportunities to enter into
17 voluntary compacts among the states, among the Gulf
18 Coast states or Eastern Seaboard states or other
19 states that have similar issues and might be able
20 to spread risk at least on a regional basis? Is
21 that something that does not require congressional
22 action that the State of Florida could pursue?

23 MR. FORNEY: I'll answer your first question
24 first. In 2008 and 2009, the State was coming off
25 the effects of House Bill 1A, which dramatically

1 expanded the liabilities of the CAT Fund in
2 particular, and of Citizens ultimately, and was
3 faced -- and then when that was followed by the
4 financial crisis, they were really in a quite
5 precarious financial condition and would have had
6 extreme difficulty in funding their obligations.
7 That's why that delegation, which I was a part of,
8 went to Washington to try to get some of those
9 federal guarantees which, as you noted, they were
10 very generous in giving out in that time, but not
11 to the hurricane and and earthquake entities.

12 And so the solution was to do some additional
13 pre-event financing and to hope a lot. And
14 thankfully, we escaped those years without a
15 hurricane that could have exposed the weaknesses in
16 the system at that time.

17 I tend to agree with your assessment on the
18 political environment, and you certainly don't need
19 my agreement to note the landscape in that world.
20 But I think that it's still worth pursuing national
21 legislation in case there is an event, and we can
22 avoid a post-Katrina bailout by having some
23 legislation ready to go. I think there's some
24 merit to that.

25 In terms of other states and putting compacts

1 together, we've explored those various initiatives
2 with all the states that we're involved with, which
3 is basically most of the states that are exposed to
4 natural catastrophes. It's very difficult to work
5 that out.

6 Just as the Florida political entity would
7 have a hard time paying claims for policyholders in
8 Louisiana, even if the expectation was that one day
9 they would help pay our claims, folks are afraid of
10 Florida. Florida has by far the biggest risk.
11 Everyone knows that, and people are not keen to
12 enter into compacts with Florida that involve the
13 sharing of risk, even if it uses established
14 insurance principles, so I think that's an uphill
15 struggle.

16 CFO ATWATER: John, how about -- you mentioned
17 that the size of the CAT Fund matters, the right
18 size. Do you want to give some -- offer some
19 wisdom there?

20 MR. FORNEY: There's two things I would say.
21 Try to make it consistent so that private companies
22 can plan their reinsurance purchases around it and
23 they know the CAT Fund is the North Star, it's not
24 going anywhere. If it's going like that every year
25 (demonstrating), it makes it hard for them to plan.

1 So pick a structure and try to stick with it absent
2 extraordinary circumstances.

3 The second thing is, it needs to be something
4 that between the combination of surplus and
5 post-event financing they can manage comfortably.
6 I think the current structure now with the
7 mandatory layer -- and the TICL will be gone here
8 before too long, and as an economic matter is
9 essentially gone now. That mandatory layer at
10 about where it is now, the \$17 billion or so, is a
11 manageable number, and I think that provides still
12 that \$3 billion-plus in benefits to Floridians. I
13 think that's a pretty good target to look at.

14 GOVERNOR SCOTT: Commissioner Putnam?

15 COMMISSIONER PUTNAM: If you just picked a
16 number and said property values in the State of
17 Florida because of the collapse of the real estate
18 market have declined, say, by a third, you have to
19 assume that our exposure has declined some. It
20 hasn't declined by a third if it's because of
21 replacement costs, but presumably those costs have
22 also reduced.

23 So I'm struggling here to find some silver
24 lining in the collapse of the real estate market,
25 but to what extent has there been some reduction in

1 exposure as a side effect of the fact that
2 replacement costs and values had declined
3 precipitously?

4 MR. FORNEY: Unfortunately and
5 counterintuitively, the opposite has occurred,
6 because the property value declines have been
7 mostly based on land, not the building.
8 Replacement costs have not really gone down. In
9 fact, they've gone up.

10 And insurance companies have looked at the
11 insured value of a property as a way to make sure
12 they're getting enough rate for that risk. So if
13 they look at a property, my house that I've had
14 insured for ten years, and the insured value of
15 that property has gone up every year, not because I
16 asked for it to go up, but because my insurance
17 company said it needs -- the replacement cost has
18 gone up. So that has gone up about 60 percent in
19 eight years, and my premium has gone up
20 commensurately.

21 So it's a way to make sure that the total
22 value of the property reflects the risk and to get
23 more premium without having a rate increase, and so
24 you've seen companies across the state revaluing
25 policies to make sure their risk-to-value is right.

1 And replacement costs have not gone down. What
2 we've seen instead is exposure actually going up
3 dramatically in the last few years in the insurer
4 market in Florida rather than down.

5 It may be that they were undervalued five
6 years ago. The insured value was actually much
7 less than the real replacement cost, and now it
8 more accurately reflects the replacement cost.
9 Whatever the factors that are impacting it,
10 exposure and true value has gone up, not down.

11 ATTORNEY GENERAL BONDI: A question, Governor.

12 GOVERNOR SCOTT: Oh, absolutely.

13 ATTORNEY GENERAL BONDI: So forget about what
14 statistics say about when we're going to have
15 another Andrew. Hopefully never, but if we get hit
16 by a Category 4 or a 5 right now, given the
17 condition of the bond market, how do we survive?
18 Do we have enough to cover it, to cover the CAT
19 Fund?

20 MR. FORNEY: The good news is that the several
21 years that we've had without hurricanes have
22 allowed both these entities to built up substantial
23 reserves. They now have \$12 billion. That's a lot
24 of money, of cash on hand. And the bonding that
25 will be required after those events, according to

1 the professionals that will be responsible for
2 executing those transactions for the CAT Fund,
3 there's more than enough capacity in the market to
4 do it.

5 And Citizens, because of the nature of its
6 structure, which includes some non-bond-based
7 assessments and reliance on the CAT Fund, would
8 have very little bonding even in an extreme event.

9 So we're really talking about the CAT Fund
10 having access to the markets for a number north of
11 \$10 billion. And we think that in current market
12 conditions, the CAT Fund could do that, if not
13 right away, certainly over a six- to twelve-month
14 period as claims were paid out.

15 GOVERNOR SCOTT: But the risk is the market.

16 MR. FORNEY: Absolutely.

17 GOVERNOR SCOTT: The risk is that the market
18 changes. That's the risk.

19 MR. FORNEY: And I should give -- there's a
20 page of disclaimers in here, and I need to say
21 those. There's no guarantees on what the market
22 is. You know that, Governor Scott, as well as I
23 do. And you cannot count on that market being
24 there at those very big numbers. In current
25 conditions, it looks okay. But after an event,

1 there's no guarantees.

2 GOVERNOR SCOTT: One, in a disaster, the
3 markets change, right, so the access to capital
4 might change, plus the cost of capital might change
5 dramatically?

6 MR. FORNEY: Both. These are highly rated
7 entities. The CAT Fund is a AA-rated entity, but
8 they wouldn't borrow at AA-rated rates after an
9 event because of those factors. The cost of
10 capital would definitely be higher. We try to
11 factor that into our analysis, but it's hard to
12 pinpoint exactly the kind of risk premium that will
13 be extracted in the markets at that point.

14 GOVERNOR SCOTT: It's a lot of money.

15 MR. FORNEY: It is a lot of money.

16 GOVERNOR SCOTT: Does anybody else have
17 anything else?

18 CFO ATWATER: Just one. John, would your team
19 be able to offer us some guidance or assistance in
20 creating that -- we call it the glide path towards
21 right-sizing the CAT Fund and moving the Citizens
22 portfolio rate by territory. However we choose to
23 do that, would you all be able to offer some wisdom
24 as to how that would impact price and market,
25 attraction of capital? Would you be able to

1 provide some analysis on that?

2 When I think of right-sizing the CAT Fund and
3 maybe raising the attachment point, again, I wonder
4 what that does to certain players who are there,
5 their access to the market based upon their present
6 size and the cost of that reinsurance that's going
7 to be built into the premium. All that's going to
8 be involved in the glide path for the consumers so
9 we can get to where we need to get to at the
10 earliest possible date without causing some other
11 financial -- you know, catastrophic real estate
12 event or compounding the present real estate event.

13 MR. FORNEY: Sure. As you well know, I think
14 in this market, there's not going to be an
15 algorithm that can be developed to say if you raise
16 rates X percent, you will have this much more
17 participation or this much more private
18 reinsurance. But there are principles, both
19 qualitative and quantitative, that we can help you
20 analyze.

21 And in fact, we do work with the staff at the
22 CAT Fund and at Citizens as they're analyzing
23 various proposals and giving their feedback on what
24 the impacts on them and the private market might
25 be. And we're happy -- we're at your service with

1 regard to the insurance markets, and we're happy to
2 provide any sort of additional analytical efforts
3 in that regard as well, and we could provide some
4 insight to you.

5 GOVERNOR SCOTT: Commissioner.

6 COMMISSIONER PUTNAM: Citizens is between a
7 fifth and a fourth of the total market share.
8 What's number -- the number two, what market share
9 do they have?

10 MR. FORNEY: About -- less than half of what
11 Citizens has, 10 to 12, 10 to 12 percent.

12 COMMISSIONER PUTNAM: And is that gap healthy?
13 Is it healthy that the government is double the
14 size of the next largest insurer that's private?

15 MR. FORNEY: Not at all. And Citizens isn't
16 necessarily the villain. Citizens is just a
17 symptom of the problem that you've got. And
18 certainly a more -- a market where the government
19 is the largest provider of insurance is not a
20 healthy market. And there's a lot of the things
21 that we talked about here today that will go a long
22 way towards changing that dynamic.

23 COMMISSIONER PUTNAM: Should it be the
24 smallest?

25 MR. FORNEY: I don't know in Florida if it

1 should be -- if it will be the smallest. It
2 depends on how aggressively you pursue trying to
3 get the coastal policies out of Citizens. But if
4 there's 400,000 coastal policies that are stuck in
5 there, that's about 7 or 8 percent of the market,
6 so that's a far cry from 22 or 25 percent. But
7 there's some that are going to be harder to
8 dislodge than others, and so it will always be a
9 player in Florida, more so than other places just
10 because of the nature of the markets we have.

11 GOVERNOR SCOTT: All right. Any other
12 questions?

13 ATTORNEY GENERAL BONDI: No, Governor.

14 GOVERNOR SCOTT: I don't know if anybody else
15 wants to say anything, but I think we all agree
16 that this is a big issue. And I think all four of
17 us are very focused on this, and we want to make
18 sure that this legislative session we make the
19 right changes to get these issues dealt with.

20 Thank you very much for coming today.

21 MR. FORNEY: Thank you, Governor Scott. We
22 look forward to supporting your efforts in that
23 regard.

24 MR. McCARTY: The next agenda item, Governor,
25 is the approval of the minutes of the Financial

1 Services Commission for November 9th, 2010.

2 GOVERNOR SCOTT: Is there a motion to approve
3 Item 2?

4 ATTORNEY GENERAL BONDI: Move to approve.

5 GOVERNOR SCOTT: Is there a second?

6 CFO ATWATER: Second.

7 GOVERNOR SCOTT: Moved and seconded. Show
8 Item 2 approved without objection.

9 MR. McCARTY: The next agenda item, Governor,
10 is a request for approval for publication of
11 amendments to Proposed Rule 690-139.001, the
12 National Association of Insurance Commissioners
13 Financial Condition Examiners Handbook. This item
14 simply updates the existing rule to reflect the
15 most recent NAIC handbook, changing the date from
16 2009 to 2010.

17 GOVERNOR SCOTT: Is there a motion on Item 3?

18 CFO ATWATER: So move.

19 GOVERNOR SCOTT: Is there a second?

20 ATTORNEY GENERAL BONDI: Second.

21 GOVERNOR SCOTT: Moved and seconded. Show
22 Item 3 approved without objection.

23 MR. McCARTY: Similarly, the request for Item
24 Number 4 is a request for approval for publication
25 of amendments to the rule on the annual and

1 quarterly reporting requirements. This item merely
2 updates the existing rule to reflect the most
3 recent version of the annual and quarterly
4 statements that are reported. All insurance
5 companies report to a central repository database
6 in Kansas City, and this simply has uniform
7 requirements for those quarterly and annual
8 reports.

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

10 CFO ATWATER: So move.

11 GOVERNOR SCOTT: Is there a second?

12 COMMISSIONER PUTNAM: Second.

13 GOVERNOR SCOTT: Moved and seconded. Show
14 Item 4 approved without objection.

15 Thank you very much, Commissioner.

16 MR. McCARTY: Thank you, Governor and members
17 of the Commission.

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1 GOVERNOR SCOTT: Okay. The next agenda item
2 is the Department of Highway Safety and Motor
3 Vehicles presented by Executive Director Julie
4 Jones. Good morning, Julie.

5 MS. JONES: Good morning, Governor and Cabinet
6 members. I appreciate the opportunity to present
7 the Department of Highway Safety and Motor
8 Vehicles' first Cabinet agenda under your
9 leadership.

10 We have three agenda items today, but first I
11 would like to take a moment and introduce the new
12 director for the Florida Highway Patrol, Colonel
13 Brierton, Colonel David Brierton. He has been
14 selected from over 50 candidates. We threw a very
15 wide net nationally, and he is the person that we
16 have selected to lead the Patrol. Twenty-seven
17 years thus far, he was a lieutenant colonel at the
18 time that he was promoted over operations. We are
19 very proud of him, and I would like to just say
20 that he's got some big shoes to fill, but I know
21 that he can do it.

22 (Applause.)

23 MS. JONES: Thank you. Item Number 1, we
24 respectfully request approval of the minutes from
25 the November 9th Cabinet meeting.

1 GOVERNOR SCOTT: Is there a motion on the
2 minutes?

3 ATTORNEY GENERAL BONDI: Move to approve.

4 GOVERNOR SCOTT: Is there a second?

5 CFO ATWATER: Second.

6 GOVERNOR SCOTT: Moved and seconded. Show
7 Item 1 approved without objection.

8 MS. JONES: Item Number 2, we respectfully
9 request approval of the Department's Second Quarter
10 Performance Report.

11 To familiarize you just a little bit with what
12 we do, our performance report this year has
13 numerous measures and I would say numbers. And
14 we're trying to become more outcome based, so what
15 we're going to be bringing to your respective
16 staffs in draft form in the near future is a
17 Dashboard that focuses on more -- it's more results
18 oriented.

19 But focusing on the current measures, I would
20 like to highlight a few measures that we're very
21 proud of and a couple that, quite frankly, have --
22 need improvement, and we're going to explain what
23 we're going to do there.

24 Driver's license wait times. I know Jay Leno
25 kids around about the DMV, and it's always driver's

1 license wait times. While beneficial, the federal
2 Real ID Act contributed to longer wait times
3 because of the time required to process extra
4 paperwork.

5 And what we have continued to do is to do
6 outreach to our customers and educate them on the
7 documents that they need to bring in to a driver's
8 license office, as well as continue to ask the
9 Department of Homeland Security for exceptions to
10 speed up the process. So incrementally, we're
11 getting better and better, but we still need
12 improvement in this measure.

13 Another measure where we're focused on
14 improvement is our customer service call center,
15 and it again is slow for the same reasons that I've
16 already articulated for driver's license wait
17 times. We lack the number of phone lines and the
18 capacity with call takers because of the volume.
19 So we're researching the most frequent call types
20 that we get, and we're implementing some changes in
21 technology to help speed up and more accurately
22 answer phone calls.

23 On a positive note, we assisted nearly 70,000
24 motorists in the second quarter, and the Highway
25 Patrol exceeded its goal in responding to calls for

1 roadside service within 30 minutes or less.

2 Most people, unfortunately, think of the
3 Highway Patrol when you're getting a ticket, but
4 there's a lot more to the Patrol. And Star FHP is
5 an asset to our citizens and visitors who are
6 broken down on our roadways, and they do a lot of
7 customer service related to actively answering to
8 calls that are not necessarily crime related.

9 GOVERNOR SCOTT: They took care of my daughter
10 recently when she --

11 MS. JONES: Outstanding.

12 GOVERNOR SCOTT: When she broke down, her car
13 broke down.

14 MS. JONES: We're also very proud of the fact
15 that 99.7 percent of the dealer licenses -- and the
16 Department, just for information, licenses all
17 motor vehicle dealers, franchised auto dealers,
18 dealers that sell recreational vehicles,
19 manufactured mobile homes.

20 We are very proud that we issue within five
21 days of receiving a completed dealer application
22 99.7 percent of the time, and our goal is to keep
23 this process streamlined to enable businesses to
24 operate very -- to initiate operation very quickly.

25 So I would ask approval of our second quarter

1 performance measures.

2 GOVERNOR SCOTT: Any questions? Is there a
3 motion on Item 2?

4 COMMISSIONER PUTNAM: Move approval.

5 GOVERNOR SCOTT: Second?

6 ATTORNEY GENERAL BONDI: Second.

7 GOVERNOR SCOTT: Moved and seconded. Show
8 Item 2 approved without objection.

9 MS. JONES: Item 3, we respectfully request
10 approval for final adoption of Rule 15A-10.009,
11 which relates to probation and DUI program
12 jurisdiction. This rule prohibits private
13 probation service providers from self-referring
14 clients to a DUI program that is owned in whole or
15 part by that probation service provider.

16 What this does is codify statutory changes
17 that were made by the 2009 Legislature.

18 GOVERNOR SCOTT: Any questions?

19 ATTORNEY GENERAL BONDI: No.

20 GOVERNOR SCOTT: Okay. Is there a motion?

21 ATTORNEY GENERAL BONDI: Move to approve.

22 GOVERNOR SCOTT: Second?

23 CFO ATWATER: Second.

24 GOVERNOR SCOTT: Moved and seconded. Show
25 Item 3 approved without objection. Thank you very

1 much.

2 MS. JONES: Thank you, and I appreciate your
3 support for our department.

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1 GOVERNOR SCOTT: The next agenda item is the
2 Department of Law Enforcement presented by
3 Commissioner Jerry Bailey. Good morning.

4 MR. BAILEY: Good morning. FDLE has two items
5 on your agenda this morning. The first is the
6 minutes of our December 7, 2010 Cabinet meeting.

7 GOVERNOR SCOTT: Is there a motion on the
8 minutes?

9 CFO ATWATER: So move.

10 GOVERNOR SCOTT: Second?

11 ATTORNEY GENERAL BONDI: Second.

12 GOVERNOR SCOTT: Moved and seconded. Show
13 Item 1 approved without objection.

14 MR. BAILEY: The second Item is our
15 Performance Report for the October, November, and
16 December quarter. I would like to briefly
17 highlight several significant accomplishments for
18 that second quarter.

19 In partnership with federal and state law
20 enforcement, we arrested more than 60 public
21 assistance recipients for illegal use of food stamp
22 benefits. CFO Atwater, your group that just
23 transferred from FDLE to your office in January
24 played a significant role in that investigation.

25 The Department arrested three individuals,

1 including a mother and grandmother, for attempting
2 to sell an 8-week-old boy in Holly Hill, Volusia
3 County, Florida.

4 We celebrated the second anniversary of our
5 Silver Alert program. I will say that we fell
6 short on the projections on the success of this
7 program. In two years, there have been 227 alerts.
8 220 recoveries were successful, and we can tag 36
9 of these recoveries directly to the Silver Alert
10 program. It's working well.

11 In partnership with local and federal law
12 enforcement, we dismantled the 23rd Street Gang in
13 northeast Florida following a two-year
14 investigation on their drug business in that part
15 of our state.

16 And finally, in November our DNA database
17 recorded 379 hits to unsolved crimes in our state.
18 That's the largest number yet since the inception
19 of the DNA database.

20 As I speak to you today, we have 732,000
21 profiles in that database waiting to match the
22 worst of the worst of the criminals in the state.
23 This is one of the most effective crime-fighting
24 tools that we have. And my thanks for your support
25 for our budget issue to build the infrastructure so

1 we are taking DNA profiles from all felony arrests,
2 not just those that have been convicted of a
3 felony.

4 Thank you. I'll be happy to answer any of
5 your questions.

6 GOVERNOR SCOTT: Any questions?

7 ATTORNEY GENERAL BONDI: Just a comment,
8 Governor, please. Great tool, great.

9 GOVERNOR SCOTT: I agree. All right. Is
10 there a motion on Item 2?

11 CFO ATWATER: I move approval.

12 GOVERNOR SCOTT: Second?

13 ATTORNEY GENERAL BONDI: Second.

14 GOVERNOR SCOTT: Moved and seconded. Show
15 Item 2 approved without objection. Thank you very
16 much, Commissioner Bailey.

17 MR. BAILEY: Thank you.

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1 GOVERNOR SCOTT: The next agenda is the
2 Administration Commission and will be presented
3 Phillip Miller. Good morning.

4 MR. MILLER: Good morning, Governor and
5 members of the Administration Commission. We have
6 three items on the Administration Commission agenda
7 this morning.

8 Item 1 is the minutes of the February 22, 2011
9 meeting.

10 GOVERNOR SCOTT: Is there a motion on the
11 minutes?

12 COMMISSIONER PUTNAM: So move.

13 GOVERNOR SCOTT: Is there a second?

14 CFO ATWATER: Second.

15 GOVERNOR SCOTT: Moved and seconded. Show the
16 minutes approved without objection.

17 MR. MILLER: Item 2 relates to the Florida
18 Keys Area of Critical State Concern. At the
19 December 7, 2010 meeting, the Commission authorized
20 the publication of the following proposed rules:
21 28-20.130 and .140 for Monroe County, 28-18.100,
22 .300, and .400 for the City of Marathon, and
23 28-19.300 and .310 for the Village of Islamorada.

24 The rules were approved by the Commission to
25 accomplish the following: To implement legislative

1 intent and mandates of the 2010 legislation,
2 including requirements for specifying work program
3 tasks by rule; to assist governments to generate
4 revenue and secure financing for wastewater and
5 stormwater projects; to ensure that hurricane
6 evacuation tasks are completed; to reduce the
7 liability of the state and local governments with
8 respect to property rights; and to provide
9 accountability and transparency to ensure that
10 specific tasks are completed by the agreed-upon
11 deadlines.

12 In response to the publication of the rules in
13 the Florida Administrative Weekly, Monroe County
14 and the Village of Islamorada requested a public
15 hearing and submitted written comments on the
16 content of their respective rules. Additional
17 comments were received from the Joint
18 Administrative Procedures Committee and the Small
19 Business Regulatory Advisory Council during the
20 rulemaking process.

21 As requested, a public hearing was held on
22 January 10, 2011, and in response to public hearing
23 testimony and written comments, the Department of
24 Community Affairs submitted notices of rule change
25 to the Commission for consideration. And over the

1 past week, the Department has recommended a few
2 additional amendments to the notices. The notices
3 of rule change as amended are before you today for
4 approval.

5 Secretary Buzzett of the Department of
6 Community Affairs is here this morning to present
7 an overview of the rulemaking process and the
8 notices of change. In addition, we have
9 representatives from Monroe County, the Village of
10 Islamorada, and two organizations that would like
11 to speak briefly on the proposed rules. The
12 speakers will share 15 minutes of presentation
13 time.

14 Before we go to our speakers, I would like to
15 recognize Holly Raschein, who is staff for
16 Representative Ron Saunders. She is representing
17 Representative Saunders here today.

18 And our first speaker is Secretary William
19 Buzzett of DCA.

20 GOVERNOR SCOTT: Good morning.

21 MR. BUZZETT: Good morning. It's nice to be
22 back before you all again. I was here two weeks
23 ago, while this is the first time I've been before
24 you all with respect to any issues related to the
25 Florida Keys. And because this is very new to me,

1 I wanted to try to understand a little bit about
2 why we're here and why the Administration
3 Commission is the involved in the Keys. And as
4 Phillip said, it's because it's an Area of Critical
5 State Concern.

6 And what I realized was back in 1999, the
7 Legislature got serious about some issues with
8 respect to wastewater and protection of the waters
9 off the Keys and set up a mandate for advanced
10 wastewater treatment. Just last year, they revised
11 their statute, and it's in response to that
12 revision that we're here before you, because it
13 requires a revision to actually your rule, your
14 rule for the Florida Keys.

15 Specifically, Phillip mentioned that it has to
16 do with the schedule, and that's the schedule. The
17 date was 2010. It has been advanced to 2015 for
18 these communities to try to get on advanced
19 wastewater treatment.

20 As mentioned, this has been a two-year process
21 that the Department has been working with the Keys,
22 Islamorada, and Marathon. I think it has been a
23 very cooperative, beneficial relationship. I think
24 we would all agree that the quality of water down
25 in the Keys is very, very important not only to the

1 environment, but to industry. It's a little over a
2 billion-dollar industry for tourism in the Florida
3 Keys and a half billion for recreational fishing,
4 so it's obviously very, very important.

5 I stand before you with the amended rule, one
6 for Marathon, one for Islamorada, and one for the
7 Keys as a whole. And I'll be ready to answer any
8 questions. I know we have folks from those
9 communities here also. So again, thank you, and
10 I'm available for any questions.

11 GOVERNOR SCOTT: Thank you.

12 MR. MILLER: The next speaker is Monroe County
13 Mayor Heather Carruthers.

14 MS. CARRUTHERS: Good morning, Governor and
15 Cabinet members. My name is Heather Carruthers.
16 I'm the mayor of Monroe County, better known to
17 most folks as the Florida Keys.

18 It's an honor to be here today. I would like
19 to take a moment to introduce my colleagues, fellow
20 Commissioner Sylvia Murphy; Assistant County
21 Administrator Debbie Frederick; our Growth
22 Management Director, Christine Hurley; Assistant
23 County Attorney Bob Shillinger; and the County
24 Administrator, Roman Gastesi.

25 But we're not just here to get acquainted.

1 We're here to ask that you approve the new rules
2 under our designation as an Area of Critical
3 Concern to deal with the following issues:

4 The first is enumerating our annual rate of
5 growth ordinance housing allocations, better known
6 as ROGO.

7 The second is clarifying the changes made last
8 summer related to our central wastewater
9 installation and outlining benchmarks for various
10 wastewater improvements throughout the Keys to be
11 consistent with the 2015 deadline, which hopefully
12 will pave the way for the State of Florida
13 appropriation of our \$200 million Stan Mayfield
14 grant;

15 Thirdly, outlining tier mapping refinement and
16 how those maps may be adopted and revised in the
17 future;

18 Fourth, creating Goal 106 of the County's
19 Comprehensive Plan to establish a tier designation
20 committee to assist in the future analysis of tier
21 maps;

22 Fifth, reporting to DCA all administrative
23 relief permits that have been denied for four years
24 or more;

25 Fifth, adopting an ordinance to discourage

1 private development applications that increase
2 density or intensity in the sensitive Florida Keys;

3 Sixth, applying for land acquisition grants
4 every year;

5 And finally, entering into a memorandum of
6 understanding along with the municipalities related
7 to hurricane evacuation modeling and the
8 assumptions that are to be used in the Keys to
9 determine our buildout.

10 Now, while such rulemaking may be considered
11 onerous from the outside, and it is cumbersome for
12 us and our staff, we in Monroe County appreciate
13 our designation as an Area of Critical State
14 Concern. We feel that it has been an invaluable
15 tool in helping us preserve our environment and
16 maintain our unique character, which has helped to
17 protect our economy, our livelihoods, and our way
18 of life.

19 I met Commissioner Atwater in Key West when he
20 was running several months ago. But I would like
21 to take this opportunity to invite all of you come
22 to the Florida Keys to visit us so that you can
23 experience firsthand what makes the southernmost
24 county so unique and why we are so determined to
25 help preserve it.

1 Thank you very much for your time this
2 morning.

3 GOVERNOR SCOTT: Thank you very much.

4 MS. CARRUTHERS: Thank you.

5 MR. MILLER: Next we have the Village of
6 Islamorada mayor, Michael Reckwerdt.

7 GOVERNOR SCOTT: Good morning.

8 MR. RECKWERDT: Good morning, Governor and
9 Cabinet members. My name is Michael Reckwerdt.
10 I'm the mayor of Islamorada. It's an honor to be
11 here before you here today representing our 7,000
12 residents.

13 As you know, Monroe County and Islamorada were
14 designated an Area of Critical State Concern by the
15 Florida Legislature in 1979. Since that time,
16 Islamorada has made substantial progress in meeting
17 the local -- in meeting the goals of the
18 designation, habitat conservation, land planning,
19 hurricane evacuation, and land preservation.

20 Our progress in wastewater has not been
21 anywhere near as robust. It is a very difficult
22 process in which we're trying to move forward in a
23 way that is affordable to both our residents and
24 the State of Florida. As this is an Area of
25 Critical State Concern, a partnership of some type

1 is required for us to be able to create such a
2 system with such a limited number of residents.

3 The Village has begun the process and is, in
4 fact, most of the way through the process of a
5 design, build, operate, and finance program, which
6 will put the majority of the control of the project
7 in the private sector. We do this so that we'll
8 have good, solid figures to give forth to our
9 residents and the State Legislature hopefully to
10 acquire funding. The procurement process should be
11 complete in time for the annual report that the
12 Department prepares for you in November.
13 Hopefully, that will enable us to know what we need
14 to do to move forward together in some type of
15 partnership.

16 However, we think in fairness to you and our
17 citizens, we need to acknowledge that this may turn
18 out to be a very expensive undertaking and may be
19 difficult for both the State and Islamorada to come
20 up with financing alternatives for us to move
21 forward as a partnership.

22 The State Legislature has recognized the need
23 for a partnership by offering the issuance of up to
24 \$200 million in State of Florida bonds for the
25 specific purpose of helping Monroe County and local

1 government with these wastewater needs. These
2 bonds have yet to be issued, however, and we
3 realize that they may or may not be issued,
4 depending on the State's financial issues.

5 I tell you this solely for the purpose of
6 saying that when we are next before you later this
7 year, we will know some of the answers to these
8 questions and how big the financial burden of
9 central wastewater will be on our citizens and
10 possibly the State. The fact that it is
11 prohibitively expensive to our citizens and your
12 constituents may require that we explore different
13 alternatives in partnering with the State.

14 Today we urge you to adopt the rule as
15 proposed by your staff. We believe they've done a
16 good job with it so we can all move forward.

17 As a lifelong Florida resident, I want to
18 protect our waters. I want to protect them both
19 for myself, my family, and the entire state. And
20 we're going to need your help and some type of
21 partnership to move forward.

22 GOVERNOR SCOTT: Thank you very much.

23 MR. RECKWERDT: Thank you, sir.

24 MR. MILLER: The next speaker is Debbie
25 Harrison representing the National Parks

1 Conservation Association.

2 GOVERNOR SCOTT: Good morning.

3 MS. HARRISON: Good morning. And let me say
4 this is my first opportunity to address you, and
5 welcome and thank you for your public service to
6 the State of Florida.

7 I have appeared before the Cabinet going on
8 some 30 years now. I know I don't look like I'm
9 that old, but it's true. As a matter of fact, I
10 was here yesterday because I woke up in a panic and
11 thought, "No, no. The Cabinet meets on Tuesday.
12 It's the 8th. They don't meet on Wednesday." So I
13 was here a day early waiting for you. So it's with
14 heartfelt gratitude that I'm able to see you here
15 today.

16 I have spent 30 years in the Florida Keys. I
17 have worked on the establishment of the Florida
18 Keys National Marine Sanctuary, growth management
19 regulations in the Florida Keys, served on the
20 South Florida Regional Planning Council for eight
21 years, authored and was the primary person pushing
22 for the adoption by the U.S. Congress of the
23 Florida Keys Water Quality Improvement Trust Fund,
24 which provides \$100 million for funding for
25 wastewater projects in the Florida Keys.

1 The Keys are unquestionably one of the great
2 treasures of the State Florida. The third largest
3 coral barrier reef in the world belongs to us. We
4 have had a tremendous partnership between local,
5 state, and federal partners in protecting this
6 unique tropical habitat, the vegetation, the
7 species, and the coral reefs. Water quality
8 protection is an important component of that.

9 We appreciate all of the dollars that the
10 State has provided to all of the municipalities,
11 the overriding majority of which have been very,
12 very successful with people whose incomes are not
13 necessarily the highest in the state. But you have
14 been there for us, and we appreciate it. We
15 appreciate the support of the Department of
16 Community Affairs in assisting our communities with
17 moving this forward. And I urge you to pass this
18 rule and move it forward.

19 And again, thank you so very, very much. I
20 will see you on the following Wednesday.

21 GOVERNOR SCOTT: Thank you.

22 MR. MILLER: The final speaker is Charles
23 Pattison representing 1000 Friends of Florida.

24 GOVERNOR SCOTT: Good morning.

25 MR. PATTISON: Good morning, Governor and

1 members of the Commission. We're here too to seek
2 your favorable consideration for this rule. This
3 is a unique partnership. I think congratulations
4 are due to your staff and DCA, DEP, and the
5 communities in the Keys that have come up with
6 something that will work for everyone. And we will
7 just end with that and just ask for your favorable
8 vote. Thank you.

9 GOVERNOR SCOTT: Thank you very much.

10 MR. MILLER: That concludes our speakers on
11 Item 2.

12 The staff recommendation to the Commission has
13 three parts:

14 First, to approve for publication and adoption
15 proposed notices of change for Rules 28-20.130 and
16 28-20.140, as amended, for Monroe County, Rules
17 28-18.100, 28-18.300, and 28-18.400 for the City of
18 Marathon, and Rules 28-19.300 and 28-19.310, as
19 amended, for the Village of Islamorada;

20 Second, authorize the DCA on behalf of the
21 Commission to file the referenced rules for
22 legislative ratification;

23 And third, direct staff to amend each 30-Day
24 Report issued in December 2010 to reflect the
25 revisions provided in the notices of change for the

1 referenced rules once the rules become effective.

2 Thank you.

3 GOVERNOR SCOTT: Are there any questions?

4 ATTORNEY GENERAL BONDI: No, Governor.

5 GOVERNOR SCOTT: All right. First off, thank
6 everybody. I thank everybody for all their hard
7 work in getting all this done. I'm sure it was not
8 easy to get everybody on the same page.

9 Is there a motion to approve Item 2?

10 ATTORNEY GENERAL BONDI: Motion to approve.

11 GOVERNOR SCOTT: Is there a second?

12 COMMISSIONER PUTNAM: Second.

13 GOVERNOR SCOTT: Moved and seconded. Show
14 Item 2 approved without objection. Thank you very
15 much.

16 MR. MILLER: Item 3 is a challenge of a
17 Comprehensive Plan amendment adopted by Miami-Dade
18 County. The parties in the proceeding are the
19 petitioners, Flagler Retail Associates, Ltd.,
20 Flagler S.C., LLC, and SC Mota Associates, Ltd.
21 The respondents are the Department of Community
22 Affairs and Miami-Dade County. The intervenor is
23 Blue Lake Development Corporation.

24 The proceeding is before the Commission for
25 entry of a final order. I will give you a brief

1 background on the plan amendment and the subject
2 parcel.

3 The plan amendment changes the land use
4 designation on the subject parcel from Low-Medium
5 Density Residential Communities to Business and
6 Office. The new land use allows both residential
7 and commercial development, including a wide range
8 of commercial uses such as retail, professional
9 services, and offices.

10 An executed and adopted covenant on the parcel
11 provides that the maximum development of the
12 property shall not exceed 375,000 square feet of
13 space for retail, commercial, personal services,
14 and offices, and no less than 150 dwelling units
15 designated for elderly housing, along with such
16 ancillary and accessory uses as counseling,
17 medical, nutritional, and physical therapy,
18 provided that such other uses may not exceed
19 15 percent of the floor area of the elderly housing
20 facility.

21 The subject parcel is a 41-acre parcel of land
22 in unincorporated Miami-Dade County. The property
23 has been owned by the intervenor, Blue Lake
24 Development Corporation, since 1966. The parcel
25 was a mobile home park from 1957 until June of

1 2007.

2 The legal process in this matter has been
3 quite involved, and the Commission's legal counsel,
4 Carly Hermanson, will provide an overview.

5 MS. HERMANSON: Good morning. I want to
6 briefly address the process that has brought us to
7 this point. After the County adopted its plan
8 amendment, the determination -- excuse me, the
9 Department of Community Affairs reviewed the
10 amendment and issued a notice of intent to find it
11 in compliance as defined in the statute.

12 Thereafter, the petitioners filed their petition to
13 challenge the plan amendment. The final hearing
14 was held last March, and subsequently the
15 administrative law judge entered a Recommended
16 Order and then a Corrected Recommended Order
17 finding the plan amendment not in compliance.

18 After receipt and review of the Corrected
19 Recommended Order in December of last year, the
20 Department issued a determination of noncompliance
21 recommending that the plan amendment be found not
22 in compliance. After a thorough review of the
23 file, staff is here today to recommend that the
24 plan amendment be found in compliance. The Draft
25 Final Order you have before you today reaches that

1 determination.

2 In closing, I would like to recommend -- I
3 would like to remind you and the parties that this
4 proceeding is governed by the facts in the record.

5 GOVERNOR SCOTT: Thank you very much.

6 MR. MILLER: Our first speaker this morning is
7 Mr. William Hyde representing the petitioners.
8 Each party in the proceeding has been allocated
9 five minutes for their remarks.

10 MR. HYDE: Good morning. For the record, my
11 name is William Hyde, and I represent the
12 petitioners in this proceeding.

13 I do want to just remind everyone here that
14 this case went before an administrative law judge,
15 who independently looked at the facts, made
16 findings, and evaluated the evidence, including the
17 expert testimony, and he ruled in our favor across
18 the board. He found that there was no need for
19 this Comprehensive Plan amendment.

20 And I would urge you that in your role as the
21 Administration Commission, the reviewing agency
22 under the Administrative Procedure Act, a mere
23 disagreement with a recommended order is not
24 sufficient grounds to overturn the recommended
25 order. You have to make various determinations,

1 and deference should be given at all times to the
2 administrative law judge's recommended order.

3 And he found that there was no need for the
4 amendment, no need under Chapter 163 and no need
5 under 9J-5, Rule 9J-5, which implements Chapter
6 163, no need under the Miami-Dade Comprehensive
7 Plan. And in a manner consistent with the Woods
8 vs. Marion County case recently decided by the
9 Department of Community Affairs and the
10 Administration Commission, need is a primary
11 determinant in this context.

12 The ALJ in this case just recommended off the
13 bat that the needs analysis that was performed by
14 the applicant in this case, Blue Lake, could not be
15 credited. The Department of Community Affairs
16 agreed that it was not professionally done.

17 But notwithstanding this seeming
18 acknowledgment that there is no need, there is
19 still a recommendation from your staff, and I guess
20 from the Department of Community Affairs, that it
21 on balance should be approved. And I think the "on
22 balance" part of it really focuses on two things,
23 the provision of elderly housing on one part, and
24 on, I guess, the notion of redeveloping what's
25 considered a blighted piece of property.

1 Well, the elderly housing component, as the
2 administrative law judge found, without, I think,
3 significant dispute, we don't even know what
4 elderly house is in this context. And there are
5 certainly no definite commitments as to when or how
6 or how much of that will be provided.

7 As to the issue of redevelopment of a blighted
8 piece of property, well, this is kind of the pot
9 calling the kettle black. This property owner,
10 Blue Lake, has owned this property since 1966. It
11 has been a mobile home park since 1957. If there
12 was any blight, it was created by the applicant.
13 They should not rewarded for creating blight and
14 then later taking credit for trying to do something
15 new with it.

16 I think that in this day and age, you really
17 need to get and rely upon predictability and the
18 rules and prior precedence. And the rules and
19 prior precedence all would suggest to you, as the
20 administrative law judge had suggested after
21 looking at the evidence in an unbiased way, without
22 any particular ax to grind in this process, that
23 there isn't a need for this project, that we don't
24 need it, and as a consequence, there shouldn't any
25 change at this point in time.

1 And I would like to emphasize here too that
2 this doesn't mean that this property stays
3 immutably forever in Low to Medium Density
4 Residential. These applicants can come back and
5 apply for an appropriate amendment, do an
6 appropriate analysis, demonstrate the need for the
7 project, and then they can move forward.

8 Right now you're just having someone come
9 before you and say, "We don't like what the
10 administrative law judge did. We want a redo. We
11 want to flip it over." But the bottom line is, you
12 can't flip it over without completely rejecting the
13 administrative law judge's findings, and that's
14 what you're being requested to do here today.

15 That is inconsistent with the Growth
16 Management Act. It is certainly inconsistent with
17 some 35 to 40 years of precedent implementing the
18 Administrative Procedure Act, which refers very
19 consistently to the fact that administrative
20 agencies when reviewing recommended orders have a
21 very limited function, and that function is a
22 time-honored function, because we know from years
23 past that agencies did come in and improperly
24 second-guess what administrative law judges had
25 done.

1 I urge you not to do that in the context of
2 this case. Honor the process. Let the project go
3 forward as we've done here today. The project can
4 still stay at Low-Medium Residential. It can still
5 be developed for residential purposes. It's not
6 being thwarted from any other legitimate use of the
7 property. It's just that there is no need for
8 office and commercial in this area. That lack of
9 need is indisputable in this context, and there's
10 no way you can get around that.

11 And unless you have any questions, I will
12 adjourn.

13 GOVERNOR SCOTT: Any questions? Thank you
14 very much.

15 MR. MILLER: Next is Secretary William Buzzett
16 of the Department of Community Affairs.

17 MR. BUZZETT: Thank you. I'll try to be
18 brief.

19 As mentioned, the Department initially found
20 this plan to be in compliance. It went to the ALJ
21 and was found not in compliance. The Department
22 then agreed with the ALJ, and that's where we stand
23 today.

24 I have gone back very seriously trying to
25 review the record. We did meet with the parties

1 several weeks ago at my invitation, and we did have
2 a nice conversation.

3 In all due respect, I'll just suggest that my
4 recommendation is different than Secretary Pelham's
5 recommendation. I think need is an important
6 issue. I don't think it's the primary issue, and I
7 don't think the Miami-Dade plan requires it to be
8 the primary issue. There are a lot of policies in
9 the plan in Miami-Dade that allows the local
10 government the discretion to look at this land and
11 see what's best as far as the redevelopment of that
12 property for urban renewal and other reasons.

13 And so need, yes. Does it counter or trump
14 all the other requirements of the plan? I would
15 respectfully suggest to you that it does not. And
16 I'm very comfortable recommending to you all to
17 find this plan in compliance. And I and my staff
18 are available to answer any questions for you.

19 GOVERNOR SCOTT: Thank you. Any questions?
20 Thank you.

21 MR. MILLER: Next, Mr. Dennis Kerbel, the
22 attorney representing Miami-Dade County.

23 GOVERNOR SCOTT: Good morning.

24 MR. KERBEL: Good morning, Governor Scott and
25 members of the Cabinet. Thank you very much for

1 the opportunity to address you this morning. My
2 name is Dennis Kerbel, and I represent Miami-Dade
3 County in these proceedings, and we support the
4 recommendation of the Secretary to find this plan
5 amendment in compliance.

6 We want to thank your staff, and we want to
7 thank the professional staff at DCA for all of
8 their hard work in this process.

9 And I do want to point out that it was the
10 administrative professional staff at both the
11 county level and at the agency level that believed
12 this plan to be in compliance. We think that
13 finding it in compliance strikes the appropriate
14 discretion -- gives the appropriate discretion to
15 the local government on a local legislative
16 planning issue.

17 We are not asking you to change any findings
18 of fact. The administrative law judge in fact made
19 an error of law in interpreting the provisions of
20 the County's Comprehensive Plan. It is your role
21 and your responsibility and authority to correct
22 errors of law made by the ALJ. The ALJ by statute
23 was required to defer to the County Commission on
24 matters of interpretation of the County's plan when
25 that plan is in compliance, and in this case he

1 simply failed to afford that discretion on a legal
2 matter.

3 The Woods case is a very different situation,
4 a different plan with different language. And as
5 the Secretary addressed, there is no requirement of
6 a showing of mathematical need for a plan amendment
7 in the county's plan on an application such as
8 this. The language at issue simply requires a
9 showing that the plan amendment satisfies a
10 deficiency. And in this case, the plan amendment
11 satisfies deficiencies by rejuvenating a
12 substandard area, by providing for mixed use
13 development, and by providing elderly housing.

14 So in sum, we support the finding of in
15 compliance, and we urge you to adopt the staff
16 recommendation and find this plan amendment in
17 compliance.

18 I'll be happy to answer any questions if you
19 have any.

20 GOVERNOR SCOTT: Thank you. Any questions?

21 COMMISSIONER PUTNAM: I have one.

22 GOVERNOR SCOTT: Oh, excuse me. We have at
23 least one question.

24 COMMISSIONER PUTNAM: So it's your position
25 that the error in law was that need was the

1 paramount criteria?

2 MR. KERBEL: That's correct. Our plan does
3 not use the word "need" in this context. Our plan
4 uses the phrase "satisfy a deficiency." And it has
5 long been interpreted by both the county staff and
6 the County Commission as supporting a -- any other
7 policy that's delved out in the plan. And in this
8 case, our plan calls for policies that encourage
9 the rejuvenation of substandard areas, the
10 provision of mixed use developments, and also the
11 provision of elderly housing.

12 COMMISSIONER PUTNAM: So what factors would
13 constitute need if it were the primary criteria?

14 MR. KERBEL: If it were the primary criteria
15 -- and I'll give you by comparison. When it comes
16 to moving the urban development boundary, those
17 policies do talk about showing a need. Then it
18 would be a mathematical study of the kind that was
19 provided here, but it's not the sole criteria on
20 which you would base the plan amendment.

21 COMMISSIONER PUTNAM: Thank you.

22 MR. KERBEL: Thank you.

23 GOVERNOR SCOTT: Thank you very much. Any
24 other questions?

25 MR. MILLER: Next is Richard Perez, the

1 attorney representing the intervenor.

2 MR. PEREZ: Thank you very much for the
3 opportunity to present our case today. My name is
4 Richard Perez, and I represent Blue Lake
5 Development Corporation. I'm joined today by my
6 client, Bruce Rapee, and his wife, Leanne, who have
7 come up here from Miami. As well, in addition,
8 Mayor Manny Marono from the City of Sweetwater, who
9 is up here for the legislative session, has been
10 gracious enough to join us today to show his
11 support for this application.

12 Frankly, this is a pretty easy matter. All
13 you need to decide to find this plan amendment in
14 compliance is answer one question. And I'll get to
15 that question in a second, but I want to provide
16 you a little bit of background that I think will be
17 informative in making your decision.

18 This piece of property, as indicated by the
19 Department, has been owned by Mr. Rapee and his
20 family for almost 50 years. Blue Lake Development
21 Corporation is a family-owned corporation, and for
22 that period of time, it has been a trailer park.

23 In about 2007, that trailer park use was no
24 longer economically viable, and they began the
25 process of redeveloping this piece of property.

1 The first step to that was in 2008 filing a comp
2 plan amendment to move this property from
3 Low-Medium Density Residential to Business and
4 Office. It has been a three-year ordeal trying to
5 redevelop this piece of property.

6 This plan amendment received enormous
7 community support. There were over 620 petitions
8 signed by the neighbors in favor of the
9 application. It was a 13-0 vote by the Miami-Dade
10 County Commission in favor of the application. The
11 professional staff at Miami-Dade County voted --
12 recommended approval of the application. The
13 professional staff at DCA recommended finding it in
14 compliance.

15 What stopped the development? Three retail
16 centers in the area who sued and appealed the
17 application.

18 The uncontroverted record evidence indicates
19 that the redevelopment that we're talking about is
20 a redevelopment of an area, not urban sprawl, but
21 right smack in the middle of the densest area of
22 unincorporated Miami-Dade County, an area with all
23 services provided. And the undisputed record
24 evidence indicates that this redevelopment will
25 create 1,010 jobs in an area that needs it, over

1 \$28 million in wages. That's what we're taking
2 about.

3 And what's the question you need to answer?
4 The question you need to answer is who has the
5 right interpretation. Is it Miami-Dade County
6 interpreting its own plan, is it the Department's
7 professional staff interpreting that plan, or is it
8 the petitioner's interpretation? And as long as
9 you find the Department's interpretation and the
10 County's interpretation as or more reasonable than
11 the interpretation offered by the petitioners, you
12 can vote to find this plan in compliance.

13 And why is it as or more reasonable? You've
14 heard Mr. Kerbel. He gave you all the legal. Let
15 me give you the practical and common sense. And
16 it's something that us lawyers often have
17 difficulty with, which is common sense.

18 What the petitioners ask you to say is, when
19 you're talking about an urban infill project, you
20 need to show math. There's some ideal number of
21 commercial, and if you're below that number of
22 commercial after you count up all the commercial in
23 the area, you can't change the plan. If you're
24 above that number, well, you know -- well, if
25 you're below the number, you can change the plan.

1 If you're above the number, you cannot change the
2 plan. It doesn't matter what policies, goals, and
3 objectives the County has established for itself.
4 It doesn't matter. The ALJ said that math formula
5 trumps absolutely everything else. Nothing else
6 counts. That's what he said.

7 Now, imagine, if you will, the theoretical
8 example that Boeing tomorrow decides they want to
9 come to Miami-Dade County. They want to bring
10 10,000 jobs, and they want to locate near an
11 airport, and that happens to be commercially
12 designated, and it needs to move to industrial.

13 The petitioners would have you believe that
14 Miami-Dade County has handcuffed itself so much
15 that if it just did the math and it found, "Well,
16 we have enough industrial. It just happens to be
17 in other areas," they have to tell Boeing, "Thanks
18 for the 10,000 jobs, but we already have enough
19 industrial. We don't need any more industrial."
20 No sensible county will tie its hands in such a way
21 when we're talking about urban infill.

22 Please, we urge you to please bring this
23 three-year ordeal to an end. Let's bring common
24 sense back to this project. Allow Mr. Rapee and
25 his family to move forward with the redevelopment

1 of this piece of property. We urge you to find
2 this plan amendment in compliance.

3 Thank you very much.

4 GOVERNOR SCOTT: Thank you very much. Are
5 there any questions?

6 ATTORNEY GENERAL BONDI: No, Governor.

7 GOVERNOR SCOTT: All right. Is there a motion
8 to approve Item 3?

9 COMMISSIONER PUTNAM: So move.

10 GOVERNOR SCOTT: Is there a second?

11 ATTORNEY GENERAL BONDI: Second.

12 GOVERNOR SCOTT: Moved and seconded. Show
13 Item 3 approved without objection.

14 MR. MILLER: Thank you, Governor and members
15 of the Commission.

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1 GOVERNOR SCOTT: The next agenda is the Board
2 of Trustees presented by Secretary Herschel
3 Vinyard. Good morning, Herschel.

4 MR. VINYARD: It seems like we do this every
5 other week.

6 GOVERNOR SCOTT: I know.

7 MR. VINYARD: Governor and members of the
8 Cabinet, there are four items before you today for
9 consideration. The first is to submit to you the
10 minutes from the January 19th Cabinet meeting for
11 approval.

12 GOVERNOR SCOTT: All right. Is there a motion
13 on the minutes?

14 ATTORNEY GENERAL BONDI: Move to approve.

15 GOVERNOR SCOTT: Is there a second?

16 CFO ATWATER: Second.

17 GOVERNOR SCOTT: Moved and seconded. Show the
18 minutes approved without objection.

19 MR. VINYARD: The second item is the Harrell
20 Groves exchange agreement. This is consideration
21 of an exchange agreement where the Board of
22 Trustees would convey about a three-acre parcel of
23 conservation lands in Manatee County in exchange
24 for a ten-acre parcel opened by the Harrell Groves.
25 This proposed exchange resolves a known boundary

1 encroachment. Staff recommends approval.

2 GOVERNOR SCOTT: All right. Are there any
3 questions?

4 CFO ATWATER: So move.

5 GOVERNOR SCOTT: Commissioner?

6 COMMISSIONER PUTNAM: Thank you. I have no
7 concern whatsoever with this and support it, but is
8 there not an easier, more streamlined way to
9 quitclaim boundary disputes of such a de minimis
10 size?

11 MR. VINYARD: That's a great question. Right
12 now all the Cabinet aides and my Cabinet group are
13 working together to create a delegation of
14 authority where essentially mundane things like
15 this is not tying up the time of essentially our
16 State's board of directors. So we're working on
17 that, Commissioner.

18 GOVERNOR SCOTT: All right. Any other
19 questions?

20 Okay. Is there a motion on Item 2?

21 CFO ATWATER: So move.

22 GOVERNOR SCOTT: Is there a second?

23 COMMISSIONER PUTNAM: Second.

24 GOVERNOR SCOTT: Moved and seconded. Show
25 Item 2 approved without objection.

1 MR. VINYARD: Item 3 is the Christ Gospel
2 Church of St. Petersburg, Inc. This is
3 consideration for you for the contract for the sale
4 of about a third of an acre -- it's an improved
5 parcel on non-conservation lands -- to Christ
6 Gospel Church of St. Petersburg. The consideration
7 results in a payment of 175,000 to the Trust Fund.

8 The property is located in Pinellas County.
9 It's got a 5,400-square-foot building currently
10 leased to the Department of Corrections, but it has
11 been vacant since 2008.

12 The parcel has been offered for bid three
13 times. The staff recommends approval.

14 I will say we have Bishop Preston Leonard here
15 to speak on behalf of the church.

16 GOVERNOR SCOTT: Good morning. Thanks for
17 driving up.

18 MR. LEONARD: Good morning, Governor and
19 Cabinet. Thank you for allowing us to speak.

20 I would like first to introduce those that are
21 with me this morning, the international assistant
22 of our organization, Bishop Johnny Baker, pastor of
23 New Hope Church, who is here in Tallahassee.

24 GOVERNOR SCOTT: Good morning.

25 MR. LEONARD: Pastor Kevin McCree. He's the

1 head of education and development, and he pastors
2 in Lakeland, Florida.

3 GOVERNOR SCOTT: Good morning.

4 MR. LEONARD: And I am Bishop Preston Leonard,
5 pastor of Christ Gospel Church of St. Petersburg.

6 I'm here to just give you a little background
7 on what happened in this. After the Department
8 vacated the building, we proceeded to try and see
9 if we could get the building to use for some of our
10 activities. We have at our church grandparents
11 supporting grandchildren or grandparents raising
12 grandchildren, we have a senior escort service, we
13 have tutoring, we have youth prevention, and we
14 have a department that helps parolees and
15 probationers, and we needed it greatly for the
16 services that we are rendering to the community.

17 The first bid on this property or the first
18 let of a bid was because of our interest in the
19 property. And after they had gone through the
20 proper procedure and let it at \$490,000, we talked
21 with the Department and told them that that had to
22 be a flawed appraisal, because every piece of
23 property in the area had gone down, and that was
24 the only piece of property that had gone up.

25 GOVERNOR SCOTT: That's what always happens

1 whenever you want to buy. It always happens.

2 MR. LEONARD: It was absolutely flawed, so, of
3 course, no one bid on that piece of property at
4 that time. Then we continued to pursue it.

5 Then it was let again for the same identical
6 amount. That was very suspicious to me how another
7 appraisal two years later would come up with the
8 identical amount. In my asking someone to come and
9 look at the building, a real estate person, and
10 they gave us in the \$250,000 range.

11 Well, at that bid, we bid at \$100,100. We
12 were the only bidder.

13 Now, in the beginning when I first called to
14 find out how the bids went, they said, "You were
15 the only bidder, but we will be sending it to the
16 Cabinet for their approval." Two days later
17 someone called me and said, "It was not enough, so
18 we're not going to send it to the Cabinet." And I
19 was very disappointed.

20 We came up with this \$100,000 reasonable, that
21 we thought, because the State is paying 10,200 just
22 to keep it vacant right there. They had already
23 decided that there was about \$15,000 worth of work
24 to get it back in use, and when they say 15,000,
25 you can really say it's 25 or 30,000. That was not

1 even including the insurance that was on the
2 building.

3 So here we are saying the bid that we gave was
4 reasonable. Of course, there is a dispute between
5 people who say what is reasonable, and that's the
6 problem that I have. When they say "any
7 reasonable," who's going to decide whether it's
8 reasonable? I thought it was very reasonable.
9 Evidently someone else thought in the Department
10 that it was kind of reasonable before it went to
11 another person and found out that, hey, well,
12 that's kind of unreasonable.

13 So I'm here today with you. I was hoping that
14 you might be able to dig up that old \$100,000 bid
15 that you never saw that was absolutely, in my
16 opinion, very reasonable, and make a determination
17 on that.

18 Now, another thing that was very peculiar to
19 me was, after the second bid which we bid three
20 months later -- and you will find -- and that was
21 September 20th, 2010. There was another appraisal,
22 and it was about half of what the one was three
23 months ago.

24 GOVERNOR SCOTT: Do you have the misconception
25 that we're supposed to be reasonable in state

1 government?

2 MR. LEONARD: Now, you know that --

3 GOVERNOR SCOTT: Remember, we represent the
4 taxpayers. We've got to get everything we can.

5 MR. LEONARD: I'm telling you, that was a
6 great statement, and it kind of shook me back to
7 reality. Really, we do things sometimes that are
8 not reasonable.

9 But here I am saying to you, I don't know --
10 we need the building. We've got to have it to do
11 what we need to do. We are asking you to help us
12 help those who are greatly in need and many times
13 falling between the cracks.

14 If we have to pay what we're talking now, it's
15 going to set us back, because the money, we don't
16 have a budget for that. Instead of using it to
17 help the people, we're going to have to start
18 raising to help you.

19 Now, if you can't do that, I've heard about
20 cuts, but usually when we cut, especially cake or
21 bread, crumbs fall. So I'm saying to you, if you
22 have to go this direction and you can't go back to
23 my \$100,100, then I am asking -- and maybe there's
24 someplace in the state where some crumbs have
25 fallen, and I will be glad to gather up the crumbs

1 to use to help those people that are in great need
2 in our community. And I'm sure they also will
3 appreciate what can be done in their behalf.

4 GOVERNOR SCOTT: Thank you very much for
5 coming. Are you still interested in purchasing the
6 property for 175,000?

7 MR. LEONARD: Well, yes, I'm still interested
8 in purchasing it. It's going to --

9 GOVERNOR SCOTT: You would just like a better
10 deal if you could get it.

11 MR. LEONARD: It's going to put us at a great
12 financial disadvantage, and we are not going to be
13 able to do immediately things that we could do and
14 that people need.

15 Now, if I have to do it for 175, we're still
16 interested. We still need it. We have to have it.
17 And if the State does not have the money, you or
18 some great person in this building that's listening
19 may say, "I have it to help you. I'm here."

20 God bless you.

21 GOVERNOR SCOTT: Thank you very much.

22 Okay. There's a motion -- is there a motion?
23 Anything else?

24 ATTORNEY GENERAL BONDI: No, Governor.

25 GOVERNOR SCOTT: Is there a motion on Item 3?

1 CFO ATWATER: Move approval.

2 GOVERNOR SCOTT: Is there a second?

3 ATTORNEY GENERAL BONDI: Second.

4 GOVERNOR SCOTT: Moved and seconded. Show
5 Item 3 approved without objection.

6 Good luck with the building, and good luck
7 with your ministry.

8 MR. VINYARD: Item 4 is HCI Marina. This item
9 was deferred from the February 22nd Board of
10 Trustees agenda.

11 This is consideration of a 10-year sovereignty
12 submerged land lease for a commercial marina in Bay
13 County. The original application was submitted to
14 DEP in 2009. It started out as a 232-slip marina.
15 Due to the concerns of DEP, FWC, and the Coast
16 Guard, the marina was reconfigured. It's now got
17 only 174 slips. Now the FWC and Coast Guard have
18 no objection to this project from a navigational
19 standpoint. This proposed project is open to the
20 public, so it will allow more Florida families to
21 enjoy this waterway. This will result in a
22 one-year consideration and payment of about \$50,000
23 to the Board of Trustees.

24 Upon noticing this project, objections were
25 received. I'm told that some of the objectors are

1 here today and would like to speak. We'll start
2 with Dr. Bruce Buhrow.

3 GOVERNOR SCOTT: Good morning.

4 DR. BUHROW: Thank you for being so attentive
5 so late in a very long meeting.

6 Good morning, Governor Scott and members of
7 the Board of Trustees. I'm Bruce Buhrow, a retired
8 Air Force dentist speaking in opposition to this
9 marina which is proposed at the wrong time and in
10 the wrong place.

11 I would like to recognize the supporters who
12 have come here with us today all the way from
13 Panama City, I'll remind you in a different time
14 zone, very early travels that they made. Will you
15 raise your hands, please? Thanks. Thanks for your
16 support.

17 Callaway Bayou is in Panama City, Bay County,
18 not in Panama City Beach. We are a small
19 residential bedroom community for Tyndall Air Force
20 Base and for many of its retirees who stay here
21 because of the quiet, unspoiled character of the
22 bayou community.

23 Governor Scott, we know you are going to do
24 good things for Florida, but please be careful what
25 happens to Florida. The DEP has limits to its

1 jurisdiction. That's why we bring these issues to
2 you.

3 The pristine nature of Callaway Bayou, its
4 residential neighborhood, the rights of Floridians
5 to move their boats freely without the restrictions
6 of an artificially imposed channel, and the
7 property values of nearby homesteads all need to be
8 protected from the manmade, unwanted commercial
9 invasion.

10 On Callaway Bayou shores and for more than a
11 one-mile radius around it, there are nothing but
12 homes, no highrises, no condos, no waterfront
13 industry, no commercial activities, just
14 Floridians' homes. This is no place for a
15 commercial marina.

16 There is no navigation channel in the bayou,
17 and boaters travel where they choose, limited only
18 by shallow depths and weather conditions. A public
19 boat launch ramp owned by the City of Callaway
20 already gives citizens access to this beautiful
21 body of water in which all kinds of water sports
22 are enjoyed. But the marina, blocking nearly half
23 the width of the mouth of the bayou, will impede
24 boating activities. Despite the claims of the
25 applicant, local boaters and our experts familiar

1 with the effects of water depths, winds, tides, and
2 the seasons know that this maze of docks will be a
3 hazard to boating in the bayou.

4 The DEP with its narrow view of what impacts
5 the environment does not include the human
6 environment. This marina will create myriad
7 problems, including the impacts of 24-hour noise,
8 artificial lighting, increased boat traffic and
9 congestion, and restriction of recreational
10 boating, especially water skiing. Further risks
11 include potential storm damage to the floating
12 docks, which could then become missiles causing
13 damage to private property.

14 You know that economics is run by the rule of
15 supply and demand. Simply put, there is no demand
16 for 174 more boat slips. Operators of existing
17 marinas, all of whom we have personally contacted,
18 complain of record high vacancy rates which are not
19 seasonal variations.

20 Your goal to create some jobs may be partially
21 accomplished. Comparably sized marinas are run by
22 three to five employees. A few very hard-working
23 laborers will be briefly employed to construct this
24 thing, but such jobs are of short duration.

25 Does the result of the job affect its value to

1 society? This construction will result in a poorly
2 located, economically unsound, concrete and steel
3 obstruction which straddles wetlands and navigable
4 state-owned water. The value of this labor is
5 questionable.

6 This marina, located a distant 12 nautical
7 miles from access to the Gulf of Mexico, is
8 economically unviable and will be doomed to
9 business failure. That red pathway represents a
10 track a boat would take from this marina to the
11 pass and is approximately 12.6 nautical miles.

12 In closing, more than 60 letters of opposition
13 were sent to Governor Crist, to all of you, and to
14 the DEP. There have been no letters of support.
15 In the Panama City newspaper, the News Herald, four
16 letters to the editor in opposition to this marina
17 have been published. 396 citizens have signed a
18 petition opposing this marina. 95 percent of
19 bayou-front owners and residents oppose this
20 marina.

21 We are the public, and it is contrary to our
22 interests. This application with all the required
23 words and images may look right on paper, but in
24 the real world, it's all wrong.

25 We elected you to grow Florida's economy back

1 to health. This marina is not healthy growth. It
2 will be a cancer on Callaway Bayou.

3 Thank you very much for your valuable time.

4 GOVERNOR SCOTT: Thank you very much. Any
5 questions?

6 MR. VINYARD: Governor, our next speaker --

7 GOVERNOR SCOTT: I'm sorry. We have one
8 question.

9 DR. BUHROW: Sure.

10 CFO ATWATER: I wonder if -- thank you. I
11 wonder if we could just put the map back up for a
12 second that was on the overhead. We have one
13 similar to it.

14 MR. VINYARD: Is that the map?

15 CFO ATWATER: That's the map. I just was
16 curious. To the speaker -- thank you. Do you have
17 a residence in that picture?

18 DR. BUHROW: I have a residence on that bayou,
19 sir, but not in that picture. It's more distant.

20 CFO ATWATER: I take it there are people with
21 you today who do?

22 DR. BUHROW: Yes, sir.

23 CFO ATWATER: And when they had acquired
24 theirs -- maybe there will be a speaker -- I may
25 have to wait for other speakers coming up, but my

1 question would be, when people made the investment
2 in those parcels -- certainly zoning does change.
3 Local decision-makers will make that call, so I
4 don't know who may have presented themselves at
5 that time.

6 I'm looking at that map and thinking for many
7 of those, the investments people made, they
8 probably did not have the idea that someday across
9 the waterway would be that type of facility. But
10 maybe as someone approaches later -- there are
11 other speakers on the matter -- they could address
12 the opportunity they had to express concerns about
13 the changes in zoning.

14 I take it somewhere between the time that
15 those houses -- the investments were made in those
16 properties and this diagram we're seeing before us,
17 somewhere along the line the zoning changed, and I
18 wanted to know what avenue people had to --

19 DR. BUHROW: The former use of the property in
20 question, only a portion of which is shown on this
21 map, was agriculture. And then it was changed to
22 residential and is now -- well, there are some
23 differing opinions of the zoning right now that may
24 be discussed shortly by one of the other speakers.

25 CFO ATWATER: All right. Thank you.

1 DR. BUHROW: Thank you.

2 GOVERNOR SCOTT: Thank you very much.

3 MR. RASMUSSEN: Good morning, Governor Scott
4 and honorable members of the Cabinet. My name is
5 John Rasmussen. And I'm here with my wife, Jane,
6 and several of our neighbors. We do live directly
7 across the bayou from the proposed marina. In
8 fact, their docks will be within 200 yards of my
9 home.

10 We're concerned about the size of the bayou.
11 It will more than double the number of slips in the
12 entire bayou from East Bay to the Star Avenue
13 bridge and concentrate them in the area across from
14 our home. This proposal to locate a 174-slip
15 commercial marina in a bayou that has all
16 single-family residences is equivalent to a
17 developer proposing a 174-unit apartment complex
18 and a 15-story building in our neighborhood.

19 We believe the developer has a right to have
20 boat slips for his property, but I do not think
21 he's entitled to have a greater density of boats
22 per front foot on the bayou than is currently
23 allowed in the rest of the bayou, about one pier
24 for every 100 foot of frontage. The developer
25 currently has about 2,500 feet of frontage on East

1 Bay and Callaway Bayou.

2 I submit if the developer wants more boat
3 slips, I suggest they build a yacht basin in the
4 upland portions of their property, as the
5 developers of the old Panama City airport propose
6 to do. They are not building their boat slips out
7 into West Bay.

8 We're concerned about the commercial nature of
9 the marina. This marina, if approved, will be the
10 only commercial marina built in a single-family
11 residential neighborhood in Bay County and would be
12 the second largest marina in the county.

13 I was on the Callaway City Planning Commission
14 when the Bridge Harbor PD was approved in 2006. I
15 voted in favor of the plan because the marina and
16 its amenities, and I quote this, was to be for and
17 owned by the residents of Bridge Harbor.

18 In my opinion, the plans for the proposed
19 commercial marina is a substantial deviation from
20 the plan that was presented and approved in 2006.
21 Had it been presented at that time, I would have
22 voted against it.

23 Another member of the board who also lives on
24 the bayou, John Phillips, voted for the PD in 2006.
25 He signed a petition the other day opposing the new

1 project.

2 I also believe there are substantial legal
3 questions about the actual zoning of the property.
4 Was the planned development zoning rescinded?
5 While the developer did start construction on a few
6 model homes in Phase 1 of the development in 2006,
7 they were abandoned, unfinished, shortly after they
8 were started. No roads were installed. No sewers
9 were installed. No other infrastructure was ever
10 started.

11 The question is, were permits issued for those
12 houses? If so, were they valid? Was a subdivision
13 plat ever recorded for Phase 1 of that subdivision?
14 According to the Callaway LDR, it's a violation to
15 build a home or any structure in an area that is an
16 unrecorded plat, and it's also a violation if they
17 issued the permits for them.

18 The development order that was extended to
19 December 13th, 2010, covered Phase 1 of the planned
20 development, and that is where the unfinished,
21 abandoned houses were started in late 2006. That
22 was in Phase 1. This proposed marina will be in
23 Phase 3 of the planned development.

24 There has never been a development order
25 requested or issued for that and, of course, that

1 would have to be given. And according to the
2 Callway land development regulations, that phase
3 would have to be in substantial compliance with
4 what the original planned unit development said it
5 was going to be.

6 If you have any questions, I'll be glad to try
7 to answer them for you. And I do have a copy of --
8 a CD with the Callway LDR for you if would you like
9 to have it.

10 GOVERNOR SCOTT: Sure. We would like a copy.

11 MR. RASMUSSEN: Any other questions?

12 GOVERNOR SCOTT: Any questions?

13 Thank you very much.

14 MS. LOWREY: Good morning, Governor and
15 Cabinet members.

16 GOVERNOR SCOTT: Good morning.

17 MS. LOWREY: I'm Becky Lowrey. I'm a retired
18 Bay District school teacher. Thank you for the
19 opportunity today to voice my opposition to the HCI
20 commercial marina submerged land lease.

21 What the citizens of Callaway have learned
22 over the past 15 months of battling this project is
23 how naive we are to the workings of the city and
24 state agencies. We have pleaded our case with
25 local governments, local officials, local and state

1 representatives, and now the Governor and Cabinet.

2 We believe HCI Marina, LLC is attempting to
3 mislead the citizens of Callway, the City of
4 Callaway, and the Board of Trustees in order to
5 receive this lease. You've just been given some
6 packets that I'm going to go through very quickly.
7 I know that you're pushed for time.

8 Please refer to the first item, first page.
9 It's a two-page letter dated March 6th from Callway
10 Mayor Ken Meer to Secretary Vinyard stating that
11 the City of Callaway has not received a development
12 order request nor approved a DO as of this date.

13 Item 2, a letter dated -- that would be the
14 second page or third page. Item 2, a letter dated
15 Monday, March 7th, from Callaway Planning Director
16 Amanda Richard to Callway Mayor Ken Meer
17 referencing three parcels, one of which is the
18 commercial marina parcel. Notice the underlined
19 sentence stating that the City of Callaway zoning
20 designation for this piece of property is planned
21 development.

22 Item 3, a copy of the zoning map of the City
23 of Callaway, Florida, showing the HCI property in
24 pink is planned development.

25 Item 4 of your packet, a copy of the Bay

1 County property appraiser's map showing the HCI
2 marina highlighted in yellow with a property usage
3 of commercial, vacant land.

4 The City of Callaway denies this commercial
5 zoning. If this parcel is not zoned commercial,
6 then how can a commercial marina be located at this
7 location?

8 Item 6, Exhibit 6 dated 6/23/06 showing the
9 chronological order of the Callaway approved phases
10 of development. Note that the location of the
11 proposed commercial marina is located in the area
12 of Parcel 3. The recently demolished model homes,
13 as was referred to earlier, are located in the area
14 of Phase 1. At the time HCI purchased the
15 property, they had a valid development order for
16 that particular phase. They chose to let that
17 order expire December 2010, then they demolished
18 the homes.

19 Exhibit 7, color-coded land use plan for the
20 City of Callaway that was approved, Bridge Harbor
21 PD. Note the long, thin peninsula is colored dark
22 green for conservation area. The only referenced
23 marina, if you'll look in the little teeny print,
24 is located in Osprey Inlet. It doesn't say that
25 there's going to be a certain number of boat slips.

1 It doesn't say that it's commercial.

2 Exhibit 8, the concept plan for the PD that
3 was approved by the City of Callaway and the
4 citizens of Callaway in '06. Notice the
5 residential community concept highlighted in pink
6 is a private residential parcel, not part of the
7 Bridge Harbor PD. The yellow highlighted areas
8 show homes, townhomes, and common areas, no parking
9 lots, no restaurants, no commercial marina off the
10 peninsula.

11 Item 8 and the final page in your packet comes
12 from the HCI Marina application to DEP. The pink
13 area shows again the private residential parcel.
14 The yellow highlighted area shows a parking lot and
15 several commercial buildings instead of the
16 approved planned homes shown on the previous page.
17 There is no commercial marina in Callaway Bayou on
18 the PD.

19 Take a moment to flip back and forth and look
20 at the plan that the City voted on and then the
21 plan that we learned about in December of this
22 year.

23 So what does this mean about the submerged
24 land lease? Article X, Section 2 of the Florida
25 Constitution defines the powers that the Trustees

1 hold. The title to lands under navigable waters is
2 held by the State, by virtue of its sovereignty, in
3 trust for all the people. Lease of such lands may
4 be authorized by law, but only when in the public
5 interest. Private use portions of such lands may
6 be authorized by law, but only when not contrary to
7 public interest.

8 GOVERNOR SCOTT: I'm fine with that. I think
9 probably I understand the law. What --

10 MS. LOWREY: Yes, sir.

11 GOVERNOR SCOTT: When you sold the property,
12 what did you think was going to happen to it?

13 MS. LOWREY: I did not sell it. I was forced
14 by my stepmother and my brother in a partition
15 lawsuit to sell it. I did not agree to sell it. I
16 had to agree to sell it, or it would have been sold
17 on the steps of the courthouse, yes, sir.

18 GOVERNOR SCOTT: So why did that happen? Why
19 did they force you to sell it?

20 MS. LOWREY: Greed.

21 GOVERNOR SCOTT: Okay.

22 ATTORNEY GENERAL BONDI: Could I ask a
23 question?

24 GOVERNOR SCOTT: Sure.

25 MS. LOWREY: My father died without a will.

1 My stepmother wound up with 60 percent of my
2 grandfather's estate.

3 GOVERNOR SCOTT: Okay. Thank you.

4 ATTORNEY GENERAL BONDI: Did you receive a
5 portion of the \$20 million --

6 MS. LOWREY: Yes, I did, 20.5 percent.

7 ATTORNEY GENERAL BONDI: The \$20 million it
8 was sold for?

9 MS. LOWREY: 20.5 percent. She got
10 60 percent, or 59 percent.

11 ATTORNEY GENERAL BONDI: Thank you.

12 GOVERNOR SCOTT: Any other questions?

13 All right. Thank you.

14 MS. LOWREY: By the way, my property is the
15 one in the pink.

16 GOVERNOR SCOTT: Thank you.

17 CFO ATWATER: I have a question, Governor, on
18 just the process in a minute, and maybe the
19 Secretary can handle it.

20 I just want to be sure. I'm looking at the
21 documents that were provided to us. Has it been
22 zoned for this, or has it been zoned for something
23 else and someone is planning to go back with this?

24 MR. VINYARD: As I understand the process,
25 this is the first step that they go through, and

1 then they will go back to the local government to
2 make sure that the zoning is appropriate.

3 I do have with me Richard Brightman, the
4 attorney for the applicant. He may be able to
5 answer some of the more technical questions of
6 local government law.

7 GOVERNOR SCOTT: Thank you. Good morning.

8 MR. BRIGHTMAN: Good morning. Richard
9 Brightman from Hopping Green & Sams on behalf of
10 the applicant.

11 The first thing I would like to say is, the
12 concerns you've heard expressed today are not new.
13 They have been expressed time and time again to
14 your professional staff, to the professional staff
15 of other reviewing agencies, and those professional
16 staff folks have determined that this marina, this
17 applications qualifies for the issuance of a lease.

18 I'm not going to take the time, your time, to
19 address point by point the concerns that were
20 raised. There are a couple that I would like to
21 talk about very briefly.

22 The zoning is what's called in Bay County and
23 the City of Callaway a PD. Most people think of it
24 as a PUD, a planned unit development. It is a
25 zoning category that allows specified uses as

1 specified in the ordinance that places the PD on
2 the property. The uses in this particular PD
3 include commercial activities, specifically
4 including a marina.

5 The navigational concerns expressed have been
6 addressed by the Fish and Wildlife Conservation
7 Commission and the Coast Guard, both of which
8 determined that there is no impediment to
9 navigation.

10 The analysis done by a registered engineer
11 using the methods taken from the Corps of Engineers
12 Coastal Engineering Manual show that the space
13 remaining after the docks are built is at least
14 twice as wide as the channel should be for boats in
15 this area. And that's based on some very
16 conservative assumptions, like the boat traffic
17 will be 500 a day, when actual observations suggest
18 it is less than 50.

19 You heard that the docks will become a missile
20 in a hurricane, and that simply isn't true. First
21 of all, the piling height for these floating docks
22 is higher than the elevation predicted by the Corps
23 of Engineers' SLOSH model for a Category 5
24 hurricane storm surge, higher by at least couple of
25 feet.

1 In addition, there are caps on top of the
2 pilings to prevent that prevent the floating docks
3 from floating off of the pilings. Even if the
4 water got that high, they would simply be
5 submerged.

6 I mentioned that the PD specifically allows
7 commercial activities, specifically including a
8 marina. And I think with that, I'll stop and try
9 to answer any questions you may have.

10 GOVERNOR SCOTT: Thank you very much. Any
11 questions? Commissioner.

12 COMMISSIONER PUTNAM: Did I understand the
13 Secretary's answer to the CFO that this is the
14 beginning of the process, not the end of the
15 process, that they get the lease and then go back
16 to the zoning and planning, local government
17 decisions?

18 MR. BRIGHTMAN: They will have to go back to
19 the City of Callaway for a development order to
20 authorize the construction of the upland structures
21 associated with the marina.

22 COMMISSIONER PUTNAM: So this is not the last
23 stop for those who have concerns?

24 MR. BRIGHTMAN: It is not.

25 COMMISSIONER PUTNAM: Could you address, given

1 one of the concerns that was mentioned about the
2 width of the channel for navigation -- the marina
3 does not follow the shoreline. It actually comes
4 further away from the land as the pass narrows
5 because of the point on the other side. Is there a
6 reason why it doesn't more closely parallel the
7 shoreline, but it actually comes further seaward?

8 MR. BRIGHTMAN: Yes, there is. The reason why
9 the docks are offset from the shoreline is to avoid
10 submerged aquatic vegetation, so that there won't
11 be any impacts to those seagrasses and other
12 submerged aquatic vegetation. The docks themselves
13 are at the outboard limit where that submerged
14 aquatic vegetation no longer grows, so that the
15 only impacts to the submerged aquatic vegetation
16 will be for where the pilings are actually placed
17 to support the walkways, many of which will
18 actually span the submerged aquatic vegetation,
19 avoiding those impacts altogether.

20 COMMISSIONER PUTNAM: What's the depth of the
21 unmaintained channel?

22 MR. BRIGHTMAN: It gets as deep as 10 to
23 12 feet.

24 COMMISSIONER PUTNAM: Thank you.

25 GOVERNOR SCOTT: So we're not doing anything

1 here that changes the zoning? We're just deciding
2 whether we want to lease this property to them?

3 MR. BRIGHTMAN: Absolutely correct.

4 GOVERNOR SCOTT: Any other questions? Thank
5 you very much.

6 MR. VINYARD: Governor, the staff recommends
7 approval.

8 GOVERNOR SCOTT: All right. Is there a motion
9 on Item 4?

10 ATTORNEY GENERAL BONDI: So move.

11 GOVERNOR SCOTT: Is there a second?

12 COMMISSIONER PUTNAM: I'll second.

13 GOVERNOR SCOTT: All right. Moved and
14 seconded. Show Item 4 approved without objection.

15 CFO ATWATER: Governor, I do object. I'm
16 sorry. I wasn't seconding it. And I didn't know
17 if there's going to be time for comment or not,
18 but --

19 GOVERNOR SCOTT: Why don't you do it now?

20 CFO ATWATER: Yes. My concern here is that
21 I'm looking at the magnitude of the site, and I'm
22 -- and I once served in local government, and so I
23 do believe that those individuals will ultimately
24 be held accountable for the zoning, and with that
25 comes certain opportunities to pursue with us on

1 leasing the submerged lands.

2 I just -- I wish I had maybe sensed that there
3 was a little greater effort to minimize the impact
4 that I believe this is going to have to the
5 investments of other properties that are nearby
6 that made those decisions long before the zoning
7 changed.

8 And my hope would be that those who will
9 ultimately have later decision-making in this
10 process would maybe call upon the applicant to have
11 a greater degree of sensitivity to the magnitude of
12 the project. I understand that there should be
13 docks. I would want people to have access to it.

14 And frankly, I'm not moved by the argument of
15 economic viability. In the previous applicant, we
16 had the issue of commercial property. If somebody
17 had asked me a few years ago do we need another
18 hamburger joint in America, I probably would have
19 said, "You're kidding," but I'll tell you, if you
20 haven't tasted a Five Guys hamburger . . .

21 Let the marketplace decide whether there's
22 economic viability.

23 I just look at this as my obligation here, and
24 I just think this is awfully aggressive and would
25 hope that the applicant would consider minimizing

1 the magnitude of that.

2 GOVERNOR SCOTT: Okay. Moved and seconded.
3 Show Item 4 approved with one objection.

4 Thank you, Secretary Vinyard.

5 So what we'll do is take just a -- we're going
6 to move to Clemency.

7 ATTORNEY GENERAL BONDI: Governor, before we
8 move on, I had stepped out. Could the record just
9 reflect my approval for Item Number 2 previously
10 when I had stepped out for a moment?

11 GOVERNOR SCOTT: All right. Thank you.

12 So the Cabinet meeting is adjourned. We're
13 going to have a couple minute break to let people
14 leave the room that don't want to stay for the
15 Clemency Board meeting.

16 (Proceedings concluded at 11:38 a.m.)

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