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STATE OF FLORIDA  
OFFICE OF THE GOVERNOR AND CABINET

IN RE: CABINET AIDES MEETING,

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CABINET AIDES:

KRISTIN OLSON, CHAIR  
ERIN SUMPTER  
ROGER BEAUBIEN  
AMANDA CAREU  
ROBERT TORNILLO  
STEPHANIE LEEDS  
JESSICA FIELD  
BROOKE MCNIGHT

DATE:

WEDNESDAY, AUGUST 8, 2018

LOCATION:

CABINET MEETING ROOM  
LOWER LEVEL, THE CAPITOL  
TALLAHASSEE, FL

REPORTED BY:

DANA W. REEVES  
Court Reporter and  
Notary Public in and for  
State of Florida at Large

PREMIER REPORTING  
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<p style="text-align: right;">Page 2</p> <p style="text-align: center;">INDEX</p> <p style="text-align: right;">PAGE NO.</p> <p>1 Department of Revenue 4 by Debbie Longman</p> <p>2 Office of Financial Regulation 7 by Jamie Mongiovi</p> <p>3 Division of Bond Finance 8 by Ben Watkins</p> <p>4 Florida Department of Veterans' Affairs 11 by Roy Clark</p> <p>5 State Board of Administration 12 by John Kuczanski</p> <p>6 Board of Trustees of the Internal 14 Improvement Trust Fund by Rene Lewis</p> <p>7 Administration Commission 17 by Mark Kruse</p> <p>8 Florida Land and Water Adjudicatory Commission 50 by Mark Kruse</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>MS. OLSON: All right, everyone. Good morning. Today is August 8th. This is the Cabinet Aides Meeting for the August 14th Cabinet Meeting. Robert, you have somebody to introduce.</p> <p>MR. TORNILLO: Yeah, just a quick introduction, and I want to introduce Tracy Holcomb. We are in the process of doing a little planning succession for Gail, who is actually really going to be leaving pretty soon. Hi, Gail.</p> <p>So I wanted to -- you've probably seen her name on some of the emails you've been having. We're just going to bring her around and get her used to the climate and what we're doing, and so introducing Tracy.</p> <p>MS. OLSON: Welcome.</p> <p>MS. HOLCOMB: Nice to meet you all.</p> <p>MS. OLSON: First, I want to talk about the appointments for OFR and citizens. Our office needed more time to review those candidates so they'll be on the next cabinet agenda.</p> <p>Also, I think Ben Watkins called me. He's running late, so we will start with Revenue, if that's okay.</p> <p>MR. TORNILLO: Real quick on the appointments.</p>
<p style="text-align: right;">Page 4</p> <p>Who is in charge? We interview all the IG applicants and one of the applicants had not had any correspondence. They didn't even know they were allowed to come to the cabinet meeting for an interview. Who is -- which office is responsible for corresponding with those applicants so they know --</p> <p>MS. OLSON: We can take -- I'll ask our Chief Inspector General to take care of that because he's been leading that group.</p> <p>MR. TORNILLO: All right. Awesome. Thank you.</p> <p>MS. LONGMAN: Is this on?</p> <p>MS. OLSON: Is the green light on?</p> <p>MS. LONGMAN: Yeah, the green light's on.</p> <p>MS. OLSON: Then it's on.</p> <p>MS. LONGMAN: All right. Sorry. Debbie Longman, Department of Revenue. The Department of Revenue will have eight agenda items for the Governor and Cabinet's consideration at the August 14 meeting.</p> <p>Item No. 1 will be the minutes of the June 13th meeting.</p> <p>Item No. 2, the Department will be requesting approval to file for final adoption, rules related</p>	<p style="text-align: right;">Page 5</p> <p>to general tax administration, Chapter 2018-118, Laws of Florida, provided for the tax repurchase of motor fuel by a terminal supplier if certain conditions were met. One rule and three forms were revised to reflect this provision. Also in the package the Department is amending Rule 12A1.007. To clarify, the refund of taxes to a manufacturer who repurchases a vehicle under the lemon law. We received no requests for a rule hearing and none was held.</p> <p>The next item, the Department -- Item No. 3. The department requests approval to file for final adoption rules relating to property tax oversight. Two rules and two forms were revised to reflect property tax changes also made by Chapter 2018-118, Laws of Florida. No request was received for a rule hearing and none was held.</p> <p>And the last item for final adoption was Item No. 4. The Department requests approval to file for final adoption rules related to child support. Several child support rules and forms were amended to update, correct terminology and make administrative improvements. Once, again, no request was received for rule hearing and none was held.</p>

<p style="text-align: right;">Page 6</p> <p>1 Item No. 5. The Department will be requesting 2 permission to file notices of proposed rule to 3 amend rules related to general tax administration. 4 Numerous rules and forms are being amended to 5 reflect the 2018 legislative changes to make 6 administrative improvement and also to remove 7 obsolete information. Additionally, the rule 8 package includes the Department's annual forms 9 update. We published a notice of rule development 10 on July 2nd, 2018, and we did not receive any 11 request for a rule workshop.</p> <p>12 Item No. 6. The Department requests 13 permission to file a notice of proposed rule to 14 amend rules related to property tax oversight. 15 Chapter 2018-160, Laws of Florida, made numerous 16 changes to the tax deed sale process -- four rules 17 in Chapter 12D-13. Tax records, rules and 18 regulations are being amended and one is repealed 19 to reflect these changes. We published a notice of 20 rule development on July 3rd and we have received 21 no requests for a rule workshop.</p> <p>22 Item No. 7. The Department will be submitting 23 the agency 2017-2018 Florida performance report, 24 and the Department continues to meet or exceed all 25 measures with an overall weighted score of 3.15.</p>	<p style="text-align: right;">Page 7</p> <p>1 And our final item, Item No. 8, Executive 2 Director, Leon Biegalski, will present the annual 3 performance review and leadership assessment. 4 Any questions? 5 And that concludes the Department's agenda. 6 Thank you. 7 MS. OLSON: Thanks, Debbie. Next up is 8 Financial Regulation. 9 MS. MONGIOVI: Good morning, everyone. Jamie 10 Mongiovi, Office of Financial Regulation. The 11 agency has two items on the agenda for 12 consideration at the August 14th meeting of the 13 Financial Services Commission. 14 Agenda Item No. 1, the OFR is respectfully 15 requesting approval for final adoption of 16 amendments to rules under Division 69U, Florida 17 Administrative Code. These rule amendments to 18 69U-100.005 and 69U-100.03852 are results of 19 legislation passed and the remainder of the 20 proposed amendments just provide updates, clarity 21 and a cleanup of the rules. No public hearings or 22 workshops were requested or held. 23 Agenda Item No. 2, the OFR respectfully 24 requests approval for final adoption of amendments 25 to rules in Chapter 69B-40 and 69W-600, Florida</p>
<p style="text-align: right;">Page 8</p> <p>1 Administrative Code. These rule amendments are 2 actually the result of legislation passed during 3 the 2018 session, which allow for active military, 4 veterans and their spouses to apply for 5 reimbursement of application and renewal fees for 6 our mortgage loan originator and securities 7 associated persons licenses. There were no public 8 hearings or workshops held regarding these rules. 9 Does anyone have any questions about our two 10 agenda items? 11 Wonderful. That concludes our agenda. Thank 12 you so much. 13 MS. OLSON: Thanks, Jamie. I saw Ben walk in 14 so if we want to do Bond Finance now we can. 15 MR. WATKINS: This morning was a challenge. 16 Not only did they block me at 7th Avenue, but now 17 they've got me blocked off coming across the plaza, 18 so this is a challenge. 19 Good morning. Item No. 1 is -- so we're going 20 to do a quick update on the debt, as well as rating 21 upgrades. So that will be the first thing. 22 Item 2 is the minutes of the June 13th 23 meeting. 24 Item 3 are reports of award. The first is 25 report of award on the competitive sale of the</p>	<p style="text-align: right;">Page 9</p> <p>1 right-of-way bonds, 245 million. This was a new 2 money bond issue so the bonds were sold at a true 3 interest cost of about three-and-a-half percent, 4 3.53 percent. 5 3B is a competitive sale of a new money PECO 6 issue. This is the remaining appropriation from 7 '16-'17, so we sell the bonds as we need cash to 8 pay bills for construction. This is a last piece 9 of that. So, again, a new money bond issue, 10 competitive sale. The bonds were awarded to the 11 low bidder at a interest rate of 3.48 percent. 12 3C is a competitive sale. This is a refunding 13 or a refinancing for savings. PECO 149 million. 14 The bonds were sold at a true interest cost of 3.16 15 percent. That allowed us to reduce the interest 16 rate on outstanding bonds from 4.85 percent to 17 3.16 percent, which generates gross debt service 18 savings of 31.8 million. Present value savings of 19 24.1 million, or 14.9 percent of the principal 20 amount of the refunded bonds. 21 So just a note here, just sort of general 22 market conditions, even though the Fed is 23 tightening, so we've had two tightenings this year, 24 but the raising of short-term interest rates, 25 long-term interest rates have stayed approximately</p>

Page 10	Page 11
<p>1 the same, and what we call a flattening of the 2 yield curve, which means very little difference 3 between, say, a 30-year rate and a 20-year rate 4 right now in the treasury market. There's maybe 15 5 basis points between a 20-year loan and a 30-year 6 loan. That's very flat. So it's a long-winded way 7 of saying rates that held in here fairly -- 8 reasonably well on the long end, which then 9 provides us with refunding opportunities.</p> <p>10 So, remember, they took away the advance 11 refunding so we've been twiddling our thumbs for 12 the past sort of eight months. They took it away 13 with the tax bill. Now we're coming up on call 14 dates. So we can do refundings when loans are 15 pre-payable. So we're coming up on call dates. 16 We're taking the candidates as they come, so we're 17 back in the business as long as rates will hold in 18 here with us. That's basically the bottom line.</p> <p>19 MS. MCKNIGHT: And can you remind us how many 20 potential refundings could occur in this fiscal?</p> <p>21 MR. WATKINS: You know, I'll have to look at 22 that, Brooke. I probably -- I will guess and say 23 half-a-dozen, but we'll take a look at that because 24 I know we've got two in the pipeline. We've got 25 two we're working on now that we've got call dates</p>	<p>1 coming up on. And then we've got some in the 2 spring, but -- so I'll have a look at that get back 3 with you.</p> <p>4 And then Item 4 are resolutions authorizing 5 the issuance and competitive sale of a 6 10.3-million-dollar refunding for debt service 7 savings for the Capital Outlay Bond Program, which 8 is school construction program.</p> <p>9 MS. OLSON: Thank you.</p> <p>10 MR. WATKINS: Thank you.</p> <p>11 MS. OLSON: All right. Next up is Veterans' 12 Affairs.</p> <p>13 MR. CLARK: Good morning, everyone. We'll 14 have two agenda items this month. The first one is 15 the minutes of the June meeting. The second one 16 will be our performance measures to include the 17 fourth quarter annual roll-up and the colonel will 18 then speak to the subjective legislative -- or, 19 excuse me -- leadership fund.</p> <p>20 As far as the two homes go, where we are right 21 now, the Ardie Copas at Port St. Lucie is on 22 schedule. All the groundwork has been down, 23 sight's been cleared, prepped. And we run into the 24 a problem with Lake Baldwin. The VA has not 25 maintained that building like it should have before</p>
Page 12	Page 13
<p>1 we received it. So we had hoped to start 2 construction, renovation in March, but it's going 3 to be later, obviously.</p> <p>4 So any questions about our items or the homes? 5 Thank you for your time.</p> <p>6 MS. SUMPTER: Thank you, sir.</p> <p>7 MS. OLSON: Our next up is the State Board of 8 Administration.</p> <p>9 MR. KUCZWANSKI: Good morning. With our final 10 packets we submitted an updated agenda that 11 included the minutes for the June meeting. That 12 was not posted on the website, so I will defer to 13 you guys as to which agenda you want us to use -- 14 either the one that's posted on the Cabinet website 15 or the six agenda item that's in front of you.</p> <p>16 MS. OLSON: We didn't include them on our 17 agenda, so I would assume that --</p> <p>18 MR. KUCZWANSKI: It's not -- the June minutes 19 are not included on your --</p> <p>20 MS. OLSON: Yeah, let's do them at the meeting 21 then, the June minutes.</p> <p>22 MR. KUCZWANSKI: Do those next time?</p> <p>23 MS. OLSON: Yeah.</p> <p>24 MR. KUCZWANSKI: Okay. Item No. 1 is the 25 approval of a fiscal sufficiency of an amount not</p>	<p>1 exceeding \$10,300,000, State of Florida, Full Faith 2 and Credit, State of Florida, State Board -- 3 sorry -- Education Capital Outlay -- Capital Outlay 4 refunding bonds. This is the item corresponding 5 with Ben's item. If you don't have any questions, 6 I'll move on.</p> <p>7 Item No. 2 is a resolution of the State Board 8 of Administration of Florida making the fiscal 9 determination in connection with the issuance of an 10 amount not exceeding \$11,100,000, Florida Housing 11 Finance Corporation, multi-family mortgage revenue 12 notes. This is the Twin Lakes Estates, Phase II 13 project, Florida Housing Finance Corporation. Any 14 questions?</p> <p>15 Item No. 3 is a resolution of the State Board 16 of Administration of Florida, making the fiscal 17 determination in connection with the issuance of an 18 amount not exceeding \$14,500,000, Florida Housing 19 Finance Corporation, multi-family mortgage revenue 20 bonds, and this is the Redland Crossings project. 21 Any questions?</p> <p>22 Next item, Item No. 4, is a resolution of the 23 State Board of Administration of Florida, making 24 the fiscal determination in connection with the 25 issuance of an amount not exceeding 11 million</p>

Page 14	Page 15
<p>1 dollars, Florida Housing Finance Corporation, 2 multi-family mortgage revenue bonds. And this is 3 for the Palos Verdes Apartments project. Any 4 questions?</p>	<p>1 facility located in Clay County. 2</p>
<p>5 If not, Item No. 5 is a resolution of the 6 State Board of Administration of Florida making the 7 fiscal determination in connection with the 8 issuance of an amount not exceeding \$12,250,000, 9 Florida Housing Finance Corporation, multi-family 10 mortgage revenue bonds. And this is for the 11 Regatta Place project.</p>	<p>3 Item No. 3 is consideration of a lease 4 modification request for a five-year sovereignty 5 submerged land lease to increase the preempted area 6 from 68,948 square feet to 141,253 square feet, for 7 an existing one-slip commercial docking facility 8 located on the St. John's River in Duval County.</p>
<p>12 That's all I have for today. Thank you very 13 much.</p>	<p>9 Item No. 4 is consideration of an exchange of 10 81,066 square feet of sovereignty submerged lands 11 in the St. John's River for 605,900 square feet of 12 private uplands and submerged lands in Duval 13 County. This exchange will enable the Greenfield 14 Environmental Multi-state Trust, LLC to own, 15 manage, clean up and facilitate the safe reuse of 16 the Kerr McGee Chemical Corporation SuperFund site.</p>
<p>14 MS. OLSON: Thank you. Next up is the Board 15 of Trustees.</p>	<p>17 Item No. 5 is consideration by the board for 18 the surplus and conveyance of approximately 2.36 19 acres of state-owned non-conservation land located 20 in Escambia County to the Florida Department of 21 Transportation. FDOT requested this purchase for 22 use as a public road right-of-way and associated 23 road improvements. Additionally, under this 24 proposal, FDOT will release a lease on 29.55 acres 25 in DeFuniak Springs, where FWCC will construct a facility and consolidate their two offices from</p>
<p>16 MS. LEWIS: Good morning. For the transcript, 17 I'm Rene Lewis with the Department of Environmental 18 Protection.</p>	
<p>19 For today we have seven items on the Board of 20 Trustee's agenda. Item No. 1 is minutes from the 21 June 13th meeting.</p>	
<p>22 Item No. 2 is consideration of an application 23 by Black Creek Marina, LLC, for a five-year 24 sovereignty submerged land lease containing 172,655 25 square feet for a 118-slip commercial docking</p>	
Page 16	Page 17
<p>1 Pensacola and Panama City.</p>	<p>1 with us as planned, \$3,312,500 would be paid for by 2 NRCS.</p>
<p>2 Item No. 6 is consideration of an option 3 agreement to acquire approximately 38.41 acres 4 within the Florida Keys Ecosystem, Florida Forever 5 Project, from Everett -- excuse me -- Edward P. 6 Wood, Jr. and Elizabeth J. Wood as trustees of the 7 the Yomana F. Wood trust (sic). FWC will manage 8 the property as part of their adjacent Florida Keys 9 Wildlife and Environmental Area.</p>	<p>3 Sandy Gully is cow-calf operation. Used to be 4 a dairy back in 2002, converted to cow-calf now. 5 It is a fabulous connector between Highlands, 6 Hammock and the Highlands County, I think, Sun N 7 Lake preserve. Very strong development on the east 8 side of the property, so not only will it preserve 9 the land and natural state, it's going to be a 10 wildlife corridor through that -- through that 11 ridge area between Highlands Hammock and the county 12 preserve.</p>
<p>10 Jim Karels with Florida Forest Service will 11 present our final DOT item. Thank you.</p>	<p>13 If approved this will be the 46th perpetual 14 conservation easement under the Rural and Family 15 Lands Program, about 53,121 acres. And if 16 approved, this will be the first conservation 17 easement John Brown hasn't sat in on. So I 18 appreciate everybody that was at his services 19 yesterday and if I -- if you have any questions, 20 I'm here for you. Thank you.</p>
<p>12 MR. KARELS: Good morning, cabinet aides. Jim 13 Karels, Director of State Forests, for the Forest 14 Service. Item No. 7, Sandy Gully conservation 15 easement, Florida Department of Agriculture, 16 Consumer Services, Rural and Family Lands Program. 17 Consideration of an option for agreement to 18 purchase a 2,457-acre perpetual conservation 19 easement over lands lying within the Sandy Gully 20 Project of the Rural and Family Lands Program.</p>	<p>21 MS. OLSON: All right. Next up is the 22 Administration Commission agenda and -- 23 (UNINTELLIGIBLE) -- 24 MR. KRUSE: Good morning. We have two items 25 on the Administration Commission agenda. Item 1 is</p>
<p>21 From Sandy Gully, Dairy, Inc. as item -- as, 22 one, consideration and, two, designation of FDACS, 23 Florida Forest Service as the monitoring agency. 24 County of Highlands County. The consideration 25 price is \$5,528,250. Of that, if NRCS partners</p>	

Page 18	Page 19
<p>1 approval of the minutes of the June 13, 2018 2 meeting.</p> <p>3 Item 2 is consideration of a recommended order 4 in the proceeding of WHS Visions of Lakeland and BS 5 Ranch and Farm, a political subdivision. Staff 6 attorney, Nicholas Primrose, will walk you through 7 this case.</p> <p>8 MR. PRIMROSE: Good morning. This agenda item 9 is a challenge to the Polk County Comprehensive 10 Plan Amendment 17D-08, adopted by Ordinance 11 2017-049. The plan amendment in question amends 12 the Polk County comprehensive plan to basically 13 bring soil manufacturing facilities into the 14 definition of solid waste management facilities by 15 deleting soil manufacturing facilities from a 16 conditional use definition and reclassifying it 17 under the solid waste management facilities, 18 thereby restricting the location of any soil 19 manufacturing facilities to institutional land use 20 districts.</p> <p>21 On March 14th, 2018, after noticing a hearing 22 by the administrative law judge, there was a 23 recommended order entered determining that the plan 24 amendment passed and adopted was not in compliance 25 with Chapter 162, Florida Statutes. The purpose of</p>	<p>1 the agenda item is for the Commission to consider 2 the recommended order, the party exceptions, 3 arguments, the relevant law, and then vote on a 4 final action.</p> <p>5 In preparing for this agenda item I will meet 6 with all of the cabinet offices and as counsel for 7 the commission will advise each office of the 8 contents of the recommended order, the contents of 9 the exceptions, the laws governing the proceedings, 10 the various options on the recommended order, and 11 the resulting outcome of those rulings.</p> <p>12 The parties of this case, like Mark mentioned, 13 were petitioner WHS Vision of Lakeland, LLC, which 14 owns property in Polk County, and its managing 15 members are William Stanton and Brandy Stanton. 16 The other petitioner is BS Ranch and Farm, Inc., 17 which is the operating company for the property 18 owned by WHS Visions of Lakeland and they are 19 represented by Gary Hunter and Patrice Boise. And 20 then the respondent in this case is Polk County and 21 they're represented by Edward De La Parte.</p> <p>22 Just as short background of the case and a 23 short overview of the challenges to the plan 24 amendment, on October 3rd, 2017, Polk County 25 adopted the ordinance. The plan amendment amended</p>
Page 20	Page 21
<p>1 the comprehensive plan bringing soil manufacturing 2 facilities into the definition of solid waste 3 management facilities. The plan amendment, as 4 acknowledged by the ALJ, quote, "effectively 5 eliminates soil manufacturings as an allowable, 6 albeit conditional use in industrial land use 7 districts. As such, the plan amendment restricts 8 soil manufacturing facilities to solid waste 9 management facilities or institutional land use 10 districts."</p> <p>11 The petitioners filed a challenge with DOAH on 12 November 1st of 2017, asserting that the plan 13 amendment is not based on relevant and appropriate 14 data and analysis, that it was internally 15 inconsistent with the comprehensive plan and that 16 is did not provide meaningful and predictable 17 standards for the use and development of land or 18 meaningful guidelines for more-detailed 19 land-use-development regulations.</p> <p>20 Each of these alone would render the plan 21 amendment out of compliance with Chapter 163, 22 Florida Statutes. In compliance means that it was 23 consistent with the requirements of Chapter 163. 24 Particularly relevant here is Florida Statute 25 163.3177(1)(F), that the plan amendment be based on</p>	<p>1 relevant data and analysis and that there be an 2 appropriate response to that data and analysis.</p> <p>3 Also, in compliance means that it would be 4 internally consistent with the comprehensive plan 5 and that it would provide meaningful and 6 predictable standards, which is a requirement under 7 163.3177(1).</p> <p>8 Next, turning to what the ALJ's findings of 9 fact were. I'll begin with first the standard of 10 review for the findings of fact. The standard of 11 review for findings of fact in a recommended order 12 are set forth in Florida Statute 120.57(1), which 13 provides that the commission may not reject or 14 modify the ALJ's findings of fact, unless the 15 commission first determines, from a review of the 16 entire record and states with particularity in the 17 order, that the findings of fact were not based 18 upon competent substantial evidence or that the 19 proceedings on which the findings were based did 20 not comply with the essential requirements of the 21 law. Therefore, the commission can only modify or 22 reject the findings of fact if they are not based 23 on competent substantial evidence or that the 24 proceedings did not comply with essential 25 requirements of the law.</p>

Page 22	Page 23
<p>1 Competent substantial evidence means that such 2 evidence, as will establish a substantial basis of 3 fact from which the fact at issue can be reasonably 4 inferred and sufficiently relevant and material 5 that is of a reasonable mind would accept as 6 adequate to support the conclusion reached.</p> <p>7 Just a brief overview of what those findings 8 of fact by the ALJ. The ALJ made 84 findings of 9 fact, separately numbered, beginning on page four 10 of the recommended order and ending on page 26. 11 The findings are outlined as follows: Parties and 12 standing, soil manufacturing facility, a plan 13 amendment, solid waste siting ordinance, the 2016 14 amendment, challenges to the plan amendment, 15 internal inconsistency, meaningful and predictable 16 standards, and then other issues. Some of the key 17 findings from the ALJ. The 2016 comprehensive plan 18 for the county contained a definition of soil 19 manufacturing, which stated, among other things, 20 quote, "a facility that makes soil and soil-related 21 products using natural products as their primary 22 ingredients."</p> <p>23 The plan amendment in question made the 24 following changes to the glossary of definitions. 25 Under the materials recovery facility definition,</p>	<p>1 there was an addition of, quote, "including without 2 limitation a soil manufacturing facility." And 3 under the solid waste management facility 4 definition, the plan amendment deleted the 5 exclusion of soil manufacturing under that 6 definition.</p> <p>7 The ALJ found that, quote, "generally the 8 change in the plan amendments brings a soil 9 manufacturing facility within the definition of 10 solid waste management facility, and that the plan 11 amendment must be analyzed in conjunction with the 12 land development code amendment."</p> <p>13 In a footnote to that finding, the ALJ wrote, 14 quote, "the development review committee staff 15 report on the LDC plainly states that the plan 16 amendment was purposely crafted to render the LDC 17 amendment consistent with the comprehensive plan." 18 Of note, the ALJ found that the LDC deletes soil 19 manufacturing from the use table for standard land 20 use districts, and deleted soil manufacturing 21 facilities as a conditional albeit -- or excuse 22 me -- a conditional use subject to the regulations 23 of the comprehensive plan, thereby changing soil 24 manufacturing facilities from an independent land 25 use district to an industrial -- or excuse me --</p>
<p>1 changing it from an industrial land use to a 2 institutional land use district.</p> <p>3 The LDC further deleted the stand-alone 4 criteria for conditional use approval of soil 5 manufacturing facilities, thereby bringing it under 6 the solid waste management regulations. The ALJ 7 found that together the plan amendment and the land 8 development code amendment restricts soil 9 manufacturing facilities and thereby the plan 10 amendment and land development code amendment 11 render petitioner's use nonconforming.</p> <p>12 The ALJ's finding of facts regarding the 13 survey data, the Department of Environmental 14 Protection enforcement data, the code enforcement 15 data were not challenged. However, the respondent 16 does challenge the findings that the county did not 17 appropriately react to the data that they had. 18 Relevant to that, the ALJ found that the county 19 staff, in a 2016 survey of 11 local jurisdictions, 20 found that soil manufacturing is mostly considered 21 a solid waste management facility and often limited 22 to the same places as landfills. The ALJ also 23 found that the county staff found, quote, "however, 24 in 9 of 11 counties they direct private land fills 25 to industrial districts and, therefore, supports</p>	<p>1 Page 25 2 the applicant, or in this case the petitioner's, 3 request to locate their facilities in industrial 4 districts." The county staff report also 5 accompanying the 2016 plan amendment concluded that 6 the industrial land use district was the most 7 appropriate location for the proposed use and went 8 on further to recommend that based on the data at 9 that time, quote, "allowing soil manufacturing 10 facilities as a conditional use in industrial land 11 use districts, which the county approved in 2016." 12 As such, the county issued a conditional use 13 approval of petitioner's operation on December 6th, 14 2016. Later on, the county went on to change the 15 plan amendment and the land development code to 16 move soil manufacturing facilities from industrial 17 land use to institutional land use.</p> <p>18 Also of note, the ALJ's finding of fact 19 regarding internal inconsistency and meaningful and 20 predictable standards were not challenged by the 21 respondents.</p> <p>22 Now I'll turn to the ALJ's conclusions of law. 23 However, before going into that, the standard of 24 review on conclusions of law is set forth in 25 Florida Statute 120.57(1), which provides, the commission in its final order may reject or modify</p>

Page 26	Page 27
<p>1 the conclusions of law over which it has 2 substantive jurisdiction. When rejecting or 3 modifying such conclusions of law, the commission 4 must state with particularity its reasons for 5 rejecting or modifying such conclusions of law and 6 must make a finding that its substituted conclusion 7 of law is as or more reasonable than that which was 8 rejected or modified. Rejected or modifications of 9 conclusions of law may not form the basis for 10 rejection or modification of findings of fact. 11 Therefore, the conclusions of law can be modified 12 or rejected only if the commission states with 13 particularity its reasons for modifying or 14 rejecting and the commission makes a finding that 15 its substituted conclusion of law is as or more 16 reasonable than the administrative law judge's 17 conclusion of law. 18 The administrate law judge's conclusions in 19 this case are as follows: That DOAH does have 20 jurisdiction, the petitioner's are affected persons 21 with standing to bring the action, that Florida 22 Statute 163.3177(1)(F) requires plan amendments to 23 be based on relevant and appropriate data and 24 analysis and further requires that the reaction to 25 the data and analysis must be appropriate and to</p>	<p>1 the extent necessary indicated by the data. 2 The ALJ concluded that the petitioners proved 3 beyond fair debate that the plan amendment does not 4 react appropriately to the 2016 survey data and 5 analysis, that independent -- or industrial 6 district is the most appropriate location for the 7 soil manufacturing use and that the county's 8 land-use-plan decision to restrict soil 9 manufacturing facilities to institutional districts 10 is not open to dispute on grounds that make sense 11 or point to a logical deduction. 12 The ALJ also concluded that faced with the 13 evidence presented to the data and analysis, based 14 on what was known at the time of the plan 15 amendment, the county's decision to change the 16 appropriate land use going forward was not 17 reasonable. The ALJ also concluded that the 18 petitioners did not prove beyond fair debate that 19 the plan amendment rendered the county's 20 comprehensive plan internally inconsistent or 21 devoid of meaningful and predictable standards for 22 the use and development of the land. 23 The ultimate conclusion of the ALJ was that 24 based on all of the above, the petitioner has 25 proven, beyond fair debate, that the plan amendment</p>
<p>Page 28</p> <p>1 was not in compliance. 2 We would then turn to the party exceptions. 3 The parties will present their exceptions and any 4 other arguments. Today I would ask that they limit 5 themselves to up to ten minutes. We would have the 6 respondent respond first and then the petitioners 7 respond to that. 8 However, before the parties present, I want to 9 remind the individuals that are presenting that the 10 commission may only consider evidence that is part 11 of the record from the proceeding below. The 12 commission cannot and will not consider any 13 evidence that was not made part of the record. 14 Therefore, the presenters should limit their 15 comments to the evidence in the record and avoid 16 discussing any issues outside of the record. 17 With that being said, the respondent will 18 present first and that will be Edward De La Parte 19 for Polk County. However, before he responds, I 20 want to just point out what the respondent's 21 exceptions were in the general sense. 22 There are two exceptions presented by the 23 respondents. Exception one includes paragraphs 23, 24 24, 27, 28, 37, 54, 70, 71, 72, 73, 74, 101 and 25 102.</p>	<p>Page 29</p> <p>1 Those exceptions are challenged as follows: 2 That (A) the ALJ exceeded the scope of permissible 3 review by considering the land development code 4 amendments. (B) that the ALJ misapplied the data 5 and analysis evaluation and (C) that the ALJ 6 exceeded her scope of permissible review by 7 evaluating plan amendment consistency with land 8 development regulations. Exception two is to 9 paragraph 104, which is the ultimate conclusion, 10 and the challenge is that the ALJ should have -- 11 the conclusion of law should be changed to: 12 Petitioners have not proven beyond fair debate that 13 the plan amendment is not in compliance with 14 Chapter 163. 15 So with that, if the respondent would like to 16 present. Thank you. 17 MR. DE LA PARTE: Thank you, Mr. Primrose. My 18 name is Edward De La Parte. I am legal counsel 19 with the firm of De La Parte and Gilbert and I have 20 the pleasure of representing respondent, Polk 21 County, in this matter. Before launching into this 22 I want to acknowledge that I have here with me 23 today the vice chair of the Polk County Commission, 24 Commissioner Lindsey, who is here with us, and also 25 the County Attorney, Michael Craig. I appreciate</p>

Page 30	Page 31
<p>1 the opportunity to address you regarding these 2 matters. It's a matter of great importance to the 3 citizens of Polk County.</p> <p>4 Before jumping into the exceptions, I wanted 5 to go through some of the history and background of 6 this, and what I'm going to discuss is all matter 7 of record, based on evidence that was introduced 8 either documentary or testamentary evidence that 9 was introduced.</p> <p>10 This case didn't begin with the 2016 11 amendment. This case began with an amendment that 12 Polk County made to their comprehensive plan, land 13 development code, and in creating a solid waste 14 facility citing ordinance back in 2014. That was a 15 result of a ordinance that the county passed 16 declaring a moratorium on solid waste facilities, 17 and then required that there be an in-depth study 18 of how to deal with solid waste management going 19 forward in the future. And, based on that, comp 20 plan amendments were adopted. They came up with 21 all the definitions of solid waste management, 22 materials recovery facilities, and so on -- that 23 you see in the comprehensive plan.</p> <p>24 It also was a decision at that time to make 25 solid waste management facilities a special-use</p>	<p>1 category, just like an electrical generation 2 facility, for example, as a special use category. 3 And the decision was made by the county commission 4 at that time of the comprehensive plan to limit 5 these uses to the institutional land use district 6 in Polk County.</p> <p>7 There is also land development code amendments 8 that were made that created conditional-use 9 standards for solid waste management facilities. 10 The most significant of those was a requirement 11 that before you can construct or operate a solid 12 waste management facility, that you had to comply 13 with the newly-adopted solid waste management 14 facilities ordinance, and that ordinance has -- 15 requires a permit and a periodic renewal of that 16 permit intended to protect the environment and also 17 to determine a need for these facilities.</p> <p>18 That plan amendment was determined at the time 19 before all of the latest comprehensive plan 20 amendments and was actually recommended to be in 21 compliance, and no one challenged it so it is 22 legally -- was legally deemed to be in compliance.</p> <p>23 So some time in 2015 the county learned of the 24 petitioner's facility in Polk County. Apparently 25 it had been operating for a period of time as much</p>
Page 32	Page 33
<p>1 as several years before then. You may hear that 2 that facility's operations have not changed since 3 the time it first began operating, but that's not 4 what the record shows. We would be happy to 5 provide you copies of the exhibits from the DEP, 6 but facilities was originally permitted just to 7 handle food products and wood products. It 8 illegally took in biosolids at one time in 2014. 9 They entered a consent order with DEP in 2015 to 10 process and eliminate that and not take any 11 biosolids until their final permit was issued in 12 May 2016. And the final permit that DEP issued 13 only allowed a pilot study of that particular 14 facility.</p> <p>15 So once the county learned of the facility, it 16 worked with the individuals to try to bring them 17 into compliance. They are located in an industrial 18 district and they would be considered a materials 19 recovery facility, so the petitioner BS Ranch Farm 20 elected to file for an applicant initiated 21 amendment to the comprehensive plan to create a new 22 definition for soil management facility or soil 23 manufacturing facility and to exclude it from the 24 definition of solid waste management. That did not 25 indicate in the comprehensive plan where that</p>	<p>1 particular use would go. There was nothing in that 2 2016 amendment that indicated that it was going to 3 go into any of the particular uses. That came 4 through a land development code amendment that 5 occurred simultaneously with the 2016 amendment.</p> <p>6 And we've heard reference to a report that was 7 referenced in the recommended order. It's also 8 appears as Respondent's Exhibit No. 29. That 9 report was actually prepared to justify the land 10 development code amendment change, which authorized 11 this as a conditional use in the industrial 12 district.</p> <p>13 As Mr. Primrose said, in 2016, after these 14 amendments were passed, the facility received its 15 conditional-use approval and literally within weeks 16 of it receiving its condition use approval, the 17 county and the Department of Environmental 18 Protection received thousands of complaints of 19 off-site odors from -- emanating from this 20 facility. The county initiated a code enforcement 21 action, the Department of Environmental Protection 22 initiated an enforcement action, as well, that is 23 still pending for violations of its permit 24 conditions. As a result of those actions, the 25 county learned that there are other items regarding</p>

Page 34	Page 35
<p>1 this facility that it was represented that the 2 facility did not have an environmental resource 3 permit. In fact, it turned out that it did and the 4 DEP was citing them for violation of the 5 environmental resource permit. It turned out they 6 claimed there were no wetlands on site and there 7 was an informal jurisdictional determination made 8 by DEP at the request of the petitioner determining 9 that 100 acres of this 300 acres were actually 10 wetlands.</p> <p>11 In addition to that, the petitioner had to 12 apply for other permits to complete the 13 construction of the facility and so as a result of 14 that, the county hired experts to review this 15 additional information that the county received and 16 as a result of all of this additional information 17 that the county received after the conditional use 18 approval and after the 2016 amendments, the county 19 decided that the facility really was a solid waste 20 management facility primarily and that it should 21 fall under the facilities siting act and should 22 fall under the requirements of solid waste 23 management.</p> <p>24 Now, the county had a decision. I understand 25 or believe that the other side may argue that this</p>	<p>1 is intended to shut them down, but actually what 2 the county did in 2016 -- or '17 when they passed 3 the comp plan amendment, as Mr. Primrose said, all 4 it did was change the definitions. Kept soil 5 manufacturing, but just took the carve-out out of 6 the definition, which then made it an institution 7 use. It also passed the land development code 8 amendment, and that land development code amendment 9 was actually the instrument that prohibited this 10 use within the industrial zone. That was not done 11 by the comprehensive plan amendment. That was done 12 by the land development code amendment. The land 13 development code amendment also contained a 14 provision that said this particular facility -- 15 that this particular facility, and if you can give 16 me just a few more minutes I'm going to jump into 17 the exceptions, but I wanted to give you this 18 background, the particular facility was not -- 19 would continue to operate and increase in size.</p> <p>20 Now, Mr. Primrose said that findings of fact 21 can only be overturned if they're not based on 22 competent substantial evidence, or the proceeding 23 doesn't comply with the essential requirements of 24 the law. But, in addition to that, there is case 25 law that says that if findings of fact are infused</p>
Page 36	Page 37
<p>1 with policy determinations and the administration 2 commission is not bound by those findings of fact 3 can disregard them. We believe when we go through 4 the exceptions, which I'm about to do, that that is 5 the case.</p> <p>6 So our first exception is this statute is 7 specifically intended to review whether or not a 8 comprehensive plan amendment is in compliance. And 9 if you look at what the administrative law judge 10 did in finding of fact 22, 23 and 27, she found 11 that the full impact in 22, that the full impact of 12 the change is not apparent from the face of the 13 amendment, that you need to consider the LDC 14 amendment. In 23, she found that the LDC amendment 15 is actually the document that prohibits this within 16 the industrial district. And then in 27 it's 17 together that the plan amendment and the LDC 18 amendment restricts soil manufacturing to the 19 institutional zone.</p> <p>20 So what we believe happened and what we raise 21 in our exception is that the administrative law 22 judge treated the land development code amendment 23 change and the plan amendment change as one 24 planning decision, integral planning decision, and 25 then decided -- and then applied to it the data and</p>	<p>1 analysis section and said that there was not 2 adequate response to that data analysis for that 3 planning decision.</p> <p>4 MS. MCKNIGHT: I would ask that he be given 5 enough time. And if the petitioner's need 6 additional time, we're fine with that, as well.</p> <p>7 MR. DE LA PARTE: So they treated it as one 8 planning decision and then decided that this 9 combined decisions, one of which is to put it in 10 the solid waste management facility institution 11 zone, and then to prohibit it within the industrial 12 zone which was the land development code decision, 13 they treated it as one decision and then applied to 14 it the standards in 163.3184. We suggest to you 15 that that exceeds the scope of this administrative 16 law judge's authority.</p> <p>17 The administrative law judge's authority is 18 only limited to looking at the four corner of the 19 comprehensive plan. And in doing that, if you look 20 at findings of fact 55, 57 and 69, it's clear that 21 she found that this facility is a solid waste 22 management facility, or that the greater weight of 23 the evidence indicates it's a solid waste 24 management facility. So that our first exception, 25 that she exceeded the scope of her authority.</p>

Page 38	Page 39
<p>1 Secondly, because she's treating this as a                  2 combined planning decision, she also then proceeds                  3 to apply the data and analysis provision that only                  4 applies to comp plan amendments to this combined                  5 decision. So she's applying this data and analysis                  6 provision to the decision of the LDC to eliminate                  7 this land use from the industrial zone. And there                  8 is nothing in the act that authorizes that the                  9 application of the data analysis provision in                  10 163.3177 to the land development code, there's an                  11 entirely separate section that deals with                  12 administrative challenges to the land development                  13 code.                  14 This argument is intuitive. Ask yourself                  15 this: If the county had not adopted that land                  16 development code amendment then the -- then this                  17 particular use, the soil manufacturing, would still                  18 be a permitted industrial use under the land                  19 development code. It was only because the county                  20 elected to eliminate that that we're here today                  21 talking about whether there's data analysis to                  22 support that.                  23 If you assume, which is not the case, but if                  24 you assume that the comp plan amendment in its body                  25 said it goes in the institutional zone and it</p>	<p>1 cannot go in the industrial zone, that's not the                  2 case, but if you assume that, we still think her                  3 analysis is incorrect. She is relying on a survey                  4 that was done in support of a land development code                  5 amendment that took place in 2016. And that land                  6 development code amendment very clearly contains                  7 language in it that says locating soil                  8 manufacturing in an institutional zone is supported                  9 by the data gathered in other jurisdictions, as                  10 well as consistent with the current land                  11 development code requirements.                  12 So we have a survey report that says it can go                  13 in the institutional zone or it can go the                  14 industrial zone. The county decided, as part of                  15 the land development code in 2016, to put it in the                  16 industrial zone, but in 2017, even if you assume                  17 the comp plan amendment combines them all together,                  18 which it doesn't, then the case law indicates that                  19 the county commission has a discretion when the                  20 data and analysis allows for multiple choices to                  21 pick which choice to make.                  22 And what the administrative law judge did in                  23 this case is similar to what she did in the Farrell                  24 case, where she has now infringed on the discretion                  25 of the local government to make a decision as to</p>
Page 40	Page 41
<p>1 which zone it should go in. They're the people in                  2 the front line that have to make these decisions.                  3 And they made a decision in 2016, we're going to                  4 put it in the industrial zone because based on the                  5 data that we had at that time we thought that was                  6 more like a manufacturing facility.                  7 But they also had the ability in 2017, in                  8 light of all the additional data to say, wait, it                  9 could also go in the institutional zone, in light                  10 of all this, plus expert testimony, as solid waste                  11 management, we think it should go to the                  12 institutional zone. And by taking that discretion                  13 away from the Polk County Board of County                  14 Commissioners, she's committed the same error that                  15 she committed in Farrell, which is not to properly                  16 apply the fairly debatable standard to this                  17 particular case.                  18 So based on the foregoing, we request that you                  19 grant exception number one, which if you do then                  20 would require that you grant exception number two,                  21 which is the -- her finding, her conclusion that                  22 the plan is not in compliance and reverse her                  23 decision. I'll be happy to answer any questions if                  24 you have any.                  25 MS. MCKNIGHT: Can I -- and I don't know if</p>	<p>1 Nick's the appropriate person, but you referenced                  2 the difference between the LDC and the comp plan as                  3 being two separate documents. Where in statute                  4 does it reference -- I'm not familiar with 163,                  5 maybe it's not in 163 -- does it reference the LDC?                  6 MR. DE LA PARTE: It's referenced -- if you                  7 just give me a minute. I don't have the statute in                  8 front of me, but I think I wrote down the                  9 provisions in the LDC.                  10 MS. MCKNIGHT: And if we don't have it, we can                  11 follow-up. I just wanted to make sure --                  12 MR. DE LA PARTE: Yeah, the LDC is referenced                  13 in 163.3194 and 163.3201. And those basically say                  14 it's required to be adopted after comprehensive                  15 plans adopted and that it's observed in the                  16 comprehensive plan. The LDC has its own                  17 administrative challenge provision that's separate                  18 from a comp plan and that appears in Section                  19 163.3213.                  20 MS. MCKNIGHT: Thank you.                  21 MR. DE LA PARTE: Thank you so much.                  22 MR. PRIMROSE: So just up next for the                  23 petitioner, which will have a reasonable amount of                  24 time to respond to the respondent's exceptions, we                  25 first have Gary Hunter.</p>

Page 42	Page 43
<p>1 MR. HUNTER: I think first and last you have 2 Gary Hunter. I know you're relieved. 3 Gary Hunter, Hopping Green and Sams on behalf 4 of WHS Visions and BS Ranch. I appreciate Mr. 5 Primrose's introduction of this issue. I don't 6 factually necessarily disagree with a lot of what 7 Mr. De La Parte said. He did mention some 8 historical irrelevant points that I think lead to, 9 in his mind, making his case, which I think really 10 have nothing to do with a Chapter 163 comp plan 11 case. He also referenced there were thousands of 12 complaints filed against our client. I'll just 13 say, Mr. Primrose asked, and I agree with him, we 14 shouldn't talk about things not in the record. 15 There's nothing in this record that suggests there 16 are thousands of complaints against my client's 17 operations and I, therefore, ask that anything -- 18 any consideration of that statement be ignored 19 because it's not here -- it's not in what you're 20 reviewing to support it. 21 Let me try and boil this down to as simple as 22 an issue as it can be under Chapter 163, because I 23 think the gist of this case and what Mr. De La 24 Parte and the county are arguing is that Judge Van 25 Wyk took the land development code provisions that</p>	<p>1 were adopted in 2017 and relied upon those changes 2 to support that what the comp plan did and, 3 therefore, support her conclusion that the comp 4 plan change was not consistent with Chapter 163. 5 That just is absolutely inaccurate. So the 6 premise of everything he said to you, which was she 7 was wrong because she relied upon a land 8 development code change is just inaccurate. If you 9 look at paragraph 37 of her order, it says the plan 10 amendment. The plan amendment. Not the plan 11 amendment and the land development code. The plan 12 amendment essentially reverses the 2016 amendment, 13 restricting the location of soil manufacturing 14 facilities to institutional land use districts and 15 subjecting them to regulation as a solid waste 16 management facility pursuant to the citing 17 ordinance. 18 So under the comp plan, under the specific 19 policy -- I can cite you to the right policy in the 20 comp plan -- 2.125-01, future land use element 21 policy 2.125-01 says that solid waste facilities 22 have to be -- have to be -- and institutional land 23 use. All right. Nothing to do with the land 24 development code. You don't need to go to the land 25 development code to conclude that under that policy</p>
Page 44	Page 45
<p>1 in the comp plan, solid waste facilities have to be 2 an institutional land use. 3 So the county, in 2016, adopts a comp plan 4 amendment that says soil manufacturing facility, 5 what my client operates -- by the way, an operation 6 that takes biosolids, takes vegetated waste, takes 7 leftover food products from grocery stores and 8 things that are no longer consumable by humans and 9 recycles them has a pretty, you know, 10 state-of-the-art and, I think, unlike any other 11 operation in Florida, recycling composting 12 operation to generate the soils that they 13 manufacture and had the red carpet rolled to them 14 by the county over about a six-year period. 15 Really, over the last three-year period until the 16 county was discontent with the decision they made 17 and wanted to go change their plan amendment, but 18 had invested a lot of effort in the operations they 19 have going there to maintain this recycling 20 facility. 21 So, in 2016, the county does a plan amendment 22 that is supported by -- and a land development code 23 change. They did both. Mr. De La Parte's right. 24 It says, soil manufacturing facilities are not, are 25 not solid waste facilities. And the reason they</p>	<p>1 did that is because they had concluded, their staff 2 had concluded, that solid waste facilities, which 3 are allowed in institutional land uses in Polk 4 County are -- isn't where soil manufacturing 5 facilities should be. They should be -- and the 6 staff concluded -- an industrial land use 7 categories. 8 And I'm going to cite to you how, at the end 9 of the day, Judge Van Wyk made her decision. If 10 you look at the staff report from 2016 that's in 11 evidence in the case, this is the county staff 12 report. The county staff concluded the applicant's 13 use has a significant manufacturing component and 14 has more off-site impacts than a typical 15 institutional future land use designation, which 16 typically includes a school or fire station. 17 Furthermore, institutional future land use 18 designations are located throughout the county 19 where manufacturing impacts would be significant to 20 neighboring property owners. This is the county's 21 staff report. 22 MS. MCKNIGHT: Gary, can you cite in the staff 23 report what page that's on? 24 MR. HUNTER: Yes, ma'am. It's page four of 25 four under CPA 16B-01 of the county's 2016 staff</p>

Page 46	Page 47
<p>1 report. The date of that report is October 1, 2 2015.</p> <p>3 So the county staff goes on to conclude, 4 therefore, this amendment better aligns a 5 manufacturing component with the most-appropriate 6 land use, which helps protect the environment and 7 quality of life.</p> <p>8 I'm not here arguing that that's right. It 9 was or wasn't right. I mean, the county now 10 probably thinks it isn't, but here's what I'm 11 arguing: Chapter 163, what's relevant, and I know 12 you all as administration commission sit up here as 13 an appellate court reviewing what an administrative 14 law judge did, but Chapter 163 says to be based on 15 data means to react to it in an appropriate way and 16 to the extent necessary indicated by the data 17 available on the particular subject at the time of 18 the adoption of the plan amendment.</p> <p>19 So Judge Van Wyk, her -- really the sole basis 20 of finding this plan amendment not in compliance, 21 and our argument for why it wasn't in compliance, 22 is that the county didn't react appropriately to 23 data, because they took what I just read to you in 24 2016 and concluded soil manufacturing facilities 25 shouldn't be an institutional land use category.</p>	<p>1 That's their report. They then cite to that very 2 same report as their data. They offered it -- we 3 didn't -- their data to support their 2017 plan 4 amendment. Nothing changed. He likes to talk 5 about the DEP enforcement actions. They were all 6 before 2016 and got resolved. So no new data after 7 2016 from DEP, the county did bring up a code 8 enforcement case after 2016. They brought it in 9 2017. And guess what? They lost. They lost their 10 code enforcement case on odor which -- and then 11 after they lost it, what do they do? They go 12 decide they want to reverse their plan amendment 13 and treat solid waste facility -- I mean treat soil 14 manufacturing facilities the same as solid waste 15 facilities.</p> <p>16 And the -- and Judge Van Wyk did the only 17 thing she could conclude. She said, that is 18 nonsensical. You can't give me the same data that 19 you gave me in 2016 to support the 180-degree 20 opposite conclusion and say it now, with nothing 21 changed, it now supports your conclusion in 2017 to 22 treat these facilities differently.</p> <p>23 And let's forget my client's facility exists. 24 I mean, this is talking about future planning in 25 Polk County. And it's saying that these</p>
Page 48	Page 49
<p>1 facilities, whenever they come on board, now should 2 be an institutional land use category when you got 3 a staff report that says institutional land use 4 categories are dispersed throughout the county and 5 industrial is very limited and that's where these 6 things should go.</p> <p>7 And, moreover, the basis upon which the 8 county -- one of the bases upon which he sat up 9 here and cited to as why this makes sense is that 10 there are odor complaints. People complain about 11 it. And so people about complain it so the logical 12 thing to do for the county is to go put it where 13 there are more people, and Judge Van Wyk was wrong? 14 I think not.</p> <p>15 And so we -- fairly debatable doesn't mean not 16 make sense. It's a highly-deferential standard. 17 You guys have heard me stand up here and say that 18 multiple times. And I agree with Ed. He's right. 19 It is highly deferential to local government. It 20 doesn't mean you can do something that doesn't make 21 sense. And, in this case, that's what Judge Van 22 Wyk concluded. What you did just doesn't -- based 23 off the evidence you've given me doesn't make 24 sense. I can't conclude that you acted 25 appropriately to the data in front of you. And,</p>	<p>1 therefore, you're not consistent with Chapter 163, 2 specifically Chapter 163.3177(1)(F), which 3 requires -- which is that obligation.</p> <p>4 And so we would urge you to support, issue as 5 a final order, to reject the exceptions and issue 6 as a final order the recommended order from Judge 7 Van Wyk, and I'm happy to answer any questions that 8 you have. Appreciate your time.</p> <p>9 Thank you.</p> <p>10 MR. PRIMROSE: I didn't know if any there was 11 anybody from the public that wanted to speak on 12 this. At the cabinet meeting, if anybody does come 13 that's not associated with either party, we give 14 them an opportunity to speak on this.</p> <p>15 After the parties have spoke and any public 16 comment, I would then go on to the individual 17 exceptions and ask the commission to vote on the 18 exception one and exception two raised by the 19 respondents. Depending on their votes on that, 20 then I would go into a recommendation on voting on 21 final action. At this time, I'm not prepared to 22 discuss what that recommendation would be because 23 we would need the commission to vote on individual 24 exceptions before going on to the final action. 25 With that, concludes the presentation as to</p>

Page 50

1 this case if there are no questions.  
 2 MS. OLSON: Thanks, Nick.  
 3 MR. KRUSE: Thank you, Nick. That would  
 4 conclude the Administration Commission agenda.  
 5 Kristen, if you'd like, I'll move to the  
 6 FLAWAC agenda.  
 7 Item 1 is request for approval of the minutes  
 8 of the March 17, 2018 meeting.  
 9 And Item 2 is a request for authorization to  
 10 publish a notice of rule-making to amend the  
 11 boundary of the Wiregrass Community Development  
 12 District and if no request for a public hearing is  
 13 received, as a result of the notices, requests  
 14 authorization to file for final adoption.  
 15 If there are no questions, that would conclude  
 16 the FLAWAC agenda, as well.  
 17 MS. OLSON: Thanks.  
 18 MR. KRUSE: Thank you very much.  
 19 MS. OLSON: That concludes our meeting.  
 20 (Whereupon, the proceedings were concluded.)  
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Page 51

1  
 2 CERTIFICATE OF REPORTER  
 3  
 4 STATE OF FLORIDA )  
 5 COUNTY OF LEON )  
 6  
 7 I, DANA W. REEVES, Professional Court  
 8 Reporter, certify that the foregoing proceedings were  
 9 taken before me at the time and place therein  
 10 designated; that my shorthand notes were thereafter  
 11 translated under my supervision; and the foregoing  
 12 pages, numbered 3 through 50, are a true and correct  
 13 record of the aforesaid proceedings.  
 14  
 15 I further certify that I am not a relative,  
 16 employee, attorney or counsel of any of the parties, nor  
 17 am I a relative or employee of any of the parties'  
 18 attorney or counsel connected with the action, nor am I  
 19 financially interested in the action.  
 20 DATED this 21st day of August, 2018.  
 21  
 22   
 23 \_\_\_\_\_  
 24 DANA W. REEVES  
 25 NOTARY PUBLIC  
 COMMISSION #FF968527  
 EXPIRES MARCH 22, 2020