

## STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND  
CABINET

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CABINET MEMBERS: GOVERNOR RICK SCOTT  
ATTORNEY GENERAL PAM BONDI  
CHIEF FINANCIAL OFFICER JEFF  
ATWATER  
COMMISSIONER OF AGRICULTURE  
ADAM PUTNAM

DATE: TUESDAY, APRIL 26, 2016

LOCATION: CABINET MEETING ROOM  
LOWER LEVEL, THE CAPITOL  
TALLAHASSEE, FLORIDA

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

GOVERNOR SCOTT: Good morning. Welcome to the April 26th, Cabinet meeting.

To begin our meeting, I'd like to welcome Greg Heuchan to lead this morning's invocation.

Please remain standing after the invocation for the Pledge of Allegiance led by Caleb Heuchan, followed by the singing of the National Anthem by Isabel Thompson.

(WHEREUPON, THE INVOCATION WAS GIVEN, THE PLEDGE OF ALLEGIANCE WAS SAID AND THE NATIONAL ANTHEM SUNG) .

\* \* \* \*

**APPOINTMENT OF THE INTERIM EXECUTIVE DIRECTOR,  
DEPARTMENT OF VETERANS' AFFAIRS**

GOVERNOR SCOTT: During the previous Cabinet meeting, Colonel Mike Prendergast submitted his resignation effective April 30, 2016. In accordance with our Cabinet Governance Guidelines, today we should appoint the Interim Executive Director and discuss the process for appointment of the Executive Director.

As you all know, several weeks ago I nominated Glenn Sutphin to serve as Interim Executive Director; and in accordance with Florida Statutes and our Cabinet Governance Guidelines, I move to appoint Glenn to serve as Interim Executive Director of the Department of Veterans' Affairs at a salary of \$150,000.

Is there a second?

ATTORNEY GENERAL BONDI: Second.

GOVERNOR SCOTT: Are there any comments or objections?

Commissioner.

COMMISSIONER PUTNAM: Merely a comment, Governor, that you found a good man. He has served

1       our state -- our nation, led men in combat --  
2       served our state so well at the Florida National  
3       Guard, and he has a passion for public service and  
4       a heart for our veterans, and I commend your  
5       selection.

6             Thank you.

7             CFO ATWATER: Governor, may I?

8             GOVERNOR SCOTT: Oh, I'm sorry.

9             CFO ATWATER: Governor, I want to say  
10       thank you to you, Governor, on this selection. I  
11       have had the privilege of working with the Colonel  
12       for many years, and the sense of duty and  
13       responsibility and obligation that his work  
14       expresses towards our military, their families, our  
15       veterans is unmatched. And the integrity to which  
16       he has carried out all of the duties that I've had  
17       the privilege of watching or working with him on,  
18       again, is unmatched. It's a compliment to what we  
19       would believe is the distinguished commitment of  
20       service to our country.

21             Wonderful choice, Governor. Thank you.

22             GOVERNOR SCOTT: So all in favor.

23             (AFFIRMATIVE INDICATIONS).

24             GOVERNOR SCOTT: So the motion passes. You're  
25       going to do a great job.

1           So our next steps. Let's see if everybody is  
2           okay with this: We'll open the application period  
3           for the Veteran Affairs Executive Director next  
4           week and we'll close it July 15th.

5           The Cabinet Aides' meeting will be on  
6           July 27th to schedule candidates for interview,  
7           and we can interview those individuals and make  
8           the appointment during the August 2 Cabinet  
9           meeting.

10          Does that work for everybody?

11          CFO ATWATER: Yes.

12          GOVERNOR SCOTT: Is that okay,  
13          Attorney General?

14          ATTORNEY GENERAL BONDI: That's good.

15          GOVERNOR SCOTT: Okay. All right. Why don't  
16          you come up and get a picture now, Colonel Sutphin?

17          (BRIEF PAUSE).

18          GOVERNOR SCOTT: We have about 1.5 million  
19          veterans in our state, and our Department of  
20          Veterans' Affairs does an outstanding job taking  
21          care of them each and every day.

22  
23  
24                   \*

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**OFFICE OF INSURANCE REGULATION**

GOVERNOR SCOTT: Next I'd like to welcome Commissioner McCarty with the Office of Insurance Regulation.

Good morning, Kevin.

COMMISSIONER McCARTY: Good morning, Governor, members of the Financial Services Commission.

The first agenda item today is approval of the minutes for the December 8th meeting of the Financial Services Commission.

GOVERNOR SCOTT: Is there a motion?

ATTORNEY GENERAL BONDI: So move.

GOVERNOR SCOTT: Is there a second?

CFO ATWATER: Second.

GOVERNOR SCOTT: Any comments or objections?

(NO RESPONSE).

GOVERNOR SCOTT: Hearing none, the motion carries.

COMMISSIONER McCARTY: Okay. Agenda Item Number 2 is a request for final adoption for a rule concerning the registration and the holding company acts, Administrative Rule 690-143.046, 047, and 056.

This rule regulates the Insurance Holding Act

1 as part of our financial modernization initiative,  
2 as well as collecting information about the  
3 enterprise risk.

4 The rules that were adopted -- we had two  
5 workshops on the rule, and it comports with what is  
6 being done nationally so that our form is  
7 consistent with the forms adopted in other states.

8 GOVERNOR SCOTT: Is there a motion to approve  
9 on the item?

10 CFO ATWATER: So move.

11 GOVERNOR SCOTT: Is there a second?

12 ATTORNEY GENERAL BONDI: Second.

13 GOVERNOR SCOTT: Any comments or objections?

14 (NO RESPONSE).

15 GOVERNOR SCOTT: Hearing none, the motion  
16 carries.

17 COMMISSIONER McCARTY: Okay. The next agenda  
18 item is request for approval for repeal of  
19 Rule 69N-121.007, 010 on public records. This rule  
20 prescribed the process and procedure for the Office  
21 to process public document requests, as well as to  
22 index final orders. That rule was superseded by  
23 legislation in 2015, therefore rendering the rule  
24 obsolete and unnecessary.

25 COMMISSIONER PUTNAM: So moved.



1 ATTORNEY GENERAL BONDI: Second.

2 GOVERNOR SCOTT: Any comments or objections?

3 (NO RESPONSE).

4 GOVERNOR SCOTT: Hearing none, the motion  
5 carries.

6 COMMISSIONER McCARTY: Item Number 4 is  
7 request for approval for publication of repeal of  
8 Rule 69N-121.066 on informal conferences. This  
9 rule provides for a procedure for informal  
10 conferences before the Office. This rule is  
11 unnecessary; and therefore, we're requesting a  
12 change because we NO longer -- we put a corrective  
13 action plan; and therefore, an informal procedure  
14 is NO longer necessary.

15 GOVERNOR SCOTT: Is there a motion?

16 CFO ATWATER: So moved.

17 GOVERNOR SCOTT: Is there a second?

18 ATTORNEY GENERAL BONDI: Second.

19 GOVERNOR SCOTT: Any comments or objections?

20 (NO RESPONSE).

21 GOVERNOR SCOTT: Hearing none, the motion  
22 carries.

23 COMMISSIONER McCARTY: Agenda Item Number 5 is  
24 request for approval for publication of repeal of  
25 Rule 69N-3001, 002, 3, 4, 5, 6, and 7. These rules

1 establish a smoking policy for the office. These  
2 rules have been rendered obsolete because of  
3 revisions to Florida law.

4 COMMISSIONER PUTNAM: So moved.

5 COMMISSIONER McCARTY: These are now governed  
6 under the Florida Clean Air Act and have been  
7 obsolete for a while.

8 GOVERNOR SCOTT: The Commissioner --

9 ATTORNEY GENERAL BONDI: Second.

10 GOVERNOR SCOTT: -- motioned and a second.

11 Any comments or objections?

12 (NO RESPONSE).

13 GOVERNOR SCOTT: Hearing none, the motion  
14 carries.

15 COMMISSIONER McCARTY: All right. Agenda Item  
16 Number 6 is request for approval for pub --

17 GOVERNOR SCOTT: Why don't we do 6, 7, and 8  
18 together?

19 COMMISSIONER McCARTY: Okay. Request for  
20 approval for publication of repeal of the rule on  
21 insurer assumption of certain liability. That has  
22 to do with -- Florida Statutes have been revised  
23 that allows for the individual company approval and  
24 that we NO longer need that law -- that rule in  
25 place because we now do individual company

1 approval.

2 Item Number 7 is for publication for  
3 amendments of the quarterly statement. This simply  
4 updates and gives us the latest quarterly reports,  
5 the quarterly manuals, the annual statement  
6 instructions, the accounting practices and  
7 procedures, and the NAIC user guide, which is done  
8 on an annual basis.

9 GOVERNOR SCOTT: Okay. Was that 6 and 7? How  
10 about 8?

11 COMMISSIONER McCARTY: That was for -- I'm  
12 sorry, that wasn't for repeal. That was a  
13 different one. Do you want to just do the two  
14 repeals together?

15 GOVERNOR SCOTT: Yeah.

16 COMMISSIONER McCARTY: Okay. I'm sorry, I  
17 apologize, Governor. Request 5, request for  
18 approval for repeal on the smoking policy and for  
19 repeal of the rule governing closing protection  
20 letters.

21 GOVERNOR SCOTT: Let's do 7 and 8 also.

22 COMMISSIONER McCARTY: Okay. Seven is for  
23 adoption of the annual and quarterly report  
24 requirements and 7 is -- 8 requires the annual and  
25 quarterly report requirements; and 9 is for the

1 NAIC Financial Condition Examiner's Handbook.

2 GOVERNOR SCOTT: Okay. I think we're going to  
3 do 6, 7, and 8. So is there a motion on 6, 7, 8?

4 ATTORNEY GENERAL BONDI: So moved.

5 COMMISSIONER PUTNAM: So that's one repeal and  
6 two rules --

7 ATTORNEY GENERAL BONDI: Yes.

8 GOVERNOR SCOTT: Right?

9 COMMISSIONER PUTNAM: -- for publication?  
10 Second.

11 GOVERNOR SCOTT: Okay. Any comments or  
12 objections?

13 (NO RESPONSE).

14 GOVERNOR SCOTT: Hearing none, the motion  
15 carries. So now we're on Item 9, performance  
16 measures.

17 COMMISSIONER McCARTY: Item 9 is performance  
18 reports to give you some highlights of the Office  
19 of Insurance Regulation, as well as a cumulative  
20 report on our performance measures from July 1st,  
21 2015, to March 31st, 2016.

22 The first slide you've seen before. It's  
23 defining success. Of course an important part of  
24 providing success in the Florida marketplace is to  
25 promote markets, to encourage products to come to

1 Florida. We also want to protect consumers and  
2 make sure that those products are there at  
3 affordable prices.

4 We want to protect consumers from unscrupulous  
5 behavior. We want to monitor the financial  
6 condition of companies. There is NO more important  
7 consumer protection than ensuring an insurance  
8 company has the financial wherewithal to pay their  
9 claims. And lastly, we want to do all of these  
10 things in an effective and efficient manner.

11 The next few slides we're going to talk about  
12 will discuss kind of selected activities over the  
13 course of this report and some of the  
14 accomplishments, along with some of the challenges  
15 and opportunities we see in the life and health, as  
16 well as in the property and casualty markets.

17 I'm only going to talk about a few of the  
18 details on each of the slides, but I'll be happy to  
19 answer any questions you have in the totality of  
20 the presentation.

21 One of the major challenges we've had,  
22 of course, in the last several years is the  
23 disruption in the marketplace as a result of the  
24 passage of the Affordable Care Act. One of our  
25 main challenges is to maintain as much stability in

1 the marketplace as we can. Unfortunately, because  
2 of the volatility in the market and because of a  
3 number of factors, most notably, the elimination of  
4 underwriting and guaranteed issue, which is --  
5 you know, underwriting is a key element of  
6 insurance.

7 So this has obviously brought about a great  
8 deal of instability in the marketplace. And as a  
9 consequence, one of the casualties of that has been  
10 the Preferred Medical Plan, which has been an  
11 excellent HMO in the Miami-Dade County for the last  
12 40 years. Unfortunately, it has become a victim of  
13 the volatility in the market, most notably through  
14 what they call the three Rs: The risk adjustment,  
15 risk corridor, and the reinsurance program.

16 And these are programs meant to create rate  
17 stability, but in point of fact, caused a great  
18 deal of instability in terms of market planning for  
19 companies, particularly those companies that have a  
20 limited amount of a capital basis to begin with.  
21 So we helped to transition those policies without  
22 interruption of coverage to other members in the  
23 voluntary market.

24 Another I think important issue, as we talked  
25 about before, the -- I know we've talked about this

1 with General Bondi, and the concern about the  
2 centers of excellence and the narrowing of  
3 networks; and that what we're seeing now with the  
4 Affordable Care Act is more balanced billing  
5 because more and more people are not in network.  
6 and I want to congratulate the CFO and the  
7 Legislature for enacting balanced billing reforms  
8 this year. I think it's an important first step to  
9 help protect consumers.

10 We do have prohibitions against balanced  
11 billing and HMOs, and now we extended it beyond  
12 that marketplace.

13 And lastly, I wanted to highlight, as you're  
14 familiar -- may be familiar, the Office has worked  
15 very closely with the Legislature,  
16 Senator Benacquisto and Representative Hager; and  
17 of course, CFO Atwater, I want to thank you for  
18 your leadership on the issue for unclaimed  
19 property, their settlement agreements.

20 As you know, General Bondi, myself, and the  
21 CFO launched a campaign in 2011. We were  
22 successful at bringing about the first settlement  
23 to ensure that people -- that beneficiaries were  
24 getting paid their benefits under their life  
25 insurance contracts.

1           As you know, there has been what's called the  
2       selective use of the Social Security death master  
3       where insurance companies would use the  
4       Social Security death master to their advantage but  
5       would not use it when it came to finding  
6       beneficiaries. And this law that has passed is the  
7       culmination of the work we've done.

8           We've also -- we're responsible for a national  
9       task force which has brought about seven and a half  
10      to \$8 billion returned across the nation, and it  
11      is -- and Florida law is now actually the  
12      gold standard for going in the future on how to  
13      codify through agreements that we have reached.  
14      And that has been very successful and actually was  
15      featured on 60 Minutes recently.

16           There are also some challenges coming up in  
17      the marketplace, and one of the challenges I want  
18      to highlight to you is the financial risk facing  
19      Floridians, but also facing the State of Florida  
20      when it comes to caring for long-term care for our  
21      senior citizens. We have an increasingly aging  
22      population. There has been an estimate by the  
23      Bipartisan Policy Center that says that about 70%  
24      of the people over the age of 65 will require  
25      long-term care services in the amount of



1 a hundred thousand dollars or more.

2 The Center estimates that about a quarter of  
3 these individuals will need that, and yet consumers  
4 are not buying long-term care. And we know the  
5 pressure it's going to put on Medicaid budgets  
6 around the country. Right now about \$120 billion  
7 is dedicated nationally to pay for Medicaid  
8 long-term care.

9 One of our challenges for the State of Florida  
10 is how we can lessen that Medicaid burden. And one  
11 of the ways to do that is to encourage companies,  
12 as well as individuals, to purchase long-term care  
13 policies. A lot of people have been scared off of  
14 long-term care policies recently because of the  
15 high prices, some of the insolvencies, and some of  
16 the challenges, and the history of long-term care.  
17 But we need to look at innovations in products,  
18 particularly life products that may be able to be  
19 converted to a long-term care product so that there  
20 is an income stream to deal with -- to hedge the  
21 longevity risk.

22 Before we go to that, one last thing I want to  
23 go -- as I talked about the instability in the  
24 marketplace, our HMO laws have not been revised,  
25 our minimum capital surplus requirements are still

1 at \$1.5 million. We don't have risk-based capital  
2 tools that we had for health insurance companies,  
3 and one of the challenges going forward is to help  
4 our insurance industry by providing those tools.

5 One of the things we've seen is that companies  
6 get dramatic increases in the number of policies.  
7 They may have \$20 million in surplus, they may  
8 estimate getting a 20,000 policy, but you can't  
9 turn the hose off, so to speak. As soon as the  
10 policies start coming in, if you're a lower-priced  
11 HMO -- we had several examples of companies  
12 expecting 30 and getting 130. Well, they don't  
13 have the IT, the infrastructure, et cetera. So one  
14 of the challenges continues -- not just the capital  
15 base, but ensuring some way of bringing some  
16 stability to the marketplace.

17 Now pivoting to the property insurance market,  
18 Florida continues to enjoy in terms of its  
19 homeowners' market a very robust market. We have  
20 12 companies that are our companies that have been  
21 indigenous to Florida that have expanded to other  
22 states. That geographic and business  
23 diversification is a good thing; it says positive  
24 things about our market.

25 We've also had five additional companies that

1 added lines of business. Overall our companies are  
2 entering the market. We have over 4,000 licensed  
3 entities in Florida. The market is good and we  
4 continue to look for a successful future.

5 Of course, one of the challenges we see is  
6 Citizens. Citizens has had remarkable success in  
7 its depopulation efforts. Thank the Governor for  
8 his encouragement in this regard, where there's a  
9 60% reduction in policy, 65% in its exposure. We  
10 went from 1.5 million policies to under 400,000  
11 last month.

12 So we continue to get good reports in that  
13 regard and continue to see companies looking for  
14 more takeout opportunities with regard to Citizens'  
15 property insurance market; however, at the last  
16 hearing -- the rate hearing, we did have evidence  
17 of a growing problem that Citizens identified.

18 And that is the growing problem of water  
19 damage and roof damage as a result of assignment of  
20 benefits. And the situation occurs when a  
21 policyholder assigns their benefits to a  
22 third-party person to repair their property and  
23 then that person goes after the insurance company  
24 for the money.

25 We've seen from data submitted that in

1 south Florida there is -- the filings highlighted a  
2 128% increase in the three -- tri-county area for  
3 the average water claim. And our data call has  
4 shown that that is not simply limited to  
5 south Florida, that it's initially a south Florida  
6 problem, but we're seeing that kind of increased  
7 frequency and severity occurring in central and  
8 west Florida as well.

9 So we have been working with Citizens  
10 collaboratively to develop policy form changes that  
11 do not affect the consumer but puts in some  
12 parameters to ensure that the insurance company has  
13 an opportunity to do an inspection before these  
14 other repairs are effectuated, and then those  
15 assignment of benefits, and hopefully addressing  
16 that issue. We have 13 companies who have filed a  
17 very similar form filing with our office, and we're  
18 going to continue to work to address that problem.

19 The last issue I want to address, of course,  
20 is a major issue for the State of Florida since we  
21 represent about 37% of the flood market. As you  
22 know, last year I sent a -- communicated with FEMA  
23 and the National Flood Program to get our arms  
24 around the ratemaking process so that we can have  
25 an open and transparent process.

1 I'm pleased to report that we have met with  
2 them and a number of states, that we have an open  
3 and transparent process for us to evaluate the  
4 data, to develop rates, and hopefully promote a  
5 private-sector market to help augment the National  
6 -- the Federal Flood Program.

7 I also want to thank Congressman Ross for his  
8 leadership in providing -- introducing legislation  
9 that promotes the private marketplace and  
10 flexibility and licensing in states, and eliminates  
11 some of the burdens that the Federal Government has  
12 placed on the private marketplace.

13 As in terms of challenges and opportunities  
14 with regard to the property market, again, I want  
15 to reiterate our concern about ALD. We are  
16 cautiously optimistic that the policy changes that  
17 we are encouraging the private sector to adopt,  
18 along with Citizens, will address that problem. We  
19 need to continue to closely monitor the situation,  
20 collecting information necessary for policymakers  
21 to make the necessary changes if that is needed.

22 With regard to auto insurance rates, I commend  
23 the CFO and the Governor for their leadership on  
24 PIP reform in 2012 with House Bill 119. I was very  
25 optimistic it was passed, but the Governor told me

1           it was going to pass and encouraged me to think of  
2           like mind and I --

3           GOVERNOR SCOTT: We didn't waste any votes,  
4           did we?

5           COMMISSIONER McCARTY: NO, we didn't, sir.  
6           NO, we did not. That was my first foray into  
7           radio, so I have a fond appreciation for how  
8           difficult it is to get bills passed.

9           I do want to point out, however, that,  
10          you know, a lot of people are saying, oh, where's  
11          the big savings in PIP? Well, the truth of the  
12          matter is, the year before we passed this  
13          legislation, PIP rates were going up about 46%.  
14          After the passage, the PIP rates went down 13.9%.

15          But what we've seen in the last year and a  
16          half is probably about a 13% increase over a year  
17          and a half period. So people are saying, well, is  
18          there something wrong with the PIP law?

19          Well, the fact of the matter is, people are  
20          driving more, and they are driving more, and  
21          accidents have increased commiserate with that  
22          number, about 14 or 15% increase in the frequency  
23          of accidents. So therefore, you can probably glean  
24          from that that that's probably one of the driving  
25          cost factors behind it.

1           In addition, we are working with  
2           Senator Brandes and other members of the  
3           Legislature to commission a comprehensive study to  
4           see what the other cost drivers are and if there  
5           are some other legislative alternatives to the PIP  
6           system going forward.

7           And lastly, I just want -- here are the  
8           quantitative measures. This slide shows the  
9           10 measures that the Financial Services Commission  
10          established for our office earlier this year. Our  
11          cumulative average score for the last  
12          three quarters is 4.9. The results for each  
13          measure is on the chart.

14          Are there any questions regarding the  
15          performance measures?

16          GOVERNOR SCOTT: NO. Thanks, Kevin, you've  
17          done a good job.

18          Does anybody have any questions?

19          CFO ATWATER: Yeah, Governor, might I?

20          GOVERNOR SCOTT: CFO.

21          CFO ATWATER: Thank you, Governor.

22          I'd like to first -- the Commissioner brought  
23          up two pieces of legislation that passed this  
24          spring -- this winter session that's just  
25          completed.

1           Governor, I'd like to express to you our  
2           thanks as a department that spends a tremendous  
3           amount of time dealing with the consumer-related  
4           matters in our Consumer Services Division which,  
5           therefore, understanding the need for the balancing  
6           billing to be addressed, you all gave that  
7           thoughtful scrutiny, and I just want to express our  
8           gratitude for how -- the conclusions that you drew  
9           and the merits of that. It was a very hard  
10          balancing act.

11          We've already had this conversation about the  
12          attractiveness of the Florida marketplace in  
13          general, balancing the regulatory with market  
14          dynamics; and I hope we've found the right balance.  
15          We'll see how this plays out over time. But  
16          thank you there.

17          And I'd also like to express -- the passage of  
18          what was known as the Unclaimed Property Life  
19          Insurance Settlements, that, again, you all  
20          thoughtfully considered that; and, again, trying to  
21          walk a balancing act between holding people  
22          accountable for a promise that was made and yet  
23          sending a message -- trying to send the right  
24          message as well, that this continues to be a  
25          place -- and, Governor, I want to say thank you for



1 both of those and the care that you gave those.

2 Commissioner, you know, this is a moment for  
3 review, and you're showing us the objective  
4 measures. I'd like to add my thanks to you. Those  
5 have to be, you know, two of the -- I think the  
6 best carefully balanced initiatives to ensure  
7 people that in Florida you're going to get the best  
8 products available, best rate available with a  
9 dynamic market and yet we're not going to forget  
10 the consumers at the center of this conversation.  
11 So my thanks to you and your team.

12 I just -- you're going to have to look back as  
13 this being I think one of the most successful  
14 consumer-related sessions that did not tip out the  
15 balance to attract capital to Florida, so I want to  
16 just express that to you, and I know that -- I've  
17 said it before to you, and in your humility you  
18 quickly turn around your entire team and express  
19 your gratitude to them, and that's what a leader  
20 does.

21 You mentioned a couple of items, one is  
22 long-term care. You talked about a need for some  
23 creative product, and you're looking ahead. Are  
24 you seeing anybody that is setting the table for  
25 that? Are there examples that you can point to?

1           It would certainly appear that business models  
2 of old are not working; and that cost is running  
3 away; and, therefore, it's not going to be  
4 available. Anything that you're seeing that would  
5 give us a sign that a product is on the way and  
6 someone has figured it out?

7           COMMISSIONER McCARTY: Well, yes, and you make  
8 a very good point. Many of these products were  
9 developed in the 1990s, and the expectations and  
10 assumptions about life expectancy and utilization  
11 were grossly underestimated. As you can think,  
12 it's hard to predict something 30 years out,  
13 particularly the number of seniors now that have  
14 dementia and Alzheimer's which requires much more  
15 intensive care. Those were underestimated at the  
16 time as well.

17           One of the things we're trying to do is to  
18 have a diversification of the product, looking at a  
19 product that is a hybrid. It's a life product and  
20 a long-term care product. So for instance, you  
21 would have the life product for a year, and then  
22 you'd reach a point where you don't necessarily  
23 need the proceeds and you could then convert those  
24 for those potential benefits to use as a hedge  
25 against longevity and use it for that long-term

1           care.

2           There is a products innovation group that  
3           we're participating with, with a number of other  
4           states. Of course Florida and California in  
5           particular have a very substantial part of the  
6           market, and we're very active in working together  
7           with our colleagues around the country through  
8           and -- by and through a task force, working with  
9           the companies to develop alternative products.

10          CFO ATWATER: And as you mentioned, obviously  
11          for us as decision makers, our Legislature as  
12          policymakers, figuring this out with the Florida  
13          demographic is going to be very, very important.

14          COMMISSIONER McCARTY: Yes.

15          CFO ATWATER: And how about -- next question,  
16          again, I don't think -- well, let me just say this:  
17          Kevin, some day someone is going to write the book,  
18          you know, Florida Insurance 2004 to 2020. It may  
19          not be a best seller, but it -- you know, granted,  
20          it may not be at airport news stands, but it's been  
21          an extraordinary odyssey, to say the least.

22          And I think the conversation that you've  
23          touched on on the depopulation of Citizens is  
24          something that I really hope at some point, again,  
25          a broader public can appreciate and understand.

1       You've credited the Governor, most appropriately,  
2       that it's not an easy conversation to have because  
3       there are perceptions that come with that.

4               Are people being pushed to something less  
5       valuable? Is someone capable of taking them on,  
6       both the quality of that player and the ability to  
7       perform at a later date.

8               This has moved -- if we do everything right,  
9       what benefit we have offered to the consumer by  
10      offering them a private-market player who will  
11      compete for their business, as well as innovative  
12      ideas in service, as well as placing that risk  
13      across the globe rather than on the back of  
14      taxpayers.

15              COMMISSIONER McCARTY: Absolutely.

16              CFO ATWATER: And so though it has been a long  
17      process -- and I think you even quietly or  
18      subtly throughout that warning of the  
19      possibility where we may start going with water  
20      claims, et cetera, could we see private-market  
21      fear. But so could you offer us a little bit of an  
22      insight into your stress testing last year?

23              One significant question remains or that's  
24      most frequently addressed is: Are the domestic  
25      players skilled, capitalized, re-insured, ready?

1 Now we're hoping we don't find that out through an  
2 event, but it's your responsibility to make the  
3 best appropriate call on that.

4 Can you give us some insights into the process  
5 you've used?

6 COMMISSIONER McCARTY: Absolutely, you're  
7 absolutely right.

8 I think one of the things we had is an issue  
9 of confidence with regard to new players in the  
10 marketplace. As you're aware, many of the marquis  
11 names that are familiar on a national basis  
12 retrenched from Florida, and we needed to fill that  
13 gap. And we did that through the innovations,  
14 quite frankly, of the Florida legislature, as in  
15 that time period, 2006, we actually put forward a  
16 surplus notes program to help fund the companies  
17 and provide incentives for capital to come to  
18 Florida.

19 But then you had the issue of: Who are these  
20 companies? How much confidence do we have that  
21 they're going to be able to pay claims? Some of  
22 those companies did go through 2004, 2005  
23 successfully. Other companies were formed in the  
24 new class of companies following that time period.

25 But what we have initiated over the last

1 several years, and with your help last year even  
2 intensified our stress test even more. What we do,  
3 the process we go through is we do an initial data  
4 call.

5 We collect information on every company doing  
6 business in Florida on their reinsurance program,  
7 and then what we do is we have them run their  
8 portfolio through their own model, the same model  
9 that they use for their rates. Then we take that  
10 same information and run it through the FIU model,  
11 and then we have -- so we have a check and balance,  
12 if you will, to that.

13 We come up with a different scenario each  
14 year, stress scenario. This past year we used the  
15 scenario of 2000 where we had Charley, Frances,  
16 Ivan, and Jeanne, and we ran that; but we also ran  
17 Andrew to see how companies would perform, and then  
18 looked at their capital position after that.

19 So we would want -- so it tells us a couple of  
20 things: First of all, is the company going to be  
21 there to pay the claim? And Number 2, are they  
22 going to be able to recapitalize and do business in  
23 the following year.

24 And so every company is a little -- and NO  
25 company is the same. Every company has a different

1 appetite for risk, so we don't have a prescription  
2 as to what a company has to do. They just have to  
3 demonstrate to us that through capital, through  
4 insurance, or alternate reinsurance structures,  
5 which has really been the genesis of revitalization  
6 of the marketplace. There's a huge growth in the  
7 alternative markets and reinsurance in Bermuda;  
8 that they have the wherewithal to pay those claims  
9 and then -- and hopefully be around to recapitalize  
10 for the next year.

11 Last year's test, as I reported to you, we had  
12 one company that did not pass and then it went out  
13 and purchased more reinsurance so that it passed  
14 the test.

15 We're going through the same process this  
16 year. We're just now doing the initial data call  
17 where we get the information. In Florida,  
18 of course, most of these companies purchase their  
19 reinsurance in May, so that would be the initial  
20 part of the data call.

21 That will be supplemented then by the stress  
22 test, which is two parts: One the company runs,  
23 and then we run ours. And then we harmonize that  
24 and come up with a plan to ensure that they have  
25 the capital to pay claims.

1 CFO ATWATER: Commissioner, thank you.

2 Is there -- you know, one of the conversations  
3 we've had -- I don't know if you've had any more  
4 consideration on this, again, the public being able  
5 to understand the quality of the stress test and  
6 being able to have the confidence that you would  
7 have being that you pick out the events, you run  
8 them as multiple events in a given cycle, you're  
9 running them against very current portfolios that  
10 would show you the geographic dispersion of the  
11 policies or the geographic concentration of  
12 policies.

13 So for today or another time, but again, I  
14 would hope we continue to find -- if I could add,  
15 the conversation of transparency to that stress  
16 test so that we can get a greater level of critique  
17 that would be provided externally, as well as the  
18 confidence that you're feeling -- that your team is  
19 feeling internally to this result.

20 So clearly I am growing more and more  
21 confident with the stress test, that you're  
22 underway, and look forward to what your team will  
23 do this summer.

24 COMMISSIONER McCARTY: Well, thank you very  
25 much, CFO. And, you know, it is challenging



1           because we are trying to strike a balance.  
2           Companies are very covetous of the information on  
3           their risk management and their tolerance for risk.  
4           That to them is a very critical part of their  
5           strategic plan, and then part of their -- basically  
6           their business model that they don't necessarily  
7           want to share.

8           So I understand that we need to try to find a  
9           way of getting more information to the public so  
10          that they have the confidence that we have  
11          internally by going through the stress test.

12          CFO ATWATER: Thank you.

13          COMMISSIONER McCARTY: I would like to say,  
14          the last thing is to do things effectively and  
15          efficiently. I want to point out again, we do this  
16          as about as inexpensively as any state in the  
17          country. The cost to consumers is about \$0.25 for  
18          every thousand dollars in premium. So if you have  
19          \$4,000, it's about a dollar in cost of regulatory  
20          services.

21          Before I close, I would like to take this  
22          opportunity to say, what a great ride it's been,  
23          what a thrill, a labor of love to be the  
24          Insurance Commissioner of this great state, and  
25          that I appreciate the guidance from this

1 Financial Services Commission and past members of  
2 the Financial Services Commission over the last  
3 12 and a half years.

4 And, again, I look forward to a smooth  
5 transition for my successor and look forward to  
6 continuing to serve the people of Florida.

7 Thank you.

8 (APPLAUSE) .

9 GOVERNOR SCOTT: Thank you, Kevin.

10 Is there a motion to accept the report?

11 CFO ATWATER: So moved.

12 GOVERNOR SCOTT: Is there a second?

13 ATTORNEY GENERAL BONDI: Second.

14 GOVERNOR SCOTT: Any comments or objections?

15 (NO RESPONSE) .

16 GOVERNOR SCOTT: Hearing none, the motion  
17 carries.

18 COMMISSIONER McCARTY: Thank you, Governor.

19 GOVERNOR SCOTT: Thanks, Kevin.

20  
21  
22 \* \* \* \*  
23  
24  
25

**BOARD OF TRUSTEES OF THE  
INTERNAL IMPROVEMENT TRUST FUND**

GOVERNOR SCOTT: Next I would like to introduce Jon Steverson with the Department of Environmental Protection.

Good morning, Jon.

SECRETARY STEVERSON: Good morning, Governor Scott, General Bondi, CFO Atwater, and Commissioner Putnam.

There are five items on the Board of Trustees' agenda today. Item 1 is submittal of the minutes from the March 2nd, 2016, Cabinet meeting.

GOVERNOR SCOTT: Is there a motion on the item?

CFO ATWATER: So move.

GOVERNOR SCOTT: Is there a second?

ATTORNEY GENERAL BONDI: Second.

GOVERNOR SCOTT: Any comments or objections?

(NO RESPONSE) .

GOVERNOR SCOTT: Hearing none, the motion carries.

SECRETARY STEVERSON: Item 2 is consideration of the as-is-where-is sale of a .83 acre parcel of State-owned nonconservation land in Duval County

1       which contains a two-story building constructed in  
2       1946 totaling approximately 20,000 square feet.

3       The property was competitively bid with a  
4       minimum offer amount of \$754,000. One bid was  
5       received in the amount of \$811,000 from Block Five.  
6       Block Five intends to redevelop the property, along  
7       with adjacent properties it owns, into mixed-use  
8       development.

9       The Department recommends approval.

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

12       ATTORNEY GENERAL BONDI: So moved.

13       COMMISSIONER PUTNAM: So moved.

14       GOVERNOR SCOTT: Is there a second?

15       ATTORNEY GENERAL BONDI: Second.

16       GOVERNOR SCOTT: Any comments or objections?

17       (NO RESPONSE) .

18       GOVERNOR SCOTT: Hearing none, the motion  
19       carries.

20       SECRETARY STEVERSON: Item 3 is a request from  
21       Winslow Farms on behalf of Bannon Development to  
22       exchange one and a half acres of conservation land  
23       jointly owned by the Board of Trustees and the  
24       St. Johns River Water Management District for  
25       five acres owned by Bannon Development. This

1 exchange will be a parcel for parcel with the  
2 State-owned parcel worth \$15,000, and the  
3 Bannon Development parcel worth \$10,000, with  
4 \$5,000 cash boot to be distributed based upon the  
5 joint ownership between the Florida Forever Trust  
6 Fund and the Water Management District.

7 Winslow requested the exchange due to its need  
8 to use the State parcel for its new entrance road  
9 for a proposed 20-acre commercial retail  
10 development. As part of this development, Winslow  
11 plans to construct numerous improvements for the  
12 public's use and benefit. This includes a parking  
13 lot, boardwalk, and a dock for a proposed canoe  
14 launch at an estimated cost of \$281,000. And not  
15 only are we getting additional lands, we're also  
16 getting additional improvements for the public to  
17 enjoy.

18 Should the exchange be approved, the  
19 State-acquired parcel will be managed by the  
20 St. Johns River Water Management District as part  
21 of the Julington Durbin Preserve.

22 The Department recommends approval.

23 GOVERNOR SCOTT: Is there a motion on the  
24 item?

25 ATTORNEY GENERAL BONDI: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 CFO ATWATER: Second.

3 GOVERNOR SCOTT: Any comments or objections?

4 (NO RESPONSE).

5 GOVERNOR SCOTT: Hearing none, the motion  
6 carries.

7 SECRETARY STEVERSON: Item 4 is consideration  
8 of an option agreement to acquire a conservation  
9 easement over 5,236 acres within the St. Johns  
10 River Blueway Florida Forever project for just  
11 under \$6 million from the Meldrim family. The  
12 easement will permanently limit development, while  
13 allowing the landowner to sustainably harvest  
14 timber, thereby ensuring forestry jobs stay in the  
15 community.

16 The easement will create a significant  
17 watershed buffer for the St. Johns River, thereby  
18 protecting and maintaining the water and wetland  
19 systems of the region and state. Jim McCarthy  
20 from -- the Executive Director of the North Florida  
21 Land Trust is here and would like to speak on the  
22 item.

23 GOVERNOR SCOTT: Good morning.

24 MR. MCCARTHY: Good morning, Governor, members  
25 of the Cabinet. Thank you, Mr. Secretary.

1           As you probably -- I am Jim McCarthy,  
2           Executive Director of the North Florida Land Trust.

3           As you probably know, land trusts are private,  
4           nonprofit organizations that are -- whose purpose  
5           is to permanently conserve and protect land. We  
6           are the only one that has an office in Jacksonville  
7           and the only one based in the First Coast area.

8           You may not know, or perhaps do not know, that  
9           we have conducted over the past three years a  
10          conservation priority plan, and this property  
11          happens to fall within the top 5% of our  
12          priorities.

13          The 5500 acres of land not only has the mile  
14          of riverfront property, but also contains some  
15          cypress swamp; and that swamp, in the words of my  
16          president, a wildlife professional, are the  
17          kidneys, if you will, for -- nature's kidneys in  
18          that they clear and clean the water as it goes into  
19          the river, an extremely valuable part of the  
20          process and an interesting analogy he's made to me.

21          The state acquisitions will protect an already  
22          existing state piece of property in Watson Island  
23          State Park. It does contribute to the economy by  
24          continuing to provide roughly 130 jobs. It has a  
25          significant watershed buffer in the fastest growing

1 corner of the fastest growing county in the State  
2 of Florida and the seventh fastest growing county  
3 in the country: St. Johns County.

4 More importantly, it will allow the Meldrim  
5 family to continue to own land that they've had in  
6 their possession for nearly a hundred years. It  
7 will allow them to work it, manage it, care for it,  
8 and continue to love it. We encourage your  
9 acquisition.

10 GOVERNOR SCOTT: All right.

11 SECRETARY STEVERSON: Thank you.

12 And Eric Draper with Audubon Florida is also  
13 here and would like to speak.

14 GOVERNOR SCOTT: Eric, how did you like that  
15 panther down in Corkscrew?

16 MR. DRAPER: We were so excited, Governor,  
17 when that panther showed up, and I think there was  
18 something like 10 million hits on the YouTube video  
19 that the woman was smart enough to get her camera  
20 moving.

21 GOVERNOR SCOTT: Was she by herself?

22 MR. DRAPER: I think she was with one other  
23 person.

24 GOVERNOR SCOTT: You couldn't tell by the  
25 video.



1           MR. DRAPER: Yeah, I never actually even heard  
2 that --

3           GOVERNOR SCOTT: It appeared she was just by  
4 herself. Did y'all see the video?

5           So the Corkscrew Sanctuary has this boardwalk,  
6 and it's pretty big. I don't know, we go out there  
7 lots. It's about 45 minutes from where I live.

8           And a lady just had her video going, and this  
9 panther was on the boardwalk and runs right by her.  
10 And the panther was as scared as she was.

11          ATTORNEY GENERAL BONDI: Thank goodness.

12          GOVERNOR SCOTT: Yeah, and the panther was  
13 what, probably a hundred pounds?

14          MR. DRAPER: It looked like a big panther, but  
15 what was most surprising was it looked like a house  
16 cat when it fell down around the corner on the  
17 boardwalk.

18          GOVERNOR SCOTT: Yeah, it just -- it was so  
19 scared, it ran. But it's a beautiful place.

20          MR. DRAPER: Well, Governor, we always enjoy  
21 your visits to Corkscrew Swamp Sanctuary, which is  
22 one of Audubon's keystone properties, and we  
23 encourage you to come back, and encourage all of  
24 the other members of the Florida Cabinet to come  
25 down and visit that incredible effort of private

1 conservation.

2 GOVERNOR SCOTT: They have a lot -- what do  
3 you have, 250,000 people come there a year or  
4 something?

5 MR. DRAPER: Yes.

6 GOVERNOR SCOTT: It's a big tourist  
7 attraction.

8 MR. DRAPER: And a big employer of people too.

9 GOVERNOR SCOTT: Yeah.

10 MR. DRAPER: Well, I'm here today -- thank you  
11 very much. Of course, it's always good to think  
12 about Corkscrew. It threw me off my game here for  
13 a minute, but I'm here to endorse this project.

14 I won't embellish on the comments the previous  
15 speaker made, or I thought that  
16 Secretary Steverson's comments about this property  
17 captured exactly what I wanted to say, which is:  
18 Wetlands, wildlife, and watershed of St. Johns  
19 River is such an important place.

20 More to the case, the conservation easement  
21 allows the continued forestry activities. I was  
22 glad to hear the number of jobs that the previous  
23 speaker mentioned there.

24 As you know, I'm a co-chair of the  
25 Working Florida Partnership -- Working Florida's

1 Partnership. Forestry is an important part of our  
2 economy. It provides jobs, and our wood products  
3 industry I think is one of the under-appreciated  
4 parts of Florida's economy. So the family is  
5 committed to keeping this in a perpetual agreement  
6 with the State of Florida.

7 We're also excited to see the pace of effort  
8 with the number of projects that have been brought  
9 before the Cabinet. It seems like every Cabinet  
10 meeting has a really good commendable project on  
11 it, so we really thank the staff at DEP for  
12 advancing things.

13 We've taken a look at the Florida Forever Work  
14 Plan, which is Item 5 on your list, and encourage  
15 its approval also. Particularly we're happy to see  
16 Common Lake X (phonetics) get on the list, as well  
17 as Chaparral Slough, which are outstanding projects  
18 which will help protect important watersheds.

19 So thank you very much for listening to me  
20 today.

21 GOVERNOR SCOTT: Thanks, Eric.

22 SECRETARY STEVERSON: Thank you.

23 Governor, I just have to ask: How wide is  
24 that boardwalk at Corkscrew?

25 GOVERNOR SCOTT: Eric, it's probably

1 five feet.

2 MR. DRAPER: (Inaudible).

3 GOVERNOR SCOTT: Do you think it's six feet?

4 SECRETARY STEVERSON: How wide is your  
5 boardwalk at Corkscrew?

6 MR. DRAPER: It's two and a half miles long.  
7 And how wide? Maybe five feet wide.

8 SECRETARY STEVERSON: Because I'm not the  
9 smartest man, but I can guarantee you, you would  
10 never see me get in a video of a panther running  
11 past me, it would either be below me or above me,  
12 because I'd be on one side of the boardwalk or  
13 another; but that's great.

14 But the Department does recommend approval of  
15 this item.

16 GOVERNOR SCOTT: Yeah, I take my grandsons out  
17 there walking. My daughter would be so mad at me  
18 if a panther walked by.

19 We were out there -- one of the first trips, I  
20 think when we did that announcement, Eric.

21 MR. DRAPER: Yeah.

22 GOVERNOR SCOTT: And there was a gigantic  
23 python, right? And I mean it had to be 15 feet  
24 long. Was it a python, or was it a rattlesnake? I  
25 can't remember. All I know is I didn't get close.

1 My daughter immediately got in her car.

2 MR. DRAPER: I'm sorry.

3 GOVERNOR SCOTT: But it was all right, it had  
4 just eaten something and it was going really slow.

5 MR. DRAPER: It was one of the largest  
6 rattlesnakes.

7 GOVERNOR SCOTT: It was a rattlesnake, yeah.

8 MR. DRAPER: And the fact that it was in the  
9 parking lot there certainly gave us all --

10 GOVERNOR SCOTT: That's right. It was a  
11 rattlesnake, because if it was a python, they would  
12 have --

13 MR. DRAPER: We're patrolling carefully to  
14 make sure we don't have pythons out there yet.  
15 Hopefully they don't arrive.

16 GOVERNOR SCOTT: Yeah.

17 MR. DRAPER: But it was a big rattlesnake. We  
18 didn't even know it was there until you got there,  
19 Governor.

20 GOVERNOR SCOTT: My grandson loved it, I mean  
21 he thought it was neat. He was starting to walk up  
22 to it, and my daughter grabbed him and got in the  
23 car.

24 ATTORNEY GENERAL BONDI: Allison didn't think  
25 it was great.

1 MR. DRAPER: I'm sorry it didn't --

2 GOVERNOR SCOTT: Neat place.

3 MR. DRAPER: That was a great day when you  
4 brought your family out there, it really was.

5 And the announcement that you made that day  
6 which led to the additional protection of 620 acres  
7 of land next to the border. And every time that I  
8 drive by Immokalee Road and the For Sale sign is  
9 still out there, I think of you, Governor, the fact  
10 that that land is preserved and not turned into  
11 another development, so thank you.

12 GOVERNOR SCOTT: Yeah, it's a neat place.

13 All right. Is there a motion on the item?

14 ATTORNEY GENERAL BONDI: So move.

15 COMMISSIONER PUTNAM: I have a question,  
16 Governor --

17 GOVERNOR SCOTT: Sure.

18 COMMISSIONER PUTNAM: -- before we --

19 Did Watson Island State Forest come from the  
20 same landowner that we're buying the easement from.

21 ATTORNEY GENERAL BONDI: Commissioner, could  
22 you repeat your question? I couldn't hear you.

23 COMMISSIONER PUTNAM: Watson Island State  
24 Forest is an adjacent parcel to the parcel that  
25 we're considering buying the easement for, and it's

1 one of the only ones that we have that's isolated,  
2 there's NO public access, which I'm not very proud  
3 of.

4 And so I was curious whether it was from the  
5 same landowner, and if it was, then we may be able  
6 to work something out in the future. But that's  
7 not for us to solve here, but it's an opportunity  
8 perhaps to solve that problem of public access. I  
9 believe public lands ought to have public access,  
10 and Watson Island is only one of two in our  
11 constellation that does not have public access  
12 because of the geography of it.

13 SECRETARY STEVERSON: I'm sorry, Commissioner,  
14 I don't know the answer to that question, but I can  
15 certainly --

16 COMMISSIONER PUTNAM: Yeah, let's follow up on  
17 that.

18 SECRETARY STEVERSON: -- find out and we'll  
19 follow up.

20 COMMISSIONER PUTNAM: Thank you.

21 SECRETARY STEVERSON: Public access is  
22 certainly of the utmost importance to our public  
23 lands.

24 COMMISSIONER PUTNAM: Thank you very much.

25 GOVERNOR SCOTT: Commissioner, do you want to

1 wait to make a decision on this?

2 COMMISSIONER PUTNAM: NO, NO, NO. NO, NO.  
3 NO, I'll second the Attorney General's motion.

4 GOVERNOR SCOTT: Okay. Any comments or  
5 objections?

6 (NO RESPONSE).

7 GOVERNOR SCOTT: Hearing none, the motion  
8 carries.

9 COMMISSIONER PUTNAM: I just gave a realtor a  
10 heart attack.

11 GOVERNOR SCOTT: Do you want to bring that  
12 back next time? If you'll just bring it back at  
13 the next meeting; and in the meantime, just let the  
14 Commissioner know.

15 SECRETARY STEVERSON: Certainly, sir, we'll  
16 get that information right away.

17 All right. Item 5, I know we've been very  
18 focused here. It seems the Jacksonville/St. Johns  
19 area, it has been their day to shine. It's just  
20 really how those projects worked out, it wasn't  
21 planned. But now we're going to talk more  
22 statewide.

23 So Item 5 is consideration of the 2016 Florida  
24 Forever Five-Year Plan, the 2016 Acquisition  
25 Priority List, and the Division of State Lands



1       2016/2017 Annual Work Plan. The five-year plan  
2       describes each of the ARC-approved projects,  
3       Florida Forever projects. The 2016 plan contains  
4       117 projects in total.

5               This priority list ranks a diverse array of  
6       potential conservation lands within six project  
7       categories and helps guide State Lands on where to  
8       spend its conservation funds.

9               The Division of State Lands 2016 Annual Work  
10       Plan contains 44 projects which focuses their  
11       acquisition efforts on higher-ranked projects. The  
12       Work Plan identifies projects and priority lists  
13       which protect Florida's water resources, have  
14       funding partnerships, or conservation easements  
15       present unique acquisition opportunities or are  
16       substantially complete.

17              The amount of land on the work plan gives  
18       State Lands the flexibility within the projects,  
19       identify the right lands, seek out the current  
20       willing sellers, and then negotiate the best price  
21       for the State in order to maximize conservation  
22       dollars. The Acquisition and Restoration Council  
23       adopted the Priority List in December of 2015 and  
24       the Work Plan in February of 2016.

25              The Department recommends approval.

1           GOVERNOR SCOTT: All right. Is there a  
2 motion?

3           ATTORNEY GENERAL BONDI: So moved.

4           GOVERNOR SCOTT: Is there a second?

5           CFO ATWATER: Second.

6           GOVERNOR SCOTT: Any comments or objections?

7           (NO RESPONSE) .

8           GOVERNOR SCOTT: Hearing none, the motion  
9 carries.

10          SECRETARY STEVERSON: Thank you.

11          That concludes our agenda.

12          GOVERNOR SCOTT: All right. Thanks, Jon.

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**ADMINISTRATION COMMISSION**

GOVERNOR SCOTT: Next I'd like to recognize Mark Kruse with the Administration Commission.

MR. KRUSE: Good morning. We have one item on the agenda today.

Item 1 requests consideration of a recommended order issued by the Division of Administrative Hearings in the matter of Midbrook 1st Realty Corporation versus Martin County. Today we have Staff Attorney Peter Penrod who will walk you through the case, followed by some presenters from the different parties.

Peter.

GOVERNOR SCOTT: Good morning, Peter.

MR. PENROD: Good morning, Governor, members of the Administration Commission.

Today I will present the Recommended Order in the case of Midbrook 1st Realty versus Martin County. This agenda item is a challenge to Martin County's Comprehensive Plan Amendment 13-5, which was adopted by Ordinance 938 on August 13, 2013, and amended by Ordinance 957 on July 8, 2014.

On June 2nd, 2015, after notice and hearing, the Administrative Law Judge entered the below

1 Recommended Order determining that Plan Amendment  
2 13-5 was out of compliance with applicable law.

3 COMMISSIONER PUTNAM: Can you speak a little  
4 closer in the mike? This is going to be hard  
5 enough as it is.

6 MR. PENROD: Sure. Sorry about that,  
7 Commissioner.

8 The purpose of this item today is for the  
9 Commission to consider the Recommended Order, the  
10 party exceptions and party arguments and relevant  
11 law, and then vote on final action. I have  
12 prepared a draft Proposed Final Order that may be  
13 voted on at the conclusion of this agenda item.

14 In preparing for this agenda item, I met  
15 individually with each Cabinet office. As counsel  
16 for the Commission, I advised each office on the  
17 contents of the Recommended Order, the contents of  
18 the exceptions, laws governing the administrative  
19 law process, and the various options for ruling on  
20 the Recommended Order. I did not, however, advance  
21 any particular outcome, nor did I discuss the  
22 contents of my conversations with other offices.

23 Based on my review of the Recommended Order  
24 and relevant law, I have prepared a draft Proposed  
25 Final Order.

1           The parties in this case are Petitioner,  
2           Midbrook 1st Realty Corporation, and they're  
3           represented by Brian Seymour. The Respondent is  
4           Martin County, Florida, and they are represented by  
5           Linda Shelly.

6           The municipal intervenors are the Town of  
7           Jupiter Island, Town of Sea Walls Point, and the  
8           City of Stuart. And the organizational intervenors  
9           are A Thousand Friends of Florida, Incorporated,  
10          Martin County Conservation Alliance, and  
11          Treasure Coast Environmental Defense Fund. Both  
12          the municipal and organizational intervenors are  
13          represented by Howard Heims. They will not present  
14          at today's hearing.

15          Due to the length and complexity of the  
16          Recommended Order, I will break this presentation  
17          down into five parts. Part 1 will be a brief  
18          background to the amendment process and an overview  
19          of the Petitioner's objections to the operative  
20          amendments.

21          Part 2 will be a summary of the material  
22          facts.

23          Part 3 will be a summary of the conclusions of  
24          law.

25          And Part 5 (sic) will be the party exceptions.

1 The parties will present their exceptions as well  
2 as arguments on the Recommended Order.

3 Part 5, I will come back and provide a summary  
4 of the draft Proposed Final Order and we'll have a  
5 vote.

6 We'll now move on to Part 1.

7 Part 1, I'll provide a brief background to the  
8 amendment process, summarize the Petitioner's  
9 challenge to the operative amendments, and  
10 summarize the results of the Recommended Order.

11 On August 13, 2013, Martin County adopted  
12 Comprehensive Plan Amendment 13-5, which revised  
13 Chapters 1, 2, and 4 of the County's Comprehensive  
14 Plan.

15 On September 12, 2013, the Petitioner filed a  
16 petition with the Division of Administrative  
17 Hearings challenging Plan Amendment 13-5 pursuant  
18 to Section 133 -- excuse me -- 163.3184.

19 On March 21st, 2014, the case was placed in  
20 abeyance during which time the County adopted  
21 Ordinance 957 which amended -- further amended the  
22 Comprehensive Plan and resolved challenges brought  
23 to the Plan amendments by other parties.

24 The Petitioner filed an amended petition on  
25 August 7th, 2014, following the adoption of

1 Ordinance 957. The hearing was held on  
2 September 30th through October 3rd, 2014.

3 In the amended petition, the Petitioner  
4 alleges that the operative amendments are not  
5 supported by relevant and appropriate data and  
6 analysis as required by Section 163.3177(1)(f)  
7 Florida Statutes, especially with regard to  
8 population projections, housing demand, residential  
9 capacity determinations, and the supermajority vote  
10 requirement.

11 The Petitioner also alleges that the operative  
12 amendments are internally inconsistent in violation  
13 of 163.3177, Subsection 2. The Petitioner finally  
14 argues that the operative amendments fail to  
15 provide meaningful and predictable standards for  
16 the use and development of land, as well as  
17 meaningful guidance for the development of land  
18 development regulations as required by  
19 Section 163.3177, Subsection 1.

20 On June 2nd, 2015, the Administrative Law  
21 Judge entered a recommended order determining that  
22 the Plan Amendment 13-5 was out of compliance  
23 because the County combined the two urban service  
24 districts for purposes of calculating future land  
25 needs and population estimates without considering

1 the appropriate data and analysis.

2 The recommended order also found the Plan out  
3 of compliance because the County did not rely on a  
4 professionally accepted methodology for obtaining  
5 data on residential capacity within approved  
6 multi-family developments.

7 This concludes Part 1 of the presentation. I  
8 will now move to Part 2 of this presentation, which  
9 is the findings of fact.

10 Before reviewing the facts, I'll provide a  
11 quick overview of the standard of review for  
12 today's facts. This standards is found in  
13 Section 157-1L Florida Statutes and provides: The  
14 Commission may not reject or modify the  
15 Administrative Law Judge's findings of fact unless  
16 the Commission first determines from a review of  
17 the entire record and states with particularity in  
18 the order that the findings of fact are not based  
19 upon competent and substantial evidence or that the  
20 proceedings on which the findings were based do not  
21 comply with the essential requirements of law.

22 Therefore, the findings of fact can be  
23 modified or rejected only if they are not based on  
24 competent and substantial evidence or the  
25 proceedings do not comply with the essential



1 requirements of law.

2 I'll now go over the findings of fact. First,  
3 the Administrative Law Judge determined that all  
4 parties, including the intervenors, properly  
5 participated in the amendment process and meet the  
6 definition of affected person.

7 Second, the County complied with all notice,  
8 meeting, and hearing requirements in passing the  
9 operative amendments.

10 Third, we have several findings regarding the  
11 residential capacity determinations: First is  
12 population projections. Section 163.3177(6)(a)(4)  
13 Florida Statute requires that a local government's  
14 future land-use element shall accommodate at least  
15 the minimum amount of land required for the medium  
16 population projections as published by the Office  
17 of Economic and Demographic Research for at least a  
18 10-year planning period.

19 The Administrative Law Judge determined that  
20 the Bureau of Economic and Business Research  
21 Population estimates are professionally acceptable  
22 data for population projections.

23 Next is the residential demand methodology.  
24 The residential demand methodology is the County's  
25 methodology for determining residential housing

1 demand.

2 The Administrative Law Judge determined that  
3 the County's residential demand methodology of  
4 excluding unoccupied housing units, other than  
5 seasonal units, is professionally acceptable and  
6 does not ignore data available at the time the  
7 operative amendments were adopted.

8 Next we have the residential demand  
9 calculations. Residential demand calculation is  
10 the analysis that implements the residential demand  
11 methodology.

12 The Administrative Law Judge made three  
13 findings regarding this issue: First, using 2010  
14 census data was appropriate and did not violate the  
15 County's Policy 4.1D.3; second, the residential  
16 demand calculation considers both seasonal and  
17 permanent population figures; and finally,  
18 Policy 4.1D.3 and Section 1.7 are not in conflict  
19 since Policy 4.1D.3 considers both permanent and  
20 seasonal population figures.

21 Next up is the residential capacity analysis.  
22 Martin County's Comprehensive Plan provides that  
23 the County shall produce a residential capacity  
24 analysis every five years. Residential capacity  
25 defines the available residential development

1 options within the primary and secondary urban  
2 service district that can meet the demand for  
3 population growth consistent with the future  
4 land-use element.

5 The Administrative Law Judge determined that  
6 there are four differences between the 2009  
7 residential capacity analysis and the one in the  
8 operative amendments. First, the current analysis  
9 NO longer reduces available residential acreage by  
10 8.5% to account for loss of developable acreage due  
11 to the presence of road right of ways and utility  
12 easements. The County offered NO explanation for  
13 this change.

14 Second, the 2013 analysis, the operative  
15 amendments analysis, now includes as vacant  
16 residential acreage subdivided into vacant lots and  
17 single family and duplex subdivisions. This added  
18 approximately 3,300 residential units which were  
19 not counted as capacity in 2009.

20 Third, the operative amendments methodology  
21 counts as capacity vacant acreage within approved  
22 multi-family residential projects. By contrast,  
23 the 2009 methodology counted approved the unbuilt  
24 units and multi-family projects. The  
25 Administrative Law Judge determined that the

1       operative amendments residential capacity analysis  
2       and methodology is not professionally acceptable  
3       because it ignores the development rights already  
4       to vacant property within approved multi-family  
5       projects.

6               And fourth, the operative amendments analysis  
7       includes as capacity excess vacant housing not in  
8       use by permanent or seasonal residents and defines  
9       excess as exceeding the 3% vacancy rate. The  
10       Administrative Law Judge determined that the  
11       Petitioners failed to show beyond fair debate that  
12       the 3% threshold is neither appropriate nor  
13       professionally acceptable for the Martin County  
14       housing market.

15              Next is the merging of the Eastern Urban  
16       Service District and the Indiantown Urban Service  
17       District. Martin County utilizes urban service  
18       districts to concentrate growth in areas where the  
19       necessary facilities are readily available and to  
20       mitigate against urban sprawl.

21              Population data from 2009 Plan Amendments  
22       showed that 87% of the County's population resides  
23       east of the Florida Turnpike, and an assumption  
24       that that trend could continue.

25              The Administrative Law Judge determined that

1 the 2009 Plan treated the Eastern and Indiantown  
2 Urban Service Districts separately for purposes of  
3 calculating residential demand and supply, and  
4 arrived at separate housing need determinations for  
5 the two urban service districts. By contrast, the  
6 operative amendments treat the two urban service  
7 districts together for purposes of calculating  
8 needs determination.

9 In 2009, the needs analysis showed a shortfall  
10 of 616 units in the Eastern Urban Service District  
11 to meet the 15-year planning period and an  
12 oversupply of 6,260 units in the Indiantown Urban  
13 Service District for the same time period.

14 By contrast, the Operative Amendments Needs  
15 Analysis determined an oversupply of 20,768 units  
16 in the combined urban service district to meet  
17 demand for the 10-year planning period, an  
18 oversupply of 17,361 for the 15-year planning  
19 period.

20 The County introduced NO evidence of changed  
21 population data or trends to support aggregating  
22 the two urban service districts for purposes of  
23 calculating residential housing demand and supply  
24 in the operative amendments; therefore, the  
25 County's decision to combine the Eastern and

1       Indiantown Urban Service Districts and the  
2       operative amendments methodology is not supported  
3       by relevant data and analysis available at the time  
4       the operative amendments were adopted, and the  
5       Petitioner proved beyond fair debate that neither  
6       Policy 4.1D.3 nor Policy 4.1D.5 is a professionally  
7       acceptable methodology -- excuse me, method of  
8       collecting applicable data.

9       The Administrative Law Judge further concluded  
10      that real estate markets in the Eastern Urban  
11      Service District and the Indiantown Urban Service  
12      District are unique markets and by spreading the  
13      capacity to meet housing demands across both the  
14      Indiantown and Eastern Urban Service Districts, the  
15      operative amendments increased the threshold which  
16      triggers expansion of or a density increase within  
17      the urban service districts.

18      Next we have a maximum theoretical density.

19      The Petitioner argues that the Residential  
20      Capacity Analysis is flawed because it does not  
21      account for development restrictions which prevent  
22      a landowner from obtaining maximum theoretical  
23      density.

24      The Administrative Law Judge determined that  
25      the Petitioner did not prove beyond fair debate

1       that the Residential Capacity Analysis is flawed  
2       because it does not account for limitations  
3       pertaining to obtainment of the maximum theoretical  
4       density. This conclusion is discussed in greater  
5       detail in the conclusion of law section.

6             And last for this category we have commercial  
7       and industrial lands.

8             The Administrative Law Judge determined that  
9       the provision of the Plan governing commercial and  
10      industrial lands considers sufficient variables in  
11      calculating future commercial and industrial land  
12      expansion; therefore, Petitioner failed to show  
13      beyond fair debate that this provision is out of  
14      compliance.

15            A VOICE: I'm not sure what you said there.

16            MR. PENROD: Neither am I.

17            Next we have several findings regarding the  
18      stricter rule.

19            Section 1.15 of the Comprehensive Plan states  
20      that where conflict exists, the more restrictive  
21      provisions of Chapter 1 and 2 supersede provision  
22      in other chapters. Section 4.1 of the Plan  
23      provides that in the event of a conflict, the more  
24      restrictive of the Plan generally prevails.

25            The Administrative Law Judge determined that

1 the Petitioner failed to bring evidence that the  
2 stricter rule acknowledges internal inconsistencies  
3 that the County has previously been incapable of  
4 addressing an internal inconsistency in its  
5 Comprehensive Plan, and that the County Commission  
6 will interpret conflicting provisions arbitrarily  
7 and unpredictably.

8 Next the Administrative Law Judge determined  
9 that the Petitioner failed to show Section 1.15 and  
10 1.4 in conflict with one another, thus creating  
11 internal inconsistency. Finally, the Petitioner  
12 failed to show beyond fair debate that the stricter  
13 rule is substantive instead of procedural.

14 The next finding concerns balanced  
15 development.

16 Section 163.31779(1) requires that local  
17 government -- that a local government comprehensive  
18 plan must provide the principles, guidelines,  
19 standards, and strategies for the orderly and  
20 balanced future economic, social, physical,  
21 environmental, and fiscal development of the area  
22 that reflects community -- commitments to implement  
23 the plan and its elements.

24 The Administrative Law Judge determined that  
25 the County was not required to prepare an economic



1 analysis of the operative amendments prior to their  
2 adoption in order to foster balanced development.

3 The Administrative Law Judge also determined  
4 that the Petitioner failed to show beyond fair  
5 debate that the operative amendments failed to  
6 designate adequate lands for commercial use to  
7 serve future needs.

8 Finally, the Administrative Law Judge  
9 determined that the Petitioner failed to  
10 demonstrate beyond fair debate that the  
11 operative amendments do not balance economic  
12 interests and environmental concerns.

13 And the last finding concerns the  
14 supermajority vote. Section 1.11D.6 of the  
15 operative amendments requires four votes for  
16 transmittal and for adoption of Plan Amendments  
17 involving a number of critical issues specified  
18 therein.

19 The Administrative Law Judge determined that  
20 this was a legal issue and it is discussed in the  
21 conclusions of law section.

22 This concludes Part 2 of the presentation.  
23 We'll move to the conclusions of law now.

24 Before going over the conclusions of law, I'll  
25 provide a quick overview of the standard of review

1       for the conclusions of law. The standard of review  
2       is set forth in Section 120.57(1) (1)  
3       Florida Statutes, and it provides:

4               The Commission in its Final Order may reject  
5       or modify conclusions of law over which it has  
6       substantive jurisdiction. When rejecting or  
7       modifying such conclusion of law, the Commission  
8       must state with particularity its reasons for  
9       rejecting or modifying such conclusion of law and  
10      must make a finding that its substituting  
11      conclusion of law is as or more reasonable than the  
12      one that was rejected or modified.

13              Modification or rejection of a conclusion of  
14      law may not form the basis for rejection or  
15      modification of findings of fact; therefore, the  
16      conclusions of law may be modified or rejected only  
17      if the Commission states with particularity its  
18      reasons for modifying or rejecting; and, two, the  
19      Commission makes a finding that its substituting  
20      conclusion of law is as or more reasonable than the  
21      Administrative Law Judge's conclusion of law.

22              I'll now go over the conclusions of law.  
23      First are a few procedural conclusions, beginning  
24      with standing: To have standing to challenge or  
25      support a plan amendment, a person must be an

1 affected person as defined in  
2 Section 163.3184(1) (a) Florida Statutes. The  
3 Administrative Law Judge concluded that all parties  
4 have standing to participate in this proceeding.

5 "In compliance" means consistent with the  
6 requirements of sections 163.3177, 163.3178,  
7 163.3180, 163.3191, 163.3245, and 163.3248  
8 Florida Statutes, with the appropriate strategic  
9 regional policy plan, and with the principles for  
10 guiding development in designated areas of critical  
11 state concern and with Part 3 of Chapter 369 where  
12 applicable.

13 The fairly debatable standard applies to any  
14 challenge filed by an affected person. Under the  
15 fairly debate standard, the petitioner bears the  
16 burden of proving beyond fair debate that the  
17 challenged operative amendments are not in  
18 compliance. This means that if reasonable persons  
19 could differ as to its propriety, a Plan Amendment  
20 must be upheld.

21 Next we'll move to public participation.  
22 Section 133 -- excuse me, 163.3181 Florida Statutes  
23 requires that the public participate to the fullest  
24 extent possible in the comprehensive planning  
25 process.

1           The Administrative Law Judge concluded that  
2           the Petitioner did not prove beyond fair debate the  
3           public was unable to participate in the process for  
4           adoption of the operative amendments, nor was the  
5           Petitioner prejudiced by the County's adoption of  
6           amendments that were originated by Ms. Orchello  
7           (phonetics).

8           Next we have a few conclusions regarding the  
9           stricter rule. As you'll recall from the findings  
10          of fact, Section 1.15 of the Comprehensive Plan  
11          states that where conflict exists, the more  
12          restrictive provisions of Chapter 1 and 2 supersede  
13          provisions in other chapters. Section 4.1 of the  
14          Plan also provides that in the event of a conflict,  
15          the more restrictive provision of the Plan  
16          generally prevails.

17          The first conclusion regards meaningful and  
18          predictable standards. Section 163.3177 requires  
19          that the Comprehensive Plan, to guide future  
20          decisions in a consistent manner and establish  
21          meaningful and predictable standards for the use  
22          and development of land.

23          The Administrative Law Judge concluded that  
24          the Petitioner did not prove beyond fair debate  
25          that the stricter rule fails to establish

1 meaningful standards for implementing the  
2 Comprehensive Plan.

3 Next is internal inconsistency.  
4 Section 163.3177, Subsection 2 requires that  
5 coordination of several elements of the  
6 Comprehensive Plan shall be consistent, and that  
7 where data is relevant to several elements,  
8 consistent data shall be used, including population  
9 densities and projections.

10 The Administrative Law Judge concluded that  
11 the Petitioner failed to show beyond fair debate  
12 that the operative amendments create  
13 inconsistencies within the Comprehensive Plan or  
14 acknowledge inconsistencies through adoption of the  
15 stricter rule.

16 We now move to data and analysis, and there  
17 are several conclusions on this topic.

18 Section 163.3177(1)(f) Florida Statutes  
19 requires Plan Amendments be based upon relevant and  
20 appropriate data and analysis by the local  
21 government and includes surveys, studies, community  
22 goals and vision, and other data available at the  
23 time of adoption. Data must be taken from a  
24 professionally acceptable source.

25 To be based on data means to react to it in an

1 appropriate way and to the extent necessary  
2 indicated by the data available on that particular  
3 subject at the time of the adoption of the  
4 Plan Amendment.

5 The Administrative Law Judge concluded that  
6 the operative amendments do not react to the  
7 readily available data regarding the County's  
8 population projections and trends that combine the  
9 Eastern and Indiantown Urban Service Districts for  
10 purpose of calculating both residential demand and  
11 residential capacity.

12 The Administrative Law Judge also concluded  
13 that the Petitioner proved beyond fair debate that  
14 the County's methodology in 4.1D.5, Subsection 4  
15 for obtaining data on residency capacity within  
16 approved multi-family developments is not based on  
17 professionally acceptable methodology.

18 The Administrative Law Judge also concluded  
19 that the Petitioners failed to show beyond fair  
20 debate that Policy 2.4C.3 bases future commercial  
21 and industrial land use solely on population --  
22 future population projections; thus, the Petitioner  
23 failed to show beyond fair debate that the  
24 methodology for determining future commercial and  
25 industrial land use is not based on data and

1 analysis.

2 And finally, the Administrative Law Judge  
3 concluded that the Petitioner did not prove beyond  
4 fair debate that the Residential Capacity Analysis  
5 is not based on data and analysis for failure to  
6 account for limitations affecting a property  
7 owner's ability to achieve maximum theoretical  
8 density.

9 Next we move to the real estate markets.

10 Section 163.3177(6) (a) (4) Florida Statutes  
11 requires that the amount of land designated by the  
12 local government for future land use should allow  
13 for the operation of real estate markets to provide  
14 adequate choices for permanent and seasonal  
15 residents and may not be limited solely by  
16 projected population.

17 The Administrative Law Judge concluded that  
18 the Petitioners proved beyond fair debate that the  
19 combining of the two urban service districts for  
20 purpose of calculating housing demand and supply is  
21 out of compliance with Section 163.3177,  
22 Subsection 2 Florida Statutes.

23 Next we have balance of uses.

24 Sections 163.3177, Subsection 1, and 163.3177,  
25 Subsection (6) (a) (4) Florida Statutes require that

1 a Comprehensive Plan shall provide for the orderly  
2 and balanced development of future economic,  
3 social, physical, environmental, and fiscal  
4 development. The Petitioner argued that the  
5 Plan Amendments focused too heavily on  
6 environmental concerns at the cost of future  
7 economic development.

8 The Administrative Law Judge concluded that  
9 the Petitioner failed to prove beyond fair debate  
10 the operative amendments failed to achieve a  
11 balance of uses to foster a vibrant, viable  
12 community and economic development opportunities.

13 And the final issue is the supermajority vote.  
14 Section 163.3184 Florida Statutes provides that a  
15 local government decision to amend its plan shall  
16 be by an affirmative vote of not less than a  
17 majority of the members of the governing body  
18 present at the hearing.

19 The Administrative Law Judge concluded that  
20 the procedural requirements of Section 163.3184 are  
21 not compliance issues. The Administrative Law  
22 Judge further concluded that the supermajority vote  
23 is purely procedural and is not required to be  
24 based on data and analysis; therefore, the  
25 Petitioner failed to show beyond fair debate that



1 the supermajority provision is not based on data  
2 and analysis.

3 This ends the overview of the conclusions of  
4 law and the Recommended Order. We'll now move to  
5 Part 4 of this presentation, the exceptions.

6 Before discussing the exceptions, I'd like to  
7 provide the standard review for exceptions, which  
8 is found in Section 120.57(1)(k) Florida Statutes.  
9 It provides: The Final Order shall include an  
10 explicit ruling on each exception, but an agency  
11 need not rule on an exception that does not clearly  
12 identify the disputed portion of the Recommended  
13 Order by page number or paragraph; that does not  
14 identify the legal basis for the exception, or does  
15 not include an appropriate and specific citation to  
16 the record.

17 The parties will now present on their  
18 exceptions; however, before they present, I want to  
19 remind the individual presenting that the  
20 Commission may only consider evidence that is part  
21 of the record below. The Commission cannot and  
22 will not consider any evidence that was not made  
23 part of the record below; therefore, the presenters  
24 should limit their comments to the evidence in the  
25 record and avoid discussing any issues outside the

1 record.

2 With that said, the Respondent will present  
3 first. Ann Scott, who is the chair of the  
4 Martin County Board of County Commissioners will  
5 provide a brief introduction, and then Attorney  
6 Linda Shelly will present on behalf of the  
7 Respondents.

8 GOVERNOR SCOTT: Good morning, Commissioner.

9 CHAIRMAN SCOTT: Good morning.

10 GOVERNOR SCOTT: Good name.

11 CHAIRMAN SCOTT: I know you know that. I'm  
12 Ann Scott. I chair the Martin County Board of  
13 County Commissioners. I am a resident of the town  
14 of Jupiter Island where I served on the  
15 Town Commission for six years.

16 This morning I speak on behalf of all of  
17 Martin County to say thank you and that we  
18 appreciate your thoughtful consideration of the  
19 issues before you today. The Martin County  
20 Commission takes our Comprehensive Plan very  
21 seriously. We work hard to make sure that it  
22 reflects and protects the growth and development  
23 goals of our citizens.

24 The amendments before you today are a small  
25 part of a very large package of amendments that we

1        adopted in August of 2013. There were other  
2        challenges, they were resolved quickly and amicably  
3        through settlement and subsequent language changes.  
4        So this case is all that stands between  
5        Martin County and putting into effect the entire  
6        package of amendments from August of 2013.

7                We look forward to your decision, and please  
8        know that we spent many, many hours deliberating  
9        these amendments. We heard testimony from dozens  
10       of interested citizens and stakeholders, and we  
11       hope you will take that into consideration as you  
12       deliberate today.

13               Thank you. God's speed, and I present  
14       Linda Shelly, our very able counsel.

15               GOVERNOR SCOTT: Thank you.

16               Good morning, Linda.

17               MS. SHELLEY: Good morning, Governor and  
18       members of the Cabinet.

19               As indicated by Mr. Penrod's summary, there  
20       were several issues raised by Petitioner at the  
21       administrative hearing. The ALJ agreed with the  
22       County on all but two of the issues, and both of  
23       those issues relate to a methodology contained in  
24       this document, the Residential Capacity Analysis.

25               Martin County is the only county in Florida

1           that adopts the methodology for that Residential  
2           Capacity Analysis in its Comprehensive Plan, so I  
3           am well aware that you haven't heard a case like  
4           this before. In fact, there has not been a case  
5           like this before the Administration Commission  
6           since the enactment in 1985.

7           There were two issues that we were found to be  
8           not in compliance. The first one was the  
9           calculation of capacity of vacant acreage and  
10          approved multi-family projects. That was a  
11          contested issue.

12          There were facts on both sides; and therefore,  
13          when we lost that issue, we did not file an  
14          exception because it would have been improper to do  
15          so. When there is competent and substantial  
16          evidence in the record to support a finding, then  
17          that's the way it is. You can only reject a  
18          finding of fact if there is NO competent and  
19          substantial evidence in the record to support it.  
20          That's not the case with that factor.

21          The other issue was the merging of the Eastern  
22          and Indiantown Urban Service Districts. All of the  
23          other challenged provisions were found to be in  
24          compliance or, more accurately, the ALJ said that  
25          the Petitioner did not carry its burden on the

1 other challenged issues.

2 We appreciate staff's thorough presentation  
3 and the hard work that they have done to prepare a  
4 Proposed draft Final Order because I think that it  
5 is very helpful to the parties and to this body to  
6 have some document that they are focused on when  
7 they look at the issues. And I will address it in  
8 the context of that draft proposed order.

9 In essence, that draft proposed order  
10 recommends that you uphold the findings of the  
11 Administrative Law Judge and deny all 16 exceptions  
12 filed by the County and six of the exceptions filed  
13 by Petitioners, partially granting the 7th  
14 exception relating to supermajority.

15 We respectfully disagree that the County's  
16 16 exceptions should be denied because we believe  
17 that the law does not require a local government to  
18 separately calculate capacity based on a different  
19 area of its jurisdiction. The ten-year supply that  
20 Mr. Penrod mentioned that is in Chapter 163.3177  
21 doesn't say that you have to have a ten-year supply  
22 for this part and that part; nevertheless, the  
23 issue was -- as the ALJ found it, was determined to  
24 be a factual issue, and that we lacked a factual  
25 predicate for going back to the way it had been

1       done previously.

2               So that's the basis for the 16 exceptions  
3       filed by the County, and if -- as a result,  
4       Martin County has a great respect for this process.  
5       And if this decision of the Administration  
6       Commission is to deny all of the County's  
7       exceptions on that issue, then the County will  
8       carefully consider that recommendation and respond  
9       to it in a remedial action because we have done  
10      that Residential Capacity Analysis by separating  
11      them and by combining them. And so that's -- we  
12      are capable of adequately responding to the Cabinet  
13      on that issue -- the Administration Commission.

14             I would like to discuss the -- since I only  
15      get one chance, I'd like to discuss the exceptions  
16      filed by the Petitioner. We agree with your  
17      staff's recommendation that the first six should be  
18      denied. The first two of those relates to a  
19      provision -- a new provision that was put in the  
20      plan that was actually amended by the three other  
21      sets of lawyers working with Martin County in the  
22      subsequent ordinance, and the rule is that a local  
23      government cannot, when they are doing land-use  
24      analysis, limit their analysis to solely population  
25      growth.

1           Our view, the ALJ's view is that the provision  
2           does not do that. It contains other factors  
3           besides population that will drive the commercial  
4           and industrial lands analysis.

5           As your staff mentioned to you, challenges  
6           filed by third parties to a local government  
7           comprehensive plan are decided based on the  
8           standard of review that is known as "fairly  
9           debatable." This is not a tie goes to the runner.  
10          This is a highly deferential standard, and our  
11          Florida Supreme Court has said that this standard  
12          of review means that if reasonable persons could  
13          differ as to the propriety of a Plan Amendment, it  
14          must be upheld. Petitioner did not carry its  
15          burden, its heavy burden on this issue, and its  
16          exceptions on this issue are properly denied.

17          Petitioner's Exceptions 3 through 6 relate to  
18          its allegation that the Plan lacks balance. The  
19          only imbalance on which the Petitioner prevailed in  
20          this case was the merging of East and Indiantown.  
21          None of the other arguments about balance were  
22          upheld by the Administrative Law Judge.

23          Findings of fact on disputed issues must be  
24          upheld unless there is NO competent and substantial  
25          evidence to support them, and this record contains

1 competent and substantial evidence to support the  
2 ALJ's findings on the balance issue. In other  
3 words, the Petitioner lost this issue at hearing,  
4 and there should be NO reweighing of the evidence  
5 by this body and NO remand to give Petitioner  
6 another shot at trying to prove its case.

7 On Petitioner's seventh exception,  
8 Martin County respectfully but strongly disagrees  
9 with the proposed staff recommendation on this  
10 issue; that this exception be partially granted.  
11 The Plan Amendment at issue sets forth a limited  
12 number of amendments that will require four votes.  
13 We believe the ALJ correctly determined that the  
14 supermajority voting requirement is purely a  
15 procedural issue and, therefore, NO data and  
16 analysis is needed to support that.

17 It is undisputed that only substantive  
18 provisions of a Comprehensive Plan must be  
19 supported by data and analysis. To us, setting  
20 forth a subset of critical issues on which a  
21 supermajority would be required is much better  
22 policy than saying a supermajority vote will be  
23 imposed across the board.

24 The staff recommendation suggests that the  
25 voting requirement is substantive because it



1 constitutes an amendment to the policies that are  
2 listed as critical issues. We believe this logic  
3 is flawed. I'll give you a couple of examples:

4 The first of the critical issues identified by  
5 Martin County is the four-story height limitation.  
6 That exists in another part of the Plan, that  
7 policy. It was not amended through this process.  
8 Listing it in the critical issues list did not  
9 change the four-story height limitation, it's still  
10 four stories. It's not three, it's not five, it's  
11 still four.

12 Similarly, the next one was the 15-unit cap  
13 per acre. It exists in another part of the Plan  
14 that was not challenged. Listing it as a critical  
15 issue does not change the 15-unit-per-acre  
16 requirement. The requirement for four votes does  
17 not change the policies itself that exist --  
18 themselves that exist in another part of the plan.  
19 It's just a list of what requires four votes.

20 It is important I think to briefly discuss why  
21 a county or local government might want a  
22 supermajority; and that is, that these are issues  
23 upon which it desires a significant amount of  
24 consensus before they are changed.

25 And I would assert that there is NO body

1 better served -- better able to tell what are the  
2 critical issues than the Board of County  
3 Commissioners who adopts and implements the plan on  
4 a daily, weekly, monthly basis year round. It is  
5 their plan to implement and to interpret, and so  
6 they are in the best position to decide which of  
7 the issues are critical.

8 There is another and equally important reason  
9 that we disagree with the staff recommendation on  
10 supermajority; and that is, in the list of issues  
11 that Mr. Penrod read of the definition of "in  
12 compliance," 163.3184 that is entitled, Amendments  
13 to Comprehensive Plans, is not listed. And it's  
14 very important to -- the history of this act is  
15 very important. Words matter.

16 The Legislature in 1985 had a massive  
17 intrusion in the traditional home rule authority of  
18 local government over land use, and so there was a  
19 minimum standards set, and there were listed  
20 criteria. And over the years, the State Land  
21 Planning Agency and this body have held to that so  
22 that other statutes that might be -- somebody will  
23 say, oh, you violated this statute, you violated  
24 that statute in your Comprehensive Plan. Uniformly  
25 the decisions have been that's not in the list.

1 And in this instance, 163.3184 that deals with the  
2 procedure for adopting comprehensive plans is not  
3 on the list.

4 By using a data-and-analysis exception, you  
5 need data and analysis to decide what was critical;  
6 or an argument that that constitutes an amendment  
7 to a substantive provision, you are essentially  
8 eliminating the rule. And it's a giant exception  
9 to the rule that only the enumerated statutes are  
10 at issue.

11 And we respectfully, therefore, request that  
12 you give the deference that is intended to be given  
13 under the Act, that you enter a final order on the  
14 seventh exception denying that seventh exception  
15 and giving us the remedial actions that would be  
16 appropriate under that type of Final Order.

17 I'm pleased to answer any questions you might  
18 have.

19 GOVERNOR SCOTT: Attorney General, you have a  
20 question?

21 ATTORNEY GENERAL BONDI: Yes.

22 Ms. Shelly, first of all, thank you. You did  
23 an excellent job breaking down a very complicated  
24 issue. Thank you.

25 Do you agree that there is NO precedent

1           regarding the supermajority?

2           MS. SHELLY: I do. Not of this body, and the  
3           reason I think there isn't is because it's not  
4           listed as a compliance issue. There are  
5           supermajority plans out there in Florida, but that  
6           has not been something that --

7           ATTORNEY GENERAL BONDI: Not on this issue.

8           GOVERNOR SCOTT: Any other questions?  
9           Commissioner.

10          COMMISSIONER PUTNAM: Is the requirement that  
11          the Governor and the CFO agree on an  
12          Insurance Commissioner substantive or procedural?

13          MS. SHELLY: I think it's procedural. And as  
14          a matter of fact, the Administration Commission,  
15          because of the budget ramifications of potential  
16          issues, in the Administration Commission, the  
17          Governor has to be in the majority vote, and that's  
18          also procedural.

19          COMMISSIONER PUTNAM: Thank you.

20          MS. SHELLY: Any other issues?

21          GOVERNOR SCOTT: Any other questions?

22          ATTORNEY GENERAL BONDI: Do we have to pay you  
23          for that legal advice?

24          MS. SHELLY: It's on Martin County's tab.

25          GOVERNOR SCOTT: I think the CFO has a

1 question.

2 CFO ATWATER: If -- and I thank you as well  
3 for the care that you've given to kind of bring us  
4 through this and up to speed.

5 If there is an expectation that the  
6 supermajority is substantial, what type of analysis  
7 and data could guide us to understanding that  
8 matter and the outcome?

9 MS. SHELLY: We talked about that briefly at  
10 the Cabinet Aides' meeting, and I'll use an example  
11 given by opposing counsel. One of the issues  
12 listed for supermajority is protection of the  
13 Indian River Lagoon. And I think that the issue is  
14 whether or not that's a critical issue in  
15 Monroe County, and I think there's stacks, reams,  
16 documents all over the place on that.

17 The other issues, such as wetlands protection,  
18 not expanding -- actually, I stand corrected. In  
19 the settlement, it was important to those  
20 challengers that changes to the urban service  
21 boundary be subject to supermajority so that the  
22 County cannot contract the urban service boundaries  
23 or expand them without a supermajority.

24 That would be the type of data and analysis I  
25 suppose on why is that critical, would have to do

1 with infrastructure financing. And that very much  
2 drives the County's decisions on what is  
3 appropriate inside the urban service boundary.

4 GOVERNOR SCOTT: Any other questions?

5 (NO RESPONSE).

6 GOVERNOR SCOTT: Thank you.

7 MS. SHELLY: Thank you.

8 MR. PENROD: Thank you, Linda.

9 Petitioner will now present. They're  
10 represented by Attorney Greg Munson, and I believe  
11 Warren Wilson, the senior vice president, will also  
12 present.

13 MR. SEYMOUR: I'm not Greg Munson.

14 Good morning, Governor and members of the  
15 Cabinet, Administration Commission. My name is  
16 Brian Seymour, with Gunster. Greg Munson is with  
17 me. Greg tried this case with me. Last week,  
18 unfortunately, I was rather ill and could not get  
19 on a plane. I couldn't sit up for more than about  
20 20 minutes for two days straight, so Greg was here  
21 last week.

22 Also with us is Warren Wilson. He's here on  
23 behalf of Midbrook 1st Realty, and I'm going to  
24 turn it over to Warren in just a second, but I'd  
25 like to publicly thank Ms. Shelly for her

1 professionalism and the work that she has done on  
2 this.

3 This was a rather challenging personal time  
4 when we went to this trial, and she handled things  
5 incredibly well, and I think she deserves public  
6 recognition. She's the kind of lawyer that well  
7 represents Martin County and all of her clients.

8 And, Linda, I just -- I want to say thank you  
9 publicly in front of everybody for all you've done  
10 and the way you've handled this.

11 Mr. Wilson will talk briefly, and then I'll  
12 come up and cover a couple of these issues.

13 MR. WILSON: Thank you. Thank you, Brian.  
14 Governor and members of the Cabinet, members of the  
15 Administration Commission. I'm Warren Wilson,  
16 Senior Vice President of Coventry Development  
17 Corporation. We're the manager of Midbrook 1st  
18 Realty Corporation.

19 We purchased the Midbrook property,  
20 2,800 acres in unincorporated Martin County in 2011  
21 because we felt it was in the path of growth for  
22 south Florida, and it had certain key  
23 characteristics given our business model.

24 Those characteristics include: Immediate  
25 proximity to an I-95 interchange, adjacency to the

1 Florida Turnpike, absence of any wetlands. The  
2 property has been historically an agricultural use,  
3 and that continues today. It also has a  
4 Section 298 municipal district designation which  
5 provides the landowner with infrastructure  
6 development rights without relying on public  
7 financing.

8 Each of these characteristics is very  
9 important to our business, which is the development  
10 of master planned communities, which we launch and  
11 anchor with corporate users as opposed to  
12 residential.

13 I'll give you two examples: Ridgeway in  
14 Florida is a 3,500-acre -- excuse me, in southeast  
15 Denver is a 35-acre -- 3,500-acre planned community  
16 on I-25 southeast Denver. We launched it in 2003  
17 with a major regional hospital, Skyridge Medical  
18 Center. That facility has since been expanded  
19 twice. It employs approximately 2500 people.

20 We have subsequently added to Ridgeway a  
21 Charles Schwab campus with 4,500 employees, some of  
22 which were relocated from California. And that  
23 campus has the expansion capacity to add about  
24 2,000 additional employees.

25 Ridgeway also has a hotel, it has some retail



1 space, and it has 1,000 residential units at this  
2 time. So I just want to emphasize here that we  
3 lead our projects with job creation: 7,000 jobs in  
4 Ridgeway, 1,000 residential units.

5 Briefly, in north Houston, we have a project,  
6 Springwoods Village, 2,000 acres located on I-45.  
7 We launched that project four years ago with  
8 Exxon Mobil's North American headquarters, a  
9 400-acre campus; it employs 12,000 people. A  
10 number of those people, a large number were  
11 relocated from Virginia and also Ohio.

12 Springwoods is also the corporate headquarters  
13 location for the Southwestern Energy with  
14 1,000 employees. We have two hotels, we have some  
15 retail space, and we have 500 residential units.  
16 Once again, the emphasis on corporate location and  
17 value creation in that way.

18 I'd also mention that in Springwoods Village,  
19 you may know Harris County, Houston, does not have  
20 zoning. Despite the absence of any zoning  
21 requirement, one third of the land area of  
22 Springwoods Village was retained as open space  
23 because we think it's the right way to develop a  
24 community, and it's the kind of project that major  
25 corporations seek today. If they're not going to

1 major downtowns and are seeking a suburban  
2 location, they will gravitate to these planned  
3 communities.

4 They don't happen overnight. Typically we  
5 look at a 20- to 30-year planning horizon. We are  
6 able to do that because we operate with an all  
7 equity model. We have NO debt. All of our  
8 development occurs with our own equity, NO debt.

9 We're here today essentially because we feel  
10 that we would like to proceed with our project on a  
11 long-term basis in Martin County. We think it's  
12 consistent with the economic development goals of  
13 the state. We think it's consistent with the  
14 stated economic development goals of Martin County,  
15 and we would like to be treated fairly to bring  
16 forward a logical plan in a logical process.

17 Thank you. I'm happy to answer questions.

18 GOVERNOR SCOTT: Does anybody have any  
19 questions?

20 (NO RESPONSE).

21 GOVERNOR SCOTT: Thank you.

22 MR. WILSON: Thank you.

23 MR. SEYMOUR: So I'm going to use one exhibit  
24 that we had blown up in just a moment.

25 As Mr. Penrod said, there was a series of

1 amendments. They were remediated in some part.  
2 There were several petitioners working together.

3 Most of the ag issues were resolved, and  
4 there -- they were all ag owners. They were  
5 resolved and we were back down to this amended  
6 petition, and we did strip out a number of issues  
7 in that settlement, but there are issues that still  
8 remain.

9 And it's important because, you know, this is  
10 about following the law and fairness. This is -- I  
11 remember in 2011 when the growth management law  
12 changed and the planning act took in effect that  
13 growth management didn't exist any more, but it  
14 does.

15 And while the County has significant  
16 discretion, it is not unfettered. And what they  
17 decide to put into their Comprehensive Plan,  
18 whether it is required or optional, is required to  
19 meet the statute; it's required to meet 163.3177.  
20 And that's important because in a number of ways,  
21 obviously, we believe it did not.

22 And we have reviewed the draft Final Order  
23 that Mr. Penrod prepared, and ultimately it's a  
24 fair order. Yes, we don't get everything we asked  
25 for, but it's a fair reading and it's a reasonable

1 decision in this circumstance.

2 So instead of going through every single one  
3 of our exceptions and all of the County's  
4 exceptions, I want to talk about just two issues.

5 And the first one is the issue that Ms. Shelly  
6 brought up about the urban service boundaries and  
7 the combining. Fundamentally, this is all 16 of  
8 the County's exceptions.

9 And the question really is, you know, is did  
10 the Comprehensive Plan change? It's not whether --

11 GOVERNOR SCOTT: Greg, do you really think we  
12 can see that?

13 ATTORNEY GENERAL BONDI: Yeah, I can see far  
14 away, and I can't see that.

15 GOVERNOR SCOTT: I can't see far away or  
16 close.

17 MR. SEYMOUR: I didn't bring my glasses. To  
18 be honest with you, you're all a little blurry to  
19 me as well.

20 ATTORNEY GENERAL BONDI: My reading glasses  
21 won't help me.

22 MR. SEYMOUR: So there's NO question if you're  
23 looking at this at the very top there, that's a  
24 strikethrough in the amendments, what was in the  
25 Plan and what NO longer is in the Plan. And again,

1 all elements, everything in the Plan, needs to meet  
2 the requirements of the statute.

3 So when the County decides to change the way  
4 they're going to calculate residential capacity to  
5 try to force markets to do something that they are  
6 not wanting to do, and there was testimony from  
7 Doctor Fishkind on this issue; there was also  
8 testimony from Doctor Depugh (phonetics) who is a  
9 planning expert, he's got a Ph.D. relative to  
10 planning; and Ken Metcalf, as well a planning  
11 expert.

12 But as you can see through the strikethrough  
13 language, the County is removing the language  
14 separating the consideration of the Eastern Urban  
15 Service District and the Western Urban Service  
16 District. NO longer will they be considered  
17 separately, they would now be considered together,  
18 which is important.

19 And there are a myriad of numbers in the  
20 transcript that I'm not going to go to about what  
21 that does to the ability for anybody to expand the  
22 urban service boundaries in the future because it  
23 creates an artificial capacity that doesn't exist,  
24 where people want to go, where the markets want  
25 development.

1           And that's the root problem of the Residential  
2           Capacity Analysis. So if you're looking there,  
3           what you see at the very top is the strikethrough,  
4           and then at the bottom is some testimony from the  
5           County's planner, Samantha Lovelady. She is the  
6           person who created the Residential Capacity  
7           Analysis that Ms. Shelly brought up.

8           And I asked her about that chart. There was a  
9           chart actually that talks about how these numbers  
10          would work, which we initially had on there, but  
11          even I couldn't follow it anymore. So we took that  
12          off of the exhibit. But what she ultimately said  
13          was -- when asked, are you going to consider them  
14          separately or are they now going to be considered  
15          differently, now together, she said, yes, they  
16          would NO longer be considered separate.

17          So it's not a question that there's not  
18          substantial competent evidence for it, and it's not  
19          a question of law because we didn't challenge this  
20          under 3184. This is a question of: It is in your  
21          Comprehensive Plan, you've decided to put it in  
22          your Comprehensive Plan; and therefore, you have to  
23          meet the requirement of the statute that there be  
24          data and analysis to support it.

25          And even Ms. Lovelady testified that she

1        didn't believe that it was the appropriate  
2        methodology. So there is substantial competent  
3        evidence for the ALJ's finding, and certainly the  
4        petition and all of the issues that were framed and  
5        the testimony are about data and analysis, proper  
6        methodologies, not about whether it's in violation  
7        of a totally separate statute. If we were going to  
8        challenge that, we would have had to do that in  
9        circuit court.

10        And we had some, by the way, that the ALJ  
11        struck in our initial petition, that she found were  
12        merely issues of 3184 and did not belong in this  
13        and she struck those; and we're not challenging  
14        that here.

15        So the only other thing I want to talk about  
16        is the supermajority issue. We believe that the  
17        draft Proposed Final Order is a very reasoned  
18        consideration of this. And really, it's important  
19        to remember that while Ms. Shelly did give you some  
20        examples of what data and analysis might be  
21        available, she talked about the reams of paper  
22        about the Indian River Lagoon, none of that was  
23        considered. There is NO dispute that there was  
24        zero data and analysis relative to whether they  
25        should have any supermajority vote or whether it

1       should apply to certain what they now call critical  
2       issues.

3               The truth of the matter is we -- if the order  
4       is entered the way it is with one clarification, we  
5       think it's completely accurate and the  
6       clarification is this, on Page 13 it states:  
7       However, the Commission declines to rule further  
8       that amendments to a general voting requirement,  
9       when applied uniformly across a comprehensive plan,  
10      must be supported by data and analysis.

11              And I wasn't sure in reading it whether that  
12      meant you weren't reaching the issue or that you  
13      were finding on that issue that data and analysis  
14      wouldn't be required. If it's the first, if it's a  
15      determination that you're not reaching the issue,  
16      it's not what the County did and wasn't then before  
17      you, which is fine and we think would be  
18      appropriate.

19              We would merely ask for a minor clarification  
20      when you adopt the Proposed Final Order that it  
21      would read: However, the Commission does not reach  
22      the question of whether a general voting  
23      requirement, when applied uniformly across a  
24      comprehensive plan, must be supported by data and  
25      analysis.



1           And, again, that just would clarify what  
2           you're actually finding there.

3           Now since I don't know what you're going to  
4           do, I am going to talk, just in case you do want to  
5           reach the issue a little bit about why the  
6           supermajority issue at all is substantive -- and,  
7           again, this is something that is in the  
8           Comprehensive Plan, they've decided to put it in  
9           there, so they've made this determination, and they  
10          need data and analysis to support it because it is  
11          not merely process. The only distinction is:  
12          Substance versus process. So because it is not  
13          just process, it does need to be supported by data  
14          and analysis as required by the statute.

15          As we note in our exceptions, and we cite a  
16          case: When rights are impacted, such as the right  
17          to utilize your property, the right to work towards  
18          an amendment of a local government  
19          comprehensive plan, it's substantive. The  
20          likelihood of success, the likelihood that  
21          something will actually occur is substance.

22          Process is about steps: When an application  
23          can be filed, who gets notice, how many hearings  
24          are required. It's not about whether something can  
25          or will happen. For example, if they decided that

1           they could only vote twice a year, that's process.

2           But they didn't do that. They decided that in  
3           certain circumstances only they would say we're  
4           going to make it extra hard for this to occur. And  
5           it's not a question of whether they can do that.  
6           We didn't say they're not allowed, that wasn't the  
7           issue we raised here.

8           The question here was: If you're going to do  
9           that, it's got to be supported by data and  
10          analysis; and Doctor DePugh (phonetics) actually  
11          testified on some of those issues, and he talked  
12          about what kinds of data and analysis there would  
13          need to be in various different circumstances. And  
14          I think Ms. Shelly gave you some good examples, so  
15          I'm not going to reiterate that.

16          But here, what we would ask is, if you reach  
17          the issue, that as a matter of law you determine  
18          this is not merely process; that this does affect  
19          people's substantive rights. As the county  
20          acknowledges in its response to our exceptions, the  
21          supermajority provision is not about adding or  
22          altering any steps in the process. That's a quote,  
23          "steps in the process," directly from their  
24          response.

25          And we agree with that, it is not about steps

1 in the process. It really does fundamentally  
2 affect rights, and we've cited the only case that  
3 actually raises the question, and it's never come  
4 before you, we agree. Now I don't know why it's  
5 never come before you, there's a presumption that  
6 it's never coming -- Ms. Shelly said it's never  
7 come before you because it's not an in-compliance  
8 issue, but there's NO law on that point so we don't  
9 know that.

10 When it's been adopted -- there may have been  
11 data and analysis. There may have been an analysis  
12 that was done that says this really is important,  
13 we do need to do this. But the only case that  
14 actually asks the question of whether something is  
15 procedural or substantive is a case we cited that  
16 says: When a right is affected, it is  
17 substantive. And so if you do reach that issue,  
18 we'd ask that you find that the supermajority  
19 provision in any way would violate the statute if  
20 it's not based on data and analysis, and there's NO  
21 question that in this case NO data and analysis  
22 were provided at all.

23 Thank you very much. We're happy to answer  
24 questions.

25 GOVERNOR SCOTT: Thank you.

1 Commissioner.

2 COMMISSIONER PUTNAM: Thank you very much.  
3 Y'all are doing an excellent job of breaking this  
4 down into understandable pieces.

5 On the supermajority issue, would you address  
6 the case law that the County provides as the basis  
7 for it being procedural, the Citizens Responsible  
8 Growth case and the Indiana Land Company case?

9 MR. SEYMOUR: Yes, sir. So Citizens was a  
10 charter amendment that actually went to the vote of  
11 the people, and there was actually NO question  
12 raised about whether something was process or  
13 substance. So when a court uses the phrase  
14 "process," they weren't actually analyzing it or  
15 thinking about it. NO one was arguing it. It may  
16 have been briefed that way and they just picked up  
17 on the language.

18 But the issues in that case was whether the  
19 decision to take that supermajority vote in the  
20 charter and by the vote was consistent with  
21 something else. It wasn't about consistency with  
22 the statute here. The Court wasn't faced with the  
23 question and it wasn't argued. The only question  
24 was whether the charter amendment was preempted by  
25 another element of the growth management law. That

1 was it, and it says it's not preempted.

2 And that was all that was done there because  
3 it was done by the charter and it was a vote of the  
4 people, and that was done. Here that's not the  
5 case, and the decision there to use the word  
6 "process" is unknown.

7 Similarly, in the Indiana case, it wasn't a  
8 case evaluating anything about process or  
9 substance. It involved an existing ordinance that  
10 then contained the voting requirement. It wasn't a  
11 challenge to its adoption, much less anything under  
12 Florida's Growth Management Law, and so those cases  
13 use words without description, without discussion,  
14 and without analysis.

15 The case that we cite actually -- it actually  
16 analyzes the Florida Supreme Court, the one time  
17 they've done this, and it says: This is the  
18 difference between process and substance. Those  
19 other ones don't really say that at all.

20 COMMISSIONER PUTNAM: So is your argument  
21 that -- the fact that the County changed the score,  
22 the fact that they moved the goal line on how many  
23 votes you had to obtain in order to exercise your  
24 property right, that that in effect is a  
25 substantive change?

1           MR. SEYMOUR: Yes, and I'm going to put it in  
2 a different sports analogy that I'm sure the Chief  
3 Financial Officer will understand.

4           It would be akin to determining that it's  
5 two balls -- or three balls and two strikes and not  
6 three balls -- or four balls or three strikes. If  
7 anybody I know sees this, I'm going to be so  
8 embarrassed. I'm a huge baseball fan, and I  
9 apparently can't get strikes and balls out here, so  
10 I will never be an umpire.

11           But that really is the difference here.  
12 You know, if -- you know, to the football analogy,  
13 if it was suddenly five points for a field goal, it  
14 changes the score, it changes the dynamic, it  
15 changes what can happen.

16           I think the balls and strikes are a little bit  
17 easier because all of the sudden, the pitcher is  
18 changing the way he has to do everything. The  
19 likelihood that someone is going to get on base,  
20 the likelihood that someone is going to strike out  
21 changes dramatically because the rule was changed,  
22 and that's effectively what they've done here.

23           COMMISSIONER PUTNAM: But you concur with  
24 the -- on the other issue, you fully concur with  
25 the draft final order that affirms the ALJ's

1 decision that they improperly merged the two urban  
2 service districts?

3 MR. SEYMOUR: That's correct.

4 COMMISSIONER PUTNAM: Thank you.

5 GOVERNOR SCOTT: Any other questions?

6 ATTORNEY GENERAL BONDI: Just --

7 GOVERNOR SCOTT: Go ahead, Attorney General.

8 ATTORNEY GENERAL BONDI: -- a comment.

9 Brian (sic), I'm glad you feel better.

10 MR. SEYMOUR: Thank you.

11 ATTORNEY GENERAL BONDI: And, Mr. Seymour,  
12 thank you also, excellent job breaking it down.

13 And I seem to feel that you two, Ms. Shelly  
14 and Mr. Seymour, do have true respect for each  
15 other, which is rare in the practice of law. But  
16 thank you for acting with such civility, and I  
17 think you both are genuinely attempting to work  
18 this out.

19 I just want to remind -- I don't like these.  
20 I don't think I've ever made a secret of that. And  
21 I frankly want to look at this legislation that's  
22 been around forever because what's happening -- and  
23 let me try to put it into a sports analogy.

24 We're coming in at the top of the ninth and  
25 we can't go back and revisit all of these calls

1           that the umpire has made. We are having to deal  
2           with the record before us and the order, and that's  
3           all.

4           You know, and, CFO, I think the last time we  
5           did, I was trying to kind of reign us in on what we  
6           can look at and listen to. And that's why as an  
7           attorney these are very difficult for me.

8           And we have two very good advocates on each  
9           side. We could sit up here all week and have each  
10          side give us good points to the issue. But, again,  
11          our role up here is limited; and I frankly, when  
12          we're finished -- I just have a question for Mr.  
13          Penrod when we're finished.

14          GOVERNOR SCOTT: CFO.

15          CFO ATWATER: Thank you, Governor.

16          Mr. Seymour, I would still like you to help me  
17          understand the -- I can understand a lot of how  
18          data and analysis can be done to prove a point, but  
19          how can data and analysis be done in this matter of  
20          super voting to create the evidence that makes  
21          decision making? Is there examples that you  
22          wouldn't mind citing?

23          MR. SEYMOUR: Sure, I'll -- in a general  
24          concept, it's hard because you don't know what it  
25          is they're trying to fix, so I'm going to quote



1 Doctor DePugh (phonetics) for a second, and then  
2 I'm going to give you an example that he used; and  
3 this is right from the transcript:

4 There has to be some problem that is occurring  
5 that is identified, and data and analysis that  
6 suggests a supermajority vote is the appropriate  
7 way to deal with that particular problem.

8 So if you have -- and I'll use Ms. Shelly's  
9 example on the urban service boundaries -- if you  
10 have that problem, you have to identify it as a  
11 problem, why it's a problem, and why it gets fixed  
12 by this particular thing, this supermajority. How  
13 does it fix that problem?

14 So he used an example of data and analysis in  
15 Sanibel/Captiva where they wanted to pass a rule  
16 relative to the removal of Australian pines, and  
17 the people came out and said, wait a minute, if you  
18 remove the Australian pines, then we're going to  
19 have NO vegetation at all. And they said, well,  
20 let's go find out whether that's right.

21 So before we make it easier or harder to  
22 remove these Australian pines, which we all know  
23 are exotics, what is the impact? Came back and  
24 said, you know what, you'd have a huge loss of your  
25 canopy if you got rid of all of the Australian

1 pines.

2 Did that survey and said, okay, we do want to  
3 make it harder to remove the Australian pines in  
4 those circumstances because we know what would  
5 actually happen, and it does help solve that  
6 problem.

7 GOVERNOR SCOTT: All right. Thank you.

8 COMMISSIONER PUTNAM: Before you -- I want to  
9 revisit the supermajority. We haven't beat this  
10 dead horse enough.

11 So our whole process is -- impacts the outcome  
12 of events. So the requirement that a bill be read  
13 three times before it's voted on; the fact that it  
14 can only be amended on second reading, and if it's  
15 amended on third reading, there's a higher  
16 threshold to open it back up, those are very  
17 clearly procedural milestones that theoretically  
18 could impact the outcome which I guess you would  
19 argue is a substantive change. If on third reading  
20 there is a different group of people on the floor  
21 or there is a different group of people who have  
22 the flu or whatever, then the fact that it was  
23 required to be read three times would theoretically  
24 impact the outcome, or if you expedited those three  
25 readings.

1           So doesn't the local government have the right  
2           to determine their own thresholds for voting and  
3           the circumstances under which they will consider an  
4           item of business?

5           MR. SEYMOUR: So the answer to the final  
6           question is, yes, but on what basis. So we're not  
7           standing here saying that they can never adopt a  
8           critical issues list or a supermajority vote under  
9           the growth management laws. And, again, we're  
10          focused on this very narrow -- as Ms. Shelly  
11          properly pointed out, very narrow set of laws that  
12          we're looking at.

13          And in that circumstance, it says: If you're  
14          going to do that, you just have to do data and  
15          analysis, you have to know what you're doing and  
16          why, it's not an arbitrary thing. So, yes. Can  
17          they? Yes, they can, but only if they have data  
18          and analysis under the statute as required because  
19          the statute says all elements of the plan, optional  
20          and required, must be based on that sort of data  
21          and analysis.

22          COMMISSIONER PUTNAM: Is there only a subset  
23          of changes to their Comprehensive Plan that are  
24          subject to a supermajority vote?

25          MR. SEYMOUR: In this case, yes.

1 COMMISSIONER PUTNAM: And what is that subset?

2 MR. SEYMOUR: It includes -- and I don't have  
3 the full list, but Ms. Shelly pointed some of them  
4 out: The 15-story height limit -- excuse me, the  
5 4-story height limit; the 15 units per acre  
6 density. Look at that, I got two of them.

7 Oh, look, it's listed out better in Greg's,  
8 okay.

9 So any amendment that would expand the urban  
10 service district; any amendment that would allow  
11 urbanization outside the urban service district;  
12 particularly but not limited to increases in  
13 density; freestanding urban service districts;  
14 clustering in ranchette or agricultural land uses  
15 outside the urban service district; future land use  
16 map change or text change; future land use map  
17 changes; extending the urban infrastructure; and  
18 any amendment that would increase negative impacts  
19 to the St. Lucie Estuary by increasing runoff,  
20 volume, or peak flows. It goes on, and there are  
21 several others. And finally is any amendment to  
22 change the supermajority provision itself.

23 MS. SHELLEY: May I use just -- one tiny thing?

24 MR. SEYMOUR: Sure.

25 MS. SHELLEY: In the settlement with the other

1 three challengers, the provision that was -- that  
2 said it takes four votes to expand the urban  
3 service district --

4 MR. SEYMOUR: That's true, it says "change."

5 MS. SHELLY: -- now it says "change."

6 MR. SEYMOUR: Correct.

7 MS. SHELLY: Because they were concerned about  
8 potential contractions, and they wanted four votes  
9 for that.

10 COMMISSIONER PUTNAM: So, Ms. Shelly, the fact  
11 that they cherry-picked circumstances under which  
12 the supermajority would be required, was that not  
13 intended to be an additional obstacle to growth?

14 MS. SHELLY: It was intended to highlight  
15 these issues as needing a higher degree of  
16 consensus in order to change them, that these  
17 are -- they're actually referred to in  
18 Martin County as pillars of the Plan, and they are  
19 the fundamental issues upon which the Plan, in the  
20 opinion of the County Commission, as through this  
21 adopted amendment, are based.

22 COMMISSIONER PUTNAM: But by what basis were  
23 some items selected to be a pillar and others  
24 rejected?

25 MS. SHELLY: Okay. The 4-story height

1 limitation, if you drive through Martin County from  
2 either direction, you will see that 4-story height  
3 limitation has been in place I think since 1982.

4 UNIDENTIFIED VOICE: '72.

5 MS. SHELLY: '72? It makes a difference.  
6 That is a community value that has withstood the  
7 test of time.

8 May I say also that almost every  
9 Plan Amendment would not be subject to this.  
10 Usually you have a Plan Amendment that says, I want  
11 to change from residential to commercial, I'm  
12 inside the urban service boundary, I'm not --

13 ATTORNEY GENERAL BONDI: Right.

14 MS. SHELLY: It's just not -- so this subset  
15 is a very small -- and that's part of the testimony  
16 and the record below, is that they wanted there not  
17 to be a general applicability of a requirement.

18 COMMISSIONER PUTNAM: So wouldn't Mr. -- I  
19 mean so, Mr. Seymour, you would say though that  
20 it's well within the County's right to have these  
21 pillars, but that under the comprehensive amendment  
22 statute, they had to defend the basis for building  
23 those pillars?

24 MR. SEYMOUR: They had to have the basis. So  
25 for instance, on the 4-story height limit,

1 Ms. Shelly just gave you an example of what it  
2 looks like. None of that was discussed, there was  
3 NO data, NO analysis, NO discussion, nothing about  
4 it, it was just put in, and NO implication of why.

5 And so what we're saying and what we argued  
6 here is: When you put it in the Comprehensive  
7 Plan, when you make that determination, you just  
8 have to have some data and analysis to support it.

9 Now there may be data and analysis to support  
10 some of these; there may be data and analysis to  
11 support all of these. Nobody really knows because  
12 NO one ever looked. Although I suspect that in  
13 some, there probably is not data and analysis that  
14 could support it, and in some there are.

15 ATTORNEY GENERAL BONDI: A quick question.

16 GOVERNOR SCOTT: Attorney General.

17 ATTORNEY GENERAL BONDI: Are you finished,  
18 Commissioner?

19 COMMISSIONER PUTNAM: Please go ahead.

20 ATTORNEY GENERAL BONDI: How many days -- how  
21 long was this hearing with the ALJ?

22 MR. SEYMOUR: Well, I think we cut it to a day  
23 and a half.

24 ATTORNEY GENERAL BONDI: A day and a half.

25 MR. SEYMOUR: All but just about two days. My

1 grandmother died the morning of the trial, so  
2 that's --

3 ATTORNEY GENERAL BONDI: You were sick and  
4 your grandmother died.

5 MR. SEYMOUR: We literally condensed  
6 everything as quickly as we could.

7 ATTORNEY GENERAL BONDI: I'm so sorry.

8 MR. SEYMOUR: So that's -- it went very  
9 quickly.

10 ATTORNEY GENERAL BONDI: I have just a  
11 question for Mr. Penrod.

12 GOVERNOR SCOTT: Yeah. Does anybody have any  
13 more questions for Mr. Seymour?

14 (NO RESPONSE).

15 GOVERNOR SCOTT: Okay.

16 MR. SEYMOUR: I'll take the remedial  
17 baseball lessons later.

18 ATTORNEY GENERAL BONDI: I can talk hockey,  
19 Tampa Bay Lightning.

20 MR. SEYMOUR: I love hockey.

21 ATTORNEY GENERAL BONDI: Mr. Penrod, do you  
22 feel confident that this order accurately reflects  
23 the record?

24 MR. PENROD: Yes.

25 ATTORNEY GENERAL BONDI: That's our job.



1           GOVERNOR SCOTT: Does anybody have any  
2 additional questions?

3           (NO RESPONSE) .

4           GOVERNOR SCOTT: I move to approve the  
5 presented Draft Final Order.

6           Is there a second?

7           ATTORNEY GENERAL BONDI: Second.

8           GOVERNOR SCOTT: Any comments or objections?

9           (NO RESPONSE) .

10          GOVERNOR SCOTT: Hearing none, the motion  
11 carries.

12          Thank you everybody for being here.

13          ATTORNEY GENERAL BONDI: One more, Governor.

14          Thank you both sides, and I hope -- I know you  
15 both realize that our hands are tied up here and  
16 that's why these are so difficult for us. Again, I  
17 wish I could have sat during the -- in the entire  
18 hearing, but we're bound by what we have in front  
19 of us, so --

20          MR. SEYMOUR: You would have had a hard time  
21 staying awake.

22          ATTORNEY GENERAL BONDI: Thank you.

23          MR. SEYMOUR: Thank you very much.

24          ATTORNEY GENERAL BONDI: Thank you.

25          MR. PENROD: This concludes the item.

1           GOVERNOR SCOTT: We're going to take a  
2 10-minute break.

3           ATTORNEY GENERAL BONDI: I hate these.

4           Gentlemen, and I'll say this publicly, I think  
5 we should look at the law regarding our involvement  
6 in these. I plan on looking at the legislation  
7 involving -- the 1985 legislation involving our  
8 involvement in these.

9           (BRIEF RECESS).

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1                   **INTERVIEW OF BELINDA MILLER**  
2                   **FOR COMMISSIONER OF THE**  
3                   **OFFICE OF INSURANCE REGULATION**  
4

5                   GOVERNOR SCOTT: If everybody is ready, we can  
6 get started again. The last thing on the agenda is  
7 we have the interviews and appointment for the  
8 Commissioner of the Office of Insurance Regulation.

9                   In total, we have received 71 applications for  
10 the position. Today we have four candidates to  
11 interview and consider. During the last meeting we  
12 interviewed Jeffrey Bragg and Representative  
13 Bill Hager.

14                  In addition to those two today, we have the  
15 interviews for Belinda Miller and Ray Blacklidge.  
16 Since we've already heard from Jeffrey Bragg and  
17 Representative Bragg (sic) during the last meeting,  
18 I would like to first start with the two new  
19 candidates.

20                  First we have Belinda Miller.

21                  Good afternoon.

22                  MS. MILLER: Good afternoon. Thank you,  
23 Governor and General Bondi and CFO Atwater and  
24 Commissioner Putnam.

25                  Thank you for the opportunity to be here and

1 to help both in attempting to become the next  
2 Insurance Commissioner, and I am also willing to  
3 help in the transition from Kevin McCarty's time to  
4 whoever you pick for the next  
5 Insurance Commissioner. So thank you for bringing  
6 me here for that purpose.

7 GOVERNOR SCOTT: What would you do different  
8 than what Commissioner McCarty has done?

9 MS. MILLER: Well, Kevin and I obviously have  
10 worked together for many, many years, and we have  
11 had a lot of shared experiences and been through a  
12 lot together, but this is a different time. And  
13 the Office of Insurance Regulation, like any good  
14 organization, has evolved over time.

15 In other words, when Kevin first came in, for  
16 example, to license a company we passed around a  
17 paper file about two feet thick, and now we've put  
18 all of that onto the computer system. It took at  
19 least several months before, and now we've got it  
20 down to just a couple of months at the most.

21 So he has made tremendous improvements in the  
22 Office during the 13 years that he was there, and I  
23 would expect to make different improvements and  
24 different types of initiatives depending on the  
25 needs of the State and the needs of the insurance

1 industry during the time that I was in office. So  
2 I would do some things differently only because it  
3 is a different time and different challenges that  
4 come up.

5 I think some of the things he mentioned in his  
6 presentation are a little bit scary. The long-term  
7 care insurance issues are going to be very  
8 challenging. We already have a company in  
9 Pennsylvania that writes a tremendous amount of  
10 business in Florida that is in rehabilitation.  
11 It's going to go into liquidation and we're going  
12 to have assessments.

13 So I would handle things based on my  
14 qualifications and experience, which would be in  
15 many ways similar to what Commissioner McCarty  
16 does, but I would do things in my own way and  
17 having learned from him.

18 GOVERNOR SCOTT: What's your management style?  
19 How do you get to agreement with people that work  
20 with you?

21 MS. MILLER: Well, I think I have a very  
22 cooperative management style. At the Office we  
23 have 263 employees, and of that number -- we have  
24 292 established positions, but 263 are filled. Of  
25 that number, over half of them have degrees in

1        accounting, finance, or risk management. We have  
2        22 lawyers, we have 12 actuaries, we have several  
3        people with Ph.D.s in subjects like mathematics,  
4        nuclear physics -- there's one, that's  
5        Eric Johnson, who also applied. And I think that  
6        the Office is full of people who are a lot smarter  
7        than me, who have a lot of different backgrounds,  
8        and they can contribute to decision making.

9                So I would listen to all of them. I would  
10       listen to the management team that's in place, and  
11       I would also bring in opinions from other quarters.

12               I think it's important that the Commissioner  
13       talk to the industry. I try to go to industry  
14       meetings, there are usually several a year of the  
15       Florida companies in Florida. The Florida  
16       Insurance Council and different organizations hold  
17       those meetings, and we also meet with individual  
18       companies.

19               So I like to gather information from all  
20       quarters and then make decisions, but I understand  
21       that it is the Commissioner's decision at the end  
22       of the day, and we would certainly work through  
23       issues one at a time and come to the best decision  
24       we could.

25               In the process, we want to keep you all very

1 informed and understand what your goals are for the  
2 organization and your hopes, and we would try to  
3 fulfill that.

4 GOVERNOR SCOTT: All right. Does anybody have  
5 any other questions?

6 Commissioner.

7 COMMISSIONER PUTNAM: I do.

8 Talk to me a little bit about -- you've had an  
9 opportunity to be in this Cabinet agency for a  
10 while, you see what works, what could be improved,  
11 and I want to follow-up a little bit on the  
12 Governor's question of how you would approach  
13 things differently.

14 What have you observed as being the most  
15 effective ways of serving a four-headed boss,  
16 you know, having the Cabinet type of reporting  
17 structure, and the heat that comes with being  
18 Insurance Commissioner in the State of Florida?

19 Are there things in your professional  
20 background that prepare you for the challenges of  
21 being the one who has to sit in that chair and make  
22 those tough decisions regarding very complicated  
23 factors and a lot of stakeholders.

24 MS. MILLER: Thank you, Commissioner. Yes,  
25 absolutely, there are things in my background that

1       prepare me. I started out in 1985 in the Division  
2       of Rehabilitation and Liquidation taking down broke  
3       companies and walking into the company and telling  
4       the people there that, you know, I'm sorry, but  
5       this is a Court order and it means that we're  
6       taking over the company and working with the  
7       employees in trying to make things as smooth as  
8       possible, but knowing that that's a tremendous  
9       amount of stress and a tremendous amount of  
10      hardship on the employees and the policyholders.

11           So I've had that experience years ago. I did  
12      that for about ten years. And I moved from there  
13      to the regulatory side and was the Director of  
14      Insurer Services, which was what OIR ultimately  
15      came from. So I've been involved in it for many  
16      years, and I understand the pressures of the  
17      Commissioner's office.

18           Kevin has been quoted as saying: It's not for  
19      the faint of heart. And it's not, and it's not for  
20      somebody who has easily hurt feelings or wears  
21      their heart on their sleeve, because whatever  
22      decision you make -- and I know you all have dealt  
23      with this in your capacities -- you're going to  
24      make some people happy and you're going to make  
25      some people disappointed; and it's just a matter of



1 keeping a balance.

2 And the Commissioner's job is to try to keep a  
3 balance that helps the market, that helps the  
4 insurance market stay stable; and helps the  
5 insurance companies that want to develop new  
6 products and new ideas, bring them to the people of  
7 the State of Florida. So I would focus on that,  
8 and I think everybody at the office would be  
9 focused on that.

10 If I am criticized in the process, and I know  
11 I would be, it would be because in any  
12 decision-making capacity you're going to make some  
13 people happy and make some people disappointed, so  
14 I get that. I can be facetious and say, you know,  
15 whatever you do, you're wrong.

16 The newspaper will report that you should have  
17 approved the rate or you should have denied the  
18 rate, or you should have -- we actually had some  
19 situations where the headline was -- the same date,  
20 same company, one said we should have moved faster  
21 and the other one said we should have moved slower.

22 So you can't make everybody happy all the  
23 time, but the important thing is to do what is best  
24 for the policyholders. That's the key for  
25 insurance regulation.

1 COMMISSIONER PUTNAM: Thank you.

2 GOVERNOR SCOTT: CFO.

3 CFO ATWATER: Ms. Miller, you mentioned the  
4 experiences of rehab and liquidation. Currently  
5 that resides in our Department, and currently we  
6 are owning 36 companies that did not make it. And  
7 what was -- what would you say is your takeaway  
8 from that experience?

9 MS. MILLER: Well, I think that there are some  
10 important lessons that came from that. I mean  
11 Number 1 is is that your best opportunity to  
12 prevent that is at the time of the licensure. When  
13 a company is born to the time that a company goes  
14 into liquidation, all of that is under the auspices  
15 of the Office. And when you're first licensing a  
16 company, it has to have adequate capital, it has to  
17 have a strong management team or it has NO chance  
18 of really being successful and not ending up in  
19 receivership.

20 So I think it all connects, and one of the  
21 biggest tasks that the Office does, that people  
22 expect us to do, is to stop people who have  
23 criminal backgrounds or who are likely to take  
24 money from a company or who just don't have the  
25 experience to run a company from getting into a

1 company and then being surprised. So we try to do  
2 that at the outset.

3 The rehab and liquidation experience also  
4 taught me that failures can occur without anybody  
5 being at fault, without anybody really  
6 intentionally taking money out of a company. It  
7 can happen because of external forces. So after  
8 Hurricane Andrew, my job as an attorney had been to  
9 prove that the company was insolvent and get the  
10 company into receivership.

11 And when Hurricane Andrew came, we took down I  
12 think 13 companies in the first year after that  
13 with consent of the company because they were in a  
14 miserable position. They had people in the lobby  
15 wanting their claim paid and the company was  
16 insolvent and couldn't pay it. They wanted us to  
17 get in there with FIGA and get claim payments  
18 going.

19 So my lesson from that is, it's terribly  
20 disruptive to people, and we would want to avoid it  
21 at all costs. The other big lesson is, it doesn't  
22 get better. If a company is in deep, deep trouble,  
23 you can't just put your head in the sand and  
24 pretend it isn't happening; that doesn't ever work,  
25 it usually gets deeper and worse.

1           So another lesson I think for a regulator is  
2           if it is -- if a company is insolvent or if you  
3           even think it's potentially insolvent, that has to  
4           be addressed sooner rather than later, you can't  
5           just let it fester.

6           CFO ATWATER: In past experiences and roles, I  
7           wonder if you might give us the benefit of a couple  
8           of the other hats you have worn in your duties  
9           within the Department and the responsibilities that  
10          came with those roles.

11          MS. MILLER: Thank you.

12          Yes, I have -- well, when I came over to the  
13          regulatory side in 1999, I was Director of Insurer  
14          Services, and that was basically regulation of both  
15          life and health and P & C, what OIR is now.

16          I then left for private practice for a little  
17          while, I came back, and I was the General Counsel  
18          for about four years; I was the Deputy Commissioner  
19          for property and casualty.

20          Actually, that experience was during a very  
21          difficult time. After the hurricanes of '04  
22          and '05, in 2006 we had a vacancy as the  
23          Deputy Commissioner of Property and Casualty, so I  
24          took that job and handled it for about  
25          three and a half years.

1           So I have done most of the jobs at OIR, and I  
2       have seen the market go up and down in different  
3       places. The property market, of course,  
4       after '04, '05 was our biggest challenge; but long  
5       before then, we dealt with insolvent HMOs; we dealt  
6       with insolvent MEWAs, Multiple Employer Welfare  
7       Arrangement, the health insolvencies that are much  
8       worse in many respects than property.

9           So we've had a number of experiences through  
10      the years that have prepared me I think for pretty  
11      much anything. I hate to say that because I know  
12      what a big challenge that could be. I don't want  
13      to scare the other applicants. You do have many  
14      other qualified applicants, and I recognize that,  
15      and I would be willing to work with any of them in  
16      a transition.

17           So I think you do have the benefit of that.  
18      This is a very tough decision, and I recognize  
19      that, but you have people who can do it. We have a  
20      good team at the Office. We have really brilliant  
21      people, and they can get you through whatever  
22      comes, but you can't predict right now what's going  
23      to come.

24           CFO ATWATER: Ms. Miller, in the role of  
25      overseeing property and casualty, did you approve

1 forms?

2 MS. MILLER: I had a lot to do with approving  
3 forms, particularly as General Counsel. We worked  
4 with the forms analysts in determining what the  
5 case law is around particular language and what the  
6 statutes are around particular language and whether  
7 the forms should be approved or disapproved based  
8 on the law.

9 So, yes, I've had a lot of involvement in  
10 that. And in property and casualty when I was  
11 Deputy Commissioner, that was directly under my  
12 supervision.

13 CFO ATWATER: Rates as well?

14 MS. MILLER: Rates, yes, sir.

15 CFO ATWATER: Okay. How about -- I want to  
16 talk about market conduct exams for a moment. How  
17 about if you would share -- I take it in that role  
18 that you would have either made the recommendation  
19 that a market conduct be conducted or that you  
20 would have been responsible for the conduct --  
21 market conduct exam itself. Would that be  
22 accurate?

23 MS. MILLER: That is accurate.

24 CFO ATWATER: What evidence do you look for  
25 before making such a recommendation and engaging in

1       such an exercise?

2           MS. MILLER: Well, this is an area that has  
3 evolved dramatically over the years, and Florida  
4 was way ahead of other states on this. Companies  
5 used to get a market conduct exam every five years,  
6 or every three years in some states. And examiners  
7 would come and they would look at everything, and  
8 they'd spend six months there and spend tons of  
9 money and a lot of people's time; and in many cases  
10 you'd see at the bottom of the page there wasn't  
11 the right page number, there wasn't the right  
12 counter signature, and the report would report on  
13 relatively minor things.

14           So what Florida did before many other states  
15 did is go to targeted exams. So we pick up  
16 information, for example, from Consumer Services or  
17 from even news articles or from other states, or we  
18 just notice in a financial exam that something is  
19 wrong, or somebody calls us directly and says,  
20 you know, this company is just not paying my claim.

21           Those are red flags that can trigger an exam,  
22 but we don't do an exam necessarily based on one  
23 complaint. I mean the way to handle a complaint is  
24 call the company and say: What is -- what's the  
25 problem with this case? What are you doing?

1           The market conduct exams are more appropriate  
2       where you can detect that there is a pattern of  
3       practice, there is a substantive issue with the way  
4       a company is doing something; or more often,  
5       there's one across the industry, like the  
6       life insurance cases that we just did. And in that  
7       case, we went in and examined -- the goal is the  
8       top 40 companies, and we split them up among the  
9       states. And everybody went into certain companies  
10      and did an exam that was targeted to the issue,  
11      which was the failure to pay claims for people who  
12      hadn't made the requisite filing.

13           So I think there are a number of reasons to go  
14      into a company but, you know, you really want to do  
15      it where you think that there's going to be -- the  
16      juice is going to be worth the squeeze, you're  
17      going to have some consumer harm that is avoided by  
18      your going in and doing an exam and finding the  
19      problem.

20           CFO ATWATER: Periodically the Department  
21      holds an action watch list meeting and gathering,  
22      both on life and in property. What are you looking  
23      for? What are you listening for in those meetings?  
24      What is your expectation of the analysts?

25           MS. MILLER: Well, that is a very valuable



1 meeting. I know you have attended at least one or  
2 two of those meetings. And those are sort of an  
3 amalgamation of what we do every week in the  
4 solvency meetings. And the point is that you have  
5 hundreds of companies that we're responsible for,  
6 and we're trying to figure out which ones have a  
7 financial issue that needs to be addressed, either  
8 by the company, by us, or by both.

9 So the analyst that gets the company filings  
10 has ways to run those filings through spreadsheets  
11 and come up with formulas and know what a concern  
12 might be triggered by. For example, a company may  
13 have a high writing ratio and the  
14 premium-to-surplus ratio has changed over time, it  
15 has gone from being a very good measure to really  
16 being out of whack. You see that year over year or  
17 quarter over quarter.

18 So that action list report, which is  
19 confidential by law and is recognized by law,  
20 enables us to give a summary of each company this  
21 quarter, last quarter, and to detect when a company  
22 has a financial problem, again, the better  
23 situations where you get to that early.

24 If it waits and gets worse and worse and the  
25 analyst doesn't notice, then you can have a deep

1 insolveny and there's not much you can do about  
2 it. If you can detect it earlier, then there are a  
3 lot of things that can be done by the regulator and  
4 the company to fix the financial problem.

5 So that meeting is to go through all of the  
6 companies, figure out which ones may have  
7 significant issues, and address them early, and  
8 strategize on what you're going to do to address  
9 them.

10 CFO ATWATER: Thank you.

11 GOVERNOR SCOTT: All right. Attorney General.

12 ATTORNEY GENERAL BONDI: Just briefly.

13 I'm sure you heard Commissioner McCarty  
14 earlier talk about balanced billing. That's  
15 obviously very important to me as well as the  
16 taxpayers of the state.

17 How would you tackle that.

18 MS. MILLER: Well, I think the Legislature  
19 made a good start, and HMOs have had a balanced  
20 billing prohibition. Some of the challenges that  
21 we are having now in that really is a function of  
22 the Affordable Care Act, where you have to take  
23 all-comers. The insurance company has to take  
24 everybody, whether they're sick or not, under  
25 Federal law now, that's just in place, which is

1 really difficult for companies because they're used  
2 to underwriting, now you can't underwrite.

3 So if you have to take all-comers, the name of  
4 the game for a competitive market would be, try to  
5 get people to sign up for your company who are not  
6 sick, and try to minimize your networks so that  
7 you're not paying out more money than you have to.  
8 If you minimize the network and you only have a few  
9 providers, the people who are really sick will be  
10 more likely to go to a different plan.

11 So in order to address that, the Affordable  
12 Care Act has some parameters in it; but for us,  
13 that has really led to a lot of problems because  
14 you've got companies that now -- they can't afford  
15 to offer every single doctor, every single  
16 hospital, every single clinic, every specialty  
17 practice as an option to every person.

18 And what they're trying to do is reduce that.  
19 That means that you have more doctors who are not  
20 in network, and a doctor that you went to last year  
21 might not be in the network this year. And it may  
22 be even worse, it may be that they're not in the  
23 network today and they were when you signed up in  
24 January, which that's one of the things that  
25 legislation was discussed (sic) to address.

1           So people need to know up front: How much is  
2           it going to cost me to get this treatment? And  
3           that's a question that has been really hard to  
4           answer. I know the Governor did a task force and  
5           tried to drill down into how hospitals are charging  
6           and how insurance companies are handling the  
7           losses, but we really do have to get to a system  
8           where if you need a medical service and it's not an  
9           emergency where you're unconscious and can't make a  
10          decision, that you have a way of comparing the cost  
11          of that. If I go to this hospital, it's going to  
12          cost this; and if I go to that one, it's going to  
13          cost that. And we're not there yet.

14                I mean right now all of this is a matter of  
15          private contract between the hospitals, the doctors  
16          and the health plans, and it's really challenging  
17          because HMOs were -- I think there needs to be some  
18          change in the HMO law, because when HMOs were first  
19          invented, they were just contracting with a  
20          capitated amount each month.

21                So you pay a medical practice X-dollars per  
22          member per month to treat whatever needs to be  
23          treated, and that's the way the statutes were  
24          created. And they were created to address that  
25          type of business model.

1           Now HMOs are pretty much doing the same thing  
2           that the regular health insurance companies are  
3           doing. It's a fee-for-service basis, and so you've  
4           really gotten a change in the market that hasn't --  
5           the statutes haven't caught up with. And so you  
6           have a dichotomy between the way HMOs are treated  
7           under the law and the way health insurers are  
8           treated under the law. And I think one of the  
9           goals of both the balanced billing law and the HMO  
10          law that we proposed was to try to equalize that  
11          and protect the consumer in that whole process.

12           ATTORNEY GENERAL BONDI: Thank you.

13           GOVERNOR SCOTT: All right. Commissioner.

14           COMMISSIONER PUTNAM: How do you see the  
15          pressure playing out on companies as it relates to  
16          this explosion -- I think it was 128% that Kevin  
17          reported today -- of water claims? How do you see  
18          that impacting the customers, the bottom line in  
19          rates ultimately? I mean this is a huge issue, not  
20          just for the tri-county area but for the whole  
21          state.

22           MS. MILLER: It is a huge issue, and the issue  
23          is broader than the rates associated with just  
24          losses because our Florida market is made up of  
25          many companies that were created to essentially

1 cover those losses that are not hurricane losses.  
2 I mean they have purchased reinsurance that covered  
3 the hurricane losses.

4 But the day-to-day losses are by and large  
5 retained by our Florida domestic companies. And so  
6 it really hits their return on their investments  
7 when the Florida company has these losses that are  
8 sort of the day-to-day losses, like fire, theft,  
9 water, these kinds of things.

10 So you have a problem of the willingness of an  
11 investor to come into Florida and set up a company  
12 if you're going to have losses that get into the  
13 return that they might otherwise expect in running  
14 a Florida domestic company.

15 So it is a big issue, and it's broader than  
16 assignment of benefits. I've seen some cases where  
17 people come in with a power of attorney that would  
18 scare you to death. It basically would be enough  
19 for the water company to go take over bank  
20 accounts.

21 And so I think the real issue here is: What's  
22 driving those increased losses? It's not that  
23 we've had a huge, you know, influx of water. It's  
24 that you have litigation incentives that give  
25 people the wrong incentive. It gives them the

1 incentive to bring cases where you might not  
2 otherwise do it.

3 So I think you have to look at the bad-faith  
4 law which starts out: Any person can bring an  
5 action against an insurance company. It doesn't  
6 say any insured, it doesn't say any person to whom  
7 the company owes a duty of good faith, it says any  
8 person, and it's very broad.

9 So I mean the insurance market is all about  
10 balance. If the market gets out of balance, you  
11 won't have affordability, you won't have  
12 availability. And it is out of balance in that  
13 respect, in that the incentives for litigation are  
14 in the wrong place.

15 I think the real fix would be to address that.  
16 It's going to fix water claims and other things.  
17 But the willingness to touch that statute has not  
18 been there, and it's understandable because it  
19 looks like an anticonsumer move. If you address  
20 the bad-faith law to make it harder to take a  
21 claim, it looks like you're doing something that  
22 hurts consumers but you're really not, because if  
23 you don't do that and investors stop investing and  
24 bringing Florida companies into Florida that can  
25 take advantage of the reinsurance from Bermuda,

1       then we have less capacity to take losses and to  
2       take our hurricane risk in the State of Florida,  
3       which is not good for anybody.

4               So I think that's an important issue and it  
5       needs to be addressed, but it can only be done  
6       legislatively. We've done as much as we can do  
7       right now I think in the policy forum, with the  
8       Citizens language that was just approved, and we've  
9       started to approve other companies using that  
10      language; and it addresses the timing.

11             The big issue for the company there is it may  
12      be 60 days before I get a claim, and by the time I  
13      have, the policyholder has a new kitchen and I  
14      can't even tell what happened. So that Citizens  
15      language was meant to address that situation, but  
16      it really doesn't stop the litigation that I think  
17      threatens the domestic market.

18             COMMISSIONER PUTNAM: Thank you.

19             GOVERNOR SCOTT: All right. Thank you.  
20      Thank you for your hard work at OIR.

21             MS. MILLER: Thank you. And, again, I'd be  
22      happy to help with the transition whatever your  
23      decision is. I know you have a tough decision.  
24      Fortunately, you have some very good candidates,  
25      and I wish you the best of luck in making that



1 choice.

2 GOVERNOR SCOTT: Thank you.

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**INTERVIEW OF RAYMOND BLACKLIDGE**  
**FOR COMMISSIONER OF THE**  
**OFFICE OF INSURANCE REGULATION**

GOVERNOR SCOTT: Next we have Ray Blacklidge.  
Good afternoon.

MR. BLACKLIDGE: Good afternoon, Your Honors.  
It's really a great pleasure to be here. I'm  
honored and pleased that you all have decided to  
give me the opportunity to talk to you about  
perhaps serving the state as  
Insurance Commissioner.

I'm not sure how -- you want me to just go on,  
or do you want me --

GOVERNOR SCOTT: Yeah, I mean just tell me,  
how would you change how -- what changes would you  
make?

MR. BLACKLIDGE: Well, the Department -- well,  
Florida, first of all, is very unique. We have  
unique challenges and we have unique opportunities,  
and I would try to make Florida's Office of  
Insurance Regulation the best Department of  
Insurance in the United States. You want that  
pride, to be able to bring more companies here to  
understand that you are doing the best you can for

1 consumers and for insurance companies, being  
2 innovative of new products, helping the consumer to  
3 make sure that they're protected when they need to  
4 be protected.

5 You need to let companies nationwide know that  
6 Florida is a good place to come to do insurance  
7 business. It's a very difficult place to do  
8 business just because of our location and because  
9 we have catastrophic events that occur. But with  
10 reinsurance and the alternative capitals that we've  
11 drawn here over the years, I think we can go out  
12 and solicit companies to come here and be part of  
13 the solution.

14 What Professor Andrew taught us in 1992 was,  
15 you need to spread your risk in Florida. We've  
16 been in basically property insurance crisis since  
17 Professor Andrew came, and then with '04 and '05  
18 adding on to that.

19 So we always have that out there hanging over  
20 our heads, and so we learned the lesson -- a  
21 difficult lesson, that you need to spread your  
22 risk. And to spread your risk, you need more  
23 companies writing and everyone taking a little  
24 piece of it.

25 So one of my things that I would do is be

1 promoting new companies to come, not just for  
2 property insurance, but other lines as well to come  
3 to Florida and bring jobs. I know that Nationwide  
4 is planning on bringing 1200 new employees to  
5 Florida shortly, and I would encourage other  
6 companies to bring their employees to come to  
7 Florida.

8 I guess it's attitude too. I understand  
9 everything that -- why the Office of Insurance  
10 Regulation does what they do, but it's graded a  
11 D minus on -- by the insurance companies, I mean  
12 just -- a lot of that is just on -- they don't  
13 understand what the Office is doing, and maybe  
14 do more communication on why Florida is a good  
15 place to come and do business and why we have the  
16 great department that we do and how we can prove  
17 it.

18 So I guess bottom line, to change things, I  
19 would have an attitude that we're serving the  
20 consumer, we're serving the companies, and we want  
21 to be the best.

22 GOVERNOR SCOTT: Does anybody have any  
23 questions?

24 CFO ATWATER: Mr. Blacklidge, how about, if  
25 you wouldn't mind, what do you believe are the most

1 relevant experiences that you have had the  
2 opportunity to exercise in the private sector that  
3 makes you a strong candidate for this role? What's  
4 the relevance of that work to what you would be  
5 doing in this role?

6 MR. BLACKLIDGE: Well, I've had a long, broad  
7 background, and it started out as an attorney  
8 practicing insurance defense litigation, plus  
9 having a large general practice representing  
10 consumers; so that started back in the '80s.

11 And then I worked at the Alliance of American  
12 Insurers. I represented 270 property and casualty  
13 insurance companies, so having 270 different  
14 bosses. You know, so going down to four bosses,  
15 not such a big deal for me. It was more difficult  
16 bringing consensus of the industry together,  
17 believe it or not, on issues than I think it would  
18 be in getting people who are trying to do the best  
19 things for the State of Florida and Your Honors,  
20 yourselves.

21 So one of the things I did was in -- initially  
22 after Andrew, we passed the Florida Hurricane  
23 Catastrophe Fund. It was a bailout for the large  
24 insurance companies because they're the ones that  
25 got hit really hard; they lost, you know, a lot of

1 capital down in southeast Florida. But it didn't  
2 really protect the midsize and small companies.  
3 There weren't any provisions in there that would  
4 help them to fill that marketplace.

5 So we worked and I was part of the effort, the  
6 industry effort, to modify the Florida Hurricane  
7 Cat Fund. And we worked on that; and the bill was  
8 literally about that thick; and we went through it  
9 and, again, consensus-building.

10 First I had to get the Alliance members to  
11 come together and agree that this is a good way to  
12 go. Then we had to work with the industry.

13 Back then we used to have the workshops, the  
14 property committees of the Legislature would have  
15 workshops where they bring all the stakeholders in,  
16 everyone from the OIR to, you know, lawyers; to the  
17 industry; sit around a table and try to figure out  
18 what's the best answer.

19 So we passed that, and as thanks for that,  
20 my -- the Alliance of American Insurers that I  
21 worked for, we got seven new members out of that  
22 because of the efforts that I made here in Florida  
23 in the southeast.

24 I also have -- back in private practice I did  
25 petitioners' work for workers' compensation so I

1 got to understand how the system works, how the  
2 schedules work, what to do.

3 And then with the Alliance of  
4 American Insurers, we had a lot of -- at Wausau,  
5 Liberty, people that wrote workers' comp. And I  
6 was involved very heavily in an effort in Tennessee  
7 over a two-year period between '94 and '96 where we  
8 totally rewrote the workers' comp statute there. I  
9 was involved in legislation dealing with workers'  
10 comp in Georgia and here in Florida. And the  
11 reforms that we made here, I reviewed those as the  
12 process was going on here.

13 Automobile insurance, I have a broad  
14 background too going all over the country  
15 testifying on compulsory auto and NO-fault auto,  
16 and so I have a pretty good handle on how that  
17 works.

18 And way back when when I was practicing law, I  
19 did a lot of insurance defense litigation dealing  
20 with automobile insurance.

21 So I have a practical aspect on what happens,  
22 how it affects consumers, and what you need to  
23 legislate and regulate to make sure that you're  
24 protecting all the parties and everyone gets a fair  
25 shake.

1           Let's see, I have a life insurance -- I'm  
2           licensed by the State of Florida as a life, health,  
3           and variability annuity agent, so I have some idea  
4           with life insurance, and I've actually been dealing  
5           with fraternal benefit societies, life insurance  
6           societies, I think I joined in 1981, that I've been  
7           involved in fraternal benefits societies, so I have  
8           an idea of some of those issues. I may not be --  
9           the strongest area probably is not the health, but  
10          I've been following health and watching the  
11          Affordable, you know, the Affordable Care Act and  
12          how the state has been struggling with our  
13          interactions with that because it affects us all.

14          I've also -- with flood, our company is a  
15          write-your-own flood company, and we also have been  
16          seriously looking at getting into the private  
17          market and looking at some really neat tools that  
18          are out there that help the private market come to  
19          Florida. In fact, you know, we're watching that  
20          Federal bill up before the House,  
21          Representative Rozzi's bill up in the Legislature  
22          that will allow the Federal government, mortgage  
23          companies, and everyone to allow us private  
24          companies to be -- that it's okay to ensure the  
25          homes, and they'll approve that rather than using



1 FEMA.

2 I also follow FEMA just because of personal  
3 interest because I live out on the beach, and when  
4 the rates were going sky high, all my neighbors  
5 came to me, and so I've done everything from -- I  
6 went and read, you know, FEMA's budget to try to  
7 figure out where did this deficit come from and why  
8 are the citizens of Florida expected to carry the  
9 biggest burden of that.

10 And to be honest with you, the only reason I  
11 see that they were trying to do it to us here is  
12 because we're the biggest buyers, and so they were  
13 putting it -- there was NO actuary science to it,  
14 it's just that we buy a lot of policies so we got  
15 burdened with a lot of debt.

16 And let me tell you, that budget is not very  
17 clear on when they -- when they give relief, when  
18 FEMA comes out and gives relief. They give relief  
19 not only to people who own policies but they do it  
20 to people who don't, and then say, well, you have  
21 to buy a policy for the next year. Well, if they  
22 get one premium and they cancel it, the next time  
23 you have an event, they'll still pay for it, but  
24 then they say you have to do -- you know, you have  
25 to do it. The third time I guess they don't pay

1       for it.

2               But the bottom line is they're paying for a  
3       lot of money going out that they're not getting  
4       money in for, and Florida is upside down on it, and  
5       that's not fair to the citizens of Florida. And I  
6       have always been promoting -- I'm a Floridian who  
7       cares a lot about Florida. That's why I'm here.  
8       That's my motivation for being here. I care for  
9       the, you know, over 20 million citizens.

10              You had these children that were here earlier,  
11       I mean that's our future, and everything we do,  
12       all these issues that we've talked about, that you  
13       all have been being told about in Florida, they all  
14       hit each other and they all affect future  
15       generations.

16              So first of all, if you do something to the  
17       Florida Hurricane Cat Fund, it's going to affect  
18       Citizens; if you do something to Citizens, it  
19       affects Florida Hurricane Cat Fund; if you do  
20       something to either one of those, it affects the  
21       private market. So you can't just go in with a  
22       small viewpoint and say, well, we're fixing this  
23       here. Well, yeah, but now you're causing problems  
24       here and here.

25              So you need to look at a big picture, and I

1 have experience of doing that, stepping back,  
2 looking at the big picture, making sure we don't  
3 have unintended consequences that will hurt  
4 those children's, you know, future in Florida.  
5 We need to provide safety for them here in going  
6 forward.

7 I've been fortunate -- I work with the Jerger  
8 family and they've been doing insurance business  
9 since 1946 in St. Petersburg, Florida, and they're  
10 white hat people, so it makes life real easy. They  
11 truly care about our generation, the next  
12 generation, the generation after, and what's good  
13 for Florida long-term. They're not a quarterly  
14 company.

15 We sometimes do things that hurt us in the  
16 short-term but it's good in the long-term and good  
17 for Floridians in the long term; and we need to  
18 keep that in mind too as we're doing this.

19 GOVERNOR SCOTT: Commissioner.

20 COMMISSIONER PUTNAM: Talk to me about how you  
21 see the future of the auto market. You've  
22 described yourself as an auto industry expert, I'm  
23 paraphrasing, but certainly someone who has got a  
24 lot of background in that. How do you assess where  
25 we were, where we are post-reform, and what things

1 look like in the future?

2 MR. BLACKLIDGE: Well, we still -- I think we  
3 still need reform. Unfortunately the changes we  
4 made to PIP haven't quite helped as much as we  
5 would like to have.

6 So, you know, when I went around the country  
7 testifying on NO-fault insurance, we were trying to  
8 use the Canadian model and bring it to the  
9 United States because it worked up there; NO-fault  
10 auto worked up there. But you never had a state  
11 that would totally adopt the whole plan, and that's  
12 why pretty much nationwide now everyone is going  
13 away from it. It's just a process that  
14 unfortunately didn't work. NO one went full in,  
15 and if you just did part of it in, the system  
16 doesn't work.

17 So we're going to have to make some changes.  
18 But, you know, I'll do whatever you all want.  
19 You're the policymakers.

20 COMMISSIONER PUTNAM: How do you assess the  
21 future of workers' comp?

22 MR. BLACKLIDGE: Well, if I had a crystal ball  
23 and could tell you what the Florida Supreme Court  
24 was going to do, I'd feel much more comfortable;  
25 but if we get some bad decisions -- when I first --

1 the first workers' comp conference I came to in  
2 Florida was in 1994, and I was amazed on all of the  
3 vendors pulling money out of the system.

4 And I had been to conferences all over the  
5 United States, I had never seen anything like this.  
6 You could tell immediately that there's a problem.  
7 There were too many people pulling money out of the  
8 system. That costs money.

9 The same thing with homeowners, when you have  
10 too many people pulling money out of the system  
11 that doesn't need to be pulled out, it causes  
12 premiums to go up.

13 So if the Supreme Court comes down with  
14 adverse decisions on workers' comp, it's going to  
15 have to be a legislative fix. We're going to have  
16 to go back, and you guys are going to have to call  
17 the Legislature back, and we're going to have to go  
18 back to ground zero and see what their opinion says  
19 and address it.

20 But workers' comp works if you do it right.

21 COMMISSIONER PUTNAM: In the last meeting, I  
22 noted that the two folks that we were interviewing  
23 had each had the privilege of reading about  
24 themselves, which reinforces the tough nature of  
25 this job. You know, as I said to Belinda, it's a

1 hard job, it's a hot seat, a lot of stakeholders, a  
2 lot of competing interests.

3 I'd be happy to give you the same opportunity  
4 we gave the candidates the last Cabinet meeting to  
5 explain the articles that were written about their  
6 past.

7 MR. BLACKLIDGE: Yes, on Monday -- well, I'm  
8 just a simple country lawyer, I've had a few bumps  
9 in the road; but being a lawyer, I'm thick skinned.  
10 And I will always try to do what is best for  
11 Florida, and that's the most important thing you  
12 need to know about me. I'm for what's best, we're  
13 going to do whatever is best.

14 I have overcome some adversity, I think  
15 everyone does. In fact, you know, I -- when we  
16 applied for American Traditions in Modern USA's  
17 application, I applied to be officers with them,  
18 the Office of Insurance Regulation did an  
19 investigation on me and they approved me as an  
20 officer. So that was all disclosed then, so  
21 apparently they thought that I was qualified, so it  
22 shouldn't be an issue.

23 GOVERNOR SCOTT: Anything else, Commissioner,  
24 Attorney General?

25 ATTORNEY GENERAL BONDI: NO.

1 GOVERNOR SCOTT: Thank you.

2 MR. BLACKLIDGE: Well, it was a great  
3 pleasure. Thank you very much.

4 GOVERNOR SCOTT: Thanks for being here.

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2                   **INTERVIEW OF REPRESENTATIVE BILL HAGER**  
3                   **FOR COMMISSIONER OF THE**  
4                   **OFFICE OF INSURANCE REGULATION**  
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6                   GOVERNOR SCOTT: Next we have Representative  
7 Bill Hager.

8                   REPRESENTATIVE HAGER: Good afternoon,  
9 Governor. Good afternoon, Attorney General,  
10 Chief Financial Officer, and Commissioner.

11                  I'm going to spend just a couple of minutes,  
12 and then I'll get into what I know will be of  
13 interest to each of you, which are your questions  
14 if you do have them. I just want to reemphasize my  
15 background as it comes to bear on this matter, and  
16 then why I believe I can be effective for you, for  
17 this Cabinet, for this state, for the people of  
18 this state as Insurance Commissioner.

19                  I'm a Florida lawyer; I'm an expert witness in  
20 the area of insurance; I'm a reinsurance  
21 arbitrator; I'm a Florida legislator where I'm vice  
22 chairman of the Insurance Committee; I've served as  
23 an Assistant Attorney General; I've served as First  
24 Deputy Commissioner of Insurance; Commissioner of  
25 Insurance; I've served as Chief of Staff at the



1 United States Congress; I've served as legal  
2 counsel to the House of Representatives in Iowa; I  
3 was President and Chief Executive Officer of the  
4 largest workers' compensation entity in the United  
5 States providing infrastructure.

6 I've served with a degree in mathematics as  
7 General Counsel of the American Academy of  
8 Actuaries; I have a law degree from the University  
9 of Illinois; I have a philosophy that aligns with  
10 this Cabinet, which is, job creation, pro jobs.  
11 I'm in the corner of small business; I'm in the  
12 corner of lower taxes. And for those that are in  
13 doubt, I've been an elected official in this state  
14 for 15 years and on the ballot every cycle.

15 In terms of operating skills that I bring to  
16 bear on this matter, those operating skills are:  
17 Actuarial science, ratemaking. The additional  
18 skills I bring are knowledge of Florida politics  
19 for the reasons that I indicated.

20 The additional skills are -- as full knowledge  
21 of insurance consumers in the critical element and  
22 portion and position that they possess with respect  
23 to the regulation of the industry. I know the  
24 insurance industry.

25 In terms of operative issues: Workers'

1 compensation, just discussed. There are three  
2 cases pending before the Florida Supreme Court.  
3 Just the other day the First DCA, District Court of  
4 Appeals, issued an opinion striking down certain  
5 restrictions on attorney fees. As a former CEO of  
6 NCCI, by order of magnitude, were that to stand, it  
7 means rates are going to go up in the order of 20%  
8 in very short order.

9 I know homeowners insurance; I know Citizens;  
10 I know medical malpractice; and the issues that are  
11 before the Florida Supreme Court in terms of caps  
12 on noneconomic damages; I know health insurance.  
13 And the next Insurance Commissioner I believe needs  
14 to know health insurance.

15 I'm prepared on Day 1 to implement the best  
16 public policy, policy that's aligned with this  
17 Cabinet. I know insurance; I know consumers; I  
18 know insurance regulation; I know reinsurers; I  
19 know Florida; I know every line of insurance; I  
20 know the issues; I know Florida politics.

21 I can provide leadership for the Agency, for  
22 the Legislature, for the public, with this Cabinet.  
23 I have intense executive experience at leading in  
24 complex environments, and I am unafraid; unafraid  
25 to lead; unafraid to take responsibility. And to

1 the question about heat, unafraid to take the heat  
2 because it goes with the position.

3 I know these arenas at 360 degrees. So let me  
4 stop there and field any concerns or questions that  
5 you have.

6 GOVERNOR SCOTT: Does anybody have any  
7 questions?

8 CFO ATWATER: Thank you, Governor.

9 A couple of things, Mr. Hager, that I'd like  
10 to chat about. In your relevant experiences --  
11 this position, as you know, will pass judgment on  
12 whether the forms are right, whether the rates are  
13 right, whether the financials are in place, whether  
14 the skill sets are there for the management team.

15 Were those your responsibilities, to make  
16 those calls, to pass that judgment in historical  
17 roles that you've been in.

18 REPRESENTATIVE HAGER: The answer is, yes,  
19 I've dealt with -- directly with those issues.  
20 Let's just take them one at a time. Let's take  
21 policy forms.

22 As First Deputy Commissioner, as Assistant  
23 Attorney General assigned to the Department of  
24 Insurance, as Commissioner of Insurance, I had  
25 statutory obligation to -- through teams, through

1 my teams to pass judgment on whether every  
2 submitted policy form met statutory criteria. And,  
3 Mr. CFO, more importantly, met the ultimate test;  
4 and that is, whether that form at the end of the  
5 day was fair, fair to consumers, fair to insurers.

6 In terms of your -- second part of your  
7 question which is rates, I had responsibility as  
8 Commissioner, as First Deputy Commissioner to pass  
9 judgment on rates. I held rate hearings in rooms  
10 as much as this in which complex actuarial  
11 testimony was provided, often controverted, often  
12 challenged. But I had responsibility to enter  
13 final decisions as it relates to rates.

14 On the industry side, as President and  
15 Chief Executive Officer of NCCI, during my tenure I  
16 had responsibility to put in place about  
17 a hundred billion, with a B, dollars, of  
18 workers' compensation rates that were formulated  
19 against the best of actuarial methodologies and  
20 standards. And not just to formulate those, but to  
21 take those forward -- take those forward to  
22 commissioners who had the ultimate right,  
23 appropriately, and judgment to enter with respect  
24 to the question of whether those rates were on the  
25 mark or not. I did that.

1 I believe your question went to solvency as  
2 well as -- in the position I held previously, I had  
3 responsibility to declare companies either under  
4 administrative review, which is the first level in  
5 which in -- in confidentiality, you take over some  
6 of the financial aspects of the insurance company.

7 Concurrent in the step up, I had  
8 responsibility with respect to rehabilitation in  
9 which you publicly take control of the company,  
10 shake it, and see whether you can save the company.

11 Ultimately I had responsibility to declare  
12 companies insolvent, and I did so. And I through  
13 teams went into the state district court and  
14 petitioned the court for a declaration that,  
15 against statutory criteria, that insurance company  
16 was, in fact, insolvent.

17 And just to follow-up on part of the  
18 discussion here, Belinda Miller is on the mark; and  
19 that is, when you have insurance companies that  
20 start to teeter in that process, the secret is to  
21 move with speed, because if you do not, you get a  
22 downward spiral, that picks up speed and volume and  
23 the insolvency becomes much greater than if you  
24 act -- when you act properly in terms of balance.

25 CFO ATWATER: Let me ask about the background

1       regarding our reinsurance. As I think you've  
2       observed, particularly for those residents of  
3       Florida that live in proximity of the coast, the  
4       reinsurance portion of the cost of their premium,  
5       of their ability to own that home is significantly  
6       impacted by the reinsurance -- magnitude of the  
7       reinsurance and the cost of reinsurance which,  
8       you know, maybe speaks also to the size.

9               With your background, how about offering some  
10      insight into your ability to maintain doing right  
11      by those players that are going to, by your  
12      observation or by the Department's observation, has  
13      sufficient reinsurance and how that ultimately,  
14      again, squares with the consumer getting the best  
15      possible options and choices in a marketplace in  
16      affordability.

17             REPRESENTATIVE HAGER: Fair question. I do  
18      have significant experience in reinsurance. I'm a  
19      reinsurance arbitrator. I sit in cases regularly  
20      in disputes between reinsurance companies and their  
21      underlying insurers. As a regulator, I dealt  
22      routinely with reinsurance.

23             The Florida Office of Insurance Regulation has  
24      a series of tests that they run against insurance  
25      companies to make sure that the reinsurance levels

1 are sufficient. In addition -- and those are  
2 appropriate and good tests.

3 In addition to those particular tests, the  
4 State of Florida, as you know, owns and operates a  
5 reinsurance company. It's got a name, it's called  
6 the acronym, the Cat Fund, and it covers the -- if  
7 you think about a corridor, say, of  
8 a hundred billion dollars of loss, it covers the  
9 first 17 billion of loss with a whole series of  
10 caveats.

11 That's a very effective tool, and it's worked  
12 well, and it's worked well in terms of providing  
13 stability in this state to the homeowners insurance  
14 market. Every insurance company -- excuse me,  
15 every homeowners insurance company is required by  
16 law to purchase that insurance. It's worked  
17 extremely well to the benefit of policyholders, to  
18 the benefit of insurers.

19 CFO ATWATER: Mr. Hager, you've mentioned  
20 philosophy in the conversation. Where does the  
21 philosophy put the consumer -- when you've talked  
22 about solvency, you've talked about market conduct,  
23 we've spoken about reinsurance, where does the  
24 consumer fit in this conversation?

25 REPRESENTATIVE HAGER: The consumer fits,

1 Mr. CFO, front and center, and does so because the  
2 heritage of insurance regulation recognizes a very  
3 simple phenomena, very simple concept. And that  
4 concept is insurance companies -- the sale of  
5 insurance within the United States is the only  
6 product sold in the commercial market in which the  
7 vendor, the seller of the product, collects the  
8 cost or the money for that product before  
9 delivering the product. So the insurance company  
10 issues a contract, collects the premium, and then  
11 promises to pay the claim, which is the product.

12 Now the catch is, it can be 70, seven zero,  
13 years between when that money is collected --  
14 for example, with a whole life insurance policy --  
15 and the claim is paid. Workers' compensation, it  
16 can be 50 years in which an insured is -- a worker  
17 is injured, is a quadriplegic at age 20 and has the  
18 right to draw benefits through old age.

19 And so the secret is, much of the statutory  
20 framework is to assure that the money is there to  
21 pay the claims; that's Number 1.

22 Number 2, the statutes are there, for example,  
23 the Unfair Claim Practices Act is there to assure  
24 that in these contracts of adhesion, fairness is,  
25 in fact, delivered to policyholders. And



1 ultimately the entire structure has as its core and  
2 at its core, the assurance that in this arena,  
3 policyholders are treated with fairness and  
4 evenhandedness.

5 CFO ATWATER: Thank you.

6 GOVERNOR SCOTT: Commissioner?

7 COMMISSIONER PUTNAM: NO.

8 GOVERNOR SCOTT: Attorney General?

9 ATTORNEY GENERAL BONDI: NO.

10 GOVERNOR SCOTT: Thank you, Representative.

11 REPRESENTATIVE HAGER: Thank you. Thank you  
12 for your time.

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1                   **INTERVIEW OF JEFFREY BRAGG**  
2                   **FOR COMMISSIONER OF THE**  
3                   **OFFICE OF INSURANCE REGULATION**  
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5                   GOVERNOR SCOTT: Last we have Jeffrey Bragg.  
6                   Good afternoon.

7                   MR. BRAGG: Thank you, Governor, members of  
8                   the Cabinet. I thought I would just make a very  
9                   brief opening remark; and that is, that in the many  
10                  ways I am the most unique candidate for  
11                  Insurance Commissioner here today.

12                 I have 15 years public experience; 30 years --  
13                 25 years private sector experience in the insurance  
14                 and insurance information technology industries. I  
15                 ran the National Flood Insurance Program; the  
16                 National Crime Insurance Program; the National Riot  
17                 Reinsurance Program; and of course, most recently,  
18                 the Terrorism Risk Insurance Program.

19                 Commissioner Putnam, I have not yet run the  
20                 National Crop Insurance Program, but it does remain  
21                 on my bucket list.

22                 So I think with that unique experience, I  
23                 bring a fresh perspective, an ability to look at  
24                 problems with a different set of eyes. And I'm  
25                 looking forward to working with this Cabinet as we

1 go forward and attempt to solve the insurance  
2 issues for Florida.

3 GOVERNOR SCOTT: Does anybody have any  
4 questions?

5 CFO ATWATER: Yeah, Governor, I do.

6 Mr. Bragg, welcome back. Good to see you  
7 again.

8 How about if we would walk through similar  
9 questions that we've been talking about, relevant,  
10 the relevant experiences in -- from the regulatory  
11 background; holding the players accountable for the  
12 forms that they would bring forward; the product  
13 that they are bringing forward as private-sector  
14 players to compete; or the ratemaking,  
15 decision making that the person's role must  
16 ultimately be accountable for, adequate rate and  
17 yet not excessive. If you could align that with  
18 the regulatory experiences that you expressed in  
19 your background.

20 MR. BRAGG: Yeah, I think there's a little bit  
21 of a misunderstanding about the role of some of  
22 these Federal programs that I administered. They  
23 are not regulatory in the standpoint of the  
24 similarity to a state insurance department. I've  
25 never worked for a state insurance department.

1        Nevertheless, there are and were substantial  
2        regulatory oversight that I had over insurance  
3        companies.

4            For example, in the Terrorism Risk Insurance  
5        Program, we approved and -- dictated and approved  
6        and reviewed language that set forth the  
7        notification that they were required to give to  
8        policyholders, both in terms of availability and in  
9        terms of notifying them on the pro rata possibility  
10       of claims payments should an event exceed a certain  
11       level.

12           We approved all of their claims forms. We set  
13       out the procedures that they would have to follow  
14       in order to get their claims paid. We had audit  
15       responsibilities, not only in terms of their  
16       compliance with our program, with our forms, but  
17       also with respect to the claims.

18           Our program would have gone back and audited a  
19       hundred percent of the companies who suffered a  
20       loss during a qualified event and review their  
21       claims to make sure that not only was the Federal  
22       share the appropriate amount that was paid, but  
23       also even that the underlying claims that led to  
24       their request for Federal share were paid properly.

25           We also had penalties in place so that if they

1 failed to comply with the regulations of the  
2 program, we could fine them. And certainly, if we  
3 found a series of abuse, intentional abuse, we had  
4 criminal penalties that we could impose on  
5 insurance companies.

6 And that's just with the Terrorism Insurance  
7 Program. We also had responsibility for rates  
8 under the Write-Your-Own Flood Insurance Program,  
9 the forms that the companies used, the coverages  
10 that they provided. And we had market conduct  
11 studies that we would deploy in order to make sure  
12 that those companies were in full compliance. And  
13 in some cases we had to remove companies. Some  
14 companies had been removed from that program for  
15 failure to comply.

16 So that's, you know, kind of an abbreviated  
17 version of the regulatory requirements that we  
18 imposed and monitored against.

19 GOVERNOR SCOTT: Are there any other  
20 questions?

21 ATTORNEY GENERAL BONDI: NO.

22 GOVERNOR SCOTT: Okay. Thank you.

23 I want to thank everybody that has gone  
24 through this public process because as I think the  
25 CFO and the Commissioner said, you get -- some

1 people put some things in the press to talk about  
2 you, so I want to thank everybody for going through  
3 that. All of us up here have gone through that a  
4 lot.

5 So my belief is we need an  
6 Insurance Commissioner who is a proven leader who  
7 can facilitate a stable and competitive insurance  
8 market while most importantly ensuring Florida's  
9 consumers are protected. I believe Jeff Bragg can  
10 do that. He has 40 years of experience in the  
11 public and private sector of the insurance  
12 industry.

13 Most recently he served as Executive Director  
14 of the Federal Terrorism Risk Insurance Program,  
15 creating a new regulatory program in a post-911  
16 world from the ground up. He's an accomplished  
17 professional.

18 In the private sector, he served at the  
19 highest levels of various insurance companies and  
20 became an expert in various insurance lines,  
21 including property and casualty, health, life, and  
22 reinsurance. He has tremendous subject matter and  
23 operational knowledge of the insurance industry,  
24 making him an undeniable fit for the  
25 Insurance Commissioner.

1 I move to appoint Jeffrey Bragg as  
2 Commissioner of Office of Insurance Regulation at a  
3 salary of \$150,000.

4 Is there a second?

5 (NO RESPONSE).

6 GOVERNOR SCOTT: So it doesn't look like there  
7 will be a second so let's go forward.

8 Where do we go from here? We're about what,  
9 30 plus days away from hurricane season. I think  
10 it's important that we have a permanent Insurance  
11 Commissioner.

12 The -- Commissioner McCarty graciously offered  
13 to postpone his resignation. I didn't know about  
14 this. I was not contacted about it, it surprised  
15 me. I don't know if he spoke to other members of  
16 this -- the members of the Cabinet.

17 ATTORNEY GENERAL BONDI: I read it in the  
18 newspaper.

19 GOVERNOR SCOTT: Yeah. We've gone through a  
20 very public process. After his resignation, we've  
21 had 71 applications. I know in  
22 Commissioner McCarty's case, his interest is in  
23 moving on. I think we need to have a permanent  
24 replacement.

25 If we had any interest in going forward with

1 him, we needed to make -- give notice and take a  
2 vote because it would be a reappointment. I think  
3 we need to have somebody that's solely focused on  
4 this job and not where they're going next.

5 So I'm going to call for a Cabinet meeting on  
6 Friday at 9 a.m. I'll add two more individuals to  
7 be publicly interviewed: David Altmaier and  
8 Rich Robleto. And I don't know if anybody else  
9 other names, but we can go forward with other  
10 names.

11 ATTORNEY GENERAL BONDI: This Friday?

12 GOVERNOR SCOTT: Yeah.

13 ATTORNEY GENERAL BONDI: I'm not in town this  
14 Friday, Governor.

15 GOVERNOR SCOTT: We can do it by phone.

16 ATTORNEY GENERAL BONDI: By phone?

17 GOVERNOR SCOTT: Yeah, let's do it by phone.

18 CFO ATWATER: Governor, first of all, I think  
19 that the process that you've laid out that we've  
20 been following is one that is really one I think  
21 that the people of Florida would be pleased with,  
22 that we've gone through casting a wide net,  
23 providing a tremendous amount of notice; and some  
24 very talented people have put their name in the hat  
25 and have come forward and visited with us.



1           And it was obviously statutorily designed that  
2           we'd have to work through this, we'd have to take  
3           the time, take the care, and that there would be NO  
4           individual that could influence a unique outcome,  
5           it would be a consensus-building outcome.

6           And so just I think it's important for those  
7           who are watching us work through this process, that  
8           this is what was meant to -- actually meant to  
9           happen, that we'd come together, we'd have the  
10          privilege and the pleasure of seeing and visiting  
11          with individuals about their experiences, about  
12          their interests, the relevance of their life  
13          experiences to this role. So I don't find that  
14          after two meetings with this many talented  
15          individuals that have put their name forward with a  
16          position of such consequence that we're doing  
17          anything other than serving the people of Florida  
18          just as this was just designed to do.

19          I might also, if you don't mind -- I  
20          appreciate that you're opening this up for  
21          conversation because I feel today's visits were,  
22          again, a very healthy part of this process. And  
23          from my perspective, you've offered some commentary  
24          on an individual that you wish to put forward  
25          today, and I respect both the choice and your

1 findings, a talented individual.

2 I too come to this with a probably --  
3 certainly an acute awareness of the relationship  
4 which the Department of Financial Services and the  
5 Department of -- or the Office of Insurance  
6 Regulation, how closely we work together in matters  
7 every day, whether it's in matters of solvency.

8 As I mentioned, we're now the owners in our  
9 department of managing 36 different companies from  
10 all types of lines of business, and we are also  
11 responsible for fraud fighting and the  
12 responsibility of the Department in its care that  
13 they're -- that the fraud units of each of these  
14 marketplace players is vibrant and robust and  
15 they're doing their job, having the responsibility  
16 of the consumer advocate and of all consumer  
17 services relating to the manner by which  
18 customers -- consumers are taken care of is our  
19 Department responsibility. So, again, there is a  
20 very close relationship with the Department.

21 So I wonder if we could continue the  
22 conversation for just a few more minutes today as  
23 to what we're looking for that might be healthy in  
24 the next round in this conversation, that I think  
25 that would be beneficial. I certainly wouldn't

1 mind if anyone else wanted to share insights into  
2 what they're looking for.

3 But what I felt today, and certainly felt I  
4 heard today, and relevant either -- again,  
5 statutorily how this is constructed is that in  
6 recent years, regulatory role, or in recent years  
7 private-sector roles, or putting that together,  
8 individuals that might have the best chance for  
9 success in the role and understanding dynamics to  
10 Florida, understanding the responsibilities and  
11 duties as this regulator.

12 And so I just would want to say -- to be sure  
13 I don't miss out on the opportunity, I thought we  
14 heard from four very competent and capable  
15 individuals today. And I would say from my  
16 standpoint, the relevant experiences, the capacity  
17 to perform, I felt particularly comfortable with  
18 both Mr. Hager's understanding and recent  
19 experiences and past experiences, as well as  
20 Belinda Miller's life experiences and relevant --  
21 or recent experiences.

22 And if it might, I'd -- Governor, I don't know  
23 if this is to open it up for conversation about  
24 what we've heard today from -- because in the end,  
25 it may be that this is designed that two votes have

1 to be aligned, but three votes it takes to carry  
2 the day in us bringing forth a new Commissioner.

3 And I might find value in other perspectives  
4 of our colleagues who will be joining us at some --  
5 you know, at that point, that vote matters; that  
6 those -- that opinion matters of our colleagues,  
7 and I'd be very interested in getting any other  
8 feedback and hearing what we're looking for from  
9 here.

10 ATTORNEY GENERAL BONDI: I mean I've thought  
11 a lot about this, and I think there's a reason  
12 why the Chief Financial Officer and the Governor  
13 must decide together before the Commissioner and I  
14 vote.

15 I would hope -- I am confident that the two of  
16 you gentlemen can come to an agreement as to who  
17 you believe -- just like on criminal matters, I  
18 think -- I hope -- I seem to feel you listen to me,  
19 and that's what I plan on doing. On agricultural  
20 issues, I listen to the Commissioner.

21 And I would hope that once you two gentlemen  
22 come to an agreement, unless I believe someone is  
23 woefully inadequate, which I hope I won't based on  
24 the two of you and your great experience in this  
25 field, then hopefully I'll be able to back your

1 candidate; but I think the two of you need to come  
2 to an agreement first.

3 COMMISSIONER PUTNAM: Governor, I share your  
4 concern -- well, I think I share everyone's concern  
5 that we have a permanent replacement, to the  
6 greatest extent possible, either before hurricane  
7 season or shortly after it technically begins. We  
8 know the bulk of that tends to be a little later in  
9 the summer, so it's not a carved-in-stone date but  
10 it's an aspirational thing, absolutely.

11 It's also important that we send a strong  
12 message to markets, outside the world that,  
13 you know, the regulatory environment in Florida is  
14 welcoming to new entrants and that consumers are  
15 going to enjoy someone that has their best interest  
16 in mind and that this -- but this process,  
17 you know, needs to be thorough, but we need to  
18 start eyeballing the runway here.

19 You know, I think that we have been fortunate  
20 to have some exceptional candidates. I think it's  
21 important that we have people who have a blend of  
22 experience in and out of the private sector. I  
23 like to see the private-sector experience, but I  
24 also think that if they've done a tour of duty at  
25 some point in their career in the public sector to

1       see what it's like on the other side of the  
2       regulatory wall, that that adds enormous benefit  
3       and shaves the learning curve because it is very  
4       different. And we have a number of candidates I  
5       think who meet that test.

6               I think an intimate awareness of Florida is  
7       very important. I'm not interested in parachuting  
8       in someone to learn Florida in the middle of a  
9       hurricane season, so -- and we have candidates who  
10      meet that test, so I -- there are a number of  
11      candidates that we have interviewed that I feel  
12      meet my test and are qualified; but like the  
13      Attorney General, you know, I would observe that  
14      our State Constitution lays out a very clear  
15      process where y'all are first among equals.

16             And so if we need to be on the phone on Friday  
17      at 9, we'll be on the phone Friday at 9, and we'll  
18      keep -- we'll roll up our sleeves and we'll work  
19      through this. This is -- we're certainly willing  
20      to do that.

21             But I appreciate the additional work that you  
22      two gentlemen are putting into this, and I think  
23      that we've -- I've benefited from the questions  
24      that you've asked and the background that you're  
25      eliciting from these applicants, and I think that

1 we're going to end up with the right pick.

2 But we're -- within some reasonable period of  
3 time, we need to get there. There is a point of  
4 diminishing returns at some point on how long it's  
5 going to take us to get there. We're not there  
6 yet, but we can see it from where we're standing.

7 GOVERNOR SCOTT: I think we have to -- I  
8 think -- don't we have to do 48 hours notice?

9 MS. OLSON: Twenty-four.

10 GOVERNOR SCOTT: Is it 24? So if anybody  
11 wants any other names listed for Friday, we'll just  
12 do it by phone. Of course, if somebody is here,  
13 you can do it, but we'll do it by phone.

14 ATTORNEY GENERAL BONDI: And just a  
15 suggestion, perhaps on Friday if -- I mean, again,  
16 I don't see -- this is a poor choice of words, but  
17 woefully inadequate. I don't see any -- as the  
18 Commissioner's said, any of these candidates in my  
19 eyes as completely inadequate. I think they're  
20 qualified.

21 But I think, gentlemen, if you're not going to  
22 budge on one of these candidates, then you need to  
23 say that so we can just strike them off the list  
24 and move on because, again, we're entering  
25 hurricane season and we need to all work together

1       on this. This a very important appointment,  
2       especially for our state, more than any other state  
3       in the country, frankly.

4               GOVERNOR SCOTT: All right. Thanks everybody.  
5       Thanks everybody for your hard work.

6               The meeting is adjourned.

7               (WHEREUPON, THE MEETING WAS ADJOURNED) .

8  
9  
10                       \*                       \*                       \*                       \*



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