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STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND
CABINET

_____ /

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

DATE: TUESDAY, OCTOBER 25, 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 October 25th Cabinet meeting. To begin our meeting, I would like to welcome Bailee Salter to lead this morning's invocation.

Please remain standing after the invocation for the Pledge of Allegiance led by Caleb Neely.

Following the Pledge, we have the singing of the National Anthem led by Caroline Kelly. So if everybody would stand up.

* * * *

DEPARTMENT OF REVENUE

GOVERNOR SCOTT: Next I'd like to recognize
Leon Biegalski with the Department of Revenue.

Good morning, Leon.

EXECUTIVE DIRECTOR BIEGALSKI: Good morning,
Governor Scott, Attorney General Bondi,
CFO Atwater, Commissioner Putnam.

This really pales in comparison to that. The
Department of Revenue has one agenda item for you
today. We respectfully request approval of an
authority to publish notice of proposed rule in the
Florida Administrative Register for rules related
to general tax administration. The proposed
amendments revise forms to reflect statutory
changes as a result of the 2016 legislative
session, it updates annual tax rates, and clarifies
forms to improve readability.

GOVERNOR SCOTT: Is there a motion on the
item?

ATTORNEY GENERAL BONDI: So moved.

GOVERNOR SCOTT: Is there a second?

CFO ATWATER: Second.

GOVERNOR SCOTT: Comments or objections?

(NO RESPONSE).

1 GOVERNOR SCOTT: Hearing none, the motion
2 carries.

3 Thanks, Leon.

4 EXECUTIVE DIRECTOR BIEGALSKI: That's it.

5 GOVERNOR SCOTT: Thank you for your hard work.

6 EXECUTIVE DIRECTOR BIEGALSKI: Thank you.

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DEPARTMENT OF VETERANS' AFFAIRS

GOVERNOR SCOTT: Next I'd like to recognize Glenn Sutphin with the Department of Veterans' Affairs.

EXECUTIVE DIRECTOR SUTPHIN: Again, good morning, Governor, General Bondi, CFO Atwater, Commissioner Putnam.

The Department of Veterans' Affairs has five agenda items for your consideration today.

Item Number 1 is the minutes from August 2, 2016, Cabinet meeting. Respectfully request approval.

GOVERNOR SCOTT: Is there a motion on the item?

ATTORNEY GENERAL BONDI: So moved.

GOVERNOR SCOTT: Is there a second?

CFO ATWATER: Second.

GOVERNOR SCOTT: Comments or objections?

(NO RESPONSE).

GOVERNOR SCOTT: Hearing none, the motion carries.

EXECUTIVE DIRECTOR SUTPHIN: Item Number 2 is the minutes from September the 20th, 2016, Cabinet meeting. Again, we respectfully request approval.

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

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 EXECUTIVE DIRECTOR SUTPHIN: Agenda Item
11 Number 3 is the Agency's third quarter report for
12 FY 2015/2016. We respectfully request approval.

13 GOVERNOR SCOTT: Is there a motion on the
14 item?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 COMMISSIONER PUTNAM: Second.

18 GOVERNOR SCOTT: Any comments or objections or
19 questions?

20 (NO RESPONSE) .

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

23 EXECUTIVE DIRECTOR SUTPHIN: Agenda Item
24 Number 4 is the Agency's fourth quarter report for
25 FY 2015/2016. Respectfully request approval.

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

3 ATTORNEY GENERAL BONDI: So moved.

4 COMMISSIONER PUTNAM: Second.

5 GOVERNOR SCOTT: Any comments or objections?

6 (NO RESPONSE).

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

9 EXECUTIVE DIRECTOR SUTPHIN: Item Number 5 is
10 the Agenda's (sic) performance measures, and I want
11 to thank you all for your staff's patience as we
12 drilled down trying to make sure that we came up
13 with those things that can actually show what the
14 Agency is doing, and also supports our LBR,
15 Legislative Budget Request.

16 It's taken a lot of time to put in there
17 the -- you may say that you don't have
18 Bobby Carbonell's Florida veterans in there, but
19 that is an extremely important piece to us, of
20 success to our veterans, and will be an item of
21 interest in our quarterly reports. So it will be
22 there, and we'll be looking at that.

23 Subject to your questions or comments,
24 respectfully request approval.

25 GOVERNOR SCOTT: Is there a motion on the

1 item?

2 COMMISSIONER PUTNAM: So moved.

3 GOVERNOR SCOTT: Is there a second?

4 ATTORNEY GENERAL BONDI: Second.

5 GOVERNOR SCOTT: Any comments or objections?

6 (NO RESPONSE).

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

9 EXECUTIVE DIRECTOR BIEGALSKI: Thank you for
10 your time, sir.

11 GOVERNOR SCOTT: Thank you, Glenn.

12 * * * *

HIGHWAY SAFETY AND MOTOR VEHICLES

GOVERNOR SCOTT: Next I'd like to recognize Terry Rhodes with the Department of Highway Safety and Motor Vehicles.

And by the way, Highway Safety did a great job during the Hurricane. We had significant evacuations along the east coast, and the roads were kept open; and there was minimum con -- very little congestion; and your team just did an outstanding job. So congratulations.

ATTORNEY GENERAL BONDI: Thank you.

EXECUTIVE DIRECTOR RHODES: Thank you, Governor, we appreciate that. And they did do a good job, and I think you did as well. You were there every day, so -- and you were thanking everyone on behalf -- on the Patrol, so we appreciate that. Thanks.

Good morning, General, CFO, Commissioner.

We've got two agenda items for your consideration. The first item being, we respectfully request approval of the September 20th Cabinet meeting minutes.

GOVERNOR SCOTT: Is there a motion on the item?

1 COMMISSIONER PUTNAM: So moved.

2 GOVERNOR SCOTT: Is there a second?

3 ATTORNEY GENERAL BONDI: Second.

4 GOVERNOR SCOTT: Comments or objections?

5 (NO RESPONSE).

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

8 EXECUTIVE DIRECTOR RHODES: Thank you.

9 The second item is we want to request approval
10 of the Department of Highway Safety's legislative
11 concepts for the upcoming Session. Again, these
12 are concepts just to present to you. I can review
13 each one's -- you know, each of the proposals, or
14 answer any questions you have. I can list them
15 down, whichever you prefer.

16 GOVERNOR SCOTT: I think we've already read
17 them.

18 Does anybody have any questions?

19 ATTORNEY GENERAL BONDI: I don't.

20 CFO ATWATER: No.

21 EXECUTIVE DIRECTOR RHODES: Okay.

22 GOVERNOR SCOTT: All right. Is there a
23 motion?

24 CFO ATWATER: So moved.

25 GOVERNOR SCOTT: Is there a second?

1 ATTORNEY GENERAL BONDI: Second.

2 COMMISSIONER PUTNAM: Second.

3 GOVERNOR SCOTT: Florida law requires the
4 Governor to independently review legislation upon
5 passage. Accordingly, I am abstaining from the
6 vote.

7 Any other comments or objections?

8 (NO RESPONSE).

9 GOVERNOR SCOTT: Hearing none, the motion is
10 carried -- approved with one abstention.

11 Thanks, Terry.

12 EXECUTIVE DIRECTOR RHODES: Thank you.

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OFFICE OF FINANCIAL REGULATION

GOVERNOR SCOTT: Next I'd like to recognize
Drew Breakspear with the Office of Financial
Regulation.

You don't look like Drew.

UNIDENTIFIED SPEAKER: That's right, I'm not.
Could we be moved to the end of the agenda?

GOVERNOR SCOTT: Yes.

UNIDENTIFIED SPEAKER: Thank you.

GOVERNOR SCOTT: Thanks.

* * * *

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

GOVERNOR SCOTT: Next I'd like to recognize --
is Jon Steverson here?

(NO RESPONSE) .

GOVERNOR SCOTT: Nope. Jon is not here yet.
So let's see what we have next. I think we're
running ahead, so let's take --

MS. OLSON: The Secretary is here. We'll find
him.

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

(BRIEF RECESS) .

GOVERNOR SCOTT: Jon, why don't we do the --
the things that are just more formality? We'll do
that. So let's do that while we wait for the
Attorney General?

So why don't you come on up?

Let's go ahead and do Item 1, the minutes. So
is there a motion on the minutes?

COMMISSIONER PUTNAM: So moved.

GOVERNOR SCOTT: Is there a second?

CFO ATWATER: Second.

GOVERNOR SCOTT: Comments or objections?

(NO RESPONSE) .

1 GOVERNOR SCOTT: Hearing none, the motion
2 carries.

3 I guess the next one is the acquisition.
4 Let's -- we need to wait on that.

5 (WHEREUPON, ATTORNEY GENERAL BONDI RETURNED).

6 GOVERNOR SCOTT: So we're going to go ahead
7 and do Jon's.

8 ATTORNEY GENERAL BONDI: Oh, okay.

9 SECRETARY STEVERSON: Good morning.

10 GOVERNOR SCOTT: So we went ahead and did the
11 minutes. So we're at Item 2, the land acquisition.

12 SECRETARY STEVERSON: Thank you, Governor and
13 Cabinet.

14 And, Governor, with your permission, if I may.

15 GOVERNOR SCOTT: Yeah.

16 SECRETARY STEVERSON: Commissioner Putnam, you
17 had asked for an update on the Mosaic New Wales
18 incident at the last Cabinet meeting, which
19 obviously we were responding to the hurricane at
20 that point in time. I'd like to bring that forward
21 to the Cabinet today.

22 The good news is we've had a lot of movement
23 on that issue since the last meeting. So I
24 apologize for the two-week delay, but we've had a
25 lot of good things happening from that.

1 If you look at the immediate response of what
2 happened here, pursuant to law, Mosaic notified
3 DEP, the EPA, the State Watch Office, and the
4 National Response Center. Within 24 hours of that
5 notification, DEP's phosphogypsum management
6 section initiated an onsite investigation.

7 We verified that the recovery wells were
8 operational. We also directed an expedited
9 additional recovery well operation, watched
10 transfers from that water cell. We had actual
11 water moving into other line cells. And then we
12 also increased the groundwater data collection, and
13 we reviewed and analyzed data from onsite network
14 monitoring wells.

15 And I know we're going to cover the science of
16 this matter here today, but I know the focus has
17 been on the communication. And for that, you know,
18 the Department can do a better job, and we've
19 learned from that.

20 And with the Governor's direction, we now have
21 a new public notification rule. And that rule
22 ensures that everyone will know within 24 hours of
23 any type of incident of this type of -- of this
24 incident. We'll be out there, and we'll be in the
25 public. That will be automatically noticed.

1 Within 48 hours, if there's any potential
2 onsite impacts leaving that site and going offsite
3 to any surrounding land owners, they will know
4 there. And then within 24 hours of that, we have
5 the duty to inform beyond there.

6 So what are we doing to improve that
7 communication --

8 GOVERNOR SCOTT: Can we just go back to the --

9 SECRETARY STEVERSON: Yes, sir.

10 GOVERNOR SCOTT: So we did an emergency rule,
11 and we will be doing a -- going through the
12 rulemaking process, right?

13 SECRETARY STEVERSON: Correct, Governor.
14 We're going through the rulemaking process right
15 now. In fact, we've had seven hearings all around
16 the state; and one of those is occurring today here
17 in Tallahassee.

18 GOVERNOR SCOTT: So the goal is if anybody has
19 any -- you saw the emergency rule. If anybody has
20 any suggestions on the rule, we want to get those
21 in as early as possible, so --

22 SECRETARY STEVERSON: Yes, sir.

23 GOVERNOR SCOTT: I mean I've already had lots
24 of people call me about it, so --

25 SECRETARY STEVERSON: I'm sure. It's a very

1 strong rule and ensures that everyone in the state
2 is notified about what's occurring in their
3 environment.

4 So what are we at the Department going to do
5 to continue to improve our communications? Right
6 now we have a daily update on those response
7 actions, and we send that out every afternoon. And
8 right now we have almost 3,000 people who are
9 signed up to receive this information.

10 We also have that posted on our website so
11 it's available to anyone. And this clearly lays
12 out the Department's coordination with other
13 agencies; the recovery well operations that are
14 continuing; the groundwater and drinking water
15 monitoring; and the sinkhole mapping, the current
16 status of that, where it stands; and there's a link
17 to our website as well. So continued response and
18 recovery actions.

19 Under DEP's direction, Mosaic hired a
20 contractor to test the drinking water, is
21 expediting installation of four additional onsite
22 groundwater monitoring wells. They will install an
23 additional recovery well to be operated only if
24 needed, and then they're also expediting 3-D
25 mapping and remediation of the sinkhole.

1 DEP is overseeing the contractor's efforts to
2 test the drinking water, collecting our own samples
3 for additional assurances, and providing
4 independent drinking water testing coordinated with
5 the Department of Health.

6 So when you look at the actual hole, there's
7 been a lot written and said about what has occurred
8 here, and you'll hear this 250-foot plus depth. If
9 you look at the very top of this graph, you'll see
10 a line at 340.

11 That is the top of the gypsum stack. So you
12 have about 200 feet of gypsum stacked above what
13 I'm going to call ground level or what you would
14 call grade. And that's roughly at that 160 marker
15 on yours, if you can see -- and I know it's a
16 little bit tough on the screen; but if you can see
17 on the paper, it's Line C down there.

18 So from Line C to the bottom then, to A, you
19 have about 50 to 60 feet. That's where we
20 experience what we call the ground cover collapse,
21 which is an average depth of a sink hole in this
22 region. It is a wider depth than we're used to
23 seeing, but that is where the actual sinkhole has
24 occurred.

25 If you look at the groundwater monitoring map

1 we have up here, you'll see what's known as the
2 gypsum stack there in roughly the middle of the
3 document. There where the triangle is where the
4 sinkhole actually opened up. This is a three-mile
5 radius around that region.

6 And then this slide here will show you all the
7 extensive monitoring network, all the groundwater
8 wells that were already in place onsite because
9 these actions were contemplated. In the permit, it
10 was a requirement that they have the groundwater
11 monitoring wells.

12 GOVERNOR SCOTT: Hey, Jon, can you explain how
13 the water should move?

14 SECRETARY STEVERSON: Absolutely, Governor.
15 That's a great question.

16 In this area, it has been extensively mapped
17 and modeled. We know that the groundwater moves at
18 a very slow rate to the west. It's what you would
19 call down gradient within the aquifer. It will
20 move to the west.

21 We haven't seen any of that migration at the
22 time. I was getting ready to talk about the
23 recovery wells. That's the next slide here. And
24 sorry, sir, if I may go back, just one moment.
25 These groundwater monitoring wells range from

1 30 feet to a depth of 750 feet. So we have
2 surficial, intermediate, and the Floridan aquifer
3 tested repeatedly.

4 The next slide you'll see is the red dots.
5 Those are the recovery wells. P3 up there, which
6 is a little bit to the north and west of the stack,
7 was operational the day of the water loss. We
8 never saw any process water show up in that
9 recovery well.

10 And what you're looking for when you're
11 looking for process water are what you call leading
12 edge contaminants. That's going to be your sodium,
13 high sodium levels and sulphates as well. And the
14 only place we have seen that is in the recovery
15 well immediately adjacent to the stack called P4.
16 And that is where we would want to see that. We
17 are purposely pumping that water to make sure that
18 we recover any process water from there.

19 And I'm going to mention it a little bit
20 later, but those two wells are drawing roughly
21 11 million gallons a day, so we could capture
22 anything that would enter the aquifer.

23 This next graphic will show you the yellow
24 dots. These are proposed Floridan aquifer wells.
25 This is part of what we're going to require Mosaic

1 to drill in order to see if there is any migration
2 to that western gradient. Is the water moving at
3 all? And so these will be very deep wells that
4 will give us a better picture of any potential
5 movement of that water in the region.

6 And then --

7 GOVERNOR SCOTT: But right now you believe --
8 but the belief is the water is going to go north of
9 all of those wells, right?

10 SECRETARY STEVERSON: Right.

11 Now, Governor, we believe we're not going to
12 see hardly any migration of that water. And the
13 only reason we're seeing it in the recovery well at
14 P4 is because we were purposely pumping that to
15 retrieve that water, any loss.

16 GOVERNOR SCOTT: Right.

17 SECRETARY STEVERSON: If anything, you would
18 possibly see a migration directly to the west. So
19 if you're looking at that slide, just directly to
20 your left. And that's where we're putting those
21 additional groundwater monitoring wells, and we're
22 also putting in -- if you'll look, there's kind of
23 a purple dot. That's P5, that's an additional
24 proposed recovery well.

25 They will -- Mosaic will go ahead and drill

1 that well. We're hoping that we never even have to
2 use it, but it will be there ready to go. We will
3 literally flip a switch, if necessary.

4 And then lastly, I wanted to point out with
5 the green dots around. So we have this three-mile
6 radius area. The closest drinking water well of
7 public supply is in that three-mile radius. We
8 have tested up to date through Mosaic's contract
9 and we've personally done about a thousand wells.
10 And we have seen no indication of process water in
11 any of those tests.

12 So, current status, what does that mean? As I
13 said earlier, those onsite recovery wells are
14 capturing more than 11 million gallons of water per
15 day. The groundwater monitoring wells indicate the
16 process is being successfully contained onsite. No
17 private drinking water wells show impact from this
18 process water.

19 We have reviewed over 630 of those thousand
20 samples that have been tested. DEP has also --
21 yesterday we were able to come to agreement on a
22 consent order with Mosaic to ensure comprehensive
23 drinking water protection and swift response.

24 If I may, I'd like to walk you through that
25 consent order. And I think it's important to

1 understand, a consent order is a very stringent
2 enforcement document that has real deadlines and
3 real timelines, and it has the potential to allow
4 us to fine Mosaic up to \$10,000 per day per
5 violation. This has the correct enforceability
6 measures to ensure recovery and remediation actions
7 occur.

8 So Mosaic must implement a corrective action
9 and routing plan to permanently seal the sinkhole
10 and verify the long-term effectiveness of the
11 repair work. We will have this initial plan --
12 within 15 days of yesterday, we will have the
13 initial plan for this.

14 This is very important because we want to make
15 sure -- is the safety of the workers working on
16 that hole, and the last thing we want to do is have
17 anything go through that effort and then not have
18 it maintain and stay; and we want to make sure that
19 this never happens again.

20 Mosaic will continue to operate the recovery
21 well system to continue capturing impacted
22 groundwater from the Floridan aquifer and prevent
23 that migration we discussed. We do not want to see
24 any migration of the process water away from the
25 site. And they're going to install the new standby

1 recovery well to be activated, if needed.

2 Mosaic must also implement an enhanced onsite
3 monitoring program to monitor the success of the
4 recovery well system and verify no offsite
5 transport of the process water. We're doing that
6 now. Mosaic has been doing that from day one, that
7 enhanced groundwater monitoring. But we're also
8 conducting split samples to determine the veracity
9 of their samples.

10 We must also implement a comprehensive offsite
11 monitoring program to ensure that offsite
12 groundwater and private drinking water wells are
13 monitored to verify that residents continue to have
14 a safe source of drinking water.

15 One thing that's not on this slide, but this
16 is also going to include -- we're going to begin
17 testing the Water Management District's groundwater
18 monitoring wells in the area. We also must
19 remediate or provide an alternative source of
20 drinking water if offsite wells are affected by the
21 process water.

22 And this is very important. I don't want this
23 particular provision to get overlooked. Mosaic
24 must perform a hydrogeological and geotechnical
25 investigation to evaluate the potential for any

1 additional subsurface anomalies, not only at
2 New Wales, but also at all of its other active
3 Florida locations. This includes Bartow,
4 Plant City, and Riverview. We do not want this
5 occurring at any other facility.

6 Mosaic must also provide financial assurance
7 in the amount of at least \$40 million for the
8 performance of any onsite corrective actions and
9 offsite monitoring and any potential offsite
10 rehabilitation.

11 So now that the consent order is in place --

12 ATTORNEY GENERAL BONDI: Can I ask a question,
13 Governor?

14 GOVERNOR SCOTT: Sure. Excuse me just a
15 second, Jon.

16 SECRETARY STEVERSON: I'm sorry.

17 ATTORNEY GENERAL BONDI: I have a question.

18 SECRETARY STEVERSON: Yes, ma'am.

19 ATTORNEY GENERAL BONDI: Secretary, is it
20 correct that this consent order would not prevent
21 the State of Florida from seeking any necessary
22 action against Mosaic, if needed.

23 SECRETARY STEVERSON: Thank you,
24 General Bondi. That is a great question. I
25 appreciate that, because what we've done is build

1 in the flexibility here. This is a consent order;
2 this is how we're going to move forward. This is
3 an agreed-upon plan with stringent timelines, as I
4 mentioned before, but it also has succinct
5 penalties that are in there. And if this does not
6 meet -- if Mosaic does not meet that timeline, we
7 have the ability to go after them.

8 But more importantly, to the question that
9 you're asking, if anything throughout the
10 investigation was to determine that somehow they
11 contributed to, caused, or were negligent in the
12 creation of this sinkhole, then absolutely, we
13 could. We have not seen any of that evidence to
14 date, but we certainly reserve that right.

15 ATTORNEY GENERAL BONDI: Thank you.

16 GOVERNOR SCOTT: All right. Anything else,
17 Attorney General?

18 ATTORNEY GENERAL BONDI: No. Thank you.

19 SECRETARY STEVERSON: Thank you.

20 Finally, we're going to continue to
21 communicate through that daily update. As I said,
22 right now it's reaching about 3,000 people via
23 email, it's available on our website. We're going
24 to implement the Governor's public notification
25 rule. It's a very strong rule. It lays out

1 exactly how the Governor intends for agencies,
2 local governments, and any responsible party in
3 this State to comport themselves in these matters.

4 We're continuing to test the ground and
5 drinking water, and we will operate the recovery
6 well system, remediate the sinkhole; and as the
7 General mentioned, most importantly, enforce that
8 consent order.

9 GOVERNOR SCOTT: A side impact of that
10 emergency rule is we discovered how much --
11 you know, with these hurricanes, the issue that
12 we've had where some of the sewer systems have not
13 worked, they haven't had the right backup when they
14 lost power. And so it's going to be an issue that
15 we're going to -- and y'all are doing an
16 investigation with regard to those also?

17 SECRETARY STEVERSON: Yes, sir, we're looking
18 at that statewide to address that concern, and
19 that's something that people now know about
20 immediately when it occurs.

21 CFO ATWATER: Can I ask a question?

22 GOVERNOR SCOTT: Sure. CFO.

23 CFO ATWATER: Thank you, Governor.

24 Mr. Secretary, you know, a lot is said about:
25 We know where the water is going. How about

1 providing then some help for certainly myself,
2 maybe the broader public, to understand: How
3 confident are we and what science provides us that
4 comfort, that we know where the water is going?

5 SECRETARY STEVERSON: Thank you for the
6 question, CFO. I appreciate that.

7 As I mentioned, this area has been extensively
8 mapped and modeled, not only by Mosaic, but also by
9 the Water Management District there. So you have
10 that independent verification of the gradient of
11 that water and how it moves through the region
12 there.

13 And so we've known that it could be as high as
14 500 feet a day, but it's probably not that fast,
15 except for where you're specifically pumping that
16 recovery well to retrieve that water. And the --

17 CFO ATWATER: But could you -- would you
18 mind -- I'm trying to understand the science of the
19 mapping. I hear you say we've mapped it, but maybe
20 some comfort -- I think most people -- I know we
21 haven't sent down divers, you know, to flow through
22 the water system. How do we know? What is the
23 science that it's moving that way?

24 SECRETARY STEVERSON: Sure, I appreciate that.
25 Thank you, I'll do a better job of clarifying that

1 answer.

2 We're going to be talking about a fantastic
3 property acquisition here a little bit later today
4 that directly relates to Wakulla Springs. If you
5 take the example of what we did here in Tallahassee
6 with dye traces. You can literally drop dye in,
7 and you'll monitor it through these groundwater
8 monitoring wells. And in this case, we're actually
9 seeing it pop back up at the Spring and time the
10 amount of time before you would see any of that dye
11 pop up at another location. So it sounds a little
12 too simple, kind of like, you know, kids making
13 Easter eggs; but literally, that is one particular
14 way.

15 I know here it's been done more extensively.
16 For the mapping of the sinkhole, they actually used
17 a combination Lidar, which is light and detection
18 and ranging technology, but then there's also
19 Sonar. So we have Lidar, Sonar, and more
20 traditional areas -- excuse me, more traditional
21 entities like dye testing to determine how fast the
22 water is moving.

23 CFO ATWATER: And are we making then all of
24 that available to the public, those tests, the age
25 of those tests, how frequently we've done those

1 tests so that other people could consume that
2 information? And it may be more science than most
3 people would want, but at this point in time when
4 we just casual -- I don't mean casually. It can
5 come across sounding casual: We've mapped this
6 area; we know where water is going. I think people
7 would like to know that.

8 SECRETARY STEVERSON: I think that's a great
9 suggestion, and certainly something we could add to
10 our notice. We have a website ongoing on this
11 issue, and we can certainly add that information to
12 that site.

13 GOVERNOR SCOTT: But the other thing you're
14 doing is you're not just relying on the mapping,
15 you have so many wells that you can track, right?
16 That's what you're really -- you believe in the
17 mapping, but you're tracking it through the wells?

18 SECRETARY STEVERSON: Governor, we do have
19 independent verification of that through the
20 groundwater monitoring wells, but we're happy to
21 provide the other information as well.

22 GOVERNOR SCOTT: Yeah. I'm not suggesting we
23 don't put it -- because I think that's a good idea,
24 but we're not taking a chance that our mapping is
25 wrong?

1 ATTORNEY GENERAL BONDI: Right.

2 GOVERNOR SCOTT: You have enough -- you're
3 testing all of these wells so you'll know.

4 SECRETARY STEVERSON: Absolutely, Governor,
5 and that's why those wells were already in place.
6 This issue was contemplated in the permit. We
7 wanted to make sure that the groundwater monitoring
8 wells were in place. And then we're installing
9 additional groundwater monitoring wells as well to
10 make sure that there is not that migration of
11 process water.

12 ATTORNEY GENERAL BONDI: And, CFO, we've been
13 unable to discuss this with each other, of course,
14 but that was my concern as well with
15 Secretary Steverson, because all the surrounding
16 property.

17 And, Secretary, could you explain a little
18 more as you did for me the Lidar, the Sonar, what
19 that's doing to protect the actual drinking water
20 that's far beyond the Mosaic well? Because that
21 was my concern as well, that it was seeping through
22 the ground, and how did we prevent that. And he
23 did a really good job, I think, of explaining that
24 to me.

25 SECRETARY STEVERSON: Yes, General, thank you

1 for the question. I'll refer y'all back very
2 quickly to -- so this is an actual Lidar map of the
3 sinkhole that you're looking at on the screen now.
4 So this is an actual map of the hole, depth, width,
5 everything to give us that idea. And around that
6 Line B is kind of where you would lose your Lidar
7 capabilities and you'll have to rely on Sonar
8 because -- if there's a mix of water. The good
9 news was, at the bottom of this well, there wasn't
10 that much water, there was a bit of rubble there so
11 they could continue to shoot.

12 But that will let you know exactly what you're
13 dealing with there. So from there, you'll go to,
14 as the Governor mentioned and as you mentioned as
15 well, the extensive groundwater monitoring network
16 to determine: Is there any migration of that water
17 and checking out beyond that three-mile radius.
18 We're going to continue to test to a four-mile
19 radius, and we've had -- people have requested
20 tests up to 26 miles away, and we have completed
21 all of those tests.

22 GOVERNOR SCOTT: Thank you.

23 COMMISSIONER PUTNAM: Governor?

24 GOVERNOR SCOTT: Yes.

25 COMMISSIONER PUTNAM: So is the total

1 withdrawal 11 million gallons per day, or is it 22
2 because you're running two recovery wells?

3 SECRETARY STEVERSON: Thank you, Commissioner.
4 If I didn't make that clear, I apologize.

5 The total is 11 million gallons a day. You
6 have roughly five to six million gallons per day
7 from each well. And we've actually backed off on
8 P3 and pulling more from P4 specifically to address
9 that water right next to the stack.

10 COMMISSIONER PUTNAM: So in the absence of
11 creating that movement of water toward the recovery
12 well, which is what it's designed to do, is to draw
13 the water from the site to the well to be withdrawn
14 and then treated, in the absence of that, how --
15 you know, when people think of the aquifer,
16 you know, it's been described in various ways as a
17 giant underground swimming pool, it's also been
18 described as a giant rushing river.

19 In this part of the state, in the absence of
20 the recovery wells, what would be the rate of
21 movement or the migration of the contamination
22 toward the west?

23 SECRETARY STEVERSON: Sure, and thank you for
24 the question.

25 And I'm going to give you one other variation

1 that I've always kind of used in addition to the
2 swimming pool and river, which both of those are
3 actually right. I've always viewed it as like a
4 lens of water. We are sitting on top of that lens.

5 And here you would see a very slow migration
6 due to the modeling and mapping that we've had. At
7 this point in time, I don't know that you would
8 even see the water move as far as that recovery
9 well, which is several hundred yards from the
10 stack, if we were not purposely running it, turning
11 it on. I don't know that we would have even seen
12 the migration beyond the stack itself, beyond the
13 edges of the stack.

14 If you're looking at around 500 feet,
15 you know, a month, that's about as far as we would
16 have seen any potential movement to whatever was
17 left from the massive amount of dilution that it
18 would have experienced when it hit the aquifer.

19 COMMISSIONER PUTNAM: So how do we -- so
20 you're running two major recovery wells, we're
21 withdrawing 11 million gallons per day. All the
22 data so far would indicate that the migration
23 offsite has not occurred and it's been going on now
24 for a month, thereabouts?

25 SECRETARY STEVERSON: Correct.

1 COMMISSIONER PUTNAM: So how do you -- how do
2 we know when we've won? How do we know when we've
3 successfully mitigated the site even as, you know,
4 they're continuing the work to fill in the hole,
5 cap it, seal it, all of that?

6 At what point is there -- what's the timeframe
7 that the neighbors would be able to have
8 confidence, based on the science of the DEP, that
9 the withdrawals -- the recovery well withdrawals
10 have been effective and the contaminants have been
11 removed.

12 SECRETARY STEVERSON: That's a great question.
13 The scientific answer would be, when we were no
14 longer seeing those constituents, the sulfates, and
15 the sodium in that water.

16 But the more reasoned answer is: That's
17 what's built into the consent order. We're going
18 to continue to test neighboring wells up through
19 2018. And as the General pointed out, we have the
20 ability to be even more flexible. If there's still
21 concern, we can move that deadline and continue to
22 test beyond there. But I would think by 2018,
23 we'll have more than enough information to know if
24 this was ever going to move offsite.

25 COMMISSIONER PUTNAM: Thank you.

1 ATTORNEY GENERAL BONDI: So, Commissioner, in
2 other words, as your attorney, we are not precluded
3 from taking action if they don't comply with the
4 plan, the consent order.

5 COMMISSIONER PUTNAM: Thank you.

6 GOVERNOR SCOTT: Go ahead.

7 SECRETARY STEVERSON: All right, sir. We'll
8 get back to the regularly scheduled program, and
9 the next is an option agreement to acquire
10 approximately 11,027 acres from Natural --

11 GOVERNOR SCOTT: Let's just make sure. Nobody
12 had any other questions on Mosaic, right?

13 (NO RESPONSE).

14 GOVERNOR SCOTT: Okay. All right. The bottom
15 line is: You've signed a consent decree; you
16 believe you're going to be able to monitor it; and
17 you have the flexibility -- if you find that they
18 did something wrong, that you have plenty of
19 enforcement opportunities; and you're not going to
20 stop until you know this is -- there is no movement
21 of water and there's nothing in the water?

22 SECRETARY STEVERSON: Absolutely not, sir.
23 Our Number 1 priority in this is to ensure the
24 protection of that groundwater resource in that
25 region, not only for the people but also for the

1 environment of Florida.

2 GOVERNOR SCOTT: Okay.

3 ATTORNEY GENERAL BONDI: And, Governor, just
4 one other thing. They've assured us that, you
5 know, the three-mile radius is, for lack of a
6 better word, the baseline that they use; but
7 they're even going 26 miles out, if needed, to be
8 sure the drinking water is safe.

9 GOVERNOR SCOTT: Right. And I would like
10 everybody to focus on the emergency order we did
11 and the rule that's being proposed.

12 ATTORNEY GENERAL BONDI: Yes.

13 GOVERNOR SCOTT: Because there's going to
14 be -- I mean there are going to be some things
15 we'll clearly want to do for the emergency. So if
16 everybody will make sure that they're looking at
17 that.

18 Okay. Go ahead.

19 SECRETARY STEVERSON: Thank you, sir. Item
20 Number 2 is an option agreement to acquire
21 approximately 11,027 acres from
22 Natural Bridge Timberlands, LLC. They are an
23 Ag Reserve subsidiary.

24 We're very proud to be partnering with
25 Ag Reserves on this incredible acquisition. I

1 know, Commissioner Putnam, you're familiar with
2 them. They have a longstanding reputation of being
3 responsible stewards here in the State of Florida,
4 and I'm very pleased to see their recent interest
5 in holdings here in northwest Florida.

6 This is exactly the type of acquisition that
7 we should all be focused on when purchasing across
8 the state. It provides the perfect balance of
9 conservation, recreation, and protection of our
10 springs and water systems.

11 The majority of this acreage is located within
12 two Florida Forever projects: The upper St. Marks
13 Corridor and St. Joe Timberland. This property,
14 known as Horn Spring, would include at least ten
15 named springs. Two of these springs are first
16 magnitude springs, and three of these springs are
17 second magnitude springs.

18 It will protect water resources within this
19 project and the surrounding area, and serve as a
20 major corridor connector of conservation lands. It
21 will provide resource-based public education,
22 recreational activities such as canoeing, kayaking,
23 fishing, hunting, hiking, wildlife viewing, and an
24 opportunity for resource management of the timber
25 assets.

1 If approved, this would be the largest
2 fee-simple acquisition in the last decade by the
3 Board of Trustees. The Trustees' purchase price is
4 16.1 million.

5 The southern portion of this property will be
6 managed by DEP's Division of Recreation and Parks
7 as an addition to the Natural Bridge Battlefield
8 Historic State Park. The northern portion of the
9 property will be managed by the Northwest Florida
10 Water Management District in coordination with the
11 Florida Fish and Wildlife Conservation Commission.

12 We have several individuals who would like to
13 speak in support of this item. Our first speaker
14 is Brett Cyphers, Executive Director of Northwest
15 Florida Water Management District.

16 GOVERNOR SCOTT: Good morning, Brett.

17 MR. CYPHERS: Good morning, Governor. Good
18 morning, Cabinet.

19 Thank you for letting me be here. I'm excited
20 about the opportunity to work with DEP and Fish and
21 Wildlife to do something that we actually do
22 elsewhere in northwest Florida. I think a good
23 example might be Williford Springs and that
24 Econfina Springs area.

25 And, Governor, you went there with us to see

1 how that process went at Williford, and this is the
2 kind of place that we see -- I see a lot of
3 Econfina here.

4 And so we're excited to get to work, we're
5 excited to do the things that people have done on
6 other properties that we have, fishing, kayaking,
7 hunting. We work with Fish and Wildlife. Almost
8 all of our property is in wildlife management
9 areas, so it should be a fairly seamless process
10 for us to do this work.

11 GOVERNOR SCOTT: You should visit the springs
12 after they've re -- after they've, I don't know,
13 rehabbed them, whatever -- enhanced them, they're
14 really nice.

15 We can show you a before of the after.
16 Williford is done at this point, so you can see
17 what Horn Spring might look like some years from
18 now in terms of providing as much access as
19 possible for the public while still preserving it
20 so there is still something left of the spring when
21 they're done enjoying it.

22 GOVERNOR SCOTT: And now we have dedicated
23 resources every year to focus on our springs.

24 MR. CYPHERS: Yes, sir.

25 GOVERNOR SCOTT: Nice. Thanks. Do you have a

1 question?

2 COMMISSIONER PUTNAM: How many acres does
3 Northwest manage?

4 MR. CYPHERS: About 220,000 acres, sir.

5 COMMISSIONER PUTNAM: And are the spring
6 examples that you gave where the state purchased
7 them and turned over management to the District, or
8 are they where the District acquired the land?

9 MR. CYPHERS: I believe they were
10 District-acquired lands, yes, sir.

11 COMMISSIONER PUTNAM: Is it common for the
12 State to buy it and turn it over to the Districts?
13 I'm not as familiar with that.

14 MR. CYPHERS: Not that I'm sure of, but I've
15 been at the District about four years. My history
16 runs a little bit longer than that, thanks to the
17 folks there, but I'm not aware of any.

18 COMMISSIONER PUTNAM: But the areas that will
19 not be under state park management will be
20 available -- will be managed as a WMA; is that
21 correct?

22 MR. CYPHERS: We work with Fish and Wildlife
23 to create the WMA rules for each one. So we do the
24 quota hunts that they set up with us, we do the
25 Operation Outdoor Freedom hunts like the ones that

1 you do -- we do those right now in Econfinia; it
2 would be similar to that -- we also do the
3 restoration of the actual springs themselves
4 where we set up with Fish and Wild -- we actually
5 receive funding from DEP and Fish and Wildlife
6 for Williford Spring to finish the restoration
7 and preserve it for the future, so that's kind of
8 how -- that's how we approach it.

9 So we know what we're good at, which is the
10 preservation and management side; but we know that
11 we need Fish and Wildlife as a partner to do it
12 correctly in the long-term.

13 COMMISSIONER PUTNAM: And you'll actively
14 manage the timber?

15 MR. CYPHERS: Yes, sir. We do that now on the
16 property that we do have. Our revenue comes from
17 two places: The Legislature and timber sales.

18 COMMISSIONER PUTNAM: Thank you.

19 MR. CYPHERS: Thank you.

20 GOVERNOR SCOTT: Thank you.

21 Anybody else?

22 (NO RESPONSE).

23 SECRETARY STEVERSON: Thank you, Governor and
24 Cabinet.

25 Our next speaker is George Wilson. He's a

1 member of Tall Timbers.

2 GOVERNOR SCOTT: Good morning.

3 MR. WILSON: Governor, members of the Cabinet,
4 thank you for the opportunity to speak.

5 I'm George Wilson. I'm a Board member of
6 Tall Timbers Research Station and Land Conservancy.
7 For many years we've been a partner with the
8 agencies up in the upper headwaters of these rivers
9 that flow from the red hills to tide water. And
10 this is just a remarkable example of the State
11 following up on a design that was submitted to
12 Florida Forever 15 years ago at a time when this
13 landowner -- you could walk from Tallahassee to
14 St. Marks and never leave this landowner's --
15 St. Joe ownership.

16 The project was designed with good science and
17 ecologists to protect a series of -- a long
18 corridor for water resources, natural -- for great
19 habitat. There are beautiful hardwood hammocks in
20 the middle of this and cypress as big as they get
21 on a small stream in Florida, sand hills with long
22 leaf, gopher tortoise. I mean it's a remarkable
23 place. The springs are nice.

24 I also want to let you know, on a good note
25 for springs, you're nearing the end of collecting

1 and transferring the stewardship of Mr. Ball's
2 spring collection, from Wakulla Springs, the
3 Wacissa Springs, the Econfina Springs that
4 Northwest Florida manages so well; the
5 Silver Glen Springs that Forest Service manages,
6 and a whole suite of other springs.

7 Mr. Ball collected springs with his charity,
8 over a million acres, and most all of those have
9 been transferred back for public stewardship. And
10 as the District mentioned, they are in better shape
11 now than they were in some previous years when they
12 weren't managed very well. So I really
13 congratulate the state for this.

14 On a last note, this project is one of the
15 watersheds that the DEP is working on with the
16 water manage -- with Suwannee River and Northwest
17 on the Swim Program, working with
18 Gulf Environmental Benefit Fund.

19 This is a really good model for using this
20 Gulf of Mexico mitigation fund on other northwest
21 Florida rivers where you basically do the land
22 acquisition, you do the stewardship, but there
23 isn't the cleanup cost, there isn't the restoration
24 cost, and you can basically tie up watersheds for
25 water quality purposes, for recreation, for tourism

1 jobs, and for the people of northwest Florida
2 forever.

3 So we want to thank you for getting a
4 wonderful transaction. Thank you, DEP, and really
5 appreciate your good work.

6 SECRETARY STEVERSON: Next we have
7 Jeep Sullivan, he's the President of the
8 Wounded Warrior Outdoor Federation.

9 GOVERNOR SCOTT: Good morning.

10 MR. SULLIVAN: Thank you, Governor and
11 Cabinet. I'm Jeep Sullivan. We have a nonprofit,
12 Jeep Sullivan's Wounded Warrior Outdoor Adventures,
13 out of Bonifay, Florida, and we just -- we are here
14 this morning just to say thank you to the state and
15 DEP and all those that are helping in these kind of
16 projects. We've heard those all morning here.

17 And we promote the healing of our Purple Heart
18 recipients and our wounded warriors and career
19 veterans by allowing them at no cost through our
20 nonprofit to get them back in the woods, get them
21 together with each other, the comradery. And being
22 able to be on pieces of property like this will
23 enable us to help that healing in these gentlemen
24 and ladies, and I look forward to that in the days
25 to come and years to come.

1 As a life-long resident of Florida, I'm proud
2 to be here this morning to hear the things that are
3 going on around our state, all the way from the
4 Keys up here to the Panhandle, and the
5 opportunities that are afforded to us as Florida
6 residents.

7 Thank you.

8 SECRETARY STEVERSON: Our next speaker is
9 Mark McDuffy, retired U.S. Air Force Staff
10 Sergeant.

11 GOVERNOR SCOTT: Good morning.

12 MR. McDUFFY: Good morning, Governor, Cabinet.
13 I just want to take this opportunity to personally
14 thank you and all the resources that the state of
15 Florida has allowed for the veterans.

16 I was injured in 2007 by a roadside bomb in
17 Ramadi, Iraq. And when I came home, it was -- I
18 really didn't know what the next move was going to
19 be; but I tell you, the people around the state of
20 Florida rallied around us and provided
21 opportunities for us to get back in the outdoors
22 just -- whether it was hunting, fishing, or just
23 going and sitting by a campfire, and just allowing
24 us to share that comradery.

25 And, you know, with this acquisition this

1 morning, it would be -- if we're able to access
2 that land and be able to get back with our brothers
3 and sisters that sacrificed with us, it would be a
4 plus for us as well as I feel for the state.

5 So thank you all again for the resources that
6 you have provided to all of the veterans of this
7 state. Thank you.

8 SECRETARY STEVERSON: Our fifth speaker is
9 Greg Knecht, Director of Land Protection for the
10 Nature Conservancy.

11 MR. KNECHT: Good morning, Governor, Cabinet.
12 Greg Knecht. Actually, now Deputy State Director
13 for the Nature Conservancy here in Florida; and
14 of course, want to express our overwhelming support
15 for this project.

16 This project presents an unparalleled
17 opportunity to assist in the protection of the
18 tremendous natural resources of not only the
19 St. Marks River but the numerous public lands in
20 the region and the productive estuarine system of
21 Apalachee Bay.

22 George mentioned this project being presented.
23 Actually, the Nature Conservancy presented this
24 project to the Acquisition and Restoration Council
25 back in 2003 and has supported its acquisition ever

1 since, and has actually acquired some of the
2 property ourselves.

3 I won't duplicate what the other speakers have
4 mentioned, but certainly the recreational benefits,
5 the water quality benefits, the opportunity to, if
6 this is approved, to create a nearly continuous
7 protected corridor from Tallahassee to the Gulf of
8 Mexico and create over 100,000 acres of
9 interconnected landscape of pine and cypress
10 forests, rivers, coastal hammocks, and marshes. It
11 is just a tremendous opportunity, and the
12 Nature Conservancy commends the Secretary and the
13 Department for proposing this significant and
14 strategic acquisition, and request your approval.

15 Thank you.

16 GOVERNOR SCOTT: Thank you.

17 SECRETARY STEVERSON: Now we have
18 Lane Stevens, Executive Director of
19 Allied Sportsmen's Association Florida.

20 GOVERNOR SCOTT: Good morning.

21 MR. STEVENS: Good morning, Governor, Cabinet;
22 Lane Stevens, I'm the Executive Director of
23 Allied Sportsmen's Association, also a partner with
24 SCG Governmental Affairs.

25 We are pleased as representatives of

1 sportsmen's groups from around the State of
2 Florida, pleased to support this project. Any time
3 we see large acquisitions take place by the State,
4 access is always something that is of utmost
5 importance to the sportsmen of this state.

6 I have been working on these types of issues
7 since 1998. Eighteen years later, I'm still
8 working on access issues over in the central --
9 east part of the state and in northwest Florida
10 currently. So we are pleased to support DEP's
11 acquisition of this project, working with the Water
12 Management District and FWC for the appropriate
13 activities for all Floridians.

14 So thank you, and we appreciate your support.

15 SECRETARY STEVERSON: Next we have
16 Grant Gelhardt with the Big Bend Sierra Club.

17 MR. GELHARDT: Thank you very much. The
18 Big Bend Sierra Club supports this acquisition of
19 the Natural Bridge Timberland Parcels in the upper
20 St. Marks River. The project will protect
21 Florida's biodiversity, increase public recreation
22 opportunities, and protect the water quality of the
23 St. Marks River basin. The Sierra Club supports
24 the proposal to split the management between the
25 park system and the Northwest Water Management

1 District.

2 We're glad to see that the park system is
3 going to expand the Natural Bridge Battlefield
4 historic site, and also the Water Management
5 District, in cooperation with the Fish and Wildlife
6 Conservation Commission, will manage the remainder
7 portion of the site.

8 The opportunity to protect conservation of
9 such a large area of the St. Marks River Basin
10 comes only once, and the Big Bend Sierra Club wants
11 to thank the State for acquiring the timberlands.
12 This is a once-in-a-lifetime, or more likely only a
13 once opportunity, and we're glad that you moved
14 forward and acquired this parcel. This is a great
15 parcel.

16 The timberlands parcel is a critical link in
17 the ecological corridor of the region. It connects
18 both the St. Marks River Preserve State Park
19 located to the north, to the Aucilla River Wildlife
20 Management area to the east; and of course, the
21 Natural Bridge Battlefield.

22 This ecological corridor will stretch from
23 Tom Brown Park in the City of Tallahassee to the
24 Gulf of Mexico. This will connect a number of
25 other conservation lands, including the Lafayette

1 Heritage Trail Park, the St. Marks River Preserve,
2 Natural Bridge Timberlands, the Aucilla Wildlife
3 Management area, down to the St. Marks Wildlife
4 Refuge, and the Big Bend Sea Grass Aquatic
5 Preserve.

6 Recreation and ecotourism opportunities will
7 abound in this new conservation area. This
8 ecological corridor has been decades in the making,
9 and we want to thank you for the acquisition of
10 this site. Thank you very much, Governor and the
11 Cabinet.

12 GOVERNOR SCOTT: Thanks for being here.

13 SECRETARY STEVERSON: Next we have
14 Kent Wimmer, Defenders of Wildlife.

15 GOVERNOR SCOTT: Good morning.

16 MR. WIMMER: Good morning. I'm Kent Wimmer.
17 I'm the Northwest Florida Representative for
18 Defenders of Wildlife. I very much appreciate the
19 opportunity to be here today to hopefully celebrate
20 Florida's next great wildlife management area, in
21 addition to Natural Bridge.

22 We have a map that -- as George and Grant were
23 describing, this is a critical link in a whole
24 wildlife habitat network that extends through the
25 entire Panhandle.

1 And in this area, as these folks were saying,
2 it connects the Gulf all the way up to the
3 red hills because the hydrologic connection,
4 you know, connecting up to the red hills -- and,
5 you know, connecting the red hills to the Wacissa
6 and the -- you know, and that connects into the
7 lower Aucilla.

8 This is just an outstanding example of the
9 linkages that we need to protect throughout
10 northwest Florida and throughout Florida to create
11 the wildlife habitat network.

12 So we very much thank you for supporting this
13 project, and encourage you to view this project as
14 a model, you know, using the Florida Forever
15 dollars that the public voted for, as this is a
16 great example of the kind of projects that these
17 funds that the voters for could pass.

18 So thank you very much for supporting this
19 project.

20 Defenders of Wildlife thinks it's a great
21 project. Again, it's home for four different
22 species of warblers; the Florida black bear roams
23 in there. So thank you very much for protecting
24 this site.

25 GOVERNOR SCOTT: Thanks for being here.

1 SECRETARY STEVERSON: Thank you. You can see,
2 Governor, we have a lot of people very excited
3 about this acquisition.

4 Our final speaker is Eric Draper,
5 Executive Director with Audubon Florida.

6 GOVERNOR SCOTT: Good morning, Eric.

7 MR. DRAPER: Good morning, Governor, Members
8 of the Cabinet.

9 This is really, really an exciting day, and
10 you can tell, you know, through the amount of
11 enthusiasm there is for this project represented
12 here at the meeting. And I think throughout the
13 State of Florida people are going to be cheering
14 about this one. It is just an excellent project
15 and completely representative of what Secretary
16 Steverson said the Florida Forever program should
17 be about.

18 As long as we're on Jon, he really deserves
19 our appreciation for really focusing attention on
20 this particular project. And I've watched the
21 Division of State Lands recently really get
22 energized and active and focused on getting
23 projects done, and I think we're really lucky to
24 have this kind of concentration on helping to
25 protect our springs.

1 And it really does balance, actually, the
2 investment that DEP and the State of Florida has
3 been making in springs protection, so we think
4 about your Let's Keep Florida Beautiful budget
5 which invested \$50 million in springs. This is
6 another way that we can approach springs protection
7 and how exciting to think about two first magnitude
8 springs in one acquisition, and making sure that
9 the water that goes all the way down to the
10 Gulf of Mexico, which is a big priority, is taken
11 care of.

12 So I won't add to everything else that people
13 said, except I do want to comment on the management
14 of this property. It's exciting as Florida grows
15 and more people use our park system, we've seen a
16 great increase in the use of parks, that we have
17 this additional park land.

18 But so, too, as a user of the
19 Northwest Florida Water Management District's
20 conservation lands, as an active user of those
21 lands, I want to say that they are excellent
22 managers of their lands, and I'm really happy to
23 see this kind of cooperative interagency management
24 of land. So I commend this project to you.

25 Thank you very much, Secretary Steverson.

1 SECRETARY STEVERSON: Thank you, Eric. I
2 appreciate that. And this is definitely one I've
3 had my eye on since my time at the Water Management
4 District.

5 And I know everybody has said it, but the
6 hydrologic significance of this property can't be
7 highlighted enough, and then the recreational
8 opportunities are superb.

9 So with that, Governor and Cabinet, we'd like
10 to recommend approval.

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

13 ATTORNEY GENERAL BONDI: So move.

14 GOVERNOR SCOTT: Is there a second?

15 COMMISSIONER PUTNAM: Second.

16 GOVERNOR SCOTT: Any comments or objections?

17 (NO RESPONSE).

18 GOVERNOR SCOTT: Hearing none?

19 SECRETARY STEVERSON: Thank you.

20 Item Number 3 is known as Old Man Frank's.
21 We're fortunate to live in this great state, and I
22 know that each one of us loves to enjoy our
23 waterfront activities. By relaxing and having a
24 bite to eat over the water is a great experience
25 for both Floridians and as visitors.

1 The Division has been working to bring
2 over-the-water dining --

3 GOVERNOR SCOTT: Do you only work on
4 Polk County things?

5 SECRETARY STEVERSON: Sir?

6 GOVERNOR SCOTT: Do you only work on
7 Polk County things?

8 SECRETARY STEVERSON: It's Polk County day,
9 and they have their own day at the Capitol, but
10 we're going to go ahead and have it -- I do wish
11 Texas Cattle Company was here providing us some
12 food today though. That's some great stuff.

13 The Division has been working to bring
14 over-the-water dining activities on sovereign
15 submerged lands to the Board. In reviewing these
16 activities, it has become clear to us that there is
17 not one solution to every situation. We're
18 evaluating each one on a case-by-case basis so we
19 can bring items to the Board that allow these
20 minimal nonwater dependent activities, consistent
21 with statute, while protecting our sovereign
22 submerged lands. We hope to bring even more of
23 these items to you in the future.

24 For Item Number 3, consideration for the Board
25 is a determination that it is in the public

1 interest to allow nonwater dependent activities at
2 Old Man Frank's Restaurant and Bar located on
3 Lake Howard in Polk County.

4 ATTORNEY GENERAL BONDI: I think we have the
5 wrong slide up.

6 SECRETARY STEVERSON: I'm sorry, someone
7 has -- we shouldn't even have a slide up on this
8 one, but someone else can do that.

9 The applicant is proposing to move its
10 L-shaped dock with dining area, and replace it with
11 a dock and dining area adjacent to the existing
12 restaurant. This modification will reduce the
13 preempted area and provide handicap access.

14 The Department considers this activity in the
15 public interest because it would provide public
16 access and enhances enjoyment of sovereignty
17 submerged lands without adverse impacts to
18 resources. The fee for this activity is based on
19 the appraised market rental value per rule, and the
20 Department recommends approval.

21 GOVERNOR SCOTT: Is there a motion on the
22 item?

23 ATTORNEY GENERAL BONDI: So move.

24 GOVERNOR SCOTT: Is there a second?

25 CFO ATWATER: Second.

1 GOVERNOR SCOTT: Comments or objections?

2 (NO RESPONSE) .

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

5 COMMISSIONER PUTNAM: Keep these coming.

6 SECRETARY STEVERSON: Yes, sir.

7 COMMISSIONER PUTNAM: Keep these
8 over-the-water (inaudible) .

9 GOVERNOR SCOTT: But he's okay with
10 Polk County.

11 COMMISSIONER PUTNAM: We've been backed up on
12 these for a long time prior to your leadership, and
13 we need to keep breaking the logjam in
14 over-the-water dining, and this is a good example.

15 GOVERNOR SCOTT: Are there a lot -- Jon, are
16 there a lot of these that --

17 SECRETARY STEVERSON: We've been able to --
18 I'm sorry, Governor. I didn't mean to talk over
19 you.

20 We've been able to cut down a lot of these
21 through internal processes. So we started with
22 about 80 of them. We've knocked over 60 of them
23 out, but there are 12 that will require actual
24 Board action. We'll be bringing those to you once
25 we make sure they comport with both statute and

1 rule.

2 GOVERNOR SCOTT: Good.

3 SECRETARY STEVERSON: Item Number 4 is
4 presentation of the fourth quarter performance
5 measures for the Division of State Lands and my
6 annual subjective leadership assessment.

7 For the fourth quarter, the weighted total
8 score for the 11 objective measures is 4.85. We
9 achieved our goals for all of our measures, except
10 for Measure 7 and 10, which are upland and
11 sovereign submerged land lease compliance.

12 I've actually heard from some of your offices:
13 Should this be something you take out of your
14 goals? Because you don't have necessarily control
15 over that situation, but I think they're important
16 because we continue to work to make sure that we
17 bring those folks into compliance. And I feel that
18 it's our responsibility as managers of the Board of
19 Trustees' property.

20 For fiscal year '15/'16, the weighted average
21 score is 4.6. As we reflect on the past year of
22 the objective performance measures, I believe that
23 these measures are still very relevant to the
24 Division of State Lands and have provided us with
25 an opportunity to analyze our workflow and internal

1 procedures, improve and streamline efficiencies,
2 and empower employees in their daily job
3 performance.

4 If there are no questions on those, I'll move
5 on to our subjective responses.

6 GOVERNOR SCOTT: So I think we're going to
7 give the responses now, right? Does everybody have
8 theirs?

9 ATTORNEY GENERAL BONDI: I do.

10 GOVERNOR SCOTT: Do you guys have yours?

11 I think we have to -- we just have to do a
12 motion to accept the report. So is there a motion
13 to accept the report?

14 ATTORNEY GENERAL BONDI: So move.

15 GOVERNOR SCOTT: Is there a second?

16 CFO ATWATER: Second.

17 GOVERNOR SCOTT: Any comments or objections?

18 (NO RESPONSE).

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

21 Everybody got theirs in, right? So we go to
22 Item 5.

23 SECRETARY STEVERSON: Item 5 is the Division
24 of Aquaculture and will be presented by
25 Mr. Kal Knickerbocker with the Department of

1 Agriculture and Consumer Services, Division of
2 Aquaculture.

3 GOVERNOR SCOTT: Good after -- morning still.

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

6 This morning we have a -- for Item Number 5, a
7 water column lease modification request. The
8 applicant, Phil Cubbage, has requested a water
9 column modification to his existing two-plus-acre
10 bottom lease that's located in Matanzas River in
11 St. Johns County.

12 Mr. Cubbage plans to use off-bottom racks and
13 floating gear to culture oysters. The Fish and
14 Wildlife Conservation Commission and the Department
15 of Environmental Protection's Florida Coastal
16 Office have reviewed the item and had no comments.

17 The proposed gear is covered under the
18 existing general programmatic permit from the
19 Army Corps of Engineers. The leaseholder will be
20 required to acquire a Private Aids to Navigation
21 Permit from the Coast Guard and install associated
22 lighting and signs to aid boaters in navigation.

23 We're recommending approval on this item.

24 GOVERNOR SCOTT: Okay. Is there a motion on
25 the item?

1 ATTORNEY GENERAL BONDI: So move.

2 GOVERNOR SCOTT: Is there a second?

3 CFO ATWATER: Second.

4 GOVERNOR SCOTT: Any comments or objections?

5 (NO RESPONSE).

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

8 MR. KNICKERBOCKER: Thank you.

9 GOVERNOR SCOTT: Thanks.

10 SECRETARY STEVERSON: Items 6 through 8 will
11 be presented by Mr. Jim Karels, Department of
12 Agriculture and Consumer Services, Florida Forestry
13 Service.

14 MR. KARELS: Item Number 6, Lake Hatchineha
15 Ranch Conservation Easement, Florida Department of
16 Agriculture and Consumer Services Rural and Family
17 Lands Protection Program. Request consideration,
18 one, of an option agreement to acquire 1,619 acres
19 of perpetual conservation easement over lands lying
20 within Lake Hatchineha Ranch project of the Rural
21 and Family Lands Protection Program from
22 Lake Hatchineha Ranch, LLC; and two is designation
23 of FDACS, Florida Forest Service as the monitoring
24 agency. The county is Polk. The consideration
25 price is \$2,916,000.

1 This acquisition was negotiated by FDACS under
2 the Rural and Family Lands Program. The
3 Lake Hatchineha Ranch project is ranked in the
4 Tier 1 of the 2015 Rural and Family Lands
5 acquisition list.

6 The ranch property consists of 1,619 acres of
7 cow/calf operations in Polk County near the western
8 shore of Lake Hatchineha, just south of
9 Lake Hatchineha Road. The entire project will be
10 protected under this easement.

11 Managed as an active cow/calf operation,
12 approximately half of the property is heavily
13 forested and supports a mix of natural communities,
14 including large areas of prairie hammock. The
15 property is exceptional in its overall natural
16 resource benefits and amount of valuable habitat
17 for rare and endangered species.

18 The property -- probably one of the most
19 important parts is the property is surrounded by
20 multiple large tracts of conservation lands:
21 Allen David Broussard Catfish Creek Preserve State
22 Park, South Florida Water Management District's
23 Kissimmee Chain of Lakes, the Rural and Family
24 Lands Conservation Easement on K Rocker Ranch, and
25 the Everglades Headwaters National Wildlife Refuge

1 all form a large conservation base there.

2 We have two speakers on this item today. The
3 first one would be Eric Draper with Audubon.

4 MR. DRAPER: Thank you, Jim. Governor and
5 members --

6 GOVERNOR SCOTT: Is this a good deal, Eric?

7 MR. DRAPER: -- of the Cabinet, I appreciate
8 the opportunity to come to you to speak before a
9 second --

10 GOVERNOR SCOTT: Eric?

11 MR. DRAPER: Pardon?

12 GOVERNOR SCOTT: Do you think this is a good
13 deal for the state?

14 MR. DRAPER: This is a great deal for the
15 state. This is -- okay, I guess my comments are
16 done there.

17 This is really good for Lake Okeechobee and
18 the northern Everglades, and it's great to see it
19 done on the 80th anniversary of the Forest Service.

20 Thank you so much.

21 GOVERNOR SCOTT: Thanks, Eric.

22 MR. KARELS: Thank you, Eric.

23 And the second speaker is Greg Knecht with the
24 Nature Conservancy.

25 MR. KNECHT: Good morning, again. I'll be

1 very brief.

2 Jim didn't mention, but the Nature Conservancy
3 actually is the neighbor of this piece of property,
4 and we own 2,000 acres that's currently in a
5 wetland mitigation bank adjacent to this piece of
6 property and can attest to the exceptional resource
7 value of the property.

8 And we work very closely with the landowner.
9 He's been a great partner to work with on managing
10 both pieces of property, whether that's through
11 prescribed fire or other things. And his
12 commitment to agriculture and conservation
13 underscores the appropriateness of the Rural and
14 Family Lands project.

15 With that said, we would love your support.

16 MR. KARELS: Thank you, Greg.

17 Staff recommends approval of this item.

18 GOVERNOR SCOTT: Is there a motion?

19 ATTORNEY GENERAL BONDI: So move.

20 CFO ATWATER: So move.

21 GOVERNOR SCOTT: Second?

22 ATTORNEY GENERAL BONDI: Second.

23 COMMISSIONER PUTNAM: Second.

24 GOVERNOR SCOTT: Comments or objections?

25 (NO RESPONSE).

1 GOVERNOR SCOTT: Hearing none, the motion
2 carries.

3 MR. KARELS: Item Number 7, Pelaez & Sons
4 Conservation Easement, Rural and Family Lands
5 Protection Program. Request consideration of an
6 option agreement to acquire 1,410 acre perpetual
7 conservation over lands lying within the Pelaez &
8 Sons project with the Florida Department of
9 Agriculture and Consumer Services Rural and Family
10 Lands Protection Program from Pelaez & Sons, Inc.;;
11 and two, designation of FDACS Florida Forest
12 Service as the monitoring agency.

13 The county is Okeechobee County. The
14 consideration price \$3,250,000. This acquisition
15 was negotiated by FDACS under the Rural and Family
16 Lands Program. If approved, it will be the
17 30th perpetual conservation easement proposed for
18 acquisition with a total of approximately
19 25,343 acres preserved under the Rural and Family
20 Lands Program.

21 The Pelaez & Sons project is ranked in Tier 1
22 of the 2015 acquisition list. The ranch consists
23 of 1,410 acres in Okeechobee County, northwest of
24 the town of Okeechobee. And with this easement,
25 the entire project will be placed under protection.

1 The family -- the Pelaez family has been in
2 the cattle business since the 1950s. The property
3 is currently a cow/calf operation over mostly
4 improved pasture with 200 acres of hardwood
5 hammocks and 200 acres of wetlands. The project is
6 located less than three miles east of the
7 Kissimmee River and adjacent to the U.S. Department
8 of Agriculture's Natural Resource Conservation
9 Wetlands Preserve Program easement.

10 I have one speaker that would like to just
11 briefly speak, and that's Ralph Pelaez, the owner
12 of this ranch.

13 GOVERNOR SCOTT: Good morning.

14 MR. PELAEZ: Good morning, Governor and
15 distinguished Cabinet.

16 On behalf of myself and my family, I would
17 like to thank y'all for the consideration in
18 purchasing this easement. I know that my mother
19 and father would be very happy to know that forever
20 it will be a productive operating ranch and it will
21 not be broken up into fractions that will never be
22 able to be put back together.

23 So I thank you very much for this opportunity.
24 Thank you.

25 GOVERNOR SCOTT: Thanks.

1 MR. KARELS: Thank you.

2 Staff recommends approval of this.

3 GOVERNOR SCOTT: Is there a motion on the
4 item?

5 ATTORNEY GENERAL BONDI: So move.

6 GOVERNOR SCOTT: Is there a second?

7 CFO ATWATER: Second.

8 GOVERNOR SCOTT: Comments or objections?

9 (NO RESPONSE).

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

12 MR. KARELS: And my last item, Item Number 8,
13 Governor and Cabinet, is consideration of the
14 recommended new 2016 Rural and Family Lands
15 Protection Program Prioritized Acquisition List.
16 The initial acquisition list for Rural and Family
17 Lands was approved by the Board of Trustees on
18 April 28th of 2009. That list consisted of
19 35 projects.

20 The 2016 application cycle was opened
21 April 1st of this year and closed May 16. Now we
22 received 56 new projects and the request for the
23 existing 66 projects to continue. So the project
24 list has grown over that timeframe to 122 new
25 projects.

1 We start with a team that's composed of DEP
2 Natural Areas Inventory, FWC Department of Economic
3 Opportunity, and multiple divisions within the
4 Department: Animal Industry, Forest Service,
5 Office of Water Culture, Division of Dairy,
6 Division of Fruits and Vegetables. And they go to
7 every one of these 122 projects, along with the
8 applicable Water Management District
9 representative.

10 They review these projects. They look at them
11 from the environmental, and they look at them from
12 the agricultural land. They look at them, as it
13 says, economic opportunity or even from the
14 fragmentation and the development potential.

15 And they rank them -- or they put it together,
16 they put a report together that's then given to the
17 selection committee. The selection committee is
18 picked by the Commission of Agriculture, and they
19 meet to set the prioritized list.

20 That was September 8th of 2016. This
21 committee met in Bartow, Florida, and reviewed the
22 project evaluations and had over 50 speakers, many
23 of them families. As I was looking at it one time,
24 the podium had 20 family members up there speaking
25 on their project and what it meant to them.

1 They rank that project; they rank it in
2 Tier 1, Tier 2, and Tier 3 as you see in your
3 handouts. And on October 21st of this year, the
4 Department presented the recommended project list
5 to the Acquisition and Restoration Council for
6 review per the 259 Florida Statutes.

7 With that, I'd recommend approval of this
8 item.

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

11 ATTORNEY GENERAL BONDI: So move.

12 GOVERNOR SCOTT: Is there a second?

13 CFO ATWATER: Second.

14 GOVERNOR SCOTT: Comments or objections?

15 (NO RESPONSE).

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

18 MR. KARELS: Thank you.

19 GOVERNOR SCOTT: Thank you, Jim.

20 SECRETARY STEVERSON: Thank you. That
21 concludes the Board of Trustees' agenda.

22 GOVERNOR SCOTT: All right. Thank you, Jon.

23
24
25 * * * *

DIVISION OF BOND FINANCE

GOVERNOR SCOTT: Next I'd like to recognize Ben Watkins with Division of Bond Finance.

DIRECTOR WATKINS: Good morning, Governor.

ATTORNEY GENERAL BONDI: Good morning.

DIRECTOR WATKINS: Cabinet members.

Item Number 1 is approval of the minutes of the September 20th meeting.

GOVERNOR SCOTT: I -- we need a motion.

COMMISSIONER PUTNAM: So moved.

GOVERNOR SCOTT: Is there a second?

CFO ATWATER: Second.

GOVERNOR SCOTT: Comments or objections?

(NO RESPONSE).

GOVERNOR SCOTT: Hearing none, the motion carries.

DIRECTOR WATKINS: Item Number 2 is a resolution authorizing the issuance and competitive sale of \$8.2 million of parking revenue refunding bonds for Florida State University for debt service savings.

GOVERNOR SCOTT: Do you guys want to vote on a Florida State project?

DIRECTOR WATKINS: It's to save money,

1 Governor.

2 GOVERNOR SCOTT: These are all Gators.

3 DIRECTOR WATKINS: Got it.

4 GOVERNOR SCOTT: All right. Is there a
5 motion?

6 COMMISSIONER PUTNAM: So move.

7 GOVERNOR SCOTT: Is there a second?

8 ATTORNEY GENERAL BONDI: Second by the Gators.

9 GOVERNOR SCOTT: Comments or objections?

10 (NO RESPONSE).

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

13 DIRECTOR WATKINS: And Item 3 is a follow-up
14 of the -- it is a report on university debt, and
15 it's a follow-up to a prior meeting where you asked
16 me the question: How is -- about university debt
17 and how it's authorized. So this report is
18 designed to address that issue.

19 The first part of the presentation is an
20 overview and an outline of the approval process.
21 And secondly, we'll cover the key elements of both
22 the statutory and requirements, as well as debt
23 policies around the issuance of university and DSO
24 debt so that we have a common and clear
25 understanding of the process and the requirements

1 of debt issuance.

2 I'm also going to talk a little bit about what
3 the Board of Governors has done to improve their
4 oversight function of university and DSO debt.

5 The second part of the presentation really
6 deals with quantitative data. So we've scrubbed
7 the university and DSO financial statements to try
8 to address the question -- or provide information
9 regarding how much debt there is outstanding and
10 what kind of facilities have been financed using
11 university debt.

12 And then lastly is our conclusions and
13 recommendations.

14 So this is a high level overview of the
15 history and evolution of university debt. And so
16 understand, Direct Support Organizations, referred
17 to as DSOs, they're created for a multitude of
18 different purposes. Think of them as a wholly
19 owned subsidiary of the university whose sole
20 mission is to -- whose sole function is to support
21 the university.

22 So historically, debt had been issued the
23 normal way, through the Board of Regents through
24 the Division of Bond Finance. And then in 1994,
25 the Legislature gave Direct Support Organizations

1 the authority to issue debt, so -- and the
2 important point around that is in terms of the
3 evolution of -- the authority and policies to issue
4 debt is ten years ago we did the -- we, we as in
5 the Board of Governors, as well as legislative
6 staff, engaged in a comprehensive review of
7 policies and statutes around university debt and
8 the process for approving university debt. And the
9 culmination of that process was the enactment of
10 Florida Statutes 1010.62 by the Legislature and the
11 adoption of companion policies by the Board of
12 Governors.

13 So the essential elements of 1010.62, it
14 clarified the framework or the process by which
15 university and DSO debt is issued. And there's two
16 key elements: One is it defines what revenues can
17 be used to secure debt, and those that cannot. And
18 then secondly, it established a clear and
19 definitive process by which all university and DSO
20 debt is authorized to be issued.

21 And as you would expect, it's shared
22 responsibility. So what we were doing was
23 balancing the -- or through that exercise we were
24 able to balance different stakeholders' interest in
25 the process.

1 So what does that mean? So the Legislature
2 still retains authority over what kind of revenues
3 can be pledged and what are not, so they have a
4 role. The university boards of trustees decides
5 what kind of projects to finance and what the
6 dedicated revenues they're going to use to finance
7 those projects.

8 The Board of Governors reserves in their
9 function of overseeing the State University System
10 by reviewing and approving all university debt and
11 DSO debt, as well as P3s; and the Division of Bond
12 Finance engages with the Board of Governors' staff
13 in reviewing and performing an analysis of every
14 deal that's brought forward by the universities.

15 So the essential elements of that is the Board
16 of Governors are required -- their review and
17 approval is required of all transactions, all
18 financing transactions; but then debt can be either
19 issued through the Division of Bond Finance or by
20 the university DSO. So that's where the difference
21 emerges.

22 For transactions that we manage and execute,
23 it comes to you; for transactions the DSO manages
24 and execute, it goes back to the university. And
25 so there's no review by this Board, but there has

1 been a prior review by the Board of Governors.

2 So policies and principles regarding state
3 debt. So we -- at your direction, we had amended
4 state debt policies to require a more rigorous
5 review whenever debt is being used to finance
6 projects. And so companion policies were also
7 adopted by the Board of Governors back in 2013.

8 And what is that? It basically requires a
9 justification any time you want to finance a
10 project. And the rubric that we use is, return on
11 investment. But what that really means is bring
12 forth a justification for why we have a critical
13 need and why we need to use debt to finance it.

14 And so that's what's now required pursuant to
15 the Board of Governors' policy, too, as well as an
16 assessment of the cost and the cost of the
17 students, which is another wrinkle in all of this;
18 and accountability in terms of measuring projected
19 performance versus actual performance, which we
20 are -- will be working to implement.

21 So the whole reason for the change in policy
22 and the justification of debt is to enhance
23 accountability and transparency whenever debt is
24 being used, and to provide a justification for the
25 use of debt. And so that analysis is done when we,

1 as in Division of Bond Finance staff, together with
2 Board of Governors' staff, is provided information
3 from the universities requesting approval of the
4 project. When it's going to the Board of Governors
5 is when that analysis is done and when that
6 information is provided.

7 This is an outline of the actions that the
8 Board of Governors has taken to enhance oversight
9 and to implement policies through guidelines that
10 embed these principles. So you can see going back
11 for three years, and actually even before that, the
12 letter from the Governor to the universities
13 explaining what expectations are, there has been
14 ongoing work by the Board of Governors to implement
15 these policies.

16 So just reviewing these quickly, in
17 September 2015 was adoption of public/private
18 partnership guidelines. That was a year and a half
19 collaborative process with the universities and
20 Board of Governors' staff to come together and
21 develop a comprehensive set of guidelines to govern
22 P3s because in many cases they're simply used as a
23 financing vehicle, and so the policies ought to
24 apply uniformly to that, as well as the issuance of
25 debt.

1 And then in April of 2016, we had a chancellor
2 memo which has subsequently been formalized in
3 amendments to the Board of Governors' guidelines
4 which requires notification of the Board of
5 Governors, as well as us, any time there is a
6 rating review; and any time there are conversations
7 with the rating agencies, we're to be notified and
8 have an opportunity to be engaged in that dialogue.

9 And then the Governor's Degrees to Job Summit
10 in 2016, which was a presentation on the P3
11 guidelines to familiarize the university boards of
12 trustees' members who were there, as well as the
13 Board of Governors' members who were there, about
14 the new guidelines dealing with public/private
15 partnerships.

16 And then July of 2016 a workshop with VPs
17 finance and administration with the universities to
18 work with them on collaboratively -- how we were
19 going to go forward in implementing the rating
20 agency reviews; and then Board of Governors'
21 amendments -- further amendments of their debt
22 guidelines to clarify whenever a prior deal is
23 modified and when it needs to come back to the
24 Board of Governors for review.

25 And then lastly, it's my understanding that

1 the Board of Governors is going to be moving
2 forward with an initiative to evaluate the
3 university boards of trustees and what their role
4 and responsibility is with respect to approving
5 debt. So bottom line, a lot has been done to
6 enhance oversight regarding any debt proposals, and
7 the Board of Governors has actively engaged in that
8 exercise.

9 So now we get to sort of the quantitative
10 information that I wanted to share with you so you
11 can have an idea of how the -- the amount of debt
12 that's outstanding and what the complexion of that
13 debt is and what that debt has been used to
14 finance.

15 And so this is simply a pie chart. The blue
16 is the DSO debt that's currently outstanding at the
17 end of 2015, and the red component is the
18 university debt that's been issued through the
19 Board of Governors and the Division of Bond
20 Finance.

21 So \$3.8 billion in total debt outstanding, and
22 then I give you a pie chart to stratify it by
23 purpose to show you what kinds of facilities have
24 been financed with the debt that's currently
25 outstanding. And you can see the largest

1 proportion of debt that's been issued is for
2 university housing, followed by healthcare debt;
3 and then you can see the other areas: Athletic
4 facilities and student life facilities also.

5 This is a comparison of state debt
6 outstanding, a progression -- debt outstanding over
7 the last five years -- over the last six years
8 actually for both the state in green and
9 universities in blue. And you all are very
10 familiar with the liability profile of the state
11 and the reduction in state debt that we've been
12 able to achieve, and contrasted with total
13 university debt, and this includes both university
14 debt as well as DSO debt.

15 So when I say "university debt," I'm including
16 both because they are, in effect -- the economic
17 substance of the transaction is it's rolled up on
18 the university's balance sheet, whether it's DSO
19 debt or university debt that's been approved by
20 this Board, so we treat them together.

21 And what you can see is that while state debt
22 has been decreasing, except last year for the I-4
23 Ultimate Project, and I expect the downward trend
24 in debt outstanding for the state to continue in
25 2016, and we'll bring that information to you in

1 December when we do our annual debt report, in
2 contrast to the university that's been going up.
3 It's increased 1.1 billion or 41% over the last
4 five years, with the largest increases being in
5 student housing and healthcare, as you would
6 expect.

7 But the good news is the rate of debt -- the
8 growth has slowed in the last five years, so you
9 can imagine what it was like the previous
10 ten years, if the rate of growth has slowed to 41%
11 in the last five years.

12 Then we simply stratify the debt to show you
13 the red is debt that's issued through the Board of
14 Governors and the Division of Bond Finance, and the
15 blue is the DSO debt. And what this reveals is
16 that 90% of the increase in university debt is
17 attributable to DSO debt issuance, and that's
18 simply a function of the universities using the DSO
19 structure more frequently and is more prevalent
20 than historically had been the case.

21 The BOG -- the DBF debt is typically for
22 housing and parking, and the DSO debt is more
23 healthcare and athletic facility centric. Then I
24 take the same information and stratify it to show
25 what is healthcare debt and what is non-healthcare

1 debt. So this is just simply the DSO debt, with
2 the purple being healthcare related and the blue
3 being all other facilities.

4 And you can see that the increase in debt has
5 been primarily as a result of increases in
6 healthcare debt, and the total healthcare debt
7 outstanding is \$1.2 billion at the end '15; and
8 it's doubled over the last five years and
9 represents 44% of the total DSO debt.

10 Then we show debt by university, just to show
11 you the complexion of the debt profile of each of
12 the universities in the system with the same color
13 scheme, which is: Purple is healthcare debt; blue
14 is DSO debt, non-healthcare DSO debt; and then the
15 red is debt that's been issued through the Division
16 of Bond Finance. And that's pretty
17 self-explanatory in that the healthcare debt is
18 largely centered at the University of Florida and
19 Shands University Teaching Hospital.

20 So in conclusion, debt-free universities --
21 facilities has grown with the growth of the
22 university system. University debt issued through
23 DSOs represents approximately 75% of all university
24 debt. DSOs have been used increasingly to incur
25 debt on behalf of universities and is responsible

1 for 90% of the growth in university debt over the
2 last five years.

3 On the positive side, clearly the Board of
4 Governors has taken steps to improve oversight of
5 university and DSO debt, with an increased focus on
6 justifying the need for the facilities being
7 financed.

8 The existing Board of Governors' process --
9 in my judgment, the existing process that's
10 currently in place provides the framework for
11 adequate oversight of university debt except for
12 Shands University Hospital. And so there's no
13 state-level oversight either through the Board of
14 Governors or any state-level oversight by anybody
15 for Shands University Hospital debt.

16 So my -- so recommendations are that, from a
17 debt management perspective, that's a bit of a
18 blind spot because there's no review process in
19 place. So either the Board of Governors or the
20 Governor and Cabinet should be responsible for
21 evaluating Shands healthcare debt and applying the
22 policies that are applicable to all state agencies,
23 including universities.

24 And secondly, and this is going a bit beyond
25 the charge of this report, but just a personal

1 observation having been involved in reviewing all
2 university and P3 debt issuance over the last
3 decade or so, is that the university boards of
4 trustees need to be more actively engaged and
5 should perform a critical evaluation of the
6 university projects being financed with debt or P3s
7 consistent with the Board of Governors' policies so
8 that at each university board of trustees' level,
9 there is the application of the same policies and
10 principles that are going to get applied and asked
11 at the state level through the Board of Governors
12 or this board through its debt management policies
13 so that, in effect, the deal has been scrubbed down
14 and the hard questions have been asked early on in
15 the process rather than waiting until it floats up
16 to the Board of Governors for purposes of review.

17 So that concludes my presentation of this
18 information, and I'm happy to answer any questions
19 you have.

20 GOVERNOR SCOTT: So are either of these going
21 to happen?

22 DIRECTOR WATKINS: Yes, sir, I believe so. I
23 hope so. It doesn't require a statutory change,
24 and so it really is within the prerogative,
25 I think, of the Board of Governors to engage in

1 that and -- engage in that oversight function or
2 for this Board to specifically take it up.

3 GOVERNOR SCOTT: All right.

4 ATTORNEY GENERAL BONDI: I think the
5 Chancellor wants to say something.

6 GOVERNOR SCOTT: Okay. Good morning,
7 Marshall.

8 CHANCELLOR CRISER: Good morning, Governor,
9 Cabinet.

10 One, to answer your question with regard to
11 the second bullet point, actually the Board of
12 Governors did amend its debt management guidelines
13 last month. What we are doing now is essentially
14 taking -- what I would describe as the same
15 standard of review that would be presented to this
16 Cabinet for looking at debt issues will now reside,
17 not only at the Board of Governors where it has
18 resided, but now at the local Board of Trustees as
19 well as the local or DSO-type board so that the
20 decisionmaking process from its beginning to its
21 end is subject to the same standard of review and
22 will have the same due diligence and fiduciary
23 responsibility embedded in it so that we understand
24 this conversation from beginning to end.

25 GOVERNOR SCOTT: Marshall, what about Shands,

1 what's going to happen on that?

2 CHANCELLOR CRISER: Shands is for -- if you'll
3 pardon the Central Florida vernacular, sort of what
4 I would describe as a mule, which is, it's a
5 hospital and it's a teaching center, which makes it
6 essentially a teaching hospital.

7 I think in the past Shands has been regarded
8 more in the category of hospitals rather than
9 teaching facilities. But in conversations that
10 we've had with the leadership of the University of
11 Florida, as well as with my Board leadership, I
12 believe that the Board of Governors is fully
13 prepared, capable of taking responsibility and
14 basically instilling this same kind of a review
15 process so that we understand exactly how these
16 decisions should be made, how they should be
17 evaluated; and we have a record for that so that it
18 can be communicated and my Board can continue to be
19 responsible for looking at that.

20 GOVERNOR SCOTT: Do you think -- at this point
21 nothing has happened, but do you think it will
22 happen?

23 CHANCELLOR CRISER: Oh, I think it will,
24 yes, sir. I think we have been -- I think,
25 in part, I would say we were -- I won't say we were

1 waiting for this conversation, but we wanted to
2 understand exactly the full context of this
3 conversation. We've already begun having the
4 conversation of how we do that going forward. I
5 believe we'll be able to implement that quickly.

6 GOVERNOR SCOTT: Marshall, what happened at
7 the University of North Florida where they got
8 downgraded, well, if you -- with the process that
9 the Board of Governors is doing, is that going to
10 stop that from happening again do you believe?

11 CHANCELLOR CRISER: I think that -- we've
12 worked closely with Bond Finance, and Ben has been
13 our partner in this. What we have done today is
14 started conversations. I think the notion here is,
15 don't have the conversation at the end, have the
16 conversation at the beginning, make sure all the
17 parties are aware of whatever the transaction or
18 what the evaluation is.

19 By having everyone involved from the very
20 beginning of the process, we're going to be in a
21 position where there's layers now of making sure
22 that everybody is on board and we don't have
23 surprises.

24 GOVERNOR SCOTT: Does anybody have any
25 questions? CFO.

1 CFO ATWATER: Yeah, thanks, Governor.

2 Chancellor, I think these are two good
3 recommendations. I appreciate how you've come up
4 so quickly to say that -- your willingness to
5 address them. I do think we should then formally
6 put it to rest.

7 So do you sense that within the next 90 days,
8 you all will have voted to say, we own Shands and
9 this is the standard the Trustees will now have to
10 provide to us before we'll take it up and consider
11 it? Is that enough time to say, we can put all
12 that together.

13 CHANCELLOR CRISER: I think we can get
14 something together in 90 days that would formalize
15 this beyond my representation today.

16 I'll make the side note that we go through our
17 own process of noticing and when we amend our
18 guidelines or our regulations, so I want to put --
19 but I think we can take Board action that would be
20 subject to a final -- at a minimum, at a final
21 decision that would only have to recognize whatever
22 the noticing requirements would be.

23 CFO ATWATER: Thank you.

24 I wonder if I -- may I ask a question of Ben,
25 or I can wait until after the Commissioner is done.

1 GOVERNOR SCOTT: So why don't we do this then,
2 let's just put this back on the agenda, and what --
3 Marshall, what time do you think we should
4 review it?

5 CHANCELLOR CRISER: I think we would have this
6 in front of our Board by January, and so if there
7 is a Cabinet meeting following -- whatever that
8 Cabinet meeting would be that would follow our
9 January Board meeting would be an opportunity to
10 get this --

11 GOVERNOR SCOTT: Let's just do February.
12 We'll just put it on the February agenda to review
13 it.

14 COMMISSIONER PUTNAM: To review what,
15 Governor?

16 GOVERNOR SCOTT: To see what the Board of
17 Governors has done.

18 COMMISSIONER PUTNAM: In a couple of your
19 slides, Ben, Shands was included, UCF (sic) medical
20 facilities were included, Moffitt was specifically
21 excluded. So is Moffitt a mule?

22 DIRECTOR WATKINS: Moffitt -- so we did the
23 deep dive into each of the credits in order to
24 evaluate and make a judgment about how to properly
25 treat it. Moffitt is not a teaching hospital, and

1 it's more of a state-created center for cancer
2 research.

3 And while the state has downstreamed money to
4 Moffitt that can be leveraged, and they do run,
5 obviously, research and a healthcare facility, a
6 cancer treatment facility, it's not an integral
7 part of University of South Florida and its
8 governance structure doesn't reflect that. Sir?

9 GOVERNOR SCOTT: USF is not responsible for
10 their debt, and neither is state?

11 DIRECTOR WATKINS: That's correct.

12 GOVERNOR SCOTT: No one is responsible for
13 their debt, just the entity, Moffitt?

14 DIRECTOR WATKINS: Correct, except for one
15 flavor of debt which is well secured, Governor.
16 It's cigarette taxes that's downstreamed to Moffitt
17 that they've leveraged, but there's no problem with
18 that, it's not going anywhere; but, operationally,
19 you're absolutely right.

20 COMMISSIONER PUTNAM: So Shands predates the
21 DSO law, correct?

22 DIRECTOR WATKINS: Correct.

23 COMMISSIONER PUTNAM: So they weren't
24 operating outside of normal procedures because they
25 were not -- they are not a DSO, correct?

1 DIRECTOR WATKINS: Right.

2 COMMISSIONER PUTNAM: And the spike that's
3 reflected in the graph, is that a reflection of a
4 number of bond issuances or a single or small
5 number of issuances that were a big number, as
6 anything with the hospital is?

7 DIRECTOR WATKINS: So more of the latter, a
8 couple of big projects. One would be expanding the
9 footprint to Jacksonville to indigent healthcare,
10 and the other is a particular facility that was
11 built on Shands' campus.

12 COMMISSIONER PUTNAM: Okay. So if the -- so
13 walk me through -- Shands has a board, right?

14 DIRECTOR WATKINS: Right.

15 COMMISSIONER PUTNAM: And who appoints that
16 board?

17 DIRECTOR WATKINS: The President of the
18 University of Florida.

19 COMMISSIONER PUTNAM: Okay. And then that
20 board is -- has a -- how is Shands incorporated?
21 Is it an entity of the state, or is it a C-4, or
22 what is it?

23 DIRECTOR WATKINS: There are a number of
24 different affiliation arrangements. I would
25 characterize it as a spider web because there are a

1 number of different entities that are created. But
2 in effect, Shands proper is a part of the
3 University of Florida; it's Shands Teaching
4 Hospital. And then there are a lot of spinoffs off
5 of that based on various practice groups and
6 financings that had been done and doctors groups.

7 And so it's a labyrinth underneath that, but
8 if you look at the top in the governance framework,
9 it is, in effect, Shands is -- Shands and Shands
10 Teaching Hospital are a part of the University of
11 Florida. And University of Florida is a part of
12 the state, and all of their debt is rolled up into
13 the State of Florida by virtue of their connection
14 with the University of Florida.

15 And when you look at credit reports, the
16 Moody's report or the S & P report and you read
17 through it, it talks about the connectedness of the
18 teaching hospital with Shands Hospital -- with
19 Shands and the mutual dependency, and -- but so --
20 but there's never -- there's not -- to your point,
21 it's technically not a DSO because it was created
22 in statute prior to the DSO statute, but it
23 functions the same as.

24 So from a -- if you ignore the technical legal
25 requirement, there's no distinguishing that from --

1 from a credit perspective, distinguishing Shands
2 from any other DSO.

3 COMMISSIONER PUTNAM: So one of the things
4 that characterizes some of our largest public
5 research universities in the country is the
6 presence of a major health science center. How do
7 similar health science centers operate in other
8 states?

9 DIRECTOR WATKINS: There are varying models
10 for that. In many cases, it's part of the
11 university, but let me use a notable example:
12 Vanderbilt just spun off their healthcare. They
13 did a junk bond issue to finance the healthcare so
14 that Vanderbilt could cut the connection from a
15 credit standpoint with what is a more challenging
16 operating environment and economically is an
17 overhang on the university.

18 So they made a strategic decision to walk away
19 from it and to sever the nexus. Other
20 institutions, it's very similar to what you see
21 here in Florida, where the teaching hospital is
22 part of -- an integral part of the university and
23 treated as such. So the answer is: It depends.

24 COMMISSIONER PUTNAM: Well, I -- I think we
25 need to get this right. It's a big deal for us to

1 have the type of world-class health science centers
2 that are reflected by what USF has, what UF has,
3 the aspirations of other universities to build
4 health science centers and -- you know, I'm
5 interested in what the Board of Governors
6 discusses.

7 But, you know, I think before this Cabinet
8 makes a decision, I'd like to hear from Shands, I'd
9 like to hear from President Fuchs. I mean I --
10 this is a big decision to make in a vacuum, and we
11 don't want to jeopardize our ability to continue to
12 provide cutting-edge healthcare and teaching
13 medical student opportunities in a premiere way.

14 And we certainly need to have protections in
15 place to make sure that the full faith and credit
16 of the university system or the state is not put in
17 jeopardy. But, you know, this is a big
18 conversation about how we do this, and I think it's
19 important to get input from the others.

20 All the other work that you and
21 Chancellor Criser have done I think is outstanding
22 in terms of avoiding the problem that brought all
23 of this to light to begin with, which was the
24 rating agency review and making sure that DSOs are
25 undergoing appropriate due diligence. But, you

1 know, we do have this interesting piece remaining
2 that I think we need to continue to gather
3 information on.

4 DIRECTOR WATKINS: I appreciate the comments,
5 and at least from my own individual perspective,
6 but I'll let the Chancellor -- because he's quite
7 capable of speaking for himself.

8 I don't view the Board of Governors' review
9 and oversight of Shands is creating any impediment
10 whatsoever to them achieving their mission and all
11 of the attributes that you rightfully point out are
12 to be proud of; but that's my personal point of
13 view.

14 COMMISSIONER PUTNAM: I don't have an opinion
15 either way. I just want to hear both sides before
16 we just toss the hot potato into the BOG's lap.

17 CHANCELLOR CRISER: A couple of things -- I'm
18 sorry, if I may.

19 GOVERNOR SCOTT: Go ahead.

20 CHANCELLOR CRISER: A couple of things I would
21 add to make sure that y'all don't -- I was sitting
22 there thinking: You're going to start getting
23 letters clarifying different things.

24 Shands is actually a private not-for-profit
25 entity, but it is a component of UF Health Science

1 Center. And so that would be the context that this
2 is viewed in.

3 I think where the nexus is is that part of the
4 abilities of Shands are derived through the Board
5 of Trustees at the University of Florida and,
6 therefore, this is the -- I think the opportunity
7 and the area where the conversation between the
8 Board of Governors and the Board of Trustees at UF
9 is the bridge or is the way to connect the dots as
10 we discuss the level of debt and how debt is
11 processed going forward.

12 I don't want to -- I don't know that I can
13 speak for President Fuchs. I would share with you
14 that he is aware of the conversation, and I believe
15 he would be comfortable with the proposal that I
16 have indicated our comfort level with and more than
17 happy to work with the University of Florida.

18 I would also share as we look at this, while
19 the example presented to you today was of Shands, I
20 think the important approach for the Board of
21 Governors is actually to contemplate all
22 similarly-situated entities existing now or
23 existing in the future. We have another proposal
24 for a teaching hospital kind of starting up from
25 one of the universities right now.

1 This is not necessarily a Shands discussion
2 but a university and university system discussion.
3 And as we approach this, our goal would be to have
4 a process in place that we don't have to come back
5 with individual examples over time but generally
6 understand, again, this notion that there is a
7 standard of review that you all expect, my Board
8 expects it, and I believe it can be instilled not
9 only at the Board of Trustees' level but at what I
10 would call the local board or the directly
11 responsible board, DSO, or other entity. And in
12 this case, that would be the Shands board.

13 GOVERNOR SCOTT: Thank you, Marshall.

14 CFO, did you have a question?

15 CFO ATWATER: Well, just that I think the
16 point made, why don't -- at that time that you're
17 back with the specifics of how we would carry out
18 these two recommendations, maybe that would be a
19 nice time for the University of Florida to be
20 present and say, this is -- if we're going to be
21 finding a home, this is the home we would prefer,
22 or we find this home to be -- not to be anything
23 that would be encumbering our path forward so that
24 they could visit with us and communicate that.

25 CHANCELLOR CRISER: And if I may, and by its

1 nature, our regulation development process is an
2 inclusive process where the universities
3 participate in that dialogue as well.

4 GOVERNOR SCOTT: All right.

5 CFO ATWATER: Governor, just one --

6 GOVERNOR SCOTT: In February, we're going
7 to -- we'll put this back on the agenda.

8 Go ahead, CFO.

9 CFO ATWATER: Ben, just the terminology
10 that -- on how you've made this presentation on the
11 changes that have been made over time and your
12 comfort level. You use a term that the processes
13 in place should be adequate to do the job. Is
14 there anything else you want to say? Is there any
15 concern that --

16 DIRECTOR WATKINS: No, I think that we're --
17 the Board has been very responsive, and I think if
18 you look at that list in terms of dates and
19 actions, it is happening with -- four things
20 happened in 2016, and so I'll have to say, they get
21 it and understand what the expectations are
22 relative to the university system; and so they've
23 been a good partner in helping move things forward.

24 And so I hope we can continue to make progress
25 on that front because I do think there is --

1 remains area for improvement, and that is pushing
2 the review down, a critical review, not a rubber
3 stamp, not a consent agenda, but a critical review
4 to the appropriate level so the Board can exercise
5 their responsibility and their fiduciary obligation
6 in evaluating what the university management is
7 proposing.

8 GOVERNOR SCOTT: Okay. All right. Thank you,
9 Ben.

10 DIRECTOR WATKINS: Thank you.

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STATE BOARD OF ADMINISTRATION

GOVERNOR SCOTT: Next I'd like to recognize Ash Williams with the State Board of Administration. Hi, Ash.

EXECUTIVE DIRECTOR WILLIAMS: Governor, Trustees, Cabinet members.

By way of update, calendar year to date 2016, the Florida Retirement System Trust Fund has returned 5.67%. That's 11 basis points ahead of target. Net gain in the fund of \$2.2 billion; that's net of distributions of 5.6 billion.

GOVERNOR SCOTT: Ash, that's calendar?

EXECUTIVE DIRECTOR WILLIAMS: Yes, sir, we switched the time series to the longer of the calendar or the fiscal year; and since we're past fiscal year-end, we're at calendar.

So that's net of 5.6 billion in distributions and leaves the fund with a balance of \$144.2 billion.

Item 1, request approval of a fiscal sufficiency of an amount not exceeding \$8.2 million State of Florida, Board of Governors, Florida State University parking facility revenue refunding bonds.

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

3 ATTORNEY GENERAL BONDI: So move.

4 GOVERNOR SCOTT: Is there a second?

5 CFO ATWATER: Second.

6 GOVERNOR SCOTT: Comments or objections?

7 (NO RESPONSE) .

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

10 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

11 Items 2 and 3 are both relating to affordable
12 housing transactions. Item 2, resolution of the
13 SBA making a fiscal determination in connection
14 with issuance of an amount not exceeding
15 \$10.6 million Florida Housing Finance Corporation
16 multifamily mortgage revenue bonds. This is
17 construction of a multifamily rental unit, The Park
18 at Wellington II in Pasco County.

19 GOVERNOR SCOTT: Go ahead and do 3.

20 EXECUTIVE DIRECTOR WILLIAMS: Very well.
21 Thank you.

22 Resolution of the SBA, a fiscal determination
23 in connection with issuance of \$17.95 million
24 Housing Finance Corporation multifamily mortgage
25 revenue notes. This is the Tuscany Cove I Project,

1 which is multifamily rental in Miami/Dade.

2 Items 2 and 3, request approval.

3 GOVERNOR SCOTT: Is there a motion on Items 2
4 and 3?

5 ATTORNEY GENERAL BONDI: So move.

6 GOVERNOR SCOTT: Is there a second?

7 CFO ATWATER: Second.

8 GOVERNOR SCOTT: Comments or objections?

9 (NO RESPONSE).

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

12 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

13 Item 4, request approval of changes to the
14 charter of the Audit Committee of the State Board
15 of Administration. Periodically the Audit
16 Committee, in concert with our Chief Internal Audit
17 Executive and SBA management, reviews the charter,
18 makes adjustments as needed to bring it current.
19 That's what this is. It's certainly nothing
20 controversial.

21 GOVERNOR SCOTT: Is there a motion on the
22 item?

23 ATTORNEY GENERAL BONDI: So move.

24 GOVERNOR SCOTT: Is there a second?

25 CFO ATWATER: Second.

1 GOVERNOR SCOTT: Any comments or objections?

2 (NO RESPONSE) .

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

5 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

6 Item 5, request approval of revisions to the
7 Investment Policy Statement for the Florida
8 Retirement System Pension Plan as required under
9 Florida Statute 215.

10 This is follow-on to the September 19
11 Investment Advisory Council where a couple of
12 things were adopted unanimously. Number 1, we
13 clarified, and in my opinion, made more competitive
14 the secondary benchmark we use for private equity;
15 and we also put in place provisions to address the
16 new legislation related to the boycotting of
17 Israel.

18 GOVERNOR SCOTT: Is there a motion on the
19 item?

20 ATTORNEY GENERAL BONDI: So moved.

21 GOVERNOR SCOTT: Is there a second?

22 CFO ATWATER: Second.

23 GOVERNOR SCOTT: Comments or objections?

24 (NO RESPONSE) .

25 GOVERNOR SCOTT: Hearing none, the motion

1 carries.

2 So 6 and 7 are the rules. Has everybody had a
3 chance to review them?

4 COMMISSIONER PUTNAM: Yes.

5 ATTORNEY GENERAL BONDI: Yes.

6 GOVERNOR SCOTT: Is there a motion on 6 and 7?

7 ATTORNEY GENERAL BONDI: So move.

8 GOVERNOR SCOTT: Is there a second?

9 CFO ATWATER: Second.

10 GOVERNOR SCOTT: Comments or objections?

11 (NO RESPONSE).

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

14 EXECUTIVE DIRECTOR WILLIAMS: Thank you very
15 much.

16 GOVERNOR SCOTT: Thanks, Ash.

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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 two items on the Administration Commission agenda.

Item 1 is approval of the minutes of the August 2nd, 2016, meeting.

GOVERNOR SCOTT: Is there a motion on the item?

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.

MR. KRUSE: Item 2 is consideration of a DOAH recommended order in the proceeding of Roger Thornberry, et al, versus Lee County and Intervenor, RH Venture II, LLC, et al.

Peter Penrod, the Commission's attorney, will present this item.

MR. PENROD: Thank you.

Good morning. I'm Peter Penrod, counsel for

1 the Administration Commission.

2 Today I will present the Recommended Order in
3 the case that Mark just introduced. This agenda
4 item is a challenge to a Lee County Comprehensive
5 Plan Amendment adopted by Ordinance 15-10. The
6 Plan Amendment in question changes the land use
7 designation of 585.68 acres of land from the rural
8 land use category to sub-outlying suburban.

9 On December 1st, 2015, after notice and
10 hearing, an Administrative Law Judge entered a
11 Recommended Order determining that the Plan
12 Amendment 15-10 was out of compliance with
13 Chapter 163, Florida Statutes. The purpose of this
14 item today is for the Commission to consider the
15 Recommended Order, the party exceptions and
16 arguments, and relevant law, and vote on final
17 action.

18 The parties in this case are: Petitioners,
19 Roger Thornberry, Georgette Lundquist,
20 Steven Brodtkin, Ruby Daniels, Rosalie Prestarri,
21 and James Giedman; and they are represented by
22 Ralph Brooks.

23 The Respondent is Lee County, and they are
24 represented by the Lee County attorney's office.

25 And the Intervenors are RH Venture II, LLC;

1 RH Venture II, LLC; and Greenpointe Communities,
2 LLC; and they are represented by Gary Hunter.

3 First I'll provide a brief background to this
4 case and then a short overview of the Petitioners'
5 challenges to the Plan Amendment. On June 3rd,
6 2015, the Lee County Board of County Commissioners
7 adopted a Comprehensive Plan Amendment to the
8 Lee County Comprehensive Plan. The Plan Amendment
9 changed the land use designation of 585 acres of
10 land from rural to sub-outlying suburban.

11 On July 1st, 2015, Petitioners filed a
12 petition with the Division of Administrative
13 Hearings challenging the Plan Amendment pursuant to
14 Section 163.3184, Florida Statutes.

15 On December 1st, 2015, the Administrative Law
16 Judge issued a Recommended Order finding the
17 Plan Amendment was not in compliance. After
18 issuance of the Recommended Order, both Respondent
19 and Intervenors timely filed exceptions to the
20 Recommended Order. The Petitioners submitted an
21 untimely response to the Petitioners' and
22 Intervenors' exceptions.

23 I will now provide a short summary of the
24 Petitioners' challenges. The Petitioners allege
25 that the Plan Amendment 15-10 is inconsistent with

1 Lee County Policy 21.1.5, which reads, quote, One
2 important aspect of the Caloosahatchee Shores
3 Community plan goal is to retain its rural
4 character and rural land use where it currently
5 exists; therefore, no land use map amendments to
6 the remaining rural lands category will be
7 permitted after May 15, 2002, unless a finding
8 overriding public necessity is made by three
9 members of the Board of County Commissioners.

10 The Petitioners contend that since the
11 Plan Amendment is an amendment to the rural lands
12 category, the County was required to make a finding
13 of overriding public necessity prior to changing
14 the future land use designation from rural to
15 sub-outlying suburban.

16 The Petitioners conclude that since the County
17 failed to make this finding, the Plan Amendment is
18 internally inconsistent and in violation of Section
19 163.3177, Subsection (2), Florida Statutes. As
20 such, the Plan Amendment is not in compliance with
21 Chapter 163.

22 I will now turn to the Administrative Law
23 Judge's Findings of Fact and will begin with the
24 standard of review for findings of fact. The
25 standard of review for findings of fact in a

1 recommended order is set forth in
2 Section 120.57(1)(1), Florida Statutes, which
3 provides:

4 The Commission may not reject or modify the
5 Administrative Law Judge's Finding of Fact unless
6 the Commission first determines, from a review of
7 the entire record, and states with particularity in
8 the order that the findings of fact were not based
9 upon competent, substantial evidence or that the
10 proceedings in which the findings were based did
11 not comply with the essential requirements of law.

12 I will now provide an overview of the
13 Administrative Law Judge's Findings of Fact. The
14 Administrative Law Judge found that the subject
15 property is located in Caloosahatchee Shores with
16 an existing 1,978-acre mixed use golf community
17 known as River Hall.

18 The Administrative Law Judge determined that
19 the subject property was listed in the rural land
20 use category. The Judge further determined that
21 Policy 21.1.5 directs the Board of County
22 Commissioners to make a finding of overriding
23 public necessity as a prerequisite to removing
24 lands from the rural land use category.

25 Next, the Administrative Law Judge determined

1 that Plan Amendment 15-10 removes land from the
2 rural land use category and changes the future land
3 use designation of the subject property from rural
4 to sub-outlying suburban.

5 Finally, the Administrative Law Judge found
6 that the Board of County Commissioners did not make
7 a finding of overriding public necessity when it
8 adopted Plan Amendment 15-10.

9 That concludes the review of the Findings of
10 Facts. Are there any questions?

11 GOVERNOR SCOTT: Questions?

12 (NO RESPONSE).

13 GOVERNOR SCOTT: No.

14 MR. PENROD: We'll now turn to the
15 Administrative Law Judge's Conclusions of Law.
16 Prior to reviewing the Conclusions of Law, I will
17 go over the standard of review for such
18 conclusions.

19 The standard of review for Conclusions of Law
20 is set forth in Section 120.57(1)(1), Florida
21 Statutes and provides:

22 The Commission in its final order may reject
23 or modify the Conclusions of Law over which it has
24 substantive jurisdiction. When rejecting or
25 modifying such Conclusions of Laws, the Commission

1 must state with particularity its reasons for
2 rejecting or modifying such Conclusions of Laws and
3 must make a finding its substituted Conclusions of
4 Law is as or more reasonable than which was
5 rejected or modified. Rejection or modification of
6 a Conclusion of Law may not form the basis for
7 rejection or modification of a Finding of Fact.

8 I will now go over the Administrative Law
9 Judge's Conclusions of Laws. First, we have
10 standing. To have standing to challenge or support
11 a Plan Amendment, a person must be an affected
12 party as defined in Section 163.3184(1)(a). The
13 Administrative Law Judge concluded that all parties
14 have standing to participate in this proceeding.

15 Next, the term "in compliance" means
16 consistent with the requirements of relevant
17 sections of Chapter 163, Florida Statutes. Also,
18 with the appropriate strategic regional policy plan
19 and with the principles for guiding development in
20 designated areas of critical state concern and with
21 Part 3 of Chapter 369 where applicable.

22 The fairly debatable standard applies to any
23 challenges filed by an affected person. Under the
24 fairly debatable standard, the Petitioner bears the
25 burden of proving beyond fair debate that the

1 challenge amendment is not in compliance. This
2 standard means, if reasonable persons could differ
3 as to its propriety, a Plan Amendment must be
4 upheld.

5 The Administrative Law Judge concluded that
6 the language of Policy 21.1.5 has no doubtful
7 meaning and that the clear directive of policy is
8 to make a finding of overriding public necessity as
9 a condition precedent when changing the future land
10 use category of lands designated rural in the
11 Caloosahatchee Shores.

12 The Administrative Law Judge further concluded
13 that the Petitioners proved beyond fair debate that
14 the Plan Amendment is inconsistent with
15 Policy 21.1.5 since the Board of County
16 Commissioners failed to make a finding of
17 overriding public necessity.

18 The Administrative Law Judge further concluded
19 that the Plan Amendment is not in compliance with
20 Chapter 163 because the subject amendment is
21 internally inconsistent with Policy 21.1.5, which
22 violates Section 163.3177, Subsection 2,
23 Florida Statutes. As such, the Administrative Law
24 Judge recommends that the Commission issue a final
25 order finding the Plan Amendment 15-10 is out of

1 compliance.

2 That concludes the Administrative Law Judge's
3 Conclusions of Law. Are there any questions?

4 GOVERNOR SCOTT: Nope.

5 MR. PENROD: We'll now turn to the party
6 exceptions. Before discussing the exceptions, I
7 will provide the standard of review for party
8 exceptions, which is found in Section 120.57(1)(k),
9 Florida Statutes, and it provides:

10 The final order shall include an explicit
11 ruling on each exception, but an agency need not
12 rule on an exception that does not clearly identify
13 the disputed portion of the record -- excuse me,
14 the disputed portion of the Recommended Order by
15 page number or paragraph that does not identify the
16 legal basis for the exception or that does not
17 include the appropriate and specific citations to
18 the record.

19 The parties will present their exceptions and
20 arguments. Due to the number of parties, I've
21 discussed with the parties beforehand and they've
22 agreed to limit their presentations to ten minutes
23 a piece. I want to remind the individuals
24 presenting that the Commission may only consider
25 evidence as part of the record from the below

1 proceedings. The Commission cannot and will not
2 consider any evidence that was not made part of the
3 record from the below proceedings; therefore, the
4 presenters should limit their comments to the
5 evidence in the record and avoid discussing any
6 issues outside the record.

7 ATTORNEY GENERAL BONDI: Can I ask a question,
8 Governor?

9 GOVERNOR SCOTT: Yes.

10 ATTORNEY GENERAL BONDI: Will you be sure that
11 if they deviate from that, you will stop them and
12 let us know?

13 MR. PENROD: Yes, I will.

14 ATTORNEY GENERAL BONDI: That's -- and, again,
15 this has always been my problem with us handling
16 these hearings. These have gone before an
17 Administrative Law Judge at length, with both
18 sides, with all the issues; and then it's brought
19 to us in a vacuum to either uphold it or overrule.
20 And so we need you to help keep us on track, if
21 either side tries to deviate from what was heard in
22 the hearing that we're not privy to.

23 MR. PENROD: Thank you, Attorney General. If
24 I hear anyone go outside the facts or the
25 conclusions I previously discussed, I've brought

1 the record with me, and I'm to ask the parties to
2 point to the record for the issues that they're
3 discussing.

4 ATTORNEY GENERAL BONDI: Thank you.

5 MR. PENROD: With that said, the Respondent
6 will present first; the intervenor will present
7 second; the Petitioner will present third; and I
8 believe the Respondent is going to reserve time for
9 rebuttal at the end. There will also be comments
10 from members of the public.

11 GOVERNOR SCOTT: Good afternoon.

12 MR. WESCH: Good afternoon,
13 Attorney General Bondi, Chief Financial Officer
14 Atwater, Commissioner Putnam. My name is
15 Richard Wesch, and I have the pleasure and the
16 honor of representing the Lee County Board of
17 County Commissioners in this matter.

18 Governor, I have brought exhibit binders with
19 me, and with your indulgence, I would approach and
20 distribute.

21 We're here this morning in a matter styled:
22 Thornberry versus Lee County and Greenpointe
23 Communities. There are six Petitioners in this
24 cause, all have standing; but it should be noted
25 only two actually reside within the River Hall

1 Subdivision.

2 The purpose of today's hearing is to decide
3 whether the Comprehensive Plan Amendment pertaining
4 to a subdivision known as River Hall is in
5 compliance with the Lee County Comprehensive Plan.

6 If you all would, please turn to Tab 1 within
7 the binders that I just handed out.

8 Tab 1 is a map of the River Hall Subdivision.
9 The red boundary line depicts the boundary lines of
10 the River Hall development. The area at issue are
11 the two brown disturbed areas just north of that
12 southern boundary line. River Hall is a
13 suburban-style, gated golf course community. The
14 2005 zoning approval allowed for a maximum of 1,999
15 dwelling units on this 1,978-acre tract. This Plan
16 Amendment would allow a maximum of 2,695 units.

17 The original developer of River Hall commenced
18 construction in 2005 and regrettably went into
19 bankruptcy during the great recession. River Hall
20 was acquired out of bankruptcy by Greenpointe
21 Communities in 2011.

22 At the time that Greenpointe acquired the
23 subdivision, over 1,800 lots had been platted, and
24 approximately 300 dwelling units had been
25 constructed. Also constructed are an elementary

1 school, a golf course, clubhouse, and an amenity
2 center. There's a future fire station planned
3 within the River Hall Subdivision.

4 I highlight these amenities and improvements,
5 as they will become readily apparent later in this
6 presentation. A large parcel within the River Hall
7 Subdivision community was not platted. Those are
8 the brown areas depicted on the map as the project
9 was acquired in 2011.

10 One can only presume that they were not
11 platted at that time because of the DRI laws in
12 effect. The Development of Regional Impact law in
13 effect would have limited the development to
14 1,999 units; therefore, these areas were left as
15 non-platted at the time.

16 It should be noted that they do not represent
17 the conversion of open space or golf course
18 community. These unplatted areas within River Hall
19 are presently served by central facilities
20 including water, sewer, drainage, schools, and
21 other urban services adequate to handle this
22 density increase. I highlight this infrastructure
23 because, once again, the significance will become
24 readily apparent later in the presentation.

25 The area at issue also lies immediately north

1 and adjacent to a subdivision known as
2 Lehigh Acres. Lehigh Acres was platted in the
3 1960s at a density of three to four units per acre.
4 There are no environmentally sensitive lands or
5 coastal high hazard areas within the areas to be
6 developed, and urban sprawl is not an issue.
7 Conversely, given the configuration of the
8 River Hall Subdivision, it can be legitimately
9 argued that this actually constitutes in-fill
10 development.

11 The Lee County Board of County Commissioners
12 found the Plan Amendment in compliance and adopted
13 it on June 3rd, 2015. Petitioners have challenged
14 the Plan Amendment on the grounds that the Board
15 was required to make a finding of, quote,
16 overriding public necessity, close quote, for the
17 amendment under Policy 21.1.5 of the Lee County
18 plan.

19 If you all would, please turn to Tab 2 of the
20 handout that I gave to you. Tab 2 is the actual
21 verbiage and language of Policy 21.1.5, and I
22 quote: One important aspect of the
23 Caloosahatchee Shores community plan is to retain
24 its rural character and rural land use where it
25 currently exists; therefore, no land-map amendments

1 to the remaining rural lands category will be
2 permitted after May 15th, 2009, unless a finding of
3 overriding public necessity is made by three
4 members of the Board of County Commissioners, close
5 quote.

6 It should be noted that nowhere in the
7 Lee County Comprehensive Plan, other applicable
8 ordinance, administrative code, or administrative
9 regulations is overriding public necessity defined.
10 Because it can be argued that this policy could be
11 interpreted in numerous ways, the Board of
12 County Commissioners, out of an abundance of
13 caution, conducted no less than two public hearings
14 to solicit public input. These hearings were held
15 on October 7th and October 22nd, 2014. These
16 hearings took approximately three hours in their
17 totality.

18 At these hearings, the public had an
19 opportunity to address the issue, as did members of
20 our office, other county staff, the developer,
21 developer's legal counsel. The central question
22 was: What is overriding public necessity, and
23 should it be applied in this circumstance given the
24 development of the River Hall Subdivision?

25 At these hearings, the Board determined that

1 the intent of Policy 21.1.5 was to acquire a
2 finding of overriding public necessity for plan
3 amendments that exhibited rural character and rural
4 land use at the time the policy was adopted.

5 The Board further found that the River Hall
6 Subdivision was a suburban golf course development,
7 was not rural in character or use. The Board based
8 its findings largely upon the amenities and
9 infrastructure that I previously cited to you.

10 In light of this, the Board of
11 County Commissioners on a four-to-one vote
12 determined that the overriding public necessity
13 requirement of Policy 21.1.5 should not be applied
14 to the River Hall application and did not apply it.

15 The Board thereafter proceeded to entertain
16 the Plan Amendment, adopted it, and forwarded it to
17 the State for review.

18 The Board interpreted this policy as
19 inapplicable to the River Hall amendment because
20 the property within River Hall did not exhibit
21 rural character and rural land use. Under
22 Section 163.3184(5)(c)(1), Florida Statutes, the
23 Board's interpretation of this policy and its
24 finding that the Plan Amendment is in compliance
25 must be upheld if the finding is fairly debatable.

1 Accordingly, to proceed further in this discussion,
2 a working definition of fairly debatable should be
3 examined.

4 Courts in this state have defined the fairly
5 debatable standard of review as a highly
6 deferential standard requiring approval of a
7 planning decision if reasonable persons can differ
8 as to its propriety. Stated another way: A
9 decision may be said to be fairly debatable when,
10 for any reason, it is open to dispute or
11 controversy on the grounds that it makes sense.
12 This is the Martin County versus Yusem case decided
13 many years ago by the Florida Supreme Court.

14 Further, courts have stated that by whatever
15 name it is called, the task of a reviewing body is
16 to ensure that the authority's decision is based
17 upon evidence a reasonable mind would accept to
18 support a conclusion. If there was such evidence
19 presented, the authority's determination must
20 stand. This was the Smith versus City of West Palm
21 Beach case.

22 Or perhaps the best working definition was as
23 presented by you, Commissioner Putnam, in a matter
24 previously heard by the Commission in a case,
25 Geraldson versus Manatee County. This case was

1 decided by this Commission, March 24th of 2015.

2 In that case, Commissioner, you inquired of
3 your counsel, and I quote: So if we can follow the
4 logic that the County pursued in making the
5 County's conclusions, the law defers to local
6 governments to make planning decisions, close
7 quote.

8 Your attorney's answer that day was:
9 Yes, sir.

10 That case was appealed to the District Court
11 of Appeals, and the decision of this Commission was
12 upheld.

13 As we've outlined and demonstrated, the
14 Board's decision in this cause was based upon
15 evidence a reasonable mind would accept to support
16 its conclusion, specifically, the lands in question
17 do not exhibit rural character or use. Quite the
18 opposite, the lands in question exhibit
19 characteristics that lead to the logical conclusion
20 that they were always intended to be included
21 within the River Hall Subdivision development.

22 We have demonstrated this by outlining the
23 amenities and the infrastructure constructed to
24 serve these areas. Interestingly, even the
25 Administrative Law Judge agreed that River Hall was

1 not rural, stating, and I quote: Respondents and
2 Intervenors introduced abundant evidence to
3 establish the property, subject to the
4 Plan Amendment, is suburban development served by
5 the full spectrum of urban services and devoid of
6 any trappings of rural development, such as large
7 lot residential and agricultural uses.

8 And this is found in the Recommended Order on
9 Page 8, Paragraph 17.

10 Despite this finding the Administrative Law
11 Judge presented above, and completely disregarded
12 the Board's decision and interpretation of its own
13 policy and rather substituted her own. In doing
14 so, she found the amendment was not in compliance
15 based solely upon her own reading of the policy.
16 The ALJ's failure to give legal deference to the
17 Board's interpretation is as required under the
18 fairly debatable standard.

19 Moreover, in law, there is a legal doctrine
20 known as in pari materia which stands for the
21 well-settled principle that a statute or ordinance
22 should be construed in its entirety and given
23 effect to its entirety rather than the torsion and
24 dissected approach that the Administrative Law
25 Judge used in this hearing.

1 Significant testimony was provided to the
2 Administrative Law Judge to support the
3 determination that the overriding public necessity
4 requirement was not intended to apply to the
5 River Hall amendment.

6 The County and Greenpointe presented evidence
7 which was admitted but entirely ignored by the ALJ
8 that not only supported but proved the County's
9 interpretation was correct. That evidence included
10 the aerial map that I provided to you under Tab 1
11 showing the lands in question are not rural in
12 character, that the lands in question were intended
13 to be served by the amenities and infrastructure
14 outlined earlier; and most notably, the testimony
15 from Grady Myers, who confirmed that both he and
16 the original developer were members of the
17 East Lee County Council who drafted Policy 21.1.5.

18 Mr. Myers attended meetings with proposed plan
19 amendments for this policy where it was discussed
20 that the policy would not apply to River Hall.
21 This can be found within the transcript, Volume 1,
22 Pages 234, Lines 1 through 18; Page 235, Lines 11
23 through 25; Page 236, Lines 1 through 7; Page 240,
24 Lines 7 through 10; and Page 241, Lines 1 through
25 14.

1 Finally, the 2007 application that created
2 Policy 21.1.5 contained a map that clearly
3 identified the lands to be affected by this policy.
4 If you all will please kindly turn to Tab 3 of the
5 materials that I handed out to you, River Hall is
6 the crosshatched area. This map was part of the
7 data and analysis that went through the planning
8 process in Lee County. While it is correct that
9 this map was not adopted into the comp plan, it was
10 part of the comp plan application and clearly
11 defines what the intent of the drafters was at the
12 time the amendment moved forward.

13 Could this policy have been drafted in a
14 clearer sense? Perhaps, but as is often the case,
15 ambiguity is not recognized until a law is applied
16 for the first time. This River Hall Comprehensive
17 Plan Amendment is the first time Policy 21.1.5 was
18 analyzed against a real-world application. Due to
19 the specific nature, condition, and use of lands
20 involved in this application, it is not likely to
21 be problematic going forward as we have failed to
22 identify as a County any other lands that are not
23 rural in use and character and within this land use
24 classification and, therefore, subject to this
25 policy.

1 Therefore, the likelihood of this issue
2 arising again, even under existing language, is
3 highly remote; however, with all due respect,
4 that's not the legal task that you all are charged
5 with this morning -- this afternoon. The legal
6 duty of this Commission, as was the Administrative
7 Law Judge's duty, is to search the record below and
8 determine if the decision made by the Lee County
9 Board of County Commissioners was based upon
10 evidence a reasonable mind would accept to support
11 the conclusion.

12 If there was such evidence presented to the
13 Lee County Board of County Commissioners, their
14 determination must stand, even if the ALJ, or
15 again, with all due respect, this Commission would
16 have reached a different conclusion upon the same
17 evidence.

18 Members of the Commission, the Lee County
19 Board of County Commissioners had ample evidence
20 upon which to base its decision that River Hall was
21 not rural in character or use and that
22 Policy 21.1.5 should not be applied.

23 But perhaps the best evidence that the
24 Board of County Commissioners' action is fairly
25 debatable is the simple fact that this afternoon

1 you will hear from two members of the
2 Board of County Commissioners from Lee County,
3 Florida.

4 As I mentioned earlier, this matter was
5 decided on a four to one vote. We have the
6 chairman of the Board who is here representing
7 himself and represents the single adverse vote. We
8 have Commissioner Brian Hamman, who I will
9 introduce in just a moment, who represents the
10 majority of the Board of County Commissioners.

11 Each Commissioner will express their views of
12 the proper interpretation of Policy 21.1.5. Quite
13 honestly, I cannot think of a better example of a
14 decision of the Board of County Commissioners being
15 fairly debatable than when you have two members of
16 the same Board of County Commissioners interpreting
17 and applying the same policy so differently.

18 I would respectfully suggest to the Commission
19 that if this situation is not an example of the
20 fairly debatable standard, then neither myself nor
21 perhaps my 66 counterparts across the state will
22 have any comfort in advising their Boards as to
23 what fairly debatable might mean in the State of
24 Florida.

25 Further, a finding by this Commission that the

1 Board of County Commissioners' decision was fairly
2 debatable would be entirely consistent with the
3 Manatee County case that I cited earlier that this
4 Commission decided approximately a year and a half
5 ago.

6 The Administrative Law Judge failed in her
7 legal duty and obligation to search the record to
8 determine if there was any evidence that a
9 reasonable mind would accept to support the
10 County's decision. Rather, she simply ignored the
11 evidence that supported the County's position. The
12 ALJ failed to afford the proper deference and
13 simply substituted her own judgment.

14 The Administrative Law Judge also violated the
15 legal principle of reading and construing statutes
16 together to come to a logical conclusion. For
17 these reasons, the County and Greenpointe
18 respectfully request the Administrative Law Judge's
19 Recommended Order finding the River Hall
20 Comprehensive Plan Amendment not in compliance be
21 rejected and -- by affording the Lee County Board
22 of County Commissioners the legal deference to
23 which they are entitled to under the fairly
24 debatable standard of review.

25 We would respectfully request two minutes of

1 rebuttal time should the same be necessary
2 following the presentation of the Petitioners'
3 cause. I thank you for your time, attention, and
4 consideration.

5 I would also, with your indulgence, like to
6 introduce County Commissioner Brian Hamman, who
7 would like to address you briefly. Thank you all.

8 GOVERNOR SCOTT: Thank you.

9 COMMISSIONER HAMMAN: Good afternoon,
10 Governor Scott, Attorney General Bondi,
11 CFO Atwater, Commissioner Putnam. It's good to be
12 here with you this afternoon.

13 This really boils down to two simple questions
14 in my mind as a County Commissioner. Commissioners
15 were asked: Is this gated community with a
16 clubhouse, golf course, swimming pool, tennis
17 court, restaurant, elementary school, and proposed
18 fire station rural? Well, after taking public
19 input, four Commissioners voted and answered: No,
20 this is not rural, not in character, not in land
21 use. And the policy designed to protect rural
22 lands did not apply in this case.

23 The second question Commissioners were asked
24 was: Then do you approve of allowing more homes to
25 be built inside of this gated community with all of

1 the amenities I just listed, plus central water and
2 sewer and other infrastructure available to handle
3 the coming growth? Well, four Commissioners voted
4 and said: Yes, let's put the new growth where the
5 infrastructure exists, similar to in-fill.

6 You know, a lot of extra noise has been
7 injected into this debate, but everything I've said
8 today has been established on the record. The
9 decision, if you boil it down to its simplest
10 points is actually pretty clear: Four
11 Commissioners elected by the people of Lee County
12 determined at a public hearing that River Hall, the
13 gated community, is not rural and that it is
14 appropriate to allow in-fill development where the
15 infrastructure is in place to handle it.

16 So with that, in closing, I'd like to ask that
17 you please do not let a Tallahassee judge
18 substitute her judgment for the will of the elected
19 County Commissioners of the County of Lee.
20 Thank you very much.

21 GOVERNOR SCOTT: Thank you.

22 MR. SCHROPP: Good afternoon, Governor Scott,
23 General Bondi, CFO Atwater, Commissioner Putnam.
24 For your record, my name is Russell Schropp. I'm
25 an attorney with the Henderson Franklin law firm in

1 Ft. Myers, Florida. I'm here today representing
2 the Intervenor of this matter, which is
3 Greenpointe Communities and RH Ventures. I'm here
4 today with my client, Ed Burrough (phonetics), of
5 Greenpointe Communities; as well as my co-counsel,
6 Gary Hunter, of the Hopping, Green & Sams firm here
7 in Tallahassee.

8 Following on the County's presentation, my
9 presentation today will be fairly direct and brief
10 and will address the exceptions that have been
11 filed by the County and by the Intervenor to the
12 ALJ's Recommended Order. These exceptions deal
13 exclusively with the Conclusions of Law reached by
14 the Administrative Law Judge.

15 While the parties filed separate exceptions in
16 this matter, both parties basically assert the same
17 general errors were made by the Administrative Law
18 Judge. Those exceptions also fall generally into
19 three categories: The first category of exceptions
20 is that the ALJ failed to give effect to the entire
21 policy that is at issue in this proceeding. Tab 2
22 reflects the policy that's at issue in this
23 proceeding is Policy 21.1.5.

24 The ALJ essentially dismissed the first
25 sentence of this policy calling it precatory and of

1 no regulatory significance, but it is the first
2 sentence of this policy that actually identifies
3 and states the intent of the policy itself, which
4 is to protect existing areas of rural character and
5 rural land use.

6 In contrast to the ALJ's Recommended Order,
7 the interpretation of this policy adopted by the
8 County actually gives effect to both sentences of
9 the policy that's reflected in Tab 2. The first
10 sentence establishes the intent of the policy, and
11 the second establishes the regulatory protection
12 for the areas that are covered by the policy.

13 From a legal perspective, there is a
14 longstanding rule of statutory construction, that
15 the meaning and effect of the entire policy or the
16 entire statute should be given effect if it can be
17 read in that manner. The County's interpretation
18 does that, the ALJ's Recommended Order does not.

19 The second category of exceptions raised by
20 the County and the Intervenor is that the ALJ
21 improperly failed to consider the legislative
22 history of Policy 21.1.5. This history included
23 the actual map that the County attorney presented
24 to you earlier. It's included in Tab 3 of the
25 handout. But it also included testimony from my

1 client regarding representations that were made
2 during the adoption of Policy 21.1.5 that the
3 policy would not apply to the River Hall community.

4 What is perplexing about the ALJ's order is
5 that during the course of the hearing, she actually
6 indicated that evidence on legislative history
7 would be relevant for both side's argument at the
8 proceeding below, but when it came down to it,
9 having made this determination that a legislative
10 history was relevant, the ALJ then disregarded what
11 is essentially uncontested evidence that River Hall
12 was not intended to be covered by this policy.

13 Clearly, in our opinion, this was an error
14 in the ALJ's conclusions of law and provides a
15 primary basis for the exceptions in the
16 Recommended Order.

17 The third and final category of exceptions
18 that both the County and Intervenors assert is the
19 failure on the part of the ALJ to give adequate
20 deference to the County's interpretation of its own
21 policy under the fairly debatable standard of
22 Chapter 163. This is really at the heart of all of
23 the exceptions that have been filed by the County
24 and the Intervenors.

25 Earlier the County described the

1 interpretation of the policy that the County made
2 and the process that it went through. Both the
3 interpretation and the policy were reasonable under
4 the circumstances and under the fairly debatable
5 standard of Chapter 163. The County's
6 interpretation is entitled to great deference if
7 reasonable persons can disagree as to the
8 interpretation.

9 It is by law a highly deferential standard,
10 and the ALJ failed to consider or give any weight
11 whatsoever to the interpretation that the County
12 made of its own policy. In this regard, as the
13 County attorney mentioned, this case is remarkably
14 similar to the case that you decided last year in
15 2015 for Manatee County.

16 In that case, as here, an interpretation of
17 the Comprehensive Plan was made by the
18 County Commission. That interpretation was
19 challenged. The ALJ failed to give the County's
20 interpretation any deference as required by Chapter
21 163. The Administration Commission rejected the
22 ALJ's order and deferred to the County's
23 interpretation of its own Comprehensive Plan, and
24 that decision was upheld by the Second DCA.

25 Quite frankly, it would be hard for me to find

1 a more controlling precedent for this case than the
2 decision that this Commission made just last year.

3 The final point that I will make,
4 respectfully, is that I would suggest that this
5 Commission should consider and give great weight to
6 not only the interpretation that the County made
7 but respect the process that the County went
8 through in order to make this interpretation.

9 The County's interpretation was not made in
10 some ad hoc fashion at the conclusion of the
11 adoption hearing and as a byproduct of the adoption
12 of the Plan Amendment. Rather, this interpretation
13 was actually made a full eight months before the
14 River Hall Plan Amendment was officially adopted.

15 The interpretation was made after hearings
16 before the County Commission, two separate
17 hearings, at which not only did I testify, my
18 clients testified, the County staff testified; but
19 the Petitioners' counsel and several of the
20 Petitioners themselves testified before the Board
21 at this very proceeding. Much of the same evidence
22 that was presented to the Board was then
23 re-presented to the Administrative Law Judge at the
24 hearing, yet the Administrative Law Judge simply
25 substituted her decision for that of the

1 County Commission.

2 In summary and consistent with this
3 Commission's final order in the Manatee case from
4 last year, I would respectfully request that the
5 Commission grant the exceptions that have been
6 filed by both the County and the Intervenor in
7 this case, and specifically find that the
8 Administrative Law Judge failed to give the proper
9 deference to the County's interpretation of its
10 Comprehensive Plan.

11 There was evidence in the record to support
12 this interpretation, and under the fairly debatable
13 standard, that interpretation is entitled to
14 deference. Accordingly, the adopted amendment
15 should be found in compliance with Chapter 163.

16 If there are any questions, I'd be happy to
17 address them at this time. And if I may have a
18 couple of minutes of rebuttal at the conclusion of
19 the Petitioners' case, I'd appreciate it.

20 GOVERNOR SCOTT: Any questions?

21 (NO RESPONSE).

22 MR. SCHROPP: Thank you very much.

23 GOVERNOR SCOTT: Thanks.

24 Good afternoon.

25 MR. BROOKS: Good afternoon. My name is

1 Attorney Ralph Brooks. I'm a proud graduate of the
2 University of Florida Law School, Class of 1988.
3 I'm also certified in city, county, and local
4 government law; and I've served as an Assistant
5 County Attorney for Sarasota County, land use
6 litigation attorney for Monroe County. I've also
7 been City Attorney for St. Pete Beach and for the
8 City of Bradenton Beach, and I'm currently town
9 attorney for the Town of Yankeetown.

10 And I'd like to take a moment to thank this
11 Governor and this Cabinet for the help you've given
12 Yankeetown after Hurricane Hermine, which destroyed
13 about 30 homes in the Town of Yankeetown.
14 Thank you for being there for us, and that was a
15 very important thing that happened when we deferred
16 this meeting last month to this month so we could
17 address the hurricane that touched that lovely city
18 that I love so much, St. Augustine.

19 This case is really a local issue. It
20 involves one policy and one part of the Lee plan.
21 This is one policy under Goal 21 which addresses
22 the Caloosahatchee Shores Community planning area,
23 and one policy under it, 21.1.5.

24 21.1.5 is not ambiguous. It really needs no
25 interpretation. It was upheld by the

1 Administrative Law Judge who held a full day of
2 hearing, a full day of testimony; weighed the
3 competent and substantial evidence, including
4 conflicting expert testimony; all this legislative
5 history; she looked at this red crosshatched map
6 that's in your book as Number 3 and said, well,
7 that was never duly adopted. That never became
8 part of 21.1.5; it was never put in the future land
9 use map of Monroe County -- or excuse me,
10 Lee County.

11 What counts is: What does the future land use
12 map of Lee County and what does the future land use
13 map of the Caloosahatchee Shores planning community
14 show? And it shows that this area is uncontested,
15 is in the rural lands category.

16 The Policy 21.1.5 has two sentences. The
17 Administrative Law Judge found that the first
18 sentence was precatory or prefatory or
19 introductory. It certainly makes sense. One
20 important aspect of the Caloosahatchee Shores
21 Community plan goal is to retain its rural
22 character and rural land use where it currently
23 exists. That's the introduction. This is our
24 important goal.

25 Then it says: The meaningful and predictable

1 standard, something that everyone can understand
2 and apply; therefore, no land use map amendment to
3 the remaining rural lands category will be
4 permitted after May 15th, 2009, unless a finding of
5 overriding public necessity is made by three
6 members of the Board of County Commissioners.

7 Three members is a simple majority. The
8 Community Planning Panel just wanted to make sure
9 that there was at least three members there voting,
10 and that they had a full board.

11 So this is a narrow case about a duly adopted
12 Policy 21.1.5. It's not about Map 3 that was never
13 duly adopted. It's about simply the text of
14 21.1.5. It's pretty clear to a professional, even
15 a lay person, no land use map amendment to the
16 remaining rural lands category will be permitted
17 unless a finding of overriding public necessity is
18 made.

19 The Administrative Law Judge took testimony
20 and found competent and substantial evidence that
21 there was no finding of overriding public necessity
22 made by the Board of County Commissioners, by any
23 individual member, much less three. They never got
24 that far.

25 It's interesting to note in Exhibit F, the

1 Greenpointe presentation, on Page 6, at the time of
2 transmittal -- remember, first there was a
3 transmittal and then there's an ORC report, and
4 then there's an adoption. At the time of
5 transmittal, there was a proposed text amendment to
6 21.1.5 to write in a specific number of units for
7 River Hall. That did not carry forward. They
8 never went and adopted that, so they only adopted
9 the map change.

10 They could have amended 21.1.5 but they did
11 not. They chose to drop that.

12 GOVERNOR SCOTT: Could I ask you a question?

13 MR. BROOKS: Yes.

14 GOVERNOR SCOTT: So it doesn't appear to be
15 rural, right? I mean with all this development,
16 it's not a rural area. Does that matter?

17 MR. BROOKS: Well, the Administrative Law
18 Judge took conflicting testimony on that, expert
19 testimony. With regard to that, they looked at how
20 many acres of rural there were, there was 3,189.
21 It's shown as rural on the map.

22 There was testimony from our expert that even
23 rural areas have schools, even rural areas have
24 fire stations. Certainly the Administrative Law
25 Judge found that the important thing is how

1 Sentence 2 is written. She said that the County is
2 saying that a Plan Amendment that removes property
3 from the rural land use category must also say that
4 exhibits rural character or a rural land use. That
5 would be adding words.

6 The County's expert from the Planning
7 Department added the words "if," at the beginning
8 of the sentence; "then" as a word to the beginning
9 of the second sentence. Those are two alternative
10 ways to accomplish allowing this to go forward if,
11 in fact, it does not exhibit rural character or
12 rural land use, which we contested at the hearing,
13 and the Judge took conflicting testimony.

14 There are other ways of addressing it also.
15 One of the simplest ways is simply to go ahead and
16 make a finding of overriding public necessity.
17 That was not done. The Administrative Law Judge --

18 GOVERNOR SCOTT: Can I ask you a question?

19 MR. BROOKS: Yes.

20 GOVERNOR SCOTT: Why wasn't that done?

21 MR. BROOKS: I don't know. You'd have to ask
22 them and ask the County. The County said they
23 didn't need to. I have read thousands of policies
24 and comp plans, and the plain clear language here
25 would be that they need to. It's in the rural

1 lands category in the future land use map. Go
2 ahead and make a determination.

3 If the words are not defined, what the law
4 says is you go to the common dictionary definition,
5 commonly understood definitions. And "overriding"
6 has definitions; "public" has definitions;
7 "necessity" has definitions. If they feel that
8 that shouldn't be part of the policy any more, they
9 know what to do. They can take that policy out or
10 amend it.

11 ATTORNEY GENERAL BONDI: Can I -- go ahead,
12 Governor.

13 GOVERNOR SCOTT: No, you're probably going to
14 answer my question.

15 ATTORNEY GENERAL BONDI: Can -- could this
16 then go back, at this point, to the County to make
17 the determination if there is an overriding public
18 necessity?

19 MR. BROOKS: Yes.

20 ATTORNEY GENERAL BONDI: It's not too late for
21 them to do that?

22 MR. BROOKS: No, it is not.

23 The Administrative Law Judge, Governor, did
24 find in her findings with regard to your question,
25 to be fair -- let's see if I can find it. I

1 apologize.

2 The Respondent and Intervenors argued the
3 policy doesn't apply because the existing
4 development on the property is not rural in either
5 character or land use. She said also that they
6 introduced abundant evidence to establish that the
7 property is suburban development served by the full
8 spectrum of urban services and devoid of trappings
9 of rural development, such as large lot residential
10 and agricultural uses.

11 However, she said: In order to use their
12 interpretation, you have to insert the words "that
13 exhibits rural character or a rural land use" into
14 the second sentence, which doesn't appear; or you
15 have to use Mr. Dunn's, the planner for the
16 County's interpretation, and insert the word "if"
17 and "then", and it doesn't.

18 So the test is not whether or not it exhibits
19 rural character; it does, in fact, have the rural
20 land use category on the map. And that's what
21 Sentence 2 says.

22 So it's quite possible this could go back to
23 the Lee County Commission if they wanted, and they
24 could insert these words with the text amendment
25 that talks about exhibiting rural character and

1 existing rural land use, but it does not.

2 The Administrative Law Judge cited to a whole
3 bunch of law: Blanton versus City of Pinellas Park
4 by the Florida Supreme Court in 2004. It says:
5 When the language of a statute is clear and
6 unambiguous and conveys a clear and definite
7 meaning, there is no occasion to resorting to rules
8 of statutory construction.

9 She said: There's no need to go into
10 extraneous matters about legislative history, this
11 Map 3 that was never adopted. You simply must
12 apply the language of this second sentence, which
13 sets a meaningful and predictable standard.

14 She stated: The language at hand has no
15 doubtful meaning. The Lee County Commission is
16 required to make a finding of overriding public
17 necessity when changing future land use categories
18 of lands designated as rural in
19 Caloosahatchee Shores.

20 So under the policy as written, the
21 Administrative Law Judge is correct. If they want
22 to change the policy, perhaps we might have a
23 different result, but that is not the case today.
24 In fact, she even indicated that in finding -- in
25 Paragraph 37, which is a Conclusion of Law.

1 If the County had wanted to limit the
2 directive to only amendments that would change the
3 category and property which exhibited rural
4 character or was developed with rural land uses, it
5 could have done so. The undersigned is not free to
6 add words to the second sentence of the policy
7 which do not exist.

8 It's important to note that this policy
9 doesn't restrict the development rights of this
10 property. You can develop under rural lands
11 category; you could also change the rural lands
12 category even under this policy as long as you
13 first make a finding of overriding public
14 necessity.

15 Undisputably, that was not done in this case.
16 They could go back and make that finding, or at
17 least debate that finding, allow the public an
18 opportunity to talk about it. As the
19 Administrative Law Judge said, Lee County knows
20 what to do, but this policy says what it means and
21 means what it says. If you want to change what it
22 says, you can change what it means; but right now
23 it says what it means and means what it says.

24 ATTORNEY GENERAL BONDI: Can I ask a question,
25 Governor?

1 MR. BROOKS: Yes, I appreciate the questions.
2 Thank you.

3 ATTORNEY GENERAL BONDI: Why are we here? Is
4 this a matter of principle on your part; or if we
5 sent it back to the County, do you believe the
6 County would find overriding public necessity?

7 MR. BROOKS: That's an excellent question. We
8 are here because I have the honor and privilege of
9 representing some Petitioners in this case who did
10 not just come to this case. They started working
11 on the Caloosahatchee Shores Community Plan back in
12 2003. In 2007, they began an amendment that added
13 21.1.5. This language was drafted by the Community
14 Planning Panel, which is made up of citizens and
15 landowners and stakeholders in
16 Caloosahatchee Shores.

17 When the people and the citizenry and the
18 stakeholders draft a policy, they have ownership of
19 that policy; they feel engaged in that policy. We
20 went to the hearings and we were all talking about:
21 This doesn't have any overriding public necessity.
22 It's not a hospital, it's not for anything public,
23 it's just for private development.

24 They have 1,999 units approved of which --
25 since 1999, they've only built 300, so there's

1 still over 1,600 units left to be built that they
2 still haven't sold or need to work on and start
3 building. There's no overriding public necessity;
4 it's not an affordable housing project. There's no
5 need to do this; and in fact, it's prohibited under
6 the policy that they adopted.

7 And so that's why we're here. If this goes
8 back, there will be public hearings, there will be
9 debate. My Petitioners believe this policy should
10 stand. It was done to protect the 3,189 acres of
11 remaining rural lands that are left in the
12 Caloosahatchee Shores Planning Panel, of which this
13 parcel is some percentage, I believe it's
14 27 percent. That is in the record. There was
15 testimony about how many percent, I think it's 27.

16 ATTORNEY GENERAL BONDI: So if we find that
17 the correct standard is that the County must
18 determine if there is an overriding public
19 necessity, you will be disputing that back at the
20 County level?

21 MR. BROOKS: Yes. In fact, we had made
22 presentations, taken common dictionary definitions
23 of "overriding," "public," and "necessity" and
24 stating that it did not meet those. In the
25 Administrative Law Judge forum, the Judge says:

1 Well, we're not going to get to that because it's
2 undisputed that they never got to the decision of
3 was there overriding public necessity or not, so --

4 GOVERNOR SCOTT: Do you have anything else?
5 Are you -- you're not finished yet.

6 MR. BROOKS: If you have any questions;
7 otherwise, Your Honor, I hate to take up your time.

8 GOVERNOR SCOTT: I want to go back and ask the
9 other counsel for something.

10 MR. BROOKS: Okay. I would also want to note
11 there is another Commissioner here. He is here as
12 a member of the public to speak, Commissioner
13 Frank Mann. I don't know if you want to hear from
14 him first and then go to them or --

15 GOVERNOR SCOTT: Yeah, why don't we hear --
16 Commissioner, why don't we go ahead and listen.

17 MR. MANN: Thank you, Governor.

18 GOVERNOR SCOTT: Good afternoon, how you
19 doing? You good?

20 MR. MANN: Thank you, Governor, Honorable
21 Members of the Cabinet.

22 Governor, it was a joy introducing you the
23 other day in Lee County when you brought the great
24 news about the job growth down there.

25 Jeff -- I've got to calling you Jeff for as

1 long as I've known you. It's good to reconnect
2 with you. It was my honor to serve up here. My
3 record was not near so as distinguished as your
4 own, but -- so it's an honor just to be near you.

5 Commissioner Putnam, thank you very much for
6 assigning me one of the jobs on developing the
7 management plan for the Babcock Ranch. That will
8 be one of the most important jewels in the
9 United States of America in years to come, and
10 thank you for your willingness to take it over and
11 run the thing.

12 General, I haven't had the pleasure of meeting
13 you until about three and a half hours ago when we
14 were all bright and fresh. I know of your career
15 and your great service to the people of Florida.
16 Thank you for that very much.

17 My purpose here today is not to get in any
18 way, really, involved in this legal debate but try
19 to put a human face on this, from a unique
20 perspective. I am the one in the four-to-one vote
21 that opposed this, and then the process unloaded
22 itself, and here we are today.

23 But go back -- two weeks from this very day
24 will be ten years since I was elected to the
25 Lee County Commission. One of the first issues to

1 come before me was the little group of folks from
2 River Hall Subdivision.

3 And they said, Frank, the Commission, before
4 you got here, has submitted a proposal, it's on the
5 way to Tallahassee, which will increase the density
6 substantially to the subdivision where we bought
7 our homes.

8 The fundamental issue here throughout is they
9 were promised that they bought in a subdivision
10 with a defined density, and to cut through
11 everything else that you've been listening to, they
12 felt they had a promise, and the promise was
13 broken.

14 Well, when it came back from Tallahassee, the
15 Commission, before I got there, had sent it up for
16 approval and transmitted it to Tallahassee. When
17 it came back, we started the debate over again
18 because I was a new Commissioner representing this
19 part of Lee County, the rural part of Lee County.
20 And we were able to change the thinking on the
21 Commission, and by a four to one vote the other
22 way, we adopted not to support the increased
23 density that had been asked for.

24 Now insert a terrible recession that you're
25 all familiar with. And fast forward six or

1 seven years, the issue comes back before us,
2 members of the Commission have changed again. I'm
3 still there. As I stated, I've been here
4 ten years.

5 The developer starts counting votes and he
6 sees he's got three, so he resubmits this whole
7 application. We start through the process again,
8 and it appears that it's going to pass, we're going
9 to transmit it one more time.

10 Barely a week before it comes before the
11 Lee County Commission, one of our Commissioners
12 goes to jail, and so we no longer have a three to
13 two vote, it's a two to two vote; so it fails on a
14 motion to transmit, it did not come the second
15 time. So of the three times this has been kicked
16 around, twice it's been defeated. All you're
17 hearing about is the most recent time.

18 And then let me touch -- say this about rural
19 and density, and it's the only part of the argument
20 I'll get into. The people I'm speaking for that
21 can't be here today because it's an 800 mile
22 roundtrip.

23 One of them tried last time before y'all had
24 to cancel the meeting. He got all the way to
25 Lake City before he found out the meeting was

1 canceled, drove all the way back. But they can't
2 get here, so I'm trying to explain to you in my
3 words what I've heard from them over this entire
4 decade.

5 It's density to them -- rural is defined by
6 density, and this is very limited density. The
7 whole thing is a fight. We were promised the
8 density, and now they're trying to increase it.

9 So now the third time we're back. And the
10 third time the Lee County government has come to
11 them, after working with the developer, and said
12 those ten most frightening words in the English
13 language, which is: We're from the government, and
14 we're here to help you.

15 Those people didn't ask for the help. They
16 don't want the government intervening --
17 interfering with their life and what they thought
18 was their retirement homes. We're from the
19 government and we're here to help you.

20 So the third time now they're back in the same
21 place. And they lost at the Commission level; they
22 won with the Administrative Judge who said
23 everything the County did was wrong the way they
24 did it.

25 And all I'm asking you is to let these people

1 awaken from a ten-year nightmare and see the light
2 and have confidence in the Comprehensive Plan that
3 they thought they bought into, and then it was
4 written in disappearing ink, it didn't mean
5 anything.

6 I have such respect for you guys. I played in
7 this arena for 12 years. I thank you for what you
8 do. It's not easy, and we've certainly dragged it
9 out this morning. But I'm asking you, on behalf of
10 these little people that couldn't get up here
11 today, like Moses asked Pharaoh: Let my people go.
12 They've suffered long enough. Thank you.

13 GOVERNOR SCOTT: Thank you, Commissioner.

14 Does anybody have a question for the
15 Commissioner?

16 (NO RESPONSE).

17 GOVERNOR SCOTT: Okay. So I just want to make
18 sure we frame the issue so we understand it. So
19 we're looking at 21.1.5, right?

20 MR. SCHROPP: Yes, sir.

21 GOVERNOR SCOTT: So it says: One important
22 aspect of the Caloosahatchee Shores community plan
23 goal is to retain its rural character and rural
24 land use where it currently exists; therefore, no
25 land use amendments will be permitted after 2009

1 unless a finding of overriding public necessity.

2 So what's the argument that -- it doesn't
3 appear it's rural, but it's a definition of -- like
4 the way the Commissioner said, it's -- everybody
5 has their own definition of rural, right? You can
6 argue that the density it had could be rural. I
7 could argue both sides of that. But why didn't
8 they just do the overriding public necessity?
9 That's the simplest thing to do.

10 MR. SCHROPP: Because quite honestly and quite
11 simply, the Board of County Commissioners following
12 three hours of public input debate came to a
13 conclusion that because of the nonrural character
14 and use of the River Hall subdivision, that policy
15 did not apply, was not meant to apply to this
16 application and, therefore, it did not apply it.

17 And if I might follow-up with that, Governor,
18 with all due respect, again, I would point the
19 Commission back to the central test of what you're
20 here for; and that is, to search the record to
21 determine if the Board's determination was correct
22 or not, was fairly debatable or not; and, if so,
23 should be upheld by this Commission.

24 GOVERNOR SCOTT: So let's step back. So the
25 argument -- what that's saying is if we can find a

1 basis for the Board's decision, we have to go along
2 with -- I mean with the Commission's decision, we
3 have to go along with the Commission?

4 MR. SCHROPP: Yes, sir, that's our position
5 with the statement of existing law.

6 GOVERNOR SCOTT: Peter, is that the way you
7 would say it?

8 MR. PENROD: Yes, I agree, Governor, that's
9 correct.

10 GOVERNOR SCOTT: Okay.

11 MR. PENROD: The fairly debatable standard
12 gives a high degree of deference to the County.
13 The real issue in this case though is do we need to
14 look past the second sentence in Policy 21.1.5. If
15 it's clear on its face and there is no debate, then
16 the fairly debatable standard would not apply.

17 So the question in this case is, do we look at
18 the first sentence and read it in conjunction with
19 the second sentence, or do we ignore the first
20 sentence, like the ALJ did, and focus on the second
21 sentence?

22 GOVERNOR SCOTT: Okay. Let's -- let me see if
23 I -- let me just restate it, so if we can have --
24 if we have a basis -- if we can come up with a
25 rationale that the County Commission made their

1 decision, then we don't have the authority to
2 change, right?

3 MR. PENROD: Yes.

4 GOVERNOR SCOTT: That's basically what you're
5 saying?

6 MR. PENROD: If the Commission thinks there
7 is -- it does not necessarily have to agree with
8 the County, but if they think that there is any
9 room for debate about whether the decision they
10 made was correct, then they have to defer to the
11 County. If you think it's clear on its face that
12 there's no debate, there's no rational basis for
13 anything the County did, then we would have to rule
14 in favor of the Petitioners.

15 GOVERNOR SCOTT: So and then how did -- so how
16 did the Administrative Law Judge take a different
17 position?

18 MR. PENROD: The Administrative Law Judge
19 determined that the first sentence was not
20 applicable, simply was just perfunctory language,
21 and she focused on the second sentence that is
22 pretty clear on its face that says: If there is
23 any amendment to the rural lands category, which
24 this land was a part of, then you had to make that
25 special finding of overriding public necessity.

1 GOVERNOR SCOTT: All right. Go ahead. Go
2 ahead, Attorney General.

3 ATTORNEY GENERAL BONDI: I mean, Peter, we
4 need your advice on this. You're our attorney on
5 this. You've read everything; you've looked at
6 everything.

7 I mean is your legal opinion that you agree
8 with the ALJ in looking at the second sentence or
9 not, or do you believe that the Commission needs to
10 determine if there is an overriding public
11 necessity?

12 MR. PENROD: Attorney General Bondi, I wish I
13 was a smarter attorney, but I believe this is a
14 50/50 call. I'm comfortable defending either side,
15 and I feel that if -- and I feel confident that if
16 we rule either way, that we -- it's defensible upon
17 appeal if it is appealed.

18 GOVERNOR SCOTT: Okay.

19 ATTORNEY GENERAL BONDI: Yeah, I didn't mean
20 to put you on the spot, but I'm not sure how we
21 make a determination because --

22 GOVERNOR SCOTT: We get put on the spot.

23 ATTORNEY GENERAL BONDI: We're --

24 GOVERNOR SCOTT: Why shouldn't we put Peter on
25 the spot?

1 ATTORNEY GENERAL BONDI: Sorry, Peter, we're
2 relying on you though. I mean that's my problem
3 with these hearings in general all the time that
4 come before us. We have a very limited amount of
5 information, Governor.

6 GOVERNOR SCOTT: So let's go back for a
7 second. Did anybody -- does anybody -- let's go
8 just one -- call one person at a time. Do you guys
9 have questions for anybody?

10 COMMISSIONER PUTNAM: I do.

11 GOVERNOR SCOTT: Okay.

12 COMMISSIONER PUTNAM: Peter, if you're
13 following an argument --

14 GOVERNOR SCOTT: No, no, no. Commissioner,
15 who do you want to ask questions to?

16 COMMISSIONER PUTNAM: Our counsel. You know,
17 on this fairly debatable standard, it was fairly
18 debated in the Lee County Commission. They voted,
19 and it was four to one, correct?

20 MR. PENROD: That's correct, Commissioner.

21 COMMISSIONER PUTNAM: So is there a
22 circumstance where -- so that fits the legal
23 definition? Because the common sense definition to
24 me has already been met, but that means the legal
25 definition that reasonable minds could disagree on

1 how they arrived at this conclusion, but the duly
2 elected Commissioners of Lee County heard
3 testimony, evaluated their comp plan, took advice
4 from staff, took input from the public, voted; and
5 the consequence of their vote was to allow for this
6 development to proceed.

7 That's -- I mean we could evaluate those set
8 of circumstances and see -- and say that it's
9 fairly debatable and the standard reaction to that
10 would be that we are to be highly deferential to
11 the decisions of the local government; is that
12 correct.

13 MR. PENROD: You're very correct, yes.

14 GOVERNOR SCOTT: So, Peter, so this way -- so
15 what the Commissioner just said, that that -- the
16 first thing that we have to look at is it's fairly
17 debatable. Okay, if we come to the conclusion --
18 if the four of us -- or I guess a certain number of
19 us have to. But if we come to that conclusion, is
20 there any other decision we can make?

21 MR. PENROD: There is none, Governor. You
22 have to defer to the County at that point.

23 GOVERNOR SCOTT: Okay. And so then your
24 statement that it's 50/50, how would you make the
25 argument on the other side? What would be your

1 argument?

2 MR. PENROD: My argument on the other side
3 would be that it's not fairly debatable, that it's
4 clear on its face, the first sentence does not
5 apply, the operative language of the policy is
6 purely confined to the second sentence, which is
7 clear on its face.

8 It says that anything in a rural land use
9 category, which this land undoubtedly is, before
10 you change that to something other than rural,
11 which is happening here, you have to make a special
12 finding of overriding public necessity.

13 GOVERNOR SCOTT: Okay. So the argument is
14 it's absolutely clear, you have to make -- the
15 Commission has to have a finding of overriding
16 public necessity.

17 Okay. Does anybody have another question?

18 ATTORNEY GENERAL BONDI: No.

19 GOVERNOR SCOTT: CFO?

20 CFO ATWATER: I don't have a question, but I'm
21 ready to make a comment.

22 GOVERNOR SCOTT: Okay. Go ahead.

23 CFO ATWATER: Governor, while the
24 Attorney General already noted, these are always.
25 So I have -- I've arrived at a place, but I don't

1 know if there are more questions. I don't want to
2 truncate that.

3 GOVERNOR SCOTT: No, I don't have any.

4 CFO ATWATER: So I --

5 GOVERNOR SCOTT: Is everybody -- everybody is
6 okay? No other questions for anybody?

7 (NO RESPONSE) .

8 GOVERNOR SCOTT: Okay.

9 CFO ATWATER: I suspect we're all going to,
10 you know, offer maybe some perspective on this; but
11 I certainly believe that when someone has obtained
12 private property, that any change in the future
13 should be a very solemn decision that's made by
14 those who are charged with making that choice
15 because you're -- you've made a choice. Under all
16 of the intellectual opportunities you've exercised,
17 to know that you're buying what you're buying.

18 And I can't imagine a better representative,
19 you know, than what we've just heard from
20 Commissioner Mann on how he's given us a little
21 history behind this situation; and I think it's
22 been very well stated.

23 But I believe I'm bound by some parameters
24 here that as much as I would like to be influenced
25 by really great lawyering and great ability to

1 persuade and influence, that if it is my
2 understanding, that if I can see the analytical
3 pathway and that the judgment was exercised in an
4 open and transparent way that followed the law and
5 that elected officials concluded that their comp
6 plan provided a pathway that did not provide for
7 the need to have great overriding public purposes
8 but that, in fact, the facts as they saw them and
9 in public meetings discussed it, that this did not
10 apply.

11 And when I read, and as was already mentioned,
12 and as I read this last night, that it wasn't that
13 the Judge was quoting anybody, the Judge said as a
14 fact that there was abundant evidence that this was
15 not a rural area, in fact, it was devoid of any
16 trappings of rural development, then I think I am
17 bound by the parameters that you've outlined. I
18 can find a thoughtful, analytical judgment that
19 could have arrived at the conclusion that the
20 Commission arrived at.

21 And I may have differences of the personal
22 opinions, or I may not, but if that's the
23 parameters by which I am asked here today to make
24 my call, then I don't believe I have any other call
25 to make; that I would be willing to make a motion

1 that would charge you with the construction of a
2 draft order that says that we believe that the
3 Commission was in compliance with its comp plan
4 when it developed that amendment.

5 That's where I'm at, Governor.

6 GOVERNOR SCOTT: Just to make -- just so we
7 all make clear what the motion is, okay? Peter, my
8 understanding for the CFO's motion, it's really to
9 grant exceptions to 3, 4, 7, 8 in part -- do we
10 have all the same?

11 Okay. I mean it's my understanding if --

12 MR. PENROD: Do you want me to read it,
13 Governor?

14 GOVERNOR SCOTT: Yeah, why don't -- okay, so
15 just with the motion that's on the table, so this
16 is the CFO's motion, you're going to explain it
17 based on what the -- how we have to -- if we're
18 going to do that, if anybody is going to vote that
19 way, this is how they're voting?

20 MR. PENROD: Would you like me to lay both
21 motions out or just the CFO -- both options, or
22 just the CFO's option for now?

23 ATTORNEY GENERAL BONDI: Can I ask one
24 question of our attorney?

25 GOVERNOR SCOTT: Sure.

1 ATTORNEY GENERAL BONDI: Do you agree with
2 what the CFO just said?

3 MR. PENROD: Yes.

4 ATTORNEY GENERAL BONDI: Okay. Well, then
5 that's it.

6 MR. PENROD: He has stated a perfectly
7 reasonable, legal, defensible position.

8 GOVERNOR SCOTT: Okay. But we have to -- to
9 do that, we have to vote on some exceptions?

10 MR. PENROD: Yes.

11 GOVERNOR SCOTT: And then we have to vote on a
12 final action?

13 MR. PENROD: That's correct.

14 GOVERNOR SCOTT: Okay.

15 MR. PENROD: So for CFO Atwater's motion, it
16 would be a motion to vote and grant Respondent's
17 Exceptions 3, 4, 7, and 8 in part, finding that the
18 meaning of the language contained in Policy 21.1.5
19 is fairly debatable; and Respondent's Exception 9,
20 finding that the Petitioners failed to prove beyond
21 fair debate that the Plan Amendment is internally
22 inconsistent with the policy and, thus, not in
23 compliance with Chapter 163.

24 We'd also have a motion to vote and grant
25 Intervenors' Exceptions 3 through 6 finding that

1 the meaning of the language contained in
2 Policy 21.1.5 is fairly debatable; Intervenor's
3 Exception 7, finding that the Petitioners failed to
4 prove beyond fair debate that the Plan Amendment is
5 internally inconsistent with the policy; and
6 Intervenor's Exception 8 finding that Petitioners
7 failed to show the Plan Amendment is not in
8 compliance with Chapter 163, Florida Statutes.

9 We do a motion to vote to deny all other
10 exceptions filed by Respondent and Intervenor's.

11 GOVERNOR SCOTT: And then they're -- and then
12 you have to have -- and vote to issue a final order
13 modifying the Recommended Order in favor of
14 Respondent and Intervenor's?

15 MR. PENROD: That is correct. We would also,
16 within the final order, strike the Petitioners'
17 response to exceptions as they came in untimely.

18 GOVERNOR SCOTT: Okay. Is that consistent
19 with what you think your motion is?

20 CFO ATWATER: Yes.

21 GOVERNOR SCOTT: Okay. So I tell you what, I
22 just want to make sure everybody knows what we're
23 voting on. So before we do it in a second, does
24 anybody have any -- so does anybody have any
25 questions for Peter, any other questions what the

1 motion is?

2 ATTORNEY GENERAL BONDI: I mean, Governor,
3 Peter is our attorney, and if you're agreeing with
4 this motion, then --

5 GOVERNOR SCOTT: Okay.

6 ATTORNEY GENERAL BONDI: I mean I have
7 issues -- I have issues with it on both sides; but
8 as an attorney, he is our attorney.

9 GOVERNOR SCOTT: Right.

10 ATTORNEY GENERAL BONDI: And he's the expert
11 in the field.

12 GOVERNOR SCOTT: Okay. All right. Anybody
13 else before we do the second -- is there a second?

14 COMMISSIONER PUTNAM: Second.

15 GOVERNOR SCOTT: Second.

16 All in favor?

17 (AFFIRMATIVE INDICATIONS).

18 GOVERNOR SCOTT: Motion carries.

19 Okay. So what you proposed -- what the CFO
20 proposed and what you stated is exactly what we
21 did, and so my understanding is the next thing is
22 you do -- you issue -- you'll write up the final
23 order.

24 MR. PENROD: That's correct, Governor, and we
25 will bring it back to the next meeting for a vote.

1 GOVERNOR SCOTT: Okay. I want to thank
2 everybody for coming.

3 ATTORNEY GENERAL BONDI: And, Peter, thank you
4 for representing us.

5 MR. PENROD: Thank you.

6 MR. KRUSE: That concludes the
7 Administration Commission agenda.

8 ATTORNEY GENERAL BONDI: Drew.

9 GOVERNOR SCOTT: Yeah, we have Drew.

10 ATTORNEY GENERAL BONDI: Guys, we're not
11 finished yet. We have Drew Breakspear.

12 UNIDENTIFIED SPEAKER: Thank you all.

13 GOVERNOR SCOTT: Thanks, everybody.

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16 * * * *

OFFICE OF FINANCIAL REGULATION.

GOVERNOR SCOTT: All right. Now I would like to recognize Drew Breakspear with the Office of Financial Regulation.

Good afternoon, Drew.

COMMISSIONER BREAKSPEAR: Good afternoon, Governor Scott, Attorney General Bondi, CFO Atwater, and Commissioner Putnam.

The OFR has six items on the agenda today. Agenda Item Number 1, the OFR respectfully requests approval of the August 2nd meeting.

GOVERNOR SCOTT: Is there a motion on the item?

ATTORNEY GENERAL BONDI: So move.

GOVERNOR SCOTT: Is there a second?

COMMISSIONER PUTNAM: Second.

GOVERNOR SCOTT: Comments or objections?

(NO RESPONSE) .

GOVERNOR SCOTT: Hearing none, the motion carries.

COMMISSIONER BREAKSPEAR: Agenda Item Number 2, the OFR respectfully requests approval to publish a notice of proposed rule for financial institutions rules relating to family trust

1 companies.

2 GOVERNOR SCOTT: Excuse me a second, Drew.
3 Has everybody read all of these rules?

4 COMMISSIONER PUTNAM: Why don't we do 2, 3,
5 and 4?

6 GOVERNOR SCOTT: Okay. So we have a motion.
7 Is there a second on --

8 ATTORNEY GENERAL BONDI: Second.

9 GOVERNOR SCOTT: Okay. Any comments or
10 objections?

11 (NO RESPONSE).

12 GOVERNOR SCOTT: Hearing none, they all pass.
13 Thanks, Drew.

14 COMMISSIONER BREAKSPEAR: Agenda Item
15 Number 3 --

16 GOVERNOR SCOTT: No, we did them all.

17 COMMISSIONER BREAKSPEAR: Oh, you did them
18 all?

19 GOVERNOR SCOTT: Wait. You motioned all of
20 them, didn't you?

21 COMMISSIONER PUTNAM: I did the Notice, and
22 then we've got two on final adoption.

23 I move that we pass for final adoption Items 5
24 and 6.

25 GOVERNOR SCOTT: Okay. Is there a second?

1 CFO ATWATER: Second.

2 GOVERNOR SCOTT: Comments or objections?

3 (NO RESPONSE) .

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

6 Okay. We're done.

7 COMMISSIONER BREAKSPEAR: Thank you.

8 GOVERNOR SCOTT: That concludes today's
9 meeting. Our next meeting is December 6th in
10 Tallahassee.

11 (WHEREUPON, THE MEETING WAS ADJOURNED) .

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CERTIFICATE

STATE OF FLORIDA)
COUNTY OF LEON)

I, NANCY S. METZKE, RPR, FPR, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 13th day of November, 2016.

NANCY S. METZKE, RPR, FPR
Court Reporter

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