

In Re: Florida Cabinet Meeting

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Florida Cabinet Meeting

August 23, 2022

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STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND CABINET

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CABINET MEMBERS: GOVERNOR RON DESANTIS  
ATTORNEY GENERAL ASHLEY MOODY  
CHIEF FINANCIAL OFFICER JIMMY PATRONIS  
COMMISSIONER AGRICULTURE NIKKI FRIED

DATE: Tuesday, August 23, 2022

TIME: Commenced at 9:00 a.m.  
Concluded at 11:44 a.m.

LOCATION: Cabinet Meeting Room  
Lower Level, The Capitol  
Tallahassee, FL

Stenographically Reported by:

Angie Adler, RPR

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

2 GOVERNOR DESANTIS: Okay. Good morning and  
3 welcome to the August 23rd meeting of the Governor  
4 and Cabinet. I'd like to first welcome Peter  
5 Boulware to give our invocation.

6 (Whereupon, the invocation was given.)

7 GOVERNOR DESANTIS: All right. Thank you.  
8 CFO Patronis, would you like to introduce your  
9 guest who will lead us in the Pledge of Allegiance.

10 MR. PATRONIS: Thank you, Governor and Cabinet  
11 and friends here joined today. I'd like to  
12 introduce Kayla Larossi. She is shadowing me  
13 today. I did this in my first term and I thought,  
14 you know what, this is a great opportunity for a  
15 young, budding leader in her school to see a  
16 firsthand driver's seat of the Florida Cabinet.  
17 She's going to learn about the Florida Cabinet and  
18 what it takes to serve Floridians. Kayla, if you'd  
19 lead us in the pledge.

20 (Whereupon, the Pledge of Allegiance was  
21 given.)

22 (Recognitions and Resolutions were heard and  
23 presented.)

24 \* \* \* \* \*

25

1                   MOTION - APPROVAL OF MARK GLASS  
2                   AS ACTING COMMISSIONER OF THE  
3                   FLORIDA DEPARTMENT OF LAW ENFORCEMENT

4                   GOVERNOR DESANTIS: Okay. Back in May, I  
5                   appointed Mark Glass to serve as the acting  
6                   commissioner of FDLE. We've appreciated his  
7                   service. In less than four months, he's been able  
8                   to do a lot to help with a lot of different issues  
9                   that the state is facing.

10                  He's somebody that's served in the Armed  
11                  Forces for 30 years. He's held numerous senior  
12                  positions in law enforcement and he's proven  
13                  himself to be qualified for the job, so I have  
14                  officially appointed and nominated Mark Glass as  
15                  the full-time commissioner of FDLE and we are  
16                  moving to confirm him today.

17                  So I move to approve the appointment of Mark  
18                  Glass as commissioner of FDLE. Second or comment?

19                  MR. PATRONIS: Second.

20                  MS. FRIED: And, Governor, I would say he has  
21                  been working extraordinarily diligently since you  
22                  appointed him as interim. I've personally met with  
23                  him. He has a lot of ideas for the agency, ready  
24                  to serve in this capacity, so I would second that  
25                  as well.

1                   GOVERNOR DESANTIS:   Good call.   Okay.

2    Congratulations, Commissioner Glass.

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1 STATE BOARD OF ADMINISTRATION

2 Interim Executive Director Lamar Taylor

3 GOVERNOR DESANTIS: All right. State Board of  
4 Administration, Lamar Taylor.

5 Item 1:

6 MR. TAYLOR: Morning, Governor and Trustees.  
7 Governor, without any objections, I thought I'd  
8 just move into Item 1 on the agenda, then come back  
9 and provide an update on performance.

10 GOVERNOR DESANTIS: Okay.

11 MR. TAYLOR: As to Item 1 on the Agenda is a  
12 Resolution relating to ESG, which is an acronym  
13 that stands for the use of environmental, social  
14 and governance factors in making investment  
15 decisions. It is a term that has become associated  
16 with the practice of certain investment managers to  
17 elevate political, social and ideological  
18 viewpoints and objectives over and above the return  
19 seeking a risk and return objectives of those on  
20 whose behalf they invest funds for and we believe  
21 that this practice is a function of two  
22 developments in the marketplace.

23 First, there has been a substantial increase  
24 in the prevalence of passive investment strategies  
25 both by retail investors and institutional

1 investors which has steered tremendous amount of  
2 capital in the hands of a limited number of  
3 investment managers and that has provided those  
4 investment managers with unprecedented access and  
5 influence of the companies in which they invest.  
6 That's one phenomenon.

7       The other is a shifting regulatory environment  
8 particularly around rules from the Department of  
9 Labor with respect to ERISA fiduciaries and their  
10 investment practices and particularly the extent to  
11 which they should or shouldn't take into account  
12 financial factors or prioritize financial factors  
13 over and above nonfinancial factors such as ESG  
14 factors when making investment decisions on behalf  
15 of their beneficiaries, and we think these  
16 phenomenon together create both the means and the  
17 potential incentive for certain investment managers  
18 to elevate the achievement of certain political,  
19 social and ideological objectives over and above  
20 financial return objectives for the funds they  
21 manage.

22       And, of course, this is not something that's  
23 news to the Trustees. You all have been attune to  
24 this fact for awhile now and I think your concerns  
25 on these issues have formed the basis of some of



1 the conversations we've had previously with respect  
2 to taking back our proxy voting rights from  
3 managers and making sure that we're voting those  
4 proxies internally at the State Board.

5 So I go through this background to really just  
6 sort of underscore why we believe this is an  
7 important topic for the consideration of Trustees  
8 today through this Resolution and that is, of  
9 course, because as the investment fiduciary for the  
10 state's pension beneficiaries, the investment  
11 decisions we make are on behalf of some of the most  
12 important public servants in our system, police,  
13 firefighters, teachers.

14 And in that context and acting on their  
15 behalf, we have historically focused on maximizing  
16 financial return over and above other  
17 considerations and we would anticipate and hope  
18 that that would continue to be our objective and  
19 it's in light of these developments that I've  
20 recently just mentioned.

21 We think it's important for the Trustees today  
22 to take a formal action and unequivocally and  
23 formally confirm that the objectives, the financial  
24 return objectives of the pension plan should never  
25 be subordinated to the political, social and

1 ideological viewpoints of others, and by taking  
2 this action today, that the Trustees would be  
3 protecting current and future beneficiaries from  
4 investment ideologies that would seek to maximize  
5 social impact over and above financial return.

6         So what does this Resolution do? First, it  
7 directs the State Board to update the statutory  
8 required investment policy statement to ensure that  
9 all of the investment decisions by the State Board  
10 of Administration are based solely on pecuniary  
11 factors and will not be made for the furtherance of  
12 social, political or ideological measures.

13         The SBA should not sacrifice investment return  
14 or take additional investment risk to promote a  
15 non-pecuniary factor, and by adding this language  
16 to our investment policy statement, it will be  
17 clear that the SBA will follow all current and  
18 future statutory directives and consider only  
19 factors that impact risk and return.

20         Once the investment policy statement is  
21 reviewed by our Investment Advisory Council, it  
22 will come back to the Trustees for your approval.  
23 In the meantime, if the Trustees approve this  
24 Resolution today, we will begin the process of  
25 incorporating these terms into our investment

1 contracts.

2 Second, the Resolution sets forth a direction  
3 on proxy voting to ensure that the SBA acts  
4 prudently and solely in the interest of our pension  
5 beneficiaries and proxy votes, which means we will  
6 not cast votes to promote non-pecuniary factors and  
7 we will also incorporate this language into our  
8 corporate, governance, principles and proxy voting  
9 guidelines, and these revised principles and  
10 guidelines will come back to the Trustees for your  
11 formal approval after, again, review by the  
12 Investment Advisory Council.

13 And, finally, by approving this Resolution,  
14 the Trustees directing the SBA to conduct a  
15 comprehensive review and prepare a report of the  
16 Trustees on our policies over our voting practices  
17 to ensure our strict adherence to the fiduciary  
18 standards in the plan and undertake a review  
19 process to ensure compliance with this new  
20 investment policy statement and that report will  
21 come back to the Trustees next year, so that is the  
22 Resolution. And that's why we think it's important  
23 for the Trustees today. I'm happy to answer any  
24 questions, if you have any.

25 GOVERNOR DESANTIS: Well, I just would say

1     that I think this is important. I think the  
2     movement that we've seen to harness economic power  
3     to try to advance an ideological agenda that  
4     doesn't have enough appeal to win at the ballot box  
5     is something that is very significant and I think  
6     ultimately not in the best interest of our society  
7     at large but certainly the people of Florida.

8             I want to have the values not of Davos imposed  
9     on us but of places like Destin and Dunedin where I  
10    grew up. Things like the World Economic Forum,  
11    those policies are dead on arrival in the state of  
12    Florida. We are not going to go down that road.

13            So this is, I think, one important step. I  
14    fully anticipate that we'll be working with the  
15    legislature to have statutory codification of these  
16    protections, and you look at who ultimately gets  
17    hurt by some of this nonsense, it is the people  
18    that have earned these pensions. You look at some  
19    of the ESG funds have performed poorly because  
20    they're more focused on ideology rather than  
21    helping the people that would benefit from strong  
22    returns, so that's gotta just be a friend of mine.

23            We also need to, with the proxy voting rights  
24    being brought back, we need to work with other  
25    states to be able to pull our power, our voting

1 power on these stocks so that we can be a  
2 counterweight to ESG throughout the country. I  
3 think that what you have is you have some asset  
4 managers that have a disproportionate influence on  
5 how a lot of these companies operate and so they're  
6 able to exert a lot of power, which I don't think  
7 was ever intended, but that's the way this is  
8 supposed to operate and so you don't really have a,  
9 you know, "free market." You have a handful of  
10 people, you know, that have amassed a lot of power  
11 to themselves and they're really trying to exploit  
12 that power by injecting these agendas.

13 And so I think Florida, we've got a big  
14 pension. We're an important player in this. This  
15 is a very important step. We will do more  
16 legislatively and then we will be working with  
17 other states to make sure that we can all pull  
18 together and do it.

19 And it's important to protect the pensioners,  
20 but there's a larger issue. If the economy becomes  
21 politicized, continues to become politicized,  
22 that's ultimately not good for our country. It's  
23 not good for our state or our society.

24 You know, you need to have an economy that  
25 functions like an economy traditionally has

1     functioned, not where all these big private actors  
2     are putting thumbs on the scales of all these  
3     political issues or infusing the economy with  
4     political ideology. And, yes, we see this all  
5     tends to go one way, but even if it went other  
6     ways, it's just not a healthy thing.

7             So I think that what we're doing is smart. I  
8     think what we're doing is showing leadership, and I  
9     do think other states, since we made this  
10    announcement that we were going to be doing it,  
11    other states are now getting involved and I think  
12    you're going to see a really strong groundswell of  
13    people wanting to stand up to protect the people in  
14    these pension systems from not being just roadkill  
15    in somebody's ideological agenda. Now let's focus  
16    on getting the maximal returns for them and make  
17    sure that our state continues to enjoy a strong  
18    fiscal health.

19            Anybody else?

20            MR. PATRONIS: Yes, sir. Thank you, Governor.  
21    Your leadership on this issue has been strong. As  
22    I -- I did a little time in the legislature and one  
23    thing I learned there is how many states look for  
24    Florida for leadership and you're stepping forward,  
25    you're pushing this concern to greater awareness.

1 I do believe that other states will follow suit  
2 simply because you have taken the lead.

3 I look at the dysfunction that we've had in  
4 Washington, the lack of listening to the public,  
5 pounding people with inflation problems, and the  
6 administration, their solution is adding more IRS  
7 agents to the solution just to harvest more  
8 dollars, so your leadership is spot on and I  
9 appreciate the Resolution. Thank you, Lamar.

10 GOVERNOR DESANTIS: Okay. So any -- do you  
11 have any comment?

12 ATTORNEY GENERAL MOODY: No. I would just  
13 second it. You know, it's so important that we  
14 continue to focus on diversification, yield risk.  
15 Those are the things that we need to focus on and I  
16 think this reaffirms that and I'm proud to support  
17 it.

18 GOVERNOR DESANTIS: Okay. So I move to  
19 approve. I think we have two seconds, and so with  
20 no objection, the motion carries.

21 Item 13:

22 MR. TAYLOR: Thank you, Governor. Just a real  
23 brief update on the fund performance to performance  
24 for the Florida Retirement Benefit Pension Plan.

25 Through the close of yesterday, we were down

1           7.73 percent, which is right on top of our  
2           benchmark, so no outperformance, no  
3           underperformance. We're right there on the  
4           performance. The fund is down about \$20 billion  
5           from when we started the calendar year. Balance  
6           stands at about \$186.2 billion.

7           So with that, I can move into the rest of the  
8           items on the agenda.

9           GOVERNOR DESANTIS: Okay.

10          Items 2 through 5:

11                 MR. TAYLOR: Starting with Items 2 through 5,  
12                 if there's no objection, these are minutes, I can  
13                 just lump them all as one item.

14                 GOVERNOR DESANTIS: Yep.

15                 MR. TAYLOR: Would move to approve.

16                 GOVERNOR DESANTIS: Okay. I move to approve  
17                 Items 2 through 5. Is there a second?

18                 MR. PATRONIS: Second.

19                 GOVERNOR DESANTIS: Okay. No objection. The  
20                 motion carries.

21          Item 6:

22                 GOVERNOR DESANTIS: Item 6.

23                 MR. TAYLOR: Item 6 is a Resolution of the  
24                 State Board of Administration approving the fiscal  
25                 sufficiency of an amount not exceeding 29 million.



1 State of Florida Board of Governors, Florida State  
2 University dormitory revenue refunding bonds,  
3 series to be determined. Request approval.

4 GOVERNOR DESANTIS: Okay. Request to approve.  
5 Is there a second?

6 ATTORNEY GENERAL MOODY: Second.

7 GOVERNOR DESANTIS: All right. No objection.  
8 The motion carries.

9 Item 7:

10 GOVERNOR DESANTIS: 7.

11 MR. TAYLOR: 7 is a Resolution of the State  
12 Board of Administration approving the fiscal  
13 sufficiency of an amount not exceeding 205 million,  
14 State of Florida, Full Faith In Credit, State Board  
15 of public -- State Board of Education, public  
16 education capital outlay, Refunding Bond, series to  
17 be determined. Request approval.

18 GOVERNOR DESANTIS: I move to approve. Is  
19 there a second?

20 ATTORNEY GENERAL MOODY: Second.

21 GOVERNOR DESANTIS: Hearing no objection, the  
22 motion carries.

23 Item 8:

24 GOVERNOR DESANTIS: Item 8.

25 MR. TAYLOR: Item 8 is a Resolution of the

1 State Board of Administration approving the fiscal  
2 sufficiency in an amount not exceeding \$113  
3 million, State of Florida, Department of  
4 Transportation, Seaport Investment Program Revenue  
5 Refunding Bonds, series to be determined. Request  
6 approval.

7 GOVERNOR DESANTIS: I move to approve. Is  
8 there a second?

9 MR. PATRONIS: Second.

10 ATTORNEY GENERAL MOODY: Second.

11 GOVERNOR DESANTIS: Hearing no objection, the  
12 motion carries.

13 Item 9:

14 GOVERNOR DESANTIS: Item 9.

15 MR. TAYLOR: Item 9 is a Resolution of the  
16 State Board of Administration approving the fiscal  
17 sufficiency in an amount not exceeding 444,100,000,  
18 State of Florida, Department of Transportation,  
19 Turnpike Revenue Bonds, series to be determined.  
20 Request approval.

21 GOVERNOR DESANTIS: I would move to approve.  
22 Is there a second?

23 ATTORNEY GENERAL MOODY: Second.

24 GOVERNOR DESANTIS: Hearing no objection, the  
25 motion carries.

1 Item 10:

2 MR. TAYLOR: Item 10 is a Resolution of the  
3 State Board of Administration approving the fiscal  
4 sufficiency in an amount not exceeding \$214  
5 million, State of Florida, Department of  
6 Transportation, Turnpike Revenue Refunding Bond,  
7 series to be determined. Request approval.

8 GOVERNOR DESANTIS: All right. I would move  
9 to approve. Is there a second?

10 ATTORNEY GENERAL MOODY: Second.

11 GOVERNOR DESANTIS: Hearing no objection, the  
12 motion carries.

13 Item 11:

14 MR. TAYLOR: Item 11 is a request for the  
15 approval of an authority to file a notice of  
16 proposed rule for Florida Hurricane Catastrophe  
17 Fund Rule 19-8.010 relating to the reimbursement  
18 contract and to file this rule, along with the  
19 incorporated forms, for adoption if no member of  
20 the public timely requests a rule hearing or if a  
21 hearing is requested and no notice of change is  
22 needed.

23 Statutorily, the SBA is required to adopt by  
24 February 1st reimbursement contract with the  
25 subsequent contract year 23/24 contract year, so

1           that's what this rule relates to and I'd request  
2           approval.

3                   GOVERNOR DESANTIS: All right. I move to  
4           approve. Is there a second?

5                   ATTORNEY GENERAL MOODY: Second.

6                   GOVERNOR DESANTIS: Hearing no objection, the  
7           motion carries.

8   Item 12:

9                   MR. TAYLOR: Item 12 is the request for the  
10          annual approval of the charter of the Audit  
11          Committee of the State Board of Administration of  
12          Florida. There are no changes to this charter. I  
13          would request approval.

14                  GOVERNOR DESANTIS: All right I move to  
15          approve. Is there a second?

16                  ATTORNEY GENERAL MOODY: Second.

17                  GOVERNOR DESANTIS: Hearing no objection, the  
18          motion carries.

19   Item 13:

20                  MR. TAYLOR: Item 13 is a request of approval  
21          for changes to the Investment Policy Statement for  
22          the Florida Retirement System Pension Plan, the  
23          Defined Benefit Pension Plan. This relates to, as  
24          we had discussed previously, we remain above our  
25          cap for alternative investments as a function to

1 valuation of those alternative investments relative  
2 to the valuation of other plan assets.

3 And so this is a -- there's a provision in the  
4 Investment Policy Statement which has sort of  
5 policy parameters for private equity, and the  
6 valuations of those private equity investments  
7 continue to remain elevated, so what we're doing is  
8 we're seeking to increase the policy cap on this  
9 private equity investment from 10 percent to 12  
10 percent for the plan. This change was reviewed and  
11 approved by the Investment Advisory Council and  
12 we're submitting it for the Trustees' approval  
13 today.

14 GOVERNOR DESANTIS: All right. I move to  
15 approve. Is there a second?

16 ATTORNEY GENERAL MOODY: Second.

17 GOVERNOR DESANTIS: Hearing no objection, the  
18 motion carries.

19 Item 14:

20 MR. TAYLOR: Item 14 is a request approval of  
21 Florida Prime proposed Investment Policy Statement.  
22 Again, this is something the statute would require  
23 to be done on an annual basis. There are no  
24 changes to the Investment Policy Statement. I  
25 would request approval.

1                   GOVERNOR DESANTIS: All right. I move to  
2                   approve. Is there a second?

3                   ATTORNEY GENERAL MOODY: Second.

4                   GOVERNOR DESANTIS: Hearing no objection, the  
5                   motion carries.

6                   Item 15:

7                   MR. TAYLOR: Item 15 is a request of the  
8                   Florida Prime 2022 best practices review. Again,  
9                   this is something that's also required by statute.  
10                  Every year, Florida Prime has to under undergo a  
11                  best practices review and a legal compliance  
12                  review, so this is the best practices review  
13                  performed by AON and it confirms that the Florida  
14                  prime program continues to be managed in terms of  
15                  best practices. Submit for the approval for the  
16                  Trustees.

17                  GOVERNOR DESANTIS: All right. I move to  
18                  approve. Is there a second?

19                  MR. PATRONIS: Second.

20                  ATTORNEY GENERAL MOODY: Second.

21                  GOVERNOR DESANTIS: No objection, the motion  
22                  carries.

23                  Item 16:

24                  MR. TAYLOR: Item 16 is a request of approval  
25                  of the 2022 Local Government Surplus Fund, Trust

1 Fund Statutory compliance review. As I said, this  
2 is an annual requirement to determine legal  
3 compliance performed by Lewis, Longman & Walker,  
4 and they found that the fund is within legal  
5 compliance and we would submit this for the  
6 Trustees' approval.

7 GOVERNOR DESANTIS: All right. I move to  
8 approve. Is there a second?

9 MR. ALTMAIER: Second.

10 GOVERNOR DESANTIS: Hearing no objection, the  
11 motion carries.

12 Item 17:

13 MR. TAYLOR: Item 17 is a request of approval  
14 of draft letters to the joint legislative auditing  
15 committee affirming the SBA Trustees have reviewed  
16 and approved the monthly Florida Prime Summary  
17 Reports and actions taken, if any, to address the  
18 impacts for the second quarter of 2022.

19 This is something that's a standing item on  
20 the agenda. There are no actions or impacts or  
21 compliance exceptions to address, so I would  
22 request approval.

23 GOVERNOR DESANTIS: All right. I move to  
24 approve. Is there a second?

25 ATTORNEY GENERAL MOODY: Second.

1 GOVERNOR DESANTIS: No objection, the motion  
2 carries.

3 Item 18:

4 MR. TAYLOR: Item 18 is a request of  
5 approval of the SBA quarterly reports required  
6 by the protecting Florida's Investments Act, the  
7 PFIA.

8 Again, this is another standing item that  
9 comes up for quarterly review of the Trustees.  
10 The only change is that we are adding a company to  
11 the scrutinized activities list, a Sudan, and so  
12 if there's no questions, I would request approval.

13 GOVERNOR DESANTIS: All right. I move to  
14 approve. Is there a second?

15 ATTORNEY GENERAL MOODY: Second.

16 GOVERNOR DESANTIS: All right. No objection,  
17 the motion carries.

18 Item 19:

19 MR. TAYLOR: Item 19 is another standing item,  
20 quarterly reports pursuant to Section 215442E of  
21 the Florida Statutes. It contains reports from our  
22 Inspector General, General Counsel, our Chief Risk  
23 and Compliance Officer and some financial  
24 information.

25 There are no items of note to report to the



1 Trustees. I would submit them for approval and  
2 would be happy to answer any questions, if there  
3 any.

4 GOVERNOR DESANTIS: Okay. I move to approve.  
5 Is there a second?

6 ATTORNEY GENERAL MOODY: Second.

7 GOVERNOR DESANTIS: All right. No objection,  
8 the motion carries. Thank you.

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1 DIVISION OF BOND FINANCE

2 Director Ben Watkins

3 GOVERNOR DESANTIS: Ben Watkins.

4 MR. WATKINS: Good morning, Governor, Cabinet  
5 Members.

6 Item 1:

7 MR. WATKINS: Item 1 is approval of the  
8 minutes --

9 GOVERNOR DESANTIS: What do you do all day now  
10 that you can't finance?

11 MR. WATKINS: You know, that's a problem.  
12 We're working on it.

13 GOVERNOR DESANTIS: I mean, you know, you  
14 had a great run there with the -- when the rates  
15 were so low and now it's a little bit more  
16 difficult.

17 MR. WATKINS: It's been a decade and it's been  
18 a great run and we've refinanced like 95 percent of  
19 the state debt that's outstanding and we paid down  
20 40 percent of the debt outstanding, so we're in a  
21 great place and it's a great contrast to what  
22 they're doing at the federal level.

23 GOVERNOR DESANTIS: Yeah.

24 MR. WATKINS: And so, you know, while we --  
25 while we are -- we've had a great one and we're

1           slaving away, we've got, to coin the term arrogant  
2           complacency on the Federal Reserve. They're  
3           vacationing in Jackson Hole and, meanwhile, the  
4           house is on fire, right? So anyway, we hope they  
5           get it right. They're behind the curve, but we're  
6           in a great place both economic economically and  
7           financially, so it's a great story to tell.

8           We did the rating agency tour last month or  
9           earlier this month and it's been easier at any time  
10          in my tenure and that's, you know, a generation,  
11          26 years in terms of telling Florida's stories, so  
12          thank you for all you've done in terms of  
13          leadership to put us in a position to be in the  
14          position that we're in.

15          GOVERNOR DESANTIS: Sure.

16          MR. WATKINS: Anyway, Item 1 is approval of  
17          the minutes of the March 29th meeting.

18          GOVERNOR DESANTIS: I move to approve. Is  
19          there a second?

20          MS. FRIED: Second.

21          GOVERNOR DESANTIS: Hearing no objection, the  
22          motion carries.

23          Item 2:

24          MR. WATKINS: Item 2 are four different  
25          reports of award. Three were refundings for

1 savings and one was a new money issue for Turnpike  
2 projects. I'm happy to elaborate on the detail,  
3 but the interest rates and the savings are in your  
4 backup materials in front of you or we can move on  
5 to the --

6 GOVERNOR DESANTIS: Move on.

7 Item 3:

8 MR. WATKINS: So Item Number 3 is a  
9 resolution authorizing the issuance and competitive  
10 sale of 66 and a half million dollars of revenue  
11 bonds for a new student union at Florida State  
12 University.

13 GOVERNOR DESANTIS: Okay. I move to approve  
14 the item. Is there a second?

15 MS. FRIED: Second.

16 GOVERNOR DESANTIS: Okay. Hearing  
17 no objection --

18 MR. PATRONIS: Governor, I just -- so now,  
19 Ben, correct me, so Florida State already paid for  
20 this, correct?

21 MR. WATKINS: Correct.

22 MR. PATRONIS: And so now we're just paying  
23 them back with this?

24 MR. WATKINS: They -- they internally funded  
25 it with cash on a pay-go basis, and now that

1           they've completed construction, they're just simply  
2           reimbursing themselves for what they had used cash  
3           to pay for, so that's exactly what's happening on  
4           this.

5           MR. PATRONIS: Great. It's an impressive  
6           facility. Thank you.

7   Item 4:

8           GOVERNOR DESANTIS: All right. Number 4.

9           MR. WATKINS: Item Number 4 is resolution  
10          authorizing the issuance and competitive sale of  
11          444 million in revenue bonds for new money Turnpike  
12          projects and 214 million in refunding bonds for  
13          debt service savings.

14          GOVERNOR DESANTIS: All right. I move to  
15          approve. Is there a second?

16          MR. PATRONIS: Second.

17          GOVERNOR DESANTIS: No objection. The motion  
18          carries.

19   Item 5:

20          MR. WATKINS: Item Number 5 is a resolution  
21          authorizing the issuance and competitive sale of  
22          \$29 million of refunding bonds for Florida State  
23          University for debt service savings.

24          GOVERNOR DESANTIS: All right. I move to  
25          approve. Is there a second?

1 MR. PATRONIS: Second.

2 GOVERNOR DESANTIS: Hearing no objection, the  
3 motion carries.

4 Item 6:

5 MR. WATKINS: Item Number 6 is resolution  
6 authorizing the issuance and competitive sale of  
7 \$205 million of PECO refunding bonds for debt  
8 service savings.

9 GOVERNOR DESANTIS: Move to approve. Is there  
10 a second?

11 MR. PATRONIS: Second.

12 GOVERNOR DESANTIS: No objection. The motion  
13 carries.

14 Item 7:

15 MR. WATKINS: And, lastly, Item 7 is a  
16 resolution authorizing the issuance and competitive  
17 sale of \$113 million in refunding bonds for a  
18 seaport program for debt service savings.

19 GOVERNOR DESANTIS: All right. I move to  
20 approve. Is there a second?

21 MR. PATRONIS: Second.

22 GOVERNOR DESANTIS: Okay. No objection.  
23 Motion carries.

24 MR. WATKINS: That's it.

25 GOVERNOR DESANTIS: All right.

1 MR. WATKINS: I'm done.

2 GOVERNOR DESANTIS: God speed.

3 MR. WATKINS: Thank you, sir.

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1 OFFICE OF INSURANCE REGULATION

2 Commissioner David Altmaier

3 GOVERNOR DESANTIS: Okay. Insurance  
4 regulation.

5 MR. ALTMAIER: Good morning, Governor and  
6 Cabinet.

7 So, first of all, I just want to thank each of  
8 you for your leadership during our most recent  
9 special session on property insurance. I think we  
10 got a lot of really good work done for consumers  
11 there. It still continues to be a difficult  
12 market. We're still continuing to see a lot of  
13 rate increases, but I think we've started to lay  
14 the groundwork for some meaningful reforms to start  
15 to have an impact on that, so I just want to say  
16 thank you for your leadership on that and your  
17 assistance as we worked through that.

18 Item 1:

19 MR. ALTMAIER: The first item on our agenda is  
20 the approval of the minutes from the March 29th FSC  
21 meeting.

22 GOVERNOR DESANTIS: All right. I move to  
23 approve. Is there a second?

24 MR. PATRONIS: Second.

25 GOVERNOR DESANTIS: No objection. The



1 motion carries.

2 Item 2:

3 MR. ALTMAIER: Thank you. Item Number 2 is  
4 the repeal of the rule. We are repealing this  
5 because JAVC told us that the underlying statute  
6 was sufficient for the implementation of this and  
7 so the rule's not necessary, so we would request  
8 your approval for publication of the proposed rule  
9 and for final adoption if no member of the public  
10 timely requests the rule hearing or if a hearing is  
11 requested.

12 GOVERNOR DESANTIS: All right. I move to  
13 approve. Is there a second?

14 MR. PATRONIS: Second.

15 GOVERNOR DESANTIS: No objection. The motion  
16 carries.

17 Item 3:

18 MR. ALTMAIER: Thank you very much. Item  
19 Number 3, if you recall, during the 2021  
20 legislative session, in addition to Senate Bill 76,  
21 we also passed our one easy bill, a credit for  
22 reinsurance. This rule implements that particular  
23 rule and we would respectfully request your final  
24 adoption of that rule.

25 GOVERNOR DESANTIS: All right. I move to

1 approve. Is there a second?

2 MR. PATRONIS: Second.

3 MS. FRIED: Second.

4 GOVERNOR DESANTIS: Hearing no objection, the  
5 motion carries.

6 Item 4:

7 MR. ALTMAIER: All right. Thank you very  
8 much. Agenda Item Number 5 -- excuse me, Agenda  
9 Item Number 4 is the adoption of a rule that  
10 implements the data call provisions that were  
11 adopted in Senate Bill 76. We've had a couple of  
12 different hearings on this one. It's attracted a  
13 lot of attention of our stakeholders. We have  
14 onboarded a lot of that feedback and we are ready  
15 to submit this rule to you for final adoption, so  
16 we would respectfully request your approval of  
17 that.

18 GOVERNOR DESANTIS: Okay. I move to approve.  
19 Is there a second?

20 MR. PATRONIS: Second.

21 MS. FRIED: Second.

22 GOVERNOR DESANTIS: Any objection?

23 (No response.)

24 GOVERNOR DESANTIS: Okay. The motion carries.

25 MR. ALTMAIER: Thank you. Agenda Items

1 Number 5 through 9, if you have no objections, we  
2 can lump those together. What we're doing there,  
3 we have an applications process for companies to  
4 become a specialty insurance company, so these are  
5 like motor vehicle service warranty associations  
6 and things of that nature. Historically, this  
7 application's process has been spread out across a  
8 number of different rules and we are streamlining  
9 all of this into one rule.

10 We have had -- we issued a notice of a  
11 hearing. Nobody requested one. We didn't get any  
12 comments. These are fairly non-controversial and  
13 we would respectfully request your approval of  
14 final adoption for those rules.

15 GOVERNOR DESANTIS: All right. I move to  
16 approve.

17 MS. FRIED: Second.

18 GOVERNOR DESANTIS: Second? Okay. No  
19 objection, carries.

20 MR. ALTMAIER: All right. Thank you. That is  
21 the end of my agenda unless you have questions.

22 MS. FRIED: We do. I have some questions.  
23 Well, thank you, Commissioner, for being here  
24 today. We also all know that we are still dealing  
25 right now with a tremendously large insurance

1 crisis.

2           You know, in 2022 alone, we've seen three  
3 property insurers deemed insolvent and half a dozen  
4 others that have seen their ratings downgraded.  
5 We're threatened from Demotech downgrades, at least  
6 another dozen more Florida insurances during our  
7 hurricane season.

8           What are we doing right now with those  
9 insurance companies? How many more do we think  
10 that Demotech is in line to downgrade? How many  
11 more do we think are going to go insolvent during  
12 the next, you know, five months?

13           MR. ALTMAIER: So thank you, Commissioner, for  
14 the question. So I would say that we are still  
15 dealing with a very challenging market right now.  
16 Fortunately, of the 17 companies that were  
17 threatened with the Demotech downgrade, I think  
18 over 12 or 13 of those have been reaffirmed with  
19 their A rating, so those companies will go through  
20 another process with the rating agency where  
21 they'll submit them their second quarter financial  
22 results and go through that process again, but  
23 we're fortunate that of the 17 that were threatened  
24 with the downgrade, the impact of that was actually  
25 very minimal.

1           There were actually five downgrades. Two of  
2   the companies that were downgraded had an AM Best  
3   rating, so that did not impact their business  
4   operations. A third of the downgraded companies  
5   was already previously downgraded to an S rating.  
6   It was just downgraded further, so we had already  
7   taken action to run that company off, and then the  
8   other two companies, one unfortunately became  
9   insolvent and the other one is now in runoff, and  
10   taking advantage of the program we established with  
11   Citizens that will allow their consumers the  
12   opportunity to stay insured through hurricane  
13   season.

14           As I mentioned, between House Bill 7065,  
15   Senate Bill 76 and is now Senate Bill 2D, I think  
16   we have already taken a significant number of  
17   positive steps in addressing this crisis.

18           As we've said numerous times before, there is  
19   no overnight fix to this insurance crisis. It's  
20   been years in the making, unfortunately, but the  
21   steps that we've taken so far, under your  
22   leadership, are going to be significant steps  
23   forward into addressing this issue. We've already  
24   seen a 30 percent year-over-year decrease in  
25   litigation which, as I've testified to you

1 previously, is the driving cause of this.

2 We have heard very positive feedback from both  
3 our direct industry, and as well as our reinsurance  
4 industry, that they like the steps that we're  
5 taking, and I think we've got a lot of positive  
6 momentum heading into the upcoming legislative  
7 session to continue reforms to benefit Floridians.

8 MS. FRIED: And I just have a couple of more  
9 questions to you. You know, I'm hearing a lot  
10 still. I know that there's pieces of legislation  
11 that dealt with the roofing situation, but I'm  
12 still hearing out here that there is a significant  
13 amount of consumers that are still being told by  
14 their insurance companies that they either get a  
15 new roof, even though their roof might be, you  
16 know, 10 years or 12 years under, in order for them  
17 to have their insurance policies renewed.

18 Are we still -- are you hearing those  
19 complaints inside of your office? Is there actions  
20 that are being taken? There's a lot of concern out  
21 there about not having insurance, as we're getting  
22 into this or middle of the hurricane season.

23 MR. ALTMAIER: So thank you for the question.  
24 We are hearing one or two reports that insurers are  
25 being asked to get a new roof before providing

1 coverage, but the bill does allow an insurance  
2 company to assess whether or not the roof has five  
3 years of useful life left or not.

4       So we're exploring every single one of those  
5 reports that we get to make sure that the insurance  
6 companies are operating in good faith. We're  
7 working with the Consumer Services Division, the  
8 DFS. As they hear those calls, we're working  
9 with -- with those units to make sure that the  
10 insurance companies are following the letter of the  
11 law on that front.

12       MS. FRIED: And then lastly, you know, I  
13 recently wrote a letter to both you, the Governor  
14 and the CFO concerning this issue, but since I  
15 guess you're here today, could you please also tell  
16 us why the state decided to choose an option that  
17 poses more risk to the people of our state when the  
18 Florida catastrophic fund, which I shouldn't have  
19 to mention given its name, but since it seems to  
20 have been forgotten, was created for just this type  
21 of crisis that we're currently experiencing.

22       Why do we choose the riskier option when the  
23 cat fund is sitting with flush of \$12.8 billion  
24 expected in the bank this year's end, when it is  
25 already globally recognized as a primary reinsurer

1 for Florida companies? What was the decision to do  
2 the plan that we're in now as opposed to putting  
3 some of that risk in the cat fund?

4 MR. ALTMAIER: So, Commissioner, the cat fund  
5 has \$17 billion of capacity, but it's all already  
6 committed to reinsurance programs of our domestic  
7 industry, so there was no excess capacity of the  
8 cat fund support a program like this, so that was  
9 point number 1 of the rationale.

10 Secondly, had these companies been downgraded  
11 and had they -- had they had to cancel their  
12 policies, they would have gone to Citizens anyway,  
13 so we actually looked at it as an option to  
14 decrease the amount of risk that was ultimately  
15 going into Citizens. And Citizens does have the  
16 same assessment capabilities that the cat fund  
17 does, so if there were a situation where there were  
18 a shortfall, they would be -- they would be funded  
19 through the assessment program. We hope to never  
20 get to that point, but as we evaluated this  
21 program, given the fact that the 17 billion of  
22 capacity of the cat fund was already committed and  
23 then most of this risk would have ended up in  
24 Citizens anyway, this seemed to be the pathway  
25 forward that presented the least amount of risk.



1 MS. FRIED: Okay.

2 GOVERNOR DESANTIS: Okay. Go ahead.

3 MR. PATRONIS: Thank you, sir.

4 GOVERNOR DESANTIS: Yep.

5 MR. PATRONIS: And this is appropriate for the  
6 time. Because Dave was here, I wanted to bring  
7 this up, but governor, starting off, thank you for  
8 your leadership on ESG. I believe that ESG has  
9 become un-American because global asset managers  
10 now are using woke standards to re-engineer society  
11 through billion dollar industries. It's  
12 undemocratic. Moreover, it appears to be not  
13 confined to equities alone. It looks like  
14 insurance markets are beginning to write coverage  
15 based on ESG criteria.

16 For example, ESG factors are considered  
17 drivers for 13 percent of AM Best global ratings  
18 actions. For those that don't know, AM Best is a  
19 credit rating agency, so it means ESG factors  
20 affected certain businesses' ability to capitalize.  
21 Capgemini sent a report 30 percent of property  
22 casualty insurers will offer preferential treatment  
23 to policyholders who adopt sustainability  
24 initiatives. Meanwhile, 27 percent will refuse  
25 coverage based on this criteria. That means

1     there's a lot of woke businesses that will get  
2     better insurance products, while those who ignore  
3     ESG criteria will not get any coverage.

4             In fact, at the Glasgow Financial Alliance for  
5     Net Zero conference, 450 firms agreed to align \$130  
6     trillion in assets with the Paris Agreement. All  
7     this means, that if you're not woke enough, certain  
8     insurers will not cover you.

9             Meanwhile, certain insurance companies have  
10    joined the cult of ESG, Florida is experiencing a  
11    hardening insurance market. If insurance companies  
12    are charging a premium for ESG, then we need to  
13    know about it. We know that asset managers are  
14    telling insurers to focus more on climate change or  
15    they'll lose money, they'll be sued or both.

16            One insurance expert said, and I quote,  
17    property insurers will also be working harder on  
18    influencing how governments react to mitigate  
19    monitor drivers of climate risk. That means  
20    insurers are planning to increase rates, reduce  
21    coverage or force governments to address ESG  
22    standards.

23            By their own admission, insurance is being  
24    used for social engineering and I am concerned that  
25    Florida policyholders may be footing the bill for

1     this wokeism. The same ways that families are  
2     paying for Joe Biden's inflation tax, Florida's  
3     policyholders are paying an ESG fee in their  
4     policies.

5             Meanwhile, the New York Department of  
6     Financial Services is telling insurers they must  
7     take into account ESG risks. New York regulates  
8     1,800 carriers who manage \$4.7 trillion in assets.

9             As Florida's doing a lot of great work with  
10    the SBA, I believe we should be engaging OIR to  
11    assess ESG's role with the insurance. We need to  
12    fight ESG within the insurance market because it's  
13    another theater or battle.

14            Governor, for the next meeting, I think we  
15    should add something to the agenda that shows that  
16    Florida opposes ESG initiatives within our  
17    insurance sector. Ultimately, Florida  
18    policyholders should not be footing the bill for  
19    woke insurance. Thanks, Governor.

20            GOVERNOR DESANTIS: Okay. All right. Thank  
21    you.

22            MR. ALTMAIER: Thank you.

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OFFICE OF FINANCIAL REGULATION

Commissioner Russell Weigel

GOVERNOR DESANTIS: All right. Financial  
regulation.

MR. WEIGEL: Morning, Governor.

GOVERNOR DESANTIS: Morning.

MR. WEIGEL: Morning, Chief Patronis and  
Commissioner Fried. The OFR has three items on the  
agenda today. Individual rule numbers are located  
in our rule materials for your reference.

Item 1:

MR. WEIGEL: Agenda Item Number 1, the OFR  
requests approval to publish notices of proposed  
rule to amend 146 securities rules. These rules  
were amended to incorporate current industry  
standards and forms, clarify how certain applicants  
may satisfy exam requirements and require financial  
statements to be submitted through an electronic  
portal. The OFR requests approval.

GOVERNOR DESANTIS: Okay. I move to approve.  
Is there a second?

MS. FRIED: Second.

MR. PATRONIS: Second.

GOVERNOR DESANTIS: Hearing no objection, the

1 motion carries.

2 Item 2:

3 MR. WEIGEL: Thank you. Agenda Item Number 2,  
4 the OFR requests approval to publish notices of  
5 proposed rule to create three consumer finance  
6 rules and amend nine and repeal seven consumer  
7 finance rules. These rules will update language to  
8 align with recently enacted law, repeal outdated  
9 and unnecessary language and adopt certain forms.  
10 OFR requests approval.

11 GOVERNOR DESANTIS: Okay. I move to approve.  
12 Is there a second?

13 MR. PATRONIS: Second.

14 GOVERNOR DESANTIS: Hearing no objection, the  
15 motion carries.

16 Item 3:

17 MR. WEIGEL: And, lastly, Agenda Item Number  
18 3, the OFR requests approval to publish notices of  
19 proposed rule to amend 10 financial institutions'  
20 rules. These rules are amended to update language  
21 to align with the recently enacted law and  
22 incorporate revised forms. OFR requests approval.

23 GOVERNOR DESANTIS: All right. And I move to  
24 approve. Is there a second?

25 MR. PATRONIS: Second.

1           GOVERNOR DESANTIS: Hearing no objection, the  
2 motion carries. All right. Thank you.

3           MS. FRIED: Excuse me. I have one question,  
4 Commissioner. Thanks for being here today.

5           I know we've talked numerous times about the  
6 memo dealing with hemp banking and I wanted to see  
7 if you have any updates on that and where we might  
8 be on it.

9           MR. WEIGEL: Thank you for your question,  
10 Commissioner. I really have no update. We -- we  
11 haven't had any public demand, no inquiries  
12 whatsoever since, I would say, November 2020  
13 possibly, at the latest, maybe the spring of 2021.  
14 We simply have had no requests, you know, for that  
15 guidance to be issued.

16          MS. FRIED: Except we have. You know, we've  
17 had the companies that we regulate that are trying  
18 to get into the business that have been trying to  
19 get some banking guidelines and that have come to  
20 us which is why we have been asking for guidance  
21 from the OFR so that when anybody who comes in,  
22 that there's a clear -- you know, that this is  
23 legal and the memo that we've been drafting and  
24 didn't know if there was any movement from the rest  
25 of the commission and then rest of the board,

1     because there are companies that are still  
2     searching for these loans and banking relationships  
3     in the hemp industry in Florida.

4             MR. WEIGEL: That is interesting. If you  
5     would please forward those, you know, contacts to  
6     us because we just haven't been getting that  
7     feedback. That will be interesting.

8             With respect to the Financial Services  
9     Commission, I don't believe there's a consensus on  
10    issuing a guideline. I know -- I think the -- back  
11    in 2021, CFO Patronis issued his own letter and --

12            MR. PATRONIS: No. It's -- (inaudible) --

13            MR. WEIGEL: That's -- I don't think --  
14            (Overtalking.)

15            MR. PATRONIS: -- my own guidance from the  
16    federal government with -- the commissioner's  
17    point, just crickets. Nobody there wants to talk  
18    to the issue.

19            MS. FRIED: Except the issue is it's federally  
20    legal, so it's just a matter of making sure that  
21    it's very clear that here in the state of Florida,  
22    that there is no loopholes that anybody else needs  
23    to go through in order to get banking for the hemp  
24    industry.

25            MR. WEIGEL: Well, no -- no doubt it's legal,

1 Commissioner, but if institutions are seeking  
2 guidance from us, they just need to come and we're  
3 happy to guide them.

4 MS. FRIED: Okay.

5 GOVERNOR DESANTIS: Okay. Thank you.

6 MR. WEIGEL: Thank you.

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1 FLORIDA LAND AND WATER ADJUDICATORY

2 COMMISSION AGENDA

3 Mark Buckles

4 GOVERNOR DESANTIS: Florida Land and Water  
5 Adjudicatory Commission.

6 MR. BUCKLES: Good morning. We have three  
7 items on the Florida Land and Water Adjudicatory  
8 Commission Agenda.

9 Item 1:

10 MR. BUCKLES: Item 1 is a request to approve  
11 the minutes of the meeting held on March 29th of  
12 this year.

13 GOVERNOR DESANTIS: All right. I move to  
14 approve. Is there a second.

15 MR. PATRONIS: Second.

16 MS. FRIED: Second.

17 GOVERNOR DESANTIS: No objection, the motion  
18 carries.

19 Item 2:

20 MR. BUCKLES: Item 2 is consideration of the  
21 transmittal of 14 petitions for appeal to the  
22 Division of Administrative Hearing for assignment  
23 of an administrative law judge and further  
24 proceedings. The petitions were filed by the  
25 Department of Economic Opportunity challenging

1 multiple development orders adopted by the city of  
2 Marathon located in an area of critical state  
3 concern. The proceedings are before the Commission  
4 pursuant to Rule 42-2.008 Sub 4, Florida  
5 Administrative Code, as the case pleadings contain  
6 motions in opposition relating to party status and  
7 responses to the motions.

8           Upon review of the proceedings and pending  
9 pleadings, staff recommends the Commission  
10 authorize the secretary to enter the draft order of  
11 transmittal addressing Case Numbers APP22-002  
12 through 005, 011 through 019, and 022, forwarding  
13 the petitions for appeal and pending pleadings to  
14 DOAH for assignment of an ALJ and further  
15 proceedings.

16           GOVERNOR DESANTIS: Okay. I move to approve.  
17 Is there a second?

18           MS. FRIED: Second.

19           GOVERNOR DESANTIS: Okay. Hearing no  
20 objection, the motion carries.

21 Item 3:

22           MR. BUCKLES: Okay. Item 3 is consideration  
23 of an amended petition to establish the Westview  
24 South community Development District. The district  
25 is proposed to be established on approximately

1 1,015.4 acres of land located in Osceola and Polk  
2 Counties. Judge Desai of the Division of  
3 Administrative Hearings conducted a public hearing,  
4 as authorized by Florida statutes, and issued a  
5 report to the Commission concluding that the  
6 petition meets all the statutory requirements and  
7 should be granted.

8       Upon review of the report, the public hearing  
9 record and relevant statutory requirements, staff  
10 recommends the Commission grant the petition and  
11 requests authorization for the secretary to, one,  
12 publish notices of rule-making to adopt rule  
13 Chapter 42SSS-1 to establish the Westview South  
14 Community Development District and, two, follow the  
15 rules for final adoption if no requests for public  
16 hearing are received as a result of the notices or  
17 if no changes are needed in response to a public  
18 hearing.

19       Governor, we have the attorney here for the  
20 district, if you have any questions of him.  
21 Otherwise, I would request approval.

22       GOVERNOR DESANTIS: I move to approve. Any  
23 second?

24       MS. FRIED: Second.

25       MR. PATRONIS: Second.

1 GOVERNOR DESANTIS: Okay. Any objection?

2 (No response.)

3 GOVERNOR DESANTIS: All right. Okay.

4 MR. BUCKLES: Thanks.

5 GOVERNOR DESANTIS: Approved. Thanks.

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1 DEPARTMENT OF REVENUE

2 Executive Direct Jim Zingale

3 GOVERNOR DESANTIS: Revenue. Good morning.

4 MR. ZINGALE: Morning, Governor, Cabinet.

5 Always a privilege to be here. I have a very short  
6 agenda today.

7 Item 1:

8 MR. ZINGALE: The first one is approval of  
9 minutes.

10 GOVERNOR DESANTIS: Move to approve. Is there  
11 a second.

12 MR. PATRONIS: Second.

13 GOVERNOR DESANTIS: No objection. The motion  
14 carries.

15 Item 2:

16 MR. ZINGALE: Items 2, 3 and 4 require the  
17 following statements, said once. The department  
18 respectfully requests approval of an authority to  
19 publish notice of proposed rules in the Florida  
20 Administrative Register for rules relating to  
21 general tax, property tax and child support, and  
22 further requests approval to file and certify with  
23 the Secretary of State for final adoption under  
24 Chapter 120 Florida Statute, if the substance of  
25 the proposed rules remains unchanged upon reaching

1 the date applicable for final adoption.

2 Item Number 2 consists of 20 general tax  
3 rules, 19 of which are related to the  
4 implementation of legislation from the 21/22  
5 legislative session. Request approval of Item 2.

6 GOVERNOR DESANTIS: I move to prove. Is there  
7 a second?

8 MS. FRIED: Second.

9 GOVERNOR DESANTIS: Hearing no objection, the  
10 motion carries.

11 Item 3:

12 MR. ZINGALE: Item 3 consists of three  
13 property tax rules relating to the implementation  
14 of the 2022 tax package. Request approval.

15 GOVERNOR DESANTIS: I move to approve. Is  
16 there a second?

17 MS. FRIED: Second.

18 GOVERNOR DESANTIS: No objection. The motion  
19 carries.

20 Item 4:

21 MR. ZINGALE: Item 4 consists of five child  
22 support rules and forms to reflect department's  
23 initiated administrative changes regarding  
24 undistributable collections, payment agreements and  
25 determination of support orders. Request approval.

1           GOVERNOR DESANTIS: All right. I move to  
2 approve. Is there a second?

3           MS. FRIED: Second.

4           GOVERNOR DESANTIS: Hearing no objection, the  
5 motion carries.

6           MR. ZINGALE: If there are no questions, that  
7 concludes the agenda.

8           GOVERNOR DESANTIS: All right. Thank you,  
9 sir. Appreciate it.

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1 FLORIDA DEPARTMENT OF LAW ENFORCEMENT

2 Assistant Commissioner Shane Desguin

3 GOVERNOR DESANTIS: FDLE.

4 MR. DESGUIN: Good morning, Governor DeSantis,  
5 Attorney General Moody, CFO Patronis, Commissioner  
6 Fried. The department has two agenda items today.

7 Item 1:

8 MR. DESGUIN: The first is the minutes from  
9 the March 29th, '22 cabinet meeting.

10 GOVERNOR DESANTIS: All right. I move to  
11 approve. Is there a second?

12 MS. FRIED: Second.

13 GOVERNOR DESANTIS: Hearing no objection, the  
14 motion carries.

15 Item 2:

16 MR. DESGUIN: And the last this morning is the  
17 contracts over 100,000 for the third and fourth  
18 quarters of fiscal year '21 and '22.

19 GOVERNOR DESANTIS: Okay. I move to approve.  
20 Is there a second?

21 MS. FRIED: Second.

22 GOVERNOR DESANTIS: Hearing no objection, the  
23 motion carries. Thank you.

24 MR. DESGUIN: Thank you, Governor.

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DEPARTMENT OF VETERANS' AFFAIRS

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Executive Director James Hartsell

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GOVERNOR DESANTIS: All right. Veterans'

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Affairs. Rosser(phonetic).

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MR. HARTSELL: Good morning, Governor

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DeSantis, Attorney General Moody, CFO Patronis,

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Commissioner Fried. Good morning.

9

MS. FRIED: Morning.

10

MR. HARTSELL: Department has two agenda items

11

for approval today.

12

Item 1:

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MR. HARTSELL: First is, like everybody else,

14

approval of the minutes from the March 29th cabinet

15

meeting.

16

GOVERNOR DESANTIS: All right. I move to

17

approve. Is there a second?

18

MS. FRIED: Second.

19

GOVERNOR DESANTIS: No objection, the motion

20

carries.

21

Item 2:

22

MR. HARTSELL: Thank you, sir. Our second

23

agenda item is our recommendation for the Florida

24

Veterans' Hall of Fame Class of 2022. The Florida

25

Veterans' Hall of Fame honors military veterans who

1 have honorably served our nation and who have made  
2 a significant contribution to Florida by their  
3 civic, business, personal, public service and other  
4 personal actions in helping the citizens of our  
5 great state.

6 Last month, the Florida Veterans Hall of Fame  
7 Council met to review 40 nomination packets that  
8 the general public submitted to the Council for  
9 their consideration to be considered and selected  
10 into this year's class, 2022.

11 From those 40 submissions, the Council  
12 selected ten Florida veterans who they recommended  
13 to me for my endorsement and for my submission to  
14 the governor and the cabinet for approval to be  
15 inducted into the Florida Veterans' Hall of Fame.

16 These are the names of those 10 Florida  
17 veterans the Council selected and have my full  
18 endorsement: Mike Bousher of Palm Harbor, Jeffrey  
19 Cathey of Tampa, Anthony DeLeo of Jacksonville,  
20 John Gionet of Orlando, Greg Holder of Tampa, Don  
21 Lanman of Riviera Beach, John Leslie of St.  
22 Augustine, Gordon Lightfoot of Tallahassee, Maxine  
23 Reyes of Tampa, and Glenn Sutphin of Tallahassee.

24 Governor, Cabinet, I respectfully request your  
25 approval of these ten amazing Florida veterans as

1 the Florida Veterans' Hall of Fame class of 2022.

2 GOVERNOR DESANTIS: All right. I move to  
3 approve the item. Is there a second?

4 MS. FRIED: Second.

5 MR. PATRONIS: Second.

6 GOVERNOR DESANTIS: All right. No objection.  
7 The motion carries. Thank you, General.

8 MR. HARTSELL: Thank you.

9 MR. PATRONIS: I got one question for the  
10 general. Tell us about the new appointment you  
11 just got.

12 MR. HARTSELL: Yes, sir. Thank you. I just  
13 attended our department. I have 49 peers, me plus  
14 49, and we just had our annual convention for the  
15 National Association of State Veterans Affairs  
16 directors, long title for a marine, NASVA. They  
17 elected me to be the senior vice president of the  
18 association, so then from August of 2023 to August  
19 of 2024, I'll be the president of the National  
20 Association.

21 They did it because of Florida and what we do,  
22 not because of me but they love the leadership we  
23 have. They recognize that more veteran are moving  
24 to our state than any other state for several years  
25 running, and there's a reason why. They love

1 Florida. Veterans love Florida and we love  
2 veterans and their families.

3 So I was very honored to be selected to be  
4 their senior vice president.

5 MR. PATRONIS: Congratulations.

6 MR. HARTSELL: Thank you. Thank you very  
7 much.

8 MR. PATRONIS: Yeah.

9 MR. HARTSELL: Thank you. Thank you, sir.

10 GOVERNOR DESANTIS: Thank you. When you're  
11 assigned active duty in a Florida base, as a Navy  
12 guy, I can tell you, they don't give up that  
13 Florida residency. Even when they PCS to Norfolk  
14 or Bremerton or wherever they send you, they keep  
15 that Florida -- Florida citizenry.

16 MR. HARTSELL: Born and raised in Florida, so  
17 even as a marine, I kept my Florida residency and  
18 voted by mail while all those years, absentee  
19 ballot as a Florida citizen of our great nation for  
20 37 years as a Marine.

21 GOVERNOR DESANTIS: There you go.

22 MR. HARTSELL: Thank you.

23 GOVERNOR DESANTIS: All right. Thanks so  
24 much.

25 \* \* \* \* \*

1 BOARD OF TRUSTEES  
2 OF THE INTERNAL IMPROVEMENT TRUST FUND  
3 Secretary Shawn Hamilton  
4 Portia Sapp, Florida Dept. of Agriculture  
5 and Consumer Affairs  
6 Erin Albury, Florida Forest Service

7 GOVERNOR DESANTIS: All right. Trustees,  
8 Board of Trustees Internal Improvement Trust Fund,  
9 Sean Hamilton.

10 MR. HAMILTON: Good morning. As an Air Force  
11 guy, I don't get to say it, but after the general,  
12 just gotta say hoorah. I just got to. You can't  
13 help it around him.

14 Good morning, Governor, General Moody, CFO  
15 Patronis and Commissioner Fried. For today's  
16 meeting, there are 20 items on the Board of  
17 Trustees' agenda.

18 Item 1:

19 MR. HAMILTON: Item 1 is a request to approve  
20 the minutes from the March 29th Board of Trustees  
21 meeting. The department recommends approval.

22 GOVERNOR DESANTIS: All right. I move to  
23 approve. Is there a second?

24 MS. FRIED: Second.

25 GOVERNOR DESANTIS: Hearing no objection, the

1 motion carries.

2 Item 2:

3 MR. HAMILTON: Item 2 is a request to approve  
4 the Lignumvitae Key Aquatic Preserve Management  
5 Plan. The management plan was recently approved by  
6 the Acquisition and Restoration Council on June  
7 10th, 2022. The department recommends approval.

8 GOVERNOR DESANTIS: All right. I move to  
9 approve. Is there a second?

10 MS. FRIED: Second.

11 GOVERNOR DESANTIS: Hearing no objection, the  
12 motion carries.

13 Item 3:

14 MR. HAMILTON: Item 3 is the consideration of  
15 an after-the-fact application from Dolphin Research  
16 Center, Incorporated, for a renewal and  
17 modification of an expired five year sovereignty  
18 submerged lands lease to increase the preempted  
19 area for an existing marine mammal sanctuary  
20 research and educational facility.

21 The project was noticed. No objections were  
22 received. Department recommends approval.

23 GOVERNOR DESANTIS: All right. I move to  
24 approve. Is there a second?

25 MR. PATRONIS: Second.

1 MS. FRIED: Second.

2 GOVERNOR DESANTIS: Okay. Hearing no  
3 objections, the motion carries.

4 Item 4:

5 MR. HAMILTON: Item 4 is the consideration of  
6 an application from Eagle LNG Partners LLC for a  
7 new five year sovereignty submerged lands lease for  
8 a private commercial docking facility. A new 25  
9 year sovereignty submerged private easement for an  
10 access channel and the authorization for the  
11 severance of sovereignty material. The project  
12 will accommodate the development of a natural gas  
13 liquefaction and export facility that will include  
14 a fueling pier and mooring of a single LNG vessel.

15 The project was noticed. No objections were  
16 received. The department recommends approval.

17 GOVERNOR DESANTIS: All right. I move to  
18 approve. Is there a second?

19 MS. FRIED: Second.

20 MR. PATRONIS: Second.

21 GOVERNOR DESANTIS: Okay. No objection, the  
22 motion carries.

23 MR. PATRONIS: Governor, that's a real  
24 exciting project. I just gotta -- I know there's  
25 some people here from Jacksonville. Who's from

1 Jacksonville in the back of the room for that  
2 project? I think I saw Herschel here. Is Herschel  
3 back there, too? Thank you all for being here.  
4 This is such a -- this is a big deal to be able to  
5 have LNG exports out of Jacksonville. Cool stuff.

6 Item 5:

7 MR. HAMILTON: Item 5 is consideration of a  
8 request from the Florida Department of  
9 Transportation for a modification of deed  
10 restriction and to provide consent to FDOT to lease  
11 a portion of the subject parcel to Seven Kings  
12 Holdings, Incorporated.

13 If approved, language within the deed will be  
14 revised from road purposes to public purposes to  
15 allow Seven Kings Holdings, Incorporated to install  
16 additional parking and a dock that will be  
17 associated within adjacent proposed restaurant that  
18 will be open to the public.

19 FDOT will receive all lease fees which will be  
20 used toward future state-funded transportation  
21 projects. Department recommends approval.

22 GOVERNOR DESANTIS: All right. I move to  
23 approve. Is there a second?

24 MR. PATRONIS: Second.

25 GOVERNOR DESANTIS: Hearing no objections, the



1 motion carries.

2 Item 6:

3 MR. HAMILTON: Item 6 is approval to donate  
4 and convey approximately 14,114 acres of state  
5 owned Section 16 school lands and swamp and  
6 overflow lands located in Big Cypress of the United  
7 States National Park Service to complete the Big  
8 Cypress Conservation Act.

9 Over the years since the act was passed, the  
10 department has worked closely with the National  
11 Park Service in acquiring and conveying lands  
12 within Big Cypress. This conveyance will complete  
13 the transfer and the National Park Service will  
14 deposit \$1,044,480 into the State School Trust Fund  
15 for the reimbursement of acquisition costs.

16 Department recommends approval.

17 GOVERNOR DESANTIS: All right. I move to  
18 approve. Is there a second?

19 MS. FRIED: Second.

20 GOVERNOR DESANTIS: Hearing no objection, the  
21 motion carries.

22 Item 7:

23 MR. HAMILTON: Item 7 is consideration of an  
24 option agreement to acquire a conservation easement  
25 over 615 acres within the St. Johns River Connector

1 Florida Forever Project from Crippen Properties,  
2 LLC, for \$2,070,000. This conservation easement  
3 will protect important habitat for numerous  
4 impaired species in the area and provide base  
5 buffering to nearby Avon Park Air Force Range.

6 This property is within a wildlife corridor of  
7 the Florida Ecological Greenways Network and the  
8 conservation easement will be monitored by DEP's  
9 Office of Environmental Services.

10 The department recommends approval.

11 GOVERNOR DESANTIS: All right. I move to  
12 approve. Is there a second?

13 MS. FRIED: Second.

14 GOVERNOR DESANTIS: Any objections?

15 (No response.)

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

18 Item 8:

19 MR. HAMILTON: Item 8 is consideration of an  
20 option agreement to acquire a conservation easement  
21 over 3,634 acres within the St. Johns River  
22 Connector Florida Forever Project from Abington  
23 Preserve, LLC, for \$7,750,000. The conservation  
24 easement will provide an important buffer to the  
25 Kissimmee Prairie Preserve State Park and continue

1 to support rural agricultural practices compatible  
2 with ecosystem functions essential for resilient  
3 and sustainable wildlife populations, these  
4 properties within the wildlife corridor of the  
5 Florida Ecological Greenways Network.

6 The conservation easement will be monitored by  
7 the DEP's Office of Environmental Services. The  
8 department recommends approval.

9 GOVERNOR DESANTIS: All right. I move to  
10 approve. Is there a second?

11 MS. FRIED: Second.

12 GOVERNOR DESANTIS: No objection, the motion  
13 carries.

14 Item 9:

15 MR. HAMILTON: Item 9 is consideration of an  
16 option agreement to acquire a conservation easement  
17 over 11,950 acres within the Horse Creek Ranch  
18 Florida Forever Project from Carlton Horse Creek  
19 Partners, LLC, for \$37,818,750, and the designation  
20 of the Florida Department of Environmental  
21 Protection as the monitoring agents and  
22 confirmation of the management policy statement.

23 This conservation easement with coordination  
24 from the Southwest Florida Water Management  
25 District will ensure the protection of wildlife and

1 water resources of over 16,000 acres within the  
2 Peace River Basin. This property is within the  
3 wildlife corridor of the Florida Ecological  
4 Greenways Network and the easement will be  
5 monitored by DEP's Office of Environmental  
6 Services. The department recommends approval.

7 GOVERNOR DESANTIS: All right. I move to  
8 approve. Is there a second?

9 MS. FRIED: Second.

10 GOVERNOR DESANTIS: All right. Hearing no  
11 objection, the motion carries.

12 Item 10:

13 MR. HAMILTON: Item 10 is consideration of an  
14 option agreement to acquire approximately 376 acres  
15 within the St. Joe Timberland Florida Forever  
16 Project from George J. Mahr for \$1,310,000. The  
17 acquisition of the parcel will expand Tate Hell's  
18 State Forest and increase the forest ecological  
19 value and provide additional public access and  
20 recreational activities. The property will be  
21 managed by the Florida Forest Service as a part of  
22 Tate's Hell State Forest.

23 I also want to make note that Franklin County  
24 is also eligible for payment in lieu of taxes,  
25 which provides funds to offset the loss of property

1 to tax revenue when the Board of Trustees acquires  
2 conservation and recreation lands. The department  
3 recommends approval.

4 GOVERNOR DESANTIS: All right. I move to  
5 approve. Is there a second?

6 MS. FRIED: Second.

7 GOVERNOR DESANTIS: Hearing no objection, the  
8 motion carries.

9 Item 11:

10 MR. HAMILTON: Item 11 is consideration of an  
11 option agreement to acquire 768 acres within the  
12 Wolfe Creek Florida Forever from the Trust For  
13 Public Lands for \$1,958,400. With this  
14 acquisition, the Board of Trustees have acquired  
15 over 11,000 acres in the immediate area which will  
16 provide a critical buffer for the Whiting Field  
17 Naval Air Station and provides a strategic addition  
18 to the adjacent state forest.

19 This property is within the wildlife corridor  
20 of the Florida Ecological Greenways Network and  
21 will be managed by the Florida Forest Service as  
22 part of the Blackwater River State Forest.

23 GOVERNOR DESANTIS: All right. I move to  
24 approve. Is there a second?

25 MS. FRIED: Second. And I have a comment on

1     these two items. First of all -- it's for Items  
2     Number 10 and 11. Thank you so much for bringing  
3     these two forward. I support these acquisitions of  
4     these two properties which we managed, of course,  
5     by my department and the Florida Forest Service.  
6     These two projects will bolster existing state  
7     forests. The land within the St. Joe Timberland  
8     Florida Forest Project is ranked number 2 in the  
9     climate change lands project category. It will  
10    offer protection from future development to provide  
11    protection for water resources and native  
12    ecosystems. The land in the Wolfe Creek included  
13    historical and architectural and archeological  
14    sites.

15           Both these land acquisitions are important to  
16    our state's forest environment and our history, so  
17    thank you again for bringing this forward.

18           MR. HAMILTON: Thank you, Commissioner. And  
19    Governor, as I'll constantly say and always say,  
20    I'm amazed at the job that the department and  
21    agency in our land acquisition staff are doing to  
22    bring these properties into forever conservation.  
23    With this agenda, we've bought over 17,000 acres  
24    into permanent conservation, so hats off to them  
25    for putting these irreplaceable lands into the

1 future generations' hands.

2 So with that, this concluded the department's  
3 portion, but I would like to turn Items 12 through  
4 18 to be presented by Portia Sapp with the  
5 Department of Agriculture and Consumer Services  
6 Division of Aquaculture, and Items 19 and 20 will  
7 be presented by Erin Albury with the Florida Forest  
8 Service.

9 MS. SAPP: Good morning, trustees. Today I  
10 have seven items for your consideration. All of  
11 the items have been reviewed by FWC and the  
12 Department of Environmental Protection, Florida  
13 Coastal Office, and none of the agencies had any  
14 comments.

15 Additionally, the National Marine Fisheries  
16 Service and the Army Corps have reviewed the items  
17 and determined the activities proposed are not  
18 likely to have adverse impacts and are compliant  
19 with our general programmatic permit.

20 Item 12:

21 MS. SAPP: So Item 12 for your consideration  
22 is a request to modify two existing bottom leases  
23 in the Mosquito Lagoon in Volusia County to allow  
24 use of the full water column. One parcel is 3  
25 acres in size. The other is 5 acres. They were

1 originally approved in the 1980s. Staff recommends  
2 approval.

3 GOVERNOR DESANTIS: All right. I move to  
4 approve. Is there a second?

5 MS. FRIED: Second.

6 GOVERNOR DESANTIS: Hearing no objection, the  
7 motion carries.

8 Item 13:

9 MS. SAPP: Item 13 for your consideration are  
10 two new one and a half acre leases requested by  
11 Near Futures Group, LLC, and Michael Todd Brackin  
12 in St. George Sound in Franklin County for oyster  
13 aquaculture businesses. The proposed site is  
14 located in gulf sturgeon critical habitat, but the  
15 applicants propose to use floating gear which is  
16 authorized in our programmatic general permit.  
17 Staff recommends approval.

18 GOVERNOR DESANTIS: All right. I move to  
19 approve. Is there a second?

20 MS. FRIED: Second.

21 GOVERNOR DESANTIS: Hearing no objection, the  
22 motion carries.

23 Item 14:

24 MS. SAPP: Item 14 for your consideration is a  
25 new two acre lease, requested by Shana Alford, in



1 Escambia Bay in Santa Rosa County to expand an  
2 oyster aquaculture business. Again, the site is  
3 located in gulf sturgeon habitat, but the applicant  
4 proposes to use floating gear, so staff recommends  
5 approval of this item.

6 GOVERNOR DESANTIS: All right. I move to  
7 approve. Is there a second?

8 MS. FRIED: Second.

9 GOVERNOR DESANTIS: No objection, the motion  
10 carries.

11 Item 15:

12 MS. SAPP: For Item 15, FDACS is requesting  
13 two new five acre and seven new two acre bottom  
14 leases adjacent to the Corrigan's North Aquaculture  
15 Use Zone expansion in Levy County. The location of  
16 the proposed parcels will allow the applicants to  
17 incorporate into the existing Aquaculture Use Zone  
18 upon approval.

19 The original AUZ was approved in 2014 and is  
20 comprised of 13 parcels. Staff recommends approval  
21 of this item.

22 GOVERNOR DESANTIS: All right. I move to  
23 approve. Is there a second?

24 MS. FRIED: Second.

25 GOVERNOR DESANTIS: No objection. The motion

1 carries.

2 Item 16:

3 MS. SAPP: Item 16, FDACS is requesting 15 new  
4 two acre bottom leases adjacent to the Pelican Reef  
5 Aquaculture Use Zone in Levy County. The location  
6 of the parcels will allow the applicants to  
7 incorporate into the exiting AUZ which was  
8 originally approved in 1999 and it consists of 90  
9 parcels.

10 In September 2014, the Board of Trustees  
11 authorized acts to modify the existing bottom  
12 leases to allow use of the water column, and we ask  
13 for the same authority with these leases. Staff  
14 recommends approval of this item.

15 GOVERNOR DESANTIS: All right. I move to  
16 approve. Is there a second?

17 MS. FRIED: Second.

18 GOVERNOR DESANTIS: No objection, the motion  
19 carries.

20 Item 17:

21 MS. SAPP: Item 17, FDACS is requesting three  
22 new 4.2 acre bottom leases adjacent to the Dog  
23 Island East Aquaculture Use Zone in Levy County.  
24 The Aquaculture Use Zone was approved in 2014 and  
25 is currently comprised of 25 parcels. Again, the

1 Board approved modification of these parcels in  
2 September of 2020, so for consistency, we're asking  
3 for the same authority with these and staff  
4 recommends approval of this item.

5 GOVERNOR DESANTIS: All right. I move to  
6 approve. Is there a second?

7 MS. FRIED: Second.

8 GOVERNOR DESANTIS: No objection. The motion  
9 carries.

10 Item 18:

11 MS. SAPP: My last item, FDACS is requesting  
12 19 new two acre bottom leases adjacent to the Gulf  
13 Jackson Aquaculture Use Zone, also in Levy County.  
14 The Aquaculture Use Zone was originally approved by  
15 the trustees in 1992 and is comprised of 162  
16 parcels, and in August of 2017, the Board approved  
17 modification of those leases to water column upon  
18 request as well, so again, we're asking for the  
19 same authority with these new parcels if approved  
20 and staff recommends approval of this item.

21 GOVERNOR DESANTIS: Okay. I move to approve.  
22 Is there a second?

23 MS. FRIED: Second.

24 GOVERNOR DESANTIS: No objection, the motion  
25 carries.

1 MS. FRIED: And I have a comment, too. These,  
2 all these 15 through 18 are all aquaculture  
3 expansions in Levy County which will greatly  
4 benefit the economy, the local community, as well  
5 supporting Florida's important aquaculture and  
6 larger agriculture industry, so thank you, Portia  
7 and your team, for bringing these forward to us.

8 MS. SAPP: Thank you, trustees.

9 GOVERNOR DESANTIS: Okay.

10 MR. ALBURY: Good morning.

11 GOVERNOR DESANTIS: Hey.

12 MR. ALBURY: We have two Rural Family Lands  
13 Protection Program items for your consideration  
14 this morning.

15 Item 19:

16 MR. ALBURY: The first is Item Number 19,  
17 Hendrie Ranch conservation easement in Highlands  
18 County. We are requesting approval of an option  
19 agreement to acquire a 663 acre perpetual  
20 conservation easement within the Hendrie Ranch  
21 project from J & D Hendrie, LLC, and designation of  
22 the Florida Department of Agriculture and Consumer  
23 Services Florida Forest Service as a monitoring  
24 agency.

25 The trustees' purchase price is \$1,595,500,

1           1,500,000 or 94 percent of the purchase price may  
2           be provided through a grant from the U.S. Fish and  
3           Wildlife Service Recovery Land Acquisition Program  
4           administered by the Florida Fish and Wildlife  
5           Conservation Commission.

6           Additionally, the Nature Conservancy is  
7           providing a \$100,000 endowment to provide for the  
8           long-term management of the property. Our partners  
9           with TNC, NFWC are represented today by Wendy  
10          Matthews and Lara McFarey(phonetic). Staff  
11          recommends approval of the item.

12          GOVERNOR DESANTIS: Okay. I move to approve.  
13          Is there a second?

14          MS. FRIED: Second.

15          GOVERNOR DESANTIS: No objection. The motion  
16          carries.

17    Item 20:

18          MR. ALBURY: Second item, Item Number 20, Buck  
19          Island Ranch conservation easement, also in  
20          Highlands County. We are requesting approval of an  
21          option agreement to acquire an 1883 acre perpetual  
22          conservation easement within the Buck Island Ranch  
23          project from Archbold Expeditions in designation of  
24          FDACS' FFS as the monitoring agency.

25          Trustee purchase price is \$4,067,000.

1 74 percent of that or \$3,015,000 of the purchase  
2 price may be provided through a grant from the U.S.  
3 Department of Agriculture Natural Resource  
4 Conservation Service. Dr. Hilary Swain is here  
5 representing Achbold.

6 Staff recommends approval of the item.

7 GOVERNOR DESANTIS: All right. I move to  
8 approve. Is there a second?

9 MS. FRIED: Second.

10 GOVERNOR DESANTIS: No objection. The motion  
11 carries.

12 MS. FRIED: Also, Governor, the rule on Family  
13 Lands Protection Program has been one of my top  
14 priorities throughout my administration. I just  
15 wish the legislature had continued to prioritize it  
16 as well, as we could have done so much more.

17 Administered by the FDACS and our Florida  
18 Forest Service, it's programs like this that will  
19 ultimately protect Florida's natural lands and  
20 environment through vital conservation efforts, so  
21 thank you again, Erin, for all the work that you  
22 all do.

23 MR. ALBURY: Thank you, Commissioner.

24 GOVERNOR DESANTIS: Okay. Thank you.

25 \* \* \* \* \*

1 ADMINISTRATION COMMISSION

2 Mark Buckles

3 GOVERNOR DESANTIS: We now have Ad Com.

4 MR. BUCKLES: Okay. We have three items today  
5 for Ad Com.

6 Item 1:

7 MR. BUCKLES: The first item is request for  
8 approval of the minutes of the meeting held on  
9 March 29, 2022.

10 GOVERNOR DESANTIS: All right. I move to  
11 approve. Is there a second?

12 MS. FRIED: Second.

13 GOVERNOR DESANTIS: No objection. The motion  
14 carries.

15 Item 2:

16 MR. BUCKLES: Thank you. The next two items  
17 are consideration of Comprehensive Plan Amendments.  
18 The first one, Item 2, is the case AC Case Number  
19 21-001. Today the Commission has before it the  
20 recommended order in the case of William J. Semmer  
21 and Joanne Semmer versus Lee County, Florida and  
22 Southern Comfort Storage. This is a challenge to  
23 the Lee County Comprehensive Plan Amendment adopted  
24 by County Ordinance 20-07.

25 The amendment changes the Future Land Use Map,

1 otherwise known as the FLUM designation, for a  
2 7.5 acre property, eight adjoining lots on San  
3 Carlos Island.

4 The purpose of today's agenda item is for the  
5 Commission to consider the administrative law  
6 judge's recommended order, the parties' arguments,  
7 the public comment and then to discuss and  
8 potentially vote on final action.

9 After voting, the Commission may vote on a  
10 motion to direct staff to draft and circulate a  
11 final order to your offices consistent with the  
12 vote and to present the final order for  
13 consideration at the next meeting of the  
14 Commission, if that's what you decide to do.

15 The Commission is not being asked to pass  
16 judgment on the policy merits of the plan  
17 amendment. The limited role here is to simply  
18 determine whether the ALJ made the correct legal  
19 recommendation under Florida law.

20 The petitioners in this case are represented  
21 by Terrell Arline, respondent is represented by  
22 Amanda Swindle, and the intervener is represented  
23 by Russell Schropp.

24 A little background, a DOA challenge was filed  
25 in July of 2020 alleging internal inconsistency,



1 failure to be based on relevant and appropriate  
2 data and analysis and the increase of density in  
3 the coastal high hazard area.

4 After a final hearing, an ALJ entered a  
5 recommended order determining the amendment was not  
6 in compliance with Chapter 163 Florida Statutes.  
7 The plan amendment creates a central urban category  
8 that encourages mixed use development and would  
9 allow a maximum of 113 residential units.

10 So as to the standards of review, a legal  
11 conclusion of an ALJ regarding plan amendment  
12 consistency is an interpretation of law and is  
13 subject to the fairly debatable standard. An  
14 amendment shall be determined to be in compliance  
15 with Chapter 163 if the local government's  
16 determination is fairly debatable.

17 In addition, the Commission should reject or  
18 modify the ALJ's findings of fact if it determines  
19 that they are not based on competent, substantial  
20 evidence or the proceedings did not comply with the  
21 essential requirements of law.

22 The ALJ found the petitioners demonstrated the  
23 amendment is inconsistent with Section 163.3178,  
24 Sub 8, Sub A, which provides state standards for  
25 increased density in the coastal high hazard area.

1 The ALJ concluded the plan was not in compliance  
2 with Florida law.

3 The parties filed their exceptions in March of  
4 2021. One proposed order was submitted by the  
5 county and the interveners.

6 So we'll now get to the argument. The parties  
7 will now have a chance to argue to the Commission.  
8 They'll have ten minutes each. There'll be two  
9 minutes of rebuttal, followed by a Q&A. I'll keep  
10 track of the time, targeting about eight minutes  
11 for that. And, lastly, members of the public will  
12 be allowed to speak for two minutes.

13 The county will speak first, followed by the  
14 interveners and the petitioners. Please limit your  
15 comments to the evidence in the record. We'll have  
16 county come up first.

17 MS. SWINDLE: Good morning, esteemed Cabinet  
18 members, Commissioner Fried, Chief Patronis,  
19 General Moody, Governor DeSantis. My name is  
20 Amanda Swindle and I serve as senior assistant  
21 county attorney in Lee County, Florida and I have  
22 the privilege of representing the county today.

23 I have with me from the county attorney's  
24 office my colleague Michael Jacob and Joseph Adams,  
25 as well as the county's chief planner Mikki

1 Rozdolski, and I'm going to ask Mikki to pass out  
2 some materials for the Cabinet members that serve  
3 as the joint exhibits for the county and the  
4 landowner in this case.

5 While Mikki's doing that, let me, first of  
6 all, just speak on behalf of --

7 GOVERNOR DESANTIS: Thank you.

8 MR. TAYLOR: -- everybody from Lee County when  
9 I say thank you so much for the Cabinet's time and  
10 attention to this matter today. It's obviously an  
11 issue that's very important to Lee County, but  
12 really it's an issue of statewide concern because  
13 ultimately if the ALJ's recommendation is adopted  
14 in this case, it wouldn't just apply to Lee County,  
15 it would apply to all 45 of Florida's counties that  
16 are within the coastal high hazard area.

17 So as Mark Buckles summarized, we are here  
18 today because an administrative law judge has made  
19 a finding of noncompliance regarding the county's  
20 amendment of its Comprehensive Plan.

21 Under the first tab of your materials, you  
22 will see some aerials of the proposed project. In  
23 the first aerial outlined in red, you can see it's  
24 seven and a half acres on San Carlos Island in  
25 unincorporated Lee County.

1           Historically, San Carlos Island served to  
2     support the commercial fishing and shrimping  
3     industry that was thriving on the island, but since  
4     that time, market conditions have changed and that  
5     industry is not really as economically viable as it  
6     once was.

7           If you look at the second aerial, you will see  
8     the current uses on San Carlos Island include light  
9     industrial uses, marine related uses and a  
10    substantial amount of residential mobile homes and,  
11    obviously, mobile homes are not ideal for an island  
12    in the coastal high hazard area, so it is within  
13    the vision of Lee County that this area be  
14    redeveloped as a mixed use kind of area with  
15    residential, resort hotels and marine dependent  
16    recreational uses.

17          The property owners in this case made a  
18    request to the county to rezone and redevelop their  
19    property as a mixed use project that would include  
20    a residential component, and this is in line with  
21    other approvals that the county has given recently  
22    for San Carlos Island, as you can see on the third  
23    aerial in your tab.

24          So in order for the property owner to -- to  
25    see his vision accomplished for the property, he

1 needed the county to amend its comprehensive plan  
2 to change the future land use category for that --  
3 for that property. In order to do that, the Board  
4 of County Commissioners had to make certain  
5 findings, including that the proposed amendment was  
6 consistent with our other goals and policies within  
7 the Lee plan, but also that it was in compliance  
8 with certain statutory requirements and that's why  
9 we're here today, because the administrative law  
10 judge has questioned that determination on the part  
11 of the county.

12 So before I go into the merits of the ALJ's  
13 interpretation, I just want to take a moment to  
14 comment on the standard of review in this case. As  
15 Mark correctly stated, Chapter 163 provides for the  
16 fairly debatable standard on the county's  
17 determination of compliance. The legal standard,  
18 and basically what it means is if a reasonable  
19 person could have come to the same conclusion that  
20 the county did in this case, that the county's  
21 determination should be upheld, and that makes  
22 sense because comprehensive plan amendments are  
23 legislative actions and the legislative actions by  
24 our elected board in Lee County shouldn't be  
25 lightly overturned by an administrative law judge.

1           So with that deference in mind to the county,  
2   I would ask you to turn to Tab 2 of your materials.  
3   We have a copy of Florida Statute 163-3178, and the  
4   third of that statute, we've highlighted Subsection  
5   8A for you.

6           Again, this was the administrative law judge's  
7   sole finding of noncompliance regarding the plan.

8           The way Subsection 8A is drafted is such that  
9   a comprehensive plan amendment shall be found in  
10   compliance if one of three options is met. We know  
11   it's one of three because it says the word or  
12   there.

13          So the first two options have to do with a  
14   county meeting certain required evacuation times.  
15   Option 1 is a 16 hour out of county evacuation time  
16   and option 2 is a 12 hour time to shelter  
17   evacuation time.

18          As stipulated by all the parties in this case,  
19   Lee County is unable to meet one or two, and it's  
20   not even close. The regional evacuation study  
21   available to the ALJ at the time had the counties  
22   out of county evacuation time for a Category 5  
23   storm at 96 hours, not 16, 96 hours. It is a long  
24   way off. And if you take just a quick peek under  
25   Tab 3 of your materials, you will see the clearance

1 times for all of the counties within the southwest  
2 region, and unfortunately we are all in the exact  
3 same predicament, a 96 hour out of county  
4 evacuation time. And if you take a look at the  
5 regional evacuation studies for all the regions,  
6 what you would find is that out of the 45 counties  
7 within Florida's coastal high hazard area, only  
8 nine of those counties can meet subparagraphs 1 or  
9 2. Eighty of the counties within the coastal high  
10 hazard area are unable to meet Paragraph 1 or 2.

11 So thank goodness there's an option 3, right,  
12 because otherwise, developers in these counties  
13 would essentially be held hostage, unable to  
14 develop or redevelop their property until the  
15 counties can somehow magically meet these  
16 evacuation times. and I say magic because, quite  
17 frankly, that's what it would take to get the  
18 county from a 96 hour evacuation time down to 16  
19 hours. I'm not creative enough to come up with  
20 another solution.

21 So the legislature, in their wisdom, provided  
22 the ability for property owners to provide  
23 mitigation for the impacts of their development and  
24 the amount of that mitigation is capped at the  
25 amount that's reasonably attributable to the

1 impacts of the development. That's how the county  
2 has interpreted the statute. That's how the county  
3 has applied this statute and, to my knowledge, it  
4 is the only way the statute has been interpreted  
5 and implied until this ALJ's unique interpretation.

6 So if you take at look at the ALJ's  
7 interpretation, it's basically this: If a county  
8 is unable to meet Subparagraphs 1 or 2,  
9 Subparagraph 3 isn't available because the county  
10 would have -- that amount of mitigation would have  
11 to bring the entire county's backlog into  
12 compliance, so the idea that we would require a  
13 property owner to satisfy this long-existing  
14 evacuation backlog is antithetical to the  
15 principles of land use law that I'm familiar with,  
16 which start with a basis of fundamental respect for  
17 private property.

18 So again, I think the reading of this statute  
19 is fairly clear. If a county doesn't meet option 1  
20 or option 2, option 3 is available for mitigation  
21 and that amount of mitigation is capped at the  
22 amount attributable to the development.

23 Again, I think this is a very clear  
24 interpretation of the statute, but even if you  
25 think that the statute is ambiguous in some way,



1 even if you think the ALJ's interpretation has some  
2 merit, the statute requires you to uphold the  
3 county's finding of compliance as long as that  
4 finding is reasonable, could it have been reached  
5 by a reasonable person and I think that's the case  
6 because this provision was added to the statute in  
7 2006, and since that time, the state has approved  
8 numerous comprehensive plan amendments that  
9 increase density in the coastal high hazard area,  
10 and as long as those impacts are mitigated, those  
11 plan amendments are approved.

12 To accept the ALJ's interpretation of this  
13 statute would be catastrophic to the kind of smart  
14 coastal growth that we need in Florida to  
15 accommodate our growing population.

16 So in conclusion, the county would just ask  
17 that you reject the ALJ's conclusions of law as  
18 articulated in our joint exceptions and adopt the  
19 joint proposed recommended order. If you have any  
20 questions, I'd be more than happy to answer them.

21 GOVERNOR DESANTIS: Anybody?

22 (No response.)

23 GOVERNOR DESANTIS: Okay. Thank you. Next.

24 MR. BUCKLES: The intervenor.

25 MR. SCHROPP: Morning, Governor DeSantis,

1 Chief Patronis, General Moody and Commissioner  
2 Fried. For your record, my name is Russell  
3 Schropp. I'm an attorney with the Henderson  
4 Franklin law firm in Fort Myers, and I'm here today  
5 on behalf of the intervenor Southern Comfort  
6 Storage, LLC. Southern Comfort Storage was the  
7 applicant for the plan amendment down below that is  
8 the subject of this proceeding and is the  
9 intervenor in this proceeding as well.

10 As you know by now from the county's  
11 presentation, the ALJ basically determined that my  
12 client would need to remedy and mitigate for the  
13 entire deficit and hurricane evacuation times that  
14 is present in Lee County in order to have this plan  
15 amendment found in compliance.

16 It is our position that state law actually  
17 requires only that we agree to mitigate the impacts  
18 of our development in order to be found in  
19 compliance, and I would not that there is no  
20 dispute in the record below that the developer, my  
21 client, is actually going to do this and mitigate  
22 the impacts of his proposed development either  
23 through the provision of on-site shelter space or  
24 through the donation of a fee in lieu of shelter  
25 space to the county so that they can increase

1     shelter space elsewhere.

2             But by interpreting the statute as requiring  
3     the developer to mitigate the county's entire  
4     backlog, we would respectfully submit that the ALJ  
5     erred, as a matter of law, for a number of reasons,  
6     in addition to those urged by the county and I  
7     would note that this was an issue that was not even  
8     presented to the ALJ or discussed or briefed or  
9     argued before the ALJ down below.

10            The first of the reasons that the ALJ's  
11     interpretation best(sic) is that it basically  
12     renders meaningless a whole subsection of the  
13     Florida statutes under Section 163.31788A and that  
14     is Subsection 3. I believe that's Tab 2 in the  
15     materials that the county presented to you. This  
16     section provides three options for addressing  
17     mitigation and they are separated by an or, as the  
18     county attorney indicated, indicating that you can  
19     either do one or two or three.

20            The ALJ's interpretation basically says that  
21     in order to meet option 3, you have to either do  
22     option 1 or 2, and that clearly, we think -- feel,  
23     is error because the legislature must have intended  
24     for Subsection 3 to have some sort of independent  
25     meaning other than to meet Subsections 1 or 2. We

1 submit that the ALJ's order renders meaningless  
2 Subsection 3 as part of the statutory scheme.

3 The second reason the ALJ's interpretation  
4 should be rejected is that it creates direct  
5 conflict not only with the statute internally, but  
6 also with established case law and Florida law and  
7 federal law, for that matter. The ALJ's  
8 interpretation creates conflict with the third  
9 sentence in Subsection 3, and you have it before  
10 you, but it basically reads, Required mitigation  
11 may not exceed the amount required for a developer  
12 to accommodate impacts reasonably attributable to  
13 development. Clearly, by requiring the plan  
14 amendment to address not only its impacts, but  
15 also the impacts of prior development, the ALJ's  
16 order contradicts this express limitation in  
17 Subsection 3. Statutory interpretations are  
18 required to avoid these conflicts.

19 Additionally, the sentence limiting the  
20 developer's mitigation is entirely consistent with  
21 both state and federal law as well as state  
22 statutory law that require mitigation for the  
23 impacts of new development, but prohibits  
24 mitigation for deficits caused by prior mitigation.  
25 We've cited case law in our proposed -- or actually

1 in our exceptions to the recommended order and it  
2 includes both Florida Supreme Court decisions,  
3 primarily the case from the City of Dunedin back in  
4 1976 as well as federal case law from the U.S.  
5 Supreme Court, the Nollan and Dolan decisions that  
6 support this principle.

7 And if this case law wasn't specific enough,  
8 there's also Florida Statute 70.45 which defines --  
9 and that's included in your materials in Tab 4, and  
10 it defines a term called prohibited exactions as  
11 one that is not roughly proportionate to the  
12 impacts of the proposed use of real property, and  
13 the statute goes on to provide a cause of action  
14 for any local -- for any governmental entity that  
15 imposes such a prohibited exaction. These  
16 conflicts can be avoided, they should be avoided by  
17 the interpretation that the county urges.

18 And the third and final reason that I'll  
19 mention for finding that the ALJ's interpretation  
20 should fail is, quite frankly, it's the simplest  
21 argument that I have and that is that it's simply a  
22 plain reading of the statute. If you look at  
23 Tab 2, at the beginning of Section 163.31788A,  
24 which you have in front of you, the very first  
25 sentence of that statute reads, A proposed

1 Comprehensive Plan Amendment shall be found in  
2 compliance with state coastal high hazard  
3 provisions if one of the following three options  
4 are addressed. Clearly, this sentence requires an  
5 in-compliance finding if one of the three  
6 conditions is met, but it does not conversely  
7 require that a not-in-compliance finding be reached  
8 if the three options are not met.

9 I would respectfully submit that the ALJ  
10 simply missed the purpose of the statute and that  
11 is that it provides a safe harbor for a plan  
12 amendment that is able to meet Subsection 1 or 2 or  
13 3. Even if it -- even if our plan amendment did  
14 not address either 1 or 2 or 3, a not-in-compliance  
15 determination would not be mandated under this  
16 plain reading of the statute.

17 In conclusion, the only basis for the ALJ's  
18 not-in-compliance determination is her  
19 interpretation of Section 163.31788A. This is a  
20 conclusion of law and can be overruled by another  
21 interpretation if that interpretation is as or more  
22 reasonable interpretation reached by the ALJ. In  
23 this regard, we would again respectfully suggest  
24 that the interpretation of the statute urged by the  
25 county and the intervenor is more reasonable than

1 that proposed by the ALJ in the recommended order  
2 and it comports not only with statutory law but  
3 also with case law that has been established  
4 previously.

5 We would -- we would respectfully request that  
6 our exceptions to the recommended order be granted  
7 and that a final order be entered consistent with  
8 the proposed final order that the county and the  
9 intervenors have submitted to you. With that, I  
10 stand available for any questions.

11 GOVERNOR DESANTIS: Anybody?

12 (No response.)

13 GOVERNOR DESANTIS: All right. Thank you,  
14 sir.

15 MR. SCHROPP: Thank you.

16 MR. BUCKLES: We have the petitioner up and I  
17 have a handout he wants me to bring.

18 GOVERNOR DESANTIS: Okay.

19 MR. ARLINE: Good morning, Governor and  
20 Cabinet. It's a pleasure to be here. My name is  
21 Terrell Arline. I'm an attorney. I represent  
22 Joanne Semmer who's here with me and her brother  
23 William Semmer who unfortunately, his business is  
24 in San Carlos, couldn't be here today.

25 I've passed out some materials that are going

1 to be -- that explain our presentation here. I  
2 intend to speak first, basically hit the legal  
3 arguments and then Miss Semmer will have some  
4 things to say and some documents that she's passed  
5 out.

6 My clients challenge the plan amendment  
7 adopted by Lee County, and Mr. Semmer owns  
8 property, it's industrial use for shipping use and  
9 marine industry, directly adjacent to the site.  
10 Mrs. Semmer operates a business across the street.  
11 They've operated businesses in San Carlos since the  
12 '60s. The amendment changed the land use on a  
13 parcel of land from industrial, which it had always  
14 been, to basically allow for condominiums,  
15 commercial and a marina.

16 For the record, my client does not oppose the  
17 amendment that created the marina. The problem  
18 that we're presenting is the increased density, the  
19 real estate -- increased density of the residential  
20 development in a class 5 hurricane evacuation  
21 clearance area, so it's not an increased density  
22 anywhere in Lee County. It's an increased density  
23 in the area that gets inundated by a class 5  
24 hurricane, which is in this case, I think the  
25 evidence was over 20 feet.



1           So they had a full administrative hearing  
2   before Judge Van Wyk and the judge did not uphold  
3   every issue that they raised, but as you heard, she  
4   did agree with their allegations that are in the,  
5   actually in the petition and in their proposed  
6   recommended order, that the amendment violates the  
7   section of the Statute 163-31788A that deals with  
8   hurricane evacuation clearance times because the  
9   amendment didn't maintain those -- those numbers.  
10   That is the issue, maintained. You have to read  
11   that term, read the statute and understand that the  
12   legislature has said that those hurricane  
13   evacuation clearance times have got to be  
14   maintained if you're going to increase density in a  
15   coastal hazard area, so that word maintained is  
16   very important here.

17           She -- the judge essentially ruled in favor of  
18   protecting people's health and safety during a  
19   hurricane on San Carlos Island and she ruled it  
20   because the existing evac time was 96 hours, that's  
21   four days in Lee County, that you could not add  
22   additional density in the Cat 5 area on San Carlos  
23   Island.

24           So this matter involves statutory  
25   interpretation of the law that limits the

1 government's ability to approve a plan amendment  
2 and increase residential density in the coastal  
3 hazard area where a Cat 5 storm would flood the  
4 land. It's very important law. Versions of it  
5 have been on the books for many years and it's been  
6 applied in this instance to often reject plan  
7 amendments that increase density in the coastal  
8 hazard area, but I think this is the first time  
9 this issue's been brought and litigated, brought to  
10 the attention of the administration commission. I  
11 think that's probably true. I've been doing this  
12 for a long time and so this is an important case  
13 for you.

14 So I've handed out copies of the provision,  
15 okay, 163.31788A, and I have highlighted the areas.  
16 The developer's attorney said all you have to do is  
17 1 or 2 or 3. Doesn't say that. The statute says  
18 that the proposed plan amendment will be in  
19 compliance if, one, the adopted level of service  
20 for out of county evacuation is maintained or, 2,  
21 the 12 hour evacuation time to shelter is  
22 maintained or, 3, and read the introductory  
23 sentence, appropriate mitigation is provided that  
24 that will satisfy Subparagraph 1 or Subparagraph 2,  
25 so you only get 3 if you satisfy 1 or 2. It's not

1 1 or 2 or 3. If you're going to do 3, you gotta  
2 have appropriate mitigation that will satisfy  
3 Paragraphs 1 or 2. That's what the statute says.

4 It does say, in the second -- third sentence,  
5 required mitigation may not exceed the amount  
6 required for a developer to accommodate impacts  
7 reasonably attributable to development. I think  
8 what that means is local government can't make them  
9 pay more than what their development would entail,  
10 but at the end of the day, that mitigation has  
11 gotta meet 1 or 2, so if they're like two hours  
12 beyond the hurricane evacuation clearance times,  
13 then they could mitigate for those two hours, but  
14 the developer, they've gotta get to the two hours.  
15 The county's gotta get to the 2 hours and meet 1 or  
16 2, so that's essentially what the statute says.

17 The developer admits that there's no dispute  
18 that the county doesn't meet Subparagraphs 1 or 2  
19 even prior to the plan amendment. That was in  
20 their exceptions. They say that it -- they agree  
21 that they cannot maintain the evacuation clearance  
22 times, so is that a -- it's not a valid way to  
23 interpret the statute, just Subparagraph 3 in  
24 isolation, to say that, you know, you can -- you  
25 can mitigate, but you don't have to maintain. You

1 ignore the term maintain? You ignore the word  
2 satisfy? No.

3 I mean sometimes when you've got this issue  
4 about what the law means, you know, you look at  
5 legislative history, and I found -- yesterday, I  
6 went and looked up the house bill. It was adopted  
7 in 2006, House Bill 1359 which I passed out. The  
8 staff analysis on Page 5 says this. This is how  
9 the staff analysis describes this bill in 2006.

10 The bill provides proposed plan amendment must  
11 be in compliance with the state coastal hazard  
12 standards if adopted level of service for out of  
13 county hurricane evacuation is maintained or 12  
14 hour evacuation time to shelter is maintained and  
15 there's sufficient shelter space available or --  
16 and this is important -- or appropriate mitigation  
17 will ensure that the level of service for out of  
18 county hurricane evacuation clearance time's  
19 maintained or mitigation will ensure that the 12  
20 hour evacuation time to shelter is maintained and  
21 there's sufficient shelter time. That's the  
22 legislative history, so you've got what the statute  
23 says and this is what, you know, what the staff's  
24 analysis was when they were looking at it, so the  
25 terms mitigation shall -- will ensure supports our

1 position and analysis of the statute.

2 Also, there's harm. If you adopt their  
3 position and say we can just mitigate for our  
4 project and we don't have to comply with hurricane  
5 evacuation clearance times, there's harm to that.  
6 People are put in harm's way. More people are  
7 on -- in the coastal high hazard area, Cat 5 area  
8 that have to be evacuated and you already know you  
9 can't evacuate what you got.

10 So I mean there's a public safety issue here  
11 that you're wrestling with, too. I mean they talk  
12 about -- the county mentioned the catastrophic to  
13 smart coastal growth, and the developer, you know,  
14 said, you can't require us to mitigate for more  
15 than our development's impacts. Well, those are  
16 arguments, you know, to support the development in  
17 coastal high hazard area, but the statute says you  
18 shouldn't increase density in the coastal high  
19 hazard area because it can kill people. It can  
20 cause people's property that live there in  
21 residential developments to flood and it makes it  
22 more difficult for them to evacuate.

23 So I know that you're struggling with a --  
24 with a complex issue here, but I think you can come  
25 down on our side with the statutory interpretation

1 and with, you know, the public policy that's behind  
2 that argument.

3 So now Ms. Semmer will say a few things and  
4 we'll be available for questions later.

5 GOVERNOR DESANTIS: Okay.

6 MS. SEMMER: Thank you for having us and I'll  
7 try to make this quick, but first, for your  
8 information, Southern Comfort, LLC does not own the  
9 property. It was sold to Bay Harbor Marina  
10 Village, LLC, a limited liability company, which is  
11 owned by Corona Property Holdings. It sold for  
12 \$18,000,000, and on Facebook, it says it was sold  
13 as shovel ready.

14 Two different zoning hearing officers, Laura  
15 Bellflower and Donna Marie Collins, rejected the  
16 project and stated in their reports that the  
17 developer could not meet the Lee County comp plan  
18 or the Florida Statute 163 required for a level of  
19 service evacuation on a level 5 hurricane, and  
20 Statute 163.3171 refers to the sea, lake, overland  
21 surge of a storm surge on slosh, and in your  
22 packet, you'll see the information for Bay Harbor  
23 Marina Village, in your handout, and the property  
24 is located in an evacuation Zone A. It states, A  
25 Category 5 hurricane could produce over a 25 foot

1 surge height.

2 And, also, please find a copy of a letter from  
3 the adjacent Town of Fort Myers Beach, Estero  
4 Island, which requires residents to evacuate on San  
5 Carlos Boulevard across San Carlos Island. The  
6 town objects to the increase in development due to  
7 the traffic conditions, including hurricane  
8 evacuation.

9 And please find a report by Transportation  
10 Consultants, Incorporated for Compass Rose Marina,  
11 also known as Bay Harbor Marina Village,  
12 documenting an additional 3,253 daily two-way trips  
13 on Main Street and San Carlos Boulevard. Florida  
14 DOT documents 27,000 cars a day pass through San  
15 Carlos Island on San Carlos Boulevard during season  
16 and this would increase the traffic by more than 10  
17 percent.

18 My brother Bill Semmer and I have been on San  
19 Carlos Island for over 50 years.

20 I'm sorry?

21 MR. BUCKLES: You got a little bit more time,  
22 but wrap it up.

23 MR. TAYLOR: I am. I'm talking fast. We've  
24 been there over 50 years. I came in '66 and my  
25 brother came in 1967 after his tour in Vietnam. He

1 currently owns 23 properties on San Carlos Island  
2 that surround Bay Harbor Marina Village property.  
3 He operates seven businesses in construction and  
4 commercial and industrial uses in areas of the  
5 working waterfront.

6 I own my house 140 feet from the project and  
7 I operate three businesses, including marine  
8 construction, waterfront permitting and consulting.  
9 I'm chairman at San Carlos Island Redevelopment  
10 Corporation, The Lighting District, The Fort Myers  
11 Beach Mosquito Control District and also president  
12 of the local Marine Science Center and the Oil  
13 Spill Co-op.

14 We support and encourage the appropriate  
15 development on San Carlos Island working  
16 waterfront. This is not an appropriate location  
17 for a 100 foot high condo the size of a football  
18 field. And I just want you to know if you should  
19 agree with the developer, the consequences of your  
20 decision will put existing and new residents in  
21 harm's way. I know for a fact that there are other  
22 coastal developers all watching this hearing  
23 closely before they decide their next step.

24 And thank you and God bless and thank you for  
25 the service to the state of Florida. Thank you.



1           MR. BUCKLES: Okay. We have an opportunity  
2     for the county to make -- or the intervenor to make  
3     a few minutes of rebuttal.

4           MR. SCHROPP: Thank you, Governor and Cabinet.  
5     I'll be brief just quickly in rebuttal to Ms.  
6     Semmer's assertion regarding the sale of the  
7     property. Yes, the property sold. That is not in  
8     the record. That occurred after the trial down  
9     below, but my client Southern Comfort Storage did  
10    retain an interest in the property.

11          With regard to Mr. Arline's assertion that  
12    this issue was actually raised by petitioner that  
13    down below in the petition and in the recommended  
14    order filed by the petitioner below, the actual  
15    documents submitted by the petitioner actually  
16    agree with our interpretation.

17          In the petition, the petitioner alleged that  
18    it was not in compliance with the statute because  
19    it does not include sufficient mitigation for the  
20    increase in hurricane evacuation time caused by the  
21    plan amendment, not that we didn't meet the county  
22    standards, the overall standards within the county.

23          Again, in the recommended order, the amendment  
24    is inconsistent because it fails to address  
25    hurricane impacts attributable to the increased

1 density from the plan amendment, so the petitioner  
2 basically asserted what we're asserting which is we  
3 only have to mitigate the impacts of our actual  
4 development.

5 And the last point I would make with regard to  
6 Mr. Arline's argument that we could somehow  
7 voluntarily agree to mitigate the county's deficit  
8 and therefore get approval for our plan amendment,  
9 there really is no legal difference between  
10 requiring a developer to mitigate for the county's  
11 existing deficit as part of the permit approval or  
12 the plan amendment approval and -- or telling the  
13 developer that he can voluntarily mitigate for the  
14 county's deficit, but if he doesn't do it  
15 voluntarily, we're not going to approve your plan  
16 amendment. There's legally no difference in that  
17 and that is essentially the case of the Koontz  
18 versus St. James River Water Management District  
19 which went to the U.S. Supreme Court.

20 With that, I'll turn it back over to the  
21 county for any rebuttal that they may have. Thank  
22 you very much.

23 GOVERNOR DESANTIS: Okay.

24 MS. SWINDLE: Thank you again. You heard from  
25 Ms. Semmer, one of our residents, and she's clearly

1 very passionate about San Carlos Island, which we  
2 appreciate as a county, but again, to read the  
3 statute in the way that the administrative law  
4 judge has would essentially hold property owners  
5 within the coastal high hazard area hostage until  
6 certain evacuation times can be met and I think  
7 what I've demonstrated here is those evacuation  
8 times cannot be met, not in Lee County, not in the  
9 entire southwest region.

10 In fact, the entire southern peninsula and a  
11 good portion of the panhandle is way outside of  
12 those mandatory evacuation times. We're talking  
13 80 percent of the coastal high hazard area would be  
14 unable to be developed or redeveloped if this  
15 recommended order is adopted.

16 So again, I would just say that simply cannot  
17 have been what the legislature intended when they  
18 adopted this statute and it can't be the result  
19 that is allowed to happen by allowing an  
20 administrative law judge to essentially override  
21 the determination by the Board of County  
22 Commissioners in what is essentially a legislative  
23 action.

24 So again, thank you so much for your time.

25 GOVERNOR DESANTIS: Okay.

1           MR. ARLINE: I just want to say thank you for  
2   your time and attention to this and, you know, an  
3   argument that they're presumed to be correct, it  
4   might be true for facts, but when you're talking  
5   about what the statute is and what the law is, you,  
6   as administration commission, you interpret the  
7   statute. You make those -- those findings and what  
8   the law means and that's what you're doing here  
9   today and we would urge you to accept the judge's  
10  recommended order. Thank you.

11          MR. BUCKLES: And we set aside some time for  
12  Q&A, if you have any direct questions of the  
13  attorneys, then we'll go to public comment.

14          GOVERNOR DESANTIS: Anybody?

15          MS. FRIED: I do to the county and thanks for  
16  being here today. I have some questions.  
17  Obviously, you were talking about some other  
18  counties that have the same, similar situations of  
19  extremely high evacuation times. I'm assuming  
20  you've spoken to some of them during the course of  
21  this petition. Have you seen any other types of  
22  development that's come in there that has been  
23  approved and has gone in front of an administrative  
24  law judge in the previous or is this the first case  
25  that we are seeing this situation under.

1 MS. SWINDLE: So to answer your first  
2 question, yes, there have -- the county has  
3 approved other comprehensive plan amendments in the  
4 coastal high hazard area that do have the effect of  
5 increasing residential density. Now, those  
6 particular amendments weren't challenged, so they  
7 didn't go before an administrative law judge, but  
8 in the first tab of your binder, on the third page,  
9 you can see outlines of recent development  
10 approvals that the county has -- has made on San  
11 Carlos Island, including Number 5 which is a pretty  
12 significant ebbside project. It's a 450 unit hotel  
13 and 270 unit multi-family and, again, it's a mixed  
14 use project that is in line with the vision of the  
15 county.

16 So, yes, the county has adopted comprehensive  
17 plan amendments that do have the effect of  
18 potentially increasing that density and those plan  
19 amendments were reviewed by the state planning  
20 agency and were approved.

21 MS. FRIED: Thank you.

22 ATTORNEY GENERAL MOODY: I have a question.

23 GOVERNOR DESANTIS: Yes.

24 ATTORNEY GENERAL MOODY: I agree. I think  
25 that the judge misinterpreted the law here. You

1 submit that the county and the property owners came  
2 to some sort of agreement on how you would mitigate  
3 any additional risk from this amendment and can you  
4 tell the Cabinet a little bit more about that?

5 MS. SWINDLE: Absolutely. So this case is a  
6 little strange because ultimately the approval was  
7 secured through a mediated settlement agreement.  
8 The property owners in this question had filed a  
9 70.51 action, so there was a mediated settlement  
10 agreement between the county and the property owner  
11 and part of that settlement agreement required a  
12 binding agreement that the property owner would  
13 mitigate the impacts of the development.

14 Now, we don't know exactly what those impacts  
15 will be until a development order is actually  
16 sought. Then we will know exactly what's being  
17 built and we can measure the amount of that  
18 mitigation, and the mitigation would come in the  
19 form of either the donation of land, the  
20 construction of shelter space or a payment of a fee  
21 in lieu of so that the county could take those  
22 actions.

23 And just as a side point, the project would  
24 also require the payment of pretty substantial  
25 impact fees that would help with necessary

1 infrastructure improvements that would hopefully  
2 eventually improve those evacuation times.

3 ATTORNEY GENERAL MOODY: And I do hear the  
4 concern and the understanding that we've got to  
5 make sure that there are shelters in place and that  
6 we can -- and provide protection, but the statute  
7 in terms of only requiring mitigation that doesn't  
8 exceed the amount required for a developer to  
9 accommodate the impacts reasonably attributed to  
10 the development, I think that's pretty clear.

11 When I read that, though, and then I look at  
12 the order from the ALJ, the ALJ says the proposed  
13 plan amendment should remedy the county's existing  
14 deficiencies. She also states in her recommended  
15 order, however, that the statute does not require  
16 the developer to build shelters, make  
17 transportation improvements, contribute land or  
18 make payments to reduce the county's existing  
19 deficit concerning evacuation time or shelter  
20 space. How do you suggest we reconcile those two  
21 seemingly counter-statements by the ALJ?

22 MS. SWINDLE: I agree that the ALJ's  
23 recommended order was confusing, particularly when  
24 it came to that interpretation of that section.

25 So my reading of Subparagraph 3 is very

1 simple. Subparagraph 3 provides that a developer  
2 can mitigate if options 1 or 2 can't be satisfied.  
3 The second sentence of Subparagraph 3 tells you  
4 what form the mitigation can come in, payment, land  
5 donation, et cetera. The third sentence, most  
6 importantly, caps the amount that we can require  
7 from the developer at the amount reasonably  
8 attributable to the impact.

9       So again, I don't know what the number -- what  
10 the amount is that would bring the county from a  
11 96 hour evacuation time down to 16, but whatever  
12 that number is, we could come up with it, but the  
13 statute then caps that amount at whatever's  
14 reasonably attributable to the development, so to  
15 me, that's the reasonable reading of that statute.

16       MS. FRIED: I just have one follow-up. So you  
17 said it's 96 hours now for evacuation. Has there  
18 been an assessment of how much more time will be  
19 added to that before this project was built?

20       MS. SWINDLE: There was, actually. In the  
21 DOAH hearing, there was quite a bit of discussion  
22 of it. It's in the seconds. It's like a number of  
23 seconds that it would change, and one of the  
24 arguments that we did make is that, and  
25 particularly the property owner made is that impact



1 is so de minimus, that perhaps the mitigation  
2 wouldn't even be required, and there's other  
3 administrative commission cases that kind of go  
4 along with that.

5 GOVERNOR DESANTIS: Okay. Anybody else have  
6 any questions? Do we have any questions for any of  
7 the other counsel?

8 MR. BUCKLES: Okay. We set aside a little  
9 time for public comment if anyone wants to speak.

10 GOVERNOR DESANTIS: All right. Does the  
11 Cabinet have anything to say?

12 ATTORNEY GENERAL MOODY: I would just follow  
13 up on that last statement by the county. If you're  
14 looking at times like that with your existing  
15 issues and evacuation, you're going to need to  
16 mitigate. That's not a question. So that last  
17 statement, I don't think anyone in this room would  
18 believe to be true.

19 MS. FRIED: And I just want to add, too, like  
20 obviously, you know, this statute was put into  
21 place for a specific reason and that was to make  
22 sure that people are able to evacuate during a  
23 Cat 5 and so I think that for any of our counties  
24 that are looking at development on these coastal  
25 communities, we have to do some serious work

1     because if we're spending 96 hours trying to  
2     evacuate at a Cat 5, that is a -- that is putting  
3     life in danger for sure and, obviously, this  
4     statute was put in place in 2006 to try to mitigate  
5     some of that and for the counties that are on the  
6     coastal communities to start looking at  
7     comprehensive plans of how to get to, eventually  
8     get down to that 16 hours.

9             But I also do not believe that the ALJ was in  
10     the right in her interpretation of the statute.

11            MR. BUCKLES: Okay. If you're ready, we can  
12     proceed to the voting. There are three options.  
13     The commission could adopt, by majority vote, an  
14     alternative final order with substituted findings  
15     of fact and conclusions of law which would find the  
16     plan amendment to be in compliance with Chapter  
17     163. An option like the next one would direct  
18     staff to draft a circulated final order consistent  
19     with the vote to present the order for  
20     consideration at the next meeting.

21            Next, the commission could adopt, by majority  
22     vote, the ALJ's recommended order which would  
23     affirm the ALJ's recommendation that it's not in  
24     compliance and direct the county to rescind the  
25     amendments and specify remedial actions.

1           Lastly, the commission could take the case  
2           under advisement. So I turn it over to the  
3           commission.

4           GOVERNOR DESANTIS: Great. So I think what  
5           the county has argued is reasonable and I think  
6           we're just supposed to side with that in terms of  
7           an interpretation of law. I think that's how we're  
8           supposed to do it. I think petitioners, while, you  
9           know, actually did a good job, that doesn't seem to  
10          be how this law has been interpreted in Florida,  
11          you know, up to this point and so I will vote for  
12          option 1. Any seconds on that?

13          MR. PATRONIS: Second.

14          ATTORNEY GENERAL MOODY: Second.

15          MS. FRIED: And I agree and I think that on  
16          that, Governor, that this was a misinterpretation  
17          and could potentially that if we upheld the ALJ's  
18          ruling, that this would be a very bad precedence  
19          for any future development on the coastal  
20          communities and I don't think that's appropriate.

21          GOVERNOR DESANTIS: Okay. So that is -- that  
22          is motion carries.

23          Item 3:

24          GOVERNOR DESANTIS: And then we have the next  
25          case.

1           MR. BUCKLES: Yes. We have Item 3. This is  
2   Administration Commission Case Number 22-001.  
3   Today the commission has before it the recommended  
4   order in the case of Robin Cartwright versus City  
5   of Stuart, Florida. This is a challenge to the  
6   City of Stuart's Comprehensive Plan Future Land Use  
7   Map Amendment adopted by Ordinance 2466-2021. The  
8   amendment in question amends comprehensive plan --  
9   the plan by amending an existing future land use to  
10   a 49 acre parcel located at 3172 South Kanner  
11   Highway in the City of Stuart.

12           The purpose of today's agenda item is for the  
13   commission to consider the ALJ's recommended order,  
14   the parties' arguments and public comment and then  
15   to discuss and potentially vote on final action.

16           After voting, the commission may vote on a  
17   motion to direct the staff to draft and circulate a  
18   final order to your offices consistent with the  
19   vote and present it at the next meeting for  
20   adoption, if that's what you decide to do. The  
21   commission is not being asked to pass judgment on  
22   any policy merits of the plan amendment.

23           The petitioners in the case are represented by  
24   Richard Grosso and Shay Ozeri. The respondent is  
25   represented by Michael Mortell.

1 Same standard applies. It's the fairly  
2 debatable standard. As to findings of fact, the  
3 commission should reject or modify the ALJ's  
4 findings of fact if it determines that they are not  
5 based competent substantial evidence or the  
6 proceedings did not comply with the essential  
7 requirements of law.

8 The parties will address the conclusions of  
9 law and the findings of fact. The city filed 36  
10 exceptions to paragraphs in the recommended order  
11 and the petitioner filed a response. Proposed  
12 orders were submitted by both parties.

13 We'll follow the same format. It will be 10  
14 minutes of argument, 2 minutes of rebuttal, time  
15 for Q&A and public comment, and I would ask the  
16 presenters to please limit your comments to the  
17 evidence in the record. First, we have the city.

18 MR. MORTELL: Good morning, Governor and  
19 Cabinet and I want to thank you for taking the time  
20 to consider our matter today. I know you have a  
21 lot of pending issues. My name is Mike Mortell and  
22 I'm proud to represent the city of Stuart before  
23 you today.

24 The matter that we have before you is a brief  
25 history as related to an approximately 49 acre

1 parcel on what's known as Kanner Highway in Stuart,  
2 Florida. To the west is a six-lane highway named  
3 Kanner Highway. To the east is a four-lane  
4 boulevard called Willoughby Boulevard, and on the  
5 south end of the parcel and just adjacent to it is  
6 an Indian Street which is another thoroughfare in  
7 the community.

8         Directly next door to the parcel is a  
9 multi-family apartment complex. Adjacent to that  
10 other side of the property is a nursery and then a  
11 high school. Across the street are government  
12 buildings and commercial offices, as well as a  
13 water park. Across Kanner Highway is a mobile home  
14 development, as well as a four-story apartment  
15 complex known as Bridgeview.

16         In this particular incident -- matter, Florida  
17 Department of Transportation had recently widened  
18 Kanner Highway to a six-lane thoroughfare to lead  
19 directly to I-95 from our community.

20         The matter before you is, again, under the  
21 fairly debatable standard and that comes up a lot  
22 and we talk about fairly debatable and I think  
23 everybody knows what fairly debatable is, but if  
24 you look it up, fairly debatable says that it's any  
25 decision that is subject to controversy or

1 contention or merely open to disputes and questions  
2 is, by its nature, fairly debatable.

3 The question before the board today is did the  
4 city commission rule in a fairly debatable manner.  
5 Was their ruling open to debate or was it just so  
6 arbitrarily off base, that they were wrong, but  
7 what actually happened at the ALJ level is the  
8 administrative law judge, instead of reviewing the  
9 case from a standard of what did the commissioners  
10 do, she took it upon herself to treat the case as  
11 an initial proceeding and she heard the case  
12 herself and based it on her interpretation of the  
13 facts and evidence as it was presented to her  
14 rather than considering what happened before the  
15 commission which, for the record, was two  
16 eight-hour specially set marathon meetings to  
17 uncover every possible public comment, every  
18 possible rendition opinion or otherwise.

19 The evidence also showed that the petitioner  
20 here today presented her own expert consultant that  
21 prepared a report and submitted it to the city  
22 commission and they took it into consideration  
23 during the initial proceeding and included a  
24 whereas clause in the adopting ordinance addressing  
25 issues that were raised by her expert as well, but

1 the ALJ's recommended order says that the city  
2 didn't provide written findings, when in reality,  
3 the city didn't have to provide written findings,  
4 but -- or written -- didn't do its own written  
5 evaluation of the land.

6 The commission's job wasn't to do the written  
7 evaluation. It was to take that information into  
8 consideration and they considered the petitioner's  
9 report, they considered the landowner's report and  
10 they hired their own company, Kimley-Horn, to do a  
11 review and analysis as well, but the ALJ ruled  
12 based upon just what she wanted to have happen to  
13 the land rather than deciding did this commission  
14 have a fairly debatable conclusion.

15 In this matter, the property was annexed into  
16 the city of Stuart and needed to be assigned a  
17 future land use. It wasn't a situation where we  
18 were changing a future land use from one to  
19 another. It has no future land use at all, so no  
20 matter what, the commission has to give it a future  
21 land use. Its prior future land use was a county  
22 land use that is not in the city's comprehensive  
23 plan, so without the assignment of a future land  
24 use, it gets no future land use which, in and of  
25 itself, violates the comp plan.



1           So the city adopted this ordinance  
2     concurrently, approving the amended future land use  
3     and also doing a rezoning and master site plan.  
4     What happened during the ALJ proceeding was the  
5     petitioner was essentially objecting to the master  
6     site plan and rezoning and was saying that, well,  
7     we're going to do this because it was done at the  
8     same time.

9           Multiple times during the hearing, though, I  
10    objected and the ALJ judge ruled and said, yes, she  
11    agreed with my objection and, in fact, that she  
12    could separate the issues and that they would be  
13    different and that she was only here on the future  
14    land use and that the other issues were not  
15    admissible, at which time the petitioner's counsel  
16    offered to proffer, but a proffer by its own  
17    concept is inadmissible evidence. It's not a basis  
18    for a decision because otherwise, you could  
19    circumvent any objection because every time someone  
20    overrule -- or ruled on an objection, just say,  
21    well, I just want to proffer, and you could just  
22    put anything you want into a record and it would be  
23    admissible.

24           In this case, the petitioner says that it's  
25    okay that they submitted the proffer as their

1 proposed order and that the judge adopted evidence  
2 from the proffer that she had ruled inadmissible,  
3 but it -- but it isn't okay. A proffer is, by its  
4 own nature, inadmissible evidence and Florida  
5 Statute 120.6A says that the decision should be  
6 reversed if there's -- if it's based upon  
7 inadmissible evidence or an unfair proceeding and  
8 to allow this proceeding to go forward and be based  
9 on proffered evidence, in and of itself, is a basis  
10 for reversal because it's inadmissible evidence by  
11 its very nature and it's unfair because, because it  
12 was a proffer, the city didn't offer any additional  
13 evidence. It had already been ruled that this  
14 evidence was not admissible to a future land use  
15 and that it went to the development and zoning  
16 side.

17       There was a significant amount of testimony  
18 regarding the character of the undeveloped land,  
19 and the city of Stuart's development director  
20 testified at length about the evaluation that was  
21 done for the character, as did third party  
22 consultants, as did the environmental reviews.

23       The commission then adopted a whereas clause  
24 and said the commission considered and determined  
25 that the wetlands existing on the property have

1     been highly disturbed and that the invasive, exotic  
2     and nuisance vegetation have reduced the quality of  
3     the wetlands and that the wetlands and water  
4     surfaces are scattered throughout the property,  
5     thereby limiting avoidance and minimization of  
6     impacts to the wetlands.

7             The reason for pointing that out to you is  
8     that the commission demonstrated it's a fairly  
9     debatable standard, demonstrated that they took  
10    this information into consideration and added those  
11    whereas clause after hearing the petitioner's  
12    expert, but the ALJ ruling says that the commission  
13    didn't hear any of this stuff and treated the  
14    ALJ's -- or the petitioner's expert to be new  
15    information during the ALJ proceeding and adopted  
16    it and she literally chose experts. She picked  
17    this one over the other three that were presented  
18    during the hearing.

19            What the city commission did was took all of  
20    their information and put it into the entire future  
21    land use and considered all of it and made  
22    considerations for all of the information. The  
23    ALJ's mistake was that she didn't do that. She  
24    selected which one she wanted and discarded the  
25    others and essentially placed herself as a city

1 commissioner, and instead of letting this be a  
2 local decision made by the commission, she turned  
3 it into a decision that would be made by the ALJ  
4 judge rather than looking at it and saying could  
5 the commission have fairly debatable discussions  
6 regarding what happened here.

7         Moving forward, she improperly expanded the  
8 scope of the proceedings as well because on three  
9 different occasions, testimony started going into  
10 the development and site plan approval, and I  
11 objected to it, and the ALJ judge found that she  
12 could distinguish between the future land use  
13 evaluation and the site plan approval evaluation,  
14 and told the other side we're only going to do  
15 future land use and that's we'll go into the  
16 proffer area, but when she did her ruling, she had  
17 many, many of her findings discussed the  
18 development side and discussed the proffered  
19 testimony and discussed the part that she already  
20 ruled was not part of the proceeding.

21         Moving forward, there are two ways of  
22 addressing it. You have a future land use that  
23 ends up in an administrative law review and you  
24 have the development side that has a circuit court  
25 path for review. She expanded the scope of the

1 proceeding and made it so that the administrative  
2 law judge is not only doing a full review but is  
3 also not treating it as just a presumption that the  
4 original panel was correct, but instead it's just  
5 starting from scratch and having its own initial  
6 hearing on the proceedings.

7       The scope of this proceeding allows any  
8 affected person to file a petition and challenge  
9 whether the plan or plan amendments are in  
10 compliance. The plan amendment or this future land  
11 use stands alone. It was a future land use that  
12 could be designated to this land with or without  
13 the master site plan. Yes, it was done at the same  
14 time, but that was just as a matter of convenience,  
15 but if the master site plan didn't get developed,  
16 the future land use stands alone and isn't -- isn't  
17 separated or doesn't depend on the development side  
18 of it, but in this particular case, despite her  
19 initial corrective evidentiary rulings, in the  
20 recommended order, she considered and relied on the  
21 evidence and testimony regarding wetland  
22 preservation and other natural habitat issues that  
23 were directly related to where roads were going to  
24 go, where parking lots were going to go and things  
25 of that nature, which are clearly related to the

1 future land use.

2 And I'm out of time and I just want to, in  
3 closing, just say that the limitation of this  
4 matter should be just limited to the future land  
5 use and the judge should be looking at it as a  
6 fairly debatable standard and not as her decision.  
7 Thank you.

8 GOVERNOR DESANTIS: Thank you.

9 MR. GROSSO: Morning, Governor, members of the  
10 Cabinet. I'm Richard Grosso, representing Ms.  
11 Robin Cartwright.

12 It's frustrating, quite frankly, that we have  
13 to come before you on a case like this as if the  
14 statute didn't exist. Pretty much everything you  
15 were just told is complete misconception of what  
16 this law and this process and this case was all  
17 about. These complaints that the law judge decided  
18 which expert to believe, that's how it works. This  
19 law is about when people go before city councils  
20 and they make their arguments and presentations and  
21 then they make decisions under this law, it  
22 provides for a formal administrative hearing where  
23 you separate fact from fiction, where people who  
24 made claims before in front of city councils have  
25 to actually testify in front of a law judge and she

1 decides who's credible, who's not, who has the  
2 evidence, who doesn't, like a trial judge does.  
3 Your control here is as an appellate court. You're  
4 bound by the findings of fact unless there's no  
5 evidence whatsoever that supports them.

6 Here's what happened in the case. We went to  
7 trial. We put on an environmental expert. We put  
8 on a planning expert. The city put on one expert,  
9 a planner with no environmental credentials  
10 whatsoever. The case involved, the biggest primary  
11 issue was, was this land suitable for this really  
12 intensive development, that's based on its natural  
13 character.

14 We put on an environmental witness, very  
15 experienced in this part of the state, who  
16 testified and had a report. No, it is not, not at  
17 all. It's high quality important habitat. And the  
18 study that the city relied on before when it voted  
19 to approve this, is horrible, not professionally  
20 accepted, doesn't even meet basic professional  
21 standards.

22 The person who did that study never showed up  
23 in court. The applicant for this project never  
24 showed up in court. The only evidence -- she  
25 didn't pick between contrary evidence. There was

1     only one set of evidence on the environmental  
2     character of this property, our expert, our report.  
3     She said it was credible. She said it was right.  
4     There was no contrary evidence whatsoever. There's  
5     no evidence anywhere in the record to support a  
6     claim that this property is suitable for this  
7     intensive massive development, nowhere, not a  
8     shred. There's no way that can be overturned at  
9     this point.

10           On planning issues, our planner testified that  
11     the basic requirements, the most fundamental  
12     requirements of this law were violated by this --  
13     of this proposed land use amendment. The contrary  
14     opinions by the city's planner were either found  
15     explicitly not credible by our law judge or  
16     completely contrary to this statute.

17           This idea that law judges, when they do their  
18     jobs and they decide who's credible and who's not  
19     and what the facts are and who's not, this idea, I  
20     keep hearing now these cases, the law judges making  
21     policy, she's usurping the role of -- that's what  
22     she does. It's a trial. The judge's -- that's not  
23     even a question. That's not a fairly debatable  
24     point of law. It's not a fair debate. A city  
25     can't come and argue the facts were fairly



1 debatable because we disputed the petitioner's  
2 version of the facts. That's not what the law is.

3 Fairly debatable is that once the facts are  
4 set and the law judge sets them, then you say, as a  
5 matter of law, is it a fair debate that it was an  
6 accurate decision? And here's why it's not.

7 The key issue in this case was suitability.  
8 The most important thing a land use plan does is  
9 base how much stuff you can do on every piece of  
10 land based on its basic suitability. And council  
11 for the city talked about what was near it and  
12 there's highway, et cetera, but this was about  
13 what's on the property itself, the habitat value.  
14 It's the most fundamental land use element  
15 requirement in this law.

16 The city, in its pre-hearing stipulation,  
17 said, we don't think we have to comply with that.  
18 The city's planner testified, we didn't do that.  
19 We think that's stuff for environmental permits, so  
20 we simply didn't review the natural character. We  
21 didn't make that -- have anything to do with our  
22 land use choice. It's not fairly debatable.  
23 That's an absolute clear ruling that this forum,  
24 the administration commission has upheld lots of  
25 times over the years. You cannot do that. There's

1 no fair debate they didn't do it. There's no fair  
2 debate the law requires them to do it. They can't  
3 win on that issue.

4 That issue alone, this issue, this secondary  
5 issue, the city comes and says, well, the law judge  
6 also made some side findings that there's these  
7 specific habitat preservation requirements in the  
8 city's own plan that it violated. Now, she was  
9 right about that, too. The city came and  
10 adopted -- was unusual the way they did it, but  
11 they adopted in one ordinance, the plan amendment,  
12 the rezoning and the site plan, and now they've  
13 spent the entire time since then pretending that  
14 didn't happen and arguing, oh, you should ignore  
15 the fact that we approved the development that  
16 obliterated all the habitat, preserved none of it,  
17 even though our own plan requires certain  
18 preservations. They're asking you to ignore that.  
19 They asked the law judge to ignore it.

20 She said there's pretty clear precedent on  
21 this. Payne versus City of Miami, Third District  
22 Court of Appeal. You can't do that. When the  
23 whole part and parcel travels together, you handled  
24 it that way, city. You adopted it that way. You  
25 can't pretend, when we go to hearing, you didn't do

1 it. You can't pretend that's not part of what you  
2 adopted, why you were adopting this land use  
3 amendment.

4 Now, let me be clear. Even if the city were  
5 right about this, they were prejudiced, the law  
6 judge reversed herself, they can't win because the  
7 basic statutory requirement suitability of the land  
8 they admit they didn't do.

9 But even on that issue, that's not how it went  
10 down in this case. We raise the issue. The city  
11 had an environmental consultant as a potential  
12 expert it listed. We were early into the case and  
13 the law judge agreed with Mr. Mortell and said,  
14 Mr. Grosso, I'm going to go with him on that. I  
15 don't think you can get into the details of the  
16 site plan.

17 About an hour later, she said, you know, I'm  
18 thinking maybe I was wrong about that because  
19 there's this case out there that says I should look  
20 at it. I want you to brief that case and argue it  
21 to me after lunch, and we did. And she said, okay,  
22 here's what I'm going to do. Proffer the evidence.  
23 The city can cross examine. The city can put on  
24 its environmental witness, can speak directly to  
25 that issue, can cross examine your witnesses. For

1     whatever reason, the city didn't cross our  
2     witnesses on that, didn't ask its environmental  
3     consultant to testify, didn't testify at all,  
4     completely did not take the opportunity the law  
5     judge gave to present that contrary evidence and  
6     she said, put in -- put in all your evidence,  
7     people, and you argue to me in your proposed  
8     orders, then I'll rule, and that's exactly what  
9     happened, and she ruled correctly. The law  
10    required her to look at that stuff. Again, even if  
11    they were right on this, they still lose the case.

12           But I want to make it clear. The city was not  
13    blindsided about this issue whatsoever. It chose,  
14    for whatever reason, not to have the environmental  
15    consultant for the project testify to defend his  
16    study, which the law judge found based on our guy's  
17    testimony, the only guy who testified, was not a  
18    professionally acceptable study.

19           That's how administrative hearings work.  
20    That's how facts are found. It is incredibly  
21    frustrating for cities to come up here and say  
22    fairly debatable means whatever our majority  
23    commission voted for, you have to agree with  
24    because there was debate, but that's not how it  
25    works. Why would we have trials? Why would a

1 citizen like Robin Cartwright have to go through  
2 the hassle, the expense, the stress of going to an  
3 administrative hearing if the fidelity of that  
4 process was just wiped away because everything is a  
5 policy decision? What's the nature of the  
6 property? How intense is the development?  
7 Everything's a policy decision, that argument goes.  
8 It's not. The facts on the ground are the facts on  
9 the ground based on a trial and we won the trial  
10 and they didn't even put up a fight on those  
11 issues.

12 And I think you're even going to hear from  
13 people in the public hearing. They're going to  
14 come and say all these things that aren't part of  
15 the record, that have nothing to do with the trial  
16 record and ask you to approve it anyway because  
17 they want the project, but think about the fidelity  
18 to this process, the mockery of the administrative  
19 hearing process that happens if these kinds of  
20 votes take place, you go to hearing and you win.  
21 In fact, the other side hardly puts up a fight.  
22 They only put up one -- no environmental witness.  
23 We won on the environmental issues. How can you  
24 then over turn that based on a fairly debatable?  
25 Because it's a policy issue. It's not policy.

1 It's fact.

2 A couple of other points that I would want to  
3 make. The maximum build-out. There's a second  
4 issue the law judge again, based on the admissions  
5 of the city's own planner, the law clearly requires  
6 if you're adopting a land use map change that  
7 allows all this stuff, you have to analyze, what if  
8 all that actually happened, what would be the  
9 traffic, what would be the environmental impact, et  
10 cetera, and we argued they didn't do that on this  
11 case. They only considered one of many development  
12 options this land use map change would allow and  
13 our evidence was their own admissions, their own  
14 traffic study. They admitted it was only based on  
15 this one particular project, not based on more  
16 intensive projects they could do. It's not  
17 debate -- that's a -- that's a fact in the record.  
18 It's undisputed. They admitted it. They didn't do  
19 the maximum intensity analysis or what was allowed  
20 by this future land use map category. That's not a  
21 fair debate. The law requires that. They admitted  
22 they didn't do it. No, I don't think they admit  
23 that didn't do it. Their pleadings to you said  
24 they did, but the testimony of the one person they  
25 put on the stand acknowledged they didn't. Their

1 own traffic study said, we're only looking at this  
2 one project. I don't know how -- you can't change  
3 those facts. That's what the record, the clear  
4 evidence of this case was all about. And, you  
5 know, the city made -- thank you.

6 What I'd like to do, I'd like my client Ms.  
7 Cartwright to come on up and make a few words from  
8 the heart as a resident who's been through this  
9 fight. The final thing I will say is this not a  
10 compliance. It's not fairly debatable. You should  
11 uphold the law judge's recommended order as your  
12 own final order, obliterate the final -- the future  
13 land use map change, and if the city wants to try  
14 again, then it has to do so in a manner that's  
15 consistent with the natural character of this land  
16 based on actual evidence. Thank you very much.

17 MS. CARTWRIGHT: Good morning. Thank you for  
18 hearing me. Over the last -- Robin Cartwright, by  
19 the way. Over the last four years, the city of  
20 Stuart has approved a number of ordinances that  
21 have combined a future land use map, zoning and  
22 site maps. This particular ordinance before you  
23 happens to be the most egregious and obvious  
24 violation of the city's own comp plan and state  
25 statute. As a reminder, they approved the land

1 use, the site map, and the zoning altogether.

2 We've been concerned about this specific project  
3 starting in 2019, even though the developer pulled  
4 the original application.

5 We've incurred costs in the tens of thousands  
6 of dollars, and I say we because this effort has  
7 not been funded just by me. There's many in the  
8 community who wanted to make sure that we had our  
9 day in court. We finally had a chance to be heard  
10 by a neutral administrative law judge so she could  
11 see the claims made by the city and developer for  
12 what they truly were and she was able to separate  
13 fact from fiction.

14 The applicant, developer, environmental  
15 consultant and land planner didn't participate at  
16 all in the DOAH hearing. They provided no experts,  
17 but they are here today and I would venture to say  
18 that everyone here with the city today has a  
19 relationship to or a financial interest in this  
20 project, but even if they participated, it would  
21 not have changed the outcome of the case.

22 The ALJ agreed with us on every point. It's  
23 beyond frustrating that the city keeps fighting us,  
24 members of the community, and here they are now  
25 trying to get another bite at the apple. The ALJ



1 was very clear. What the city approved was not  
2 supported by its own comp plan nor by state  
3 statute.

4 I am here on behalf of so many in our little  
5 town that you affirm the ALJ's recommendation and  
6 her finding of fact. Thank you.

7 MR. BUCKLES: Okay. Rebuttal, the city.

8 MR. MORTELL: First, I want to say that I'm  
9 here on behalf of the city. Nobody's here with me  
10 and the reason we're here is not for financial  
11 purposes. It's to follow the law and the  
12 proceedings.

13 And Mr. Grosso talked about this hearing,  
14 about what was admissible. I didn't introduce  
15 additional evidence because the judge ruled it  
16 inadmissible. What the judge ruled was, I have to  
17 agree with Mr. Mortell, council for the city. I've  
18 done a few of these now where changing zoning and  
19 proposed site plan or a master plan was part of the  
20 same ordinance as a future land use map change, and  
21 I am not authorized to opine or to make findings of  
22 fact on whether a change in zoning or whether a  
23 site plan map was approved is authorized or  
24 approved or consistent with the city's comp plan.  
25 That is a whole different proceeding that, as Mr.

1 Mortell has pointed out, can be brought in circuit  
2 court, or if brought before me, there's a process  
3 in 163 which is not the proceeding we're in today.  
4 I understand that there are some arguments about  
5 the fact that there's been an approved development  
6 or an approved site plan and this is what might be  
7 expected to be on the property, but I have to not  
8 even think about that or look at that, and that's  
9 why I didn't introduce additional site plan.

10 When they talk about things being obliterated,  
11 this was a site plan -- or a future land use  
12 approval, no development approval. This is just  
13 the future land use, so the obliteration is a  
14 continuation of this exact misdirection that's  
15 taking place.

16 Florida Statute 120.687B and C says that a  
17 challenge of an agency action needs to be reversed  
18 if it depends on any finding of fact that is not  
19 supported by competent substantial evidence. I'll  
20 say that again. Any finding of fact that's not  
21 supported by that evidence. They admit that the  
22 order is based upon the proffered evidence.  
23 Proffered evidence is for appellate purposes. It  
24 is not for cross examination. In itself, that is  
25 not supported competent evidence.

1           And C is it needs to be reversed if the  
2    fairness of the proceeding or the correctness to  
3    the action may have been impaired by immaterial  
4    error and procedure or a failure to follow  
5    prescribed procedure.

6           When I was told this stuff was not admissible  
7    by the judge's ruling, and I didn't put the  
8    evidence on because it wasn't admissible, and then  
9    the judge punished the city for not -- for  
10   following her ruling and the other side gets to get  
11   up before you and say that we somehow failed the  
12   system because we followed the law, that is a  
13   material unfairness on the city of Stuart. There  
14   should not have been any of this proffered evidence  
15   in the record, it should not have been used for the  
16   final order and it shouldn't be a circumstance  
17   where we come, litigate rulings that have already  
18   been ruled by the judge to be inadmissible.

19          And I thank you for your time and  
20   consideration.

21          MR. GROSSO: That quote was early on in the  
22   case. She reversed herself while we were still  
23   putting on our case. Told Mr. Mortell cross  
24   examine those witnesses on that issue, bring your  
25   own witnesses that you've listed on your

1 pre-hearing stipulation on that issue, right.

2 There's no unfairness. That's a real misconception  
3 about what happened in this case. Even if somehow  
4 you were still to agree with that ruling, there's  
5 the other two totally independent reasons why this  
6 final order is correct. Even if that were right,  
7 and it ain't, this final order has to uphold the  
8 recommended order. It does not change the outcome  
9 of the case. The facts are clear. The law is very  
10 clear. There was no miscarriage of justice. There  
11 was no violation of procedure at all. There was no  
12 blindside. That's all I have to say about that.

13 Thank you very much.

14 MR. BUCKLES: Okay. We have time for Q&A if  
15 you have direct questions for the attorneys.

16 GOVERNOR DESANTIS: Anybody?

17 ATTORNEY GENERAL MOODY: So the petitioner  
18 would argue that this Payne case allowed for all of  
19 this other evidence that might relate to site plan  
20 or zoning to come in and be considered for this  
21 plan amendment. What is your position on that?

22 MR. MORTELL: First, the Payne case itself was  
23 ruled on in 2010 which was before a 2011 change to  
24 the statute and a 2019 change, but if, in fact, the  
25 judge had ruled at the trial, Mr. Mortell, the city

1 combined these two things and they're so  
2 intertwined and so independent on each other, that  
3 we have to go forward and consider them, it would  
4 have changed the evidence presentation, but the  
5 Payne case was totally different. The future land  
6 use and the zoning were both intertwined and  
7 dependent on each other and neither one could stand  
8 on its own.

9 But in this case, not once, not twice, but  
10 three times, the judge had colloquy with counsel  
11 and I about this issue and her final ruling is what  
12 I just read to you. I don't know where Mr.  
13 Grosso's saying she changed her ruling, but look at  
14 the transcripts. Her final ruling was, I can  
15 distinguish them and I am not authorized to even  
16 consider any of that other stuff. If she had said,  
17 hey, I can't distinguish it, it's too close,  
18 they're too tied together, it would have required  
19 me to put on different evidence, but she said to  
20 me, I can distinguish them, they are not  
21 admissible, do not put on any other evidence, and I  
22 relied on that. I relied on the judge's ruling,  
23 only to be punished later, essentially, and said,  
24 you know, now they can argue whatever they want  
25 because proffer means anything you object to, you

1 just -- in the future, just say, oh, I'll just  
2 proffer it because that makes it admissible, and  
3 that, in itself, it crucifies the rules of evidence  
4 and the entire statute.

5 ATTORNEY GENERAL MOODY: And we can debate  
6 whether or not that was a good step in the city  
7 hearing, all three of these things at one time. I  
8 would imagine that all cities and counties are  
9 going to start thinking about that in the future  
10 and what that causes as a result.

11 MR. MORTELL: Processes --

12 ATTORNEY GENERAL MOODY: But it doesn't change  
13 the fact that a judge, that the administrative law  
14 judge is limited in what they are considering  
15 because there is this circuit court process to deal  
16 with the other zoning site plan issues.

17 I have real concerns that by taking in all of  
18 that additional evidence and then relying on it, it  
19 went well outside the scope of what she was  
20 supposed to address. Now, there are ways to remedy  
21 that. We can refer it back to the AL judge -- ALJ  
22 or we can say that she made incorrect application  
23 of the law and -- and reversed the order, but I  
24 have a lot of concerns that a lot of information  
25 was considered that was way outside the limited

1 scope of this ALJ.

2 GOVERNOR DESANTIS: Any other questions for  
3 anybody or comments?

4 (No response.)

5 GOVERNOR DESANTIS: Okay. Thank you.

6 MR. MORTELL: Thank you very much.

7 MR. BUCKLES: We've noticed this for public  
8 comment. If anyone would like to speak for two  
9 minutes, come on up.

10 MR. MCDONALD: Governor, Cabinet, thank you  
11 for allowing me to speak today. My name is Troy  
12 McDonald and I'm the vice mayor of Stuart.

13 Last year, the Stuart city commission held two  
14 hearings on this matter, each lasting approximately  
15 eight hours each. During those hearings, I, along  
16 with my fellow commissioners, reviewed surveys,  
17 studies and data detailing the character of the  
18 undeveloped subject land to this action.

19 During deliberations, the city commission  
20 based on evidence provided by the intervenors,  
21 environmental expert, and at the following whereas  
22 clause, demonstrating our commitment to due  
23 process. Whereas, the commission heard testimony  
24 and received evidence during the hearing regarding  
25 threatened or endangered plant species, as well as

1 wading birds identified on the site, the commission  
2 found there was no evidence of any nesting  
3 regarding the birds but did include a condition  
4 that any threatened or endangered plant species  
5 must be protected, and where possible, incorporated  
6 into the landscaping pursuant to the city of  
7 Stuart's comprehensive plan.

8 At the conclusion of the hearing, I, along  
9 with four city commissioners, voted to assign the  
10 future land use of special neighborhood district.  
11 Assigning land use is a local legislative decision  
12 to be made by local elected officials, not an  
13 administrative law judge.

14 I came to Tallahassee today to request the  
15 administration commission follow the law and defer  
16 to locally elected officials where -- who are in  
17 the best position and familiar with the subject  
18 property.

19 Thank you very much and I very much appreciate  
20 all of your service to our state.

21 GOVERNOR DESANTIS: Okay.

22 MR. BUCKLES: All right. Looks like we have  
23 one other person for public comment. Come on up.

24 MR. RAYNES: Good morning, Governor, Cabinet  
25 members. For the record, my name is Bob Raynes.



1 I'm a lawyer with the Gunster law firm,  
2 specializing in the practice of land use law for  
3 the past 25 years and I have also had the privilege  
4 of representing the applicant throughout this  
5 process and I've been a resident of Martin County  
6 since 1988, and I believe that this matter never  
7 should have come before you today.

8 The petitioner argues that the land use  
9 amendment was not appropriate for the subject  
10 property, but her arguments are exclusively with  
11 respect to the site plan. Based on her arguments,  
12 Section 163.3215 is the appropriate forum for this,  
13 which is a challenge under the Florida statutes  
14 which allows an avenue for the facts of this case  
15 which is to provide a method for an aggrieved or an  
16 adversely affected party to appeal and challenge  
17 the consistency of a development order, not a land  
18 use order of matter that's before you today.

19 Appeals for zoning and site plan issues are  
20 exclusively reserved for the circuit courts of  
21 Florida rather than the DOAH and the administration  
22 commission, and although the administrative law  
23 judge in this case determined that the site plan  
24 issues were squarely outside her jurisdiction  
25 during the hearing, she made contrary findings in

1 her recommended order. We respectfully ask the  
2 commission to do what the administrative law judge  
3 did not do. Follow the law and exercise  
4 appropriate jurisdiction.

5 If the commission was to entertain the  
6 petition's arguments regarding site planning  
7 issues, it would open up a Pandora's box that could  
8 create a dangerous precedent of impermissibly  
9 expanding the scope of an ALJ's jurisdiction.

10 On behalf of the applicant, we would  
11 respectfully request that you reject the  
12 administrative law judge recommended order and find  
13 that the unanimously approved land use amendment by  
14 the city of Stuart be found in compliance.

15 We thank you for your time and consideration.

16 MR. BUCKLES: Okay. Anyone else? Anyone else  
17 want to speak?

18 MR. SMITH: Good evening. My name is Jimmy  
19 Smith. To the Governor and the panel, I'm the  
20 president of NAACP Local Branch 5085 Martin County.  
21 I'm a local citizen. I've been living there since  
22 1962. I've been in Martin County since it was dirt  
23 roads, that same property. I went to Martin County  
24 High School and represented most of the communities  
25 that there are people that's concerned about the

1 workforce and the land use that can be a benefit  
2 for that city. Our city is in crisis now. We are  
3 losing our workforce. We're losing people that  
4 have the opportunity from our community and all  
5 over the city of Stuart that need jobs.

6 There's so much that has been under-served  
7 communities, but I ask you today that you consider  
8 this. This land use can benefit people. You're  
9 the governor and you're the panel that represent  
10 the state of Florida. That saying, this is the  
11 greatest state that we could ever live in. We look  
12 up to you all as leadership.

13 Understand that those that don't have a voice,  
14 I'm here for their voice. I was hearing the young  
15 lady saying about representing the community. I'm  
16 going to tell you I represent the community of all  
17 race. There's all races here. I represent all  
18 race. No matter what, we stand for all people for  
19 the equal opportunity and we believe in the state  
20 of Florida. Everybody should have an equal  
21 opportunity for a better living.

22 This land use in there, I remember when I went  
23 to school at Martin County High, next to it. Oh,  
24 my gosh, the land there really needs a great use.  
25 And then from there, I remember the dirt road. We

1 walked to school down those same dirt roads and I  
2 seen the change of Martin County that, when we talk  
3 about traffic, I seen the change. I accept that.  
4 We need better -- we need better opportunity for  
5 the use of Martin County. Our city need better  
6 income so we can be able to have a nice city where  
7 our people can love to come and dine and live  
8 there.

9 So I listened to all this conversation back  
10 and forth, but I just ask you, the panel, to  
11 consider. Miss Nikki, I ask you, Mr. Ashley, Mr.  
12 Ron DeSantis, Mr. Jimmy, we got the same name, it's  
13 a good name, that when you are born and you are  
14 there, my mother helped raised her George -- I mean  
15 Jeb Bush and the Bushes, worked for here and  
16 flower(phonetic) for Secretary of Treasury of the  
17 United States, and I look all those things in  
18 Martin County and we look up to you, that you will  
19 provide and help support what we need and what we  
20 are asking for.

21 Thank you for your time. Governor, continue  
22 to lead us in the state and I appreciate all of you  
23 all for listening. Thanks.

24 GOVERNOR DESANTIS: Thank you. All right. Do  
25 we have anyone else?

1 MR. BUCKLES: Looks like we have one more.

2 MS. RICHARDS: Good morning, Governor and  
3 Cabinet members. First of all, I'd like to point  
4 out that Mr. Smith's comments were definitely about  
5 the site plan and about the proposed corporation  
6 that wants to be there.

7 My name is Linda K. Richards. I was one of  
8 the original intervenors at the city of Stuart.  
9 Mr. Mortell had mentioned some stuff about during  
10 the -- when the commission was looking at it, that  
11 it was Ms. Cartwright's expert, but it was really  
12 me as an intervenor with a group of very concerned  
13 citizens, that we hired our own environmental  
14 consultant and city planner to show that this piece  
15 of land, this 50 acres of land has ecological  
16 importance to where we are. There's upland scrubs  
17 where you can walk and you can see the gopher  
18 tortoise holes. You can see them. They're visual.  
19 You see the actual tortoise on this 17 acres of  
20 upland scrub.

21 There are seven acres of wetlands that are  
22 just going to be filled in. They like to say they  
23 are disturbed. The law, I believe, is that when  
24 you have disturbed wetlands, you're supposed to fix  
25 them. You're supposed to remove the exotics and

1 make these wetlands back to what they're supposed  
2 to be.

3 This land is also right next to our St. Lucie  
4 waterway. It's next to our high school.

5 I've gotten off of all my points here because  
6 I've listened to the comments.

7 The future land use of this land was supposed  
8 to be low density residential when it was in the --  
9 in the county. The city annexed it. It made an  
10 enclave because my property is considered in the  
11 county, though I can go across here and I'm in the  
12 city. We are surrounded by the city, yet we are in  
13 the county and we can't even vote for our city  
14 commissioners who are voting on these land uses.

15 The discrepancies and omissions that we've  
16 found in the environmental reports that were done  
17 were egregious. They didn't look during nesting  
18 season to see that we do have nesting wading birds  
19 in there. They ignored the protected plants and  
20 animals that live on this 50 acres and they did  
21 this in a one vote. They tied the land use to a  
22 site plan to a corporation, which has not been  
23 mentioned one here, but if you go back through the  
24 city, you will see that the corporation that they  
25 want to put there is what they pushed to get this

1 future land use through.

2 I'm asking you to please uphold the ALJ's  
3 findings and recommended order. Thank you.

4 MR. BUCKLES: Okay. Just a reminder, the  
5 commission should only consider the evidence in the  
6 record.

7 I'll give you the three options for voting now  
8 before your discussion. The commission could  
9 adopt, by majority vote, an alternative final order  
10 with substituted findings of fact and conclusions  
11 of law which would find the plan amendment to be in  
12 compliance with Chapter 163 of Florida Statutes.  
13 This option, like the next one, would direct staff  
14 to draft and circulate a final order consistent  
15 with the vote to present for consideration at the  
16 next meeting, if that's what you decide.

17 Number two, next, the commission could adopt,  
18 by majority vote, the ALJ's recommended order which  
19 would affirm the ALJ's recommendation that the  
20 amendment is not in compliance with Chapter 163 and  
21 direct the city to rescind the amendment and  
22 specify remedial actions to be taken.

23 And last, if you choose, you could defer this  
24 and consider it at a future meeting, take it under  
25 advisement. And I'll turn it over to the

1 commission.

2 GOVERNOR DESANTIS: Does anybody have anything  
3 to say for discussion?

4 ATTORNEY GENERAL MOODY: I'll kick it off. I  
5 would just say, you know, there's a -- there was  
6 very specific rule that the ALJ was meant to serve  
7 and that was to determine whether or not the  
8 proposed amendment was in compliance with the plan  
9 and whether or not it was supported by the data,  
10 and I think it's a big mistake when you start  
11 addressing a lot of things all at once which might  
12 have to be reviewed in different ways because what  
13 it does is it mucks up what we end up looking at  
14 and what the ALJ ends up looking up.

15 So our purpose here is to determine whether or  
16 not the ALJ order was correct and I believe because  
17 she made so many findings that were relevant, maybe  
18 to the site plan or the zoning issues, but took  
19 them into consideration in her order as it related  
20 just to whether the plan amendment was in  
21 compliance, I think that was incorrect. I think  
22 that was a misapplication of what she was supposed  
23 to do as an ALJ under the law and so we've gotta  
24 remedy that.

25 And I hear the concerns, some of the other



1 concerns that were presented today and I'm so  
2 inspired and appreciate people coming here and  
3 traveling to Tallahassee to talk about those things  
4 which, again, can and may be argued in zoning and  
5 site plan issues outside of this plan amendment,  
6 very limited scope of what we're addressing.

7       So I would submit and I would like to hear  
8 from you, Governor, and the other Cabinet members,  
9 your proposal to remedy what I believe was an order  
10 that went outside the bounds of that ALJ and it  
11 needs to only address whether the plan was in  
12 compliance, which I believe, based on evidence that  
13 was presented and should have been relied upon, it  
14 was, so we can either send it back to have the ALJ  
15 consider the limited amount of evidence that should  
16 have been considered and make a ruling and  
17 recommendation to us again or we can reverse. I  
18 think that if you narrow the scope of evidence  
19 considered, that we can find that it was in  
20 compliance.

21       GOVERNOR DESANTIS: Anybody else? So I -- my  
22 lawyers have some additional things they're just  
23 looking at on this, so I would move just to  
24 Option 3, take it under advisement. I appreciated  
25 the presentation. There's a couple of questions

1     that I had that they're going to run down for us  
2     and so I would move to take it under advisement and  
3     then we will render a decision at a later date.

4           MS. FRIED:   And I'm okay with that and I think  
5     I agree with the Attorney General that we need to  
6     make that if it goes back to the ALJ, that it's  
7     limited in scope of what actually she's allowed to.  
8     I mean she's allowed to do whatever she wants, but,  
9     you know, what -- we advise her on reviewing the  
10    things that needed to have been presented into this  
11    case and doesn't go outside the scope of it  
12    because, again, it sets very bad precedence if they  
13    continue to go outside the scope of what should be  
14    presented in reviewing the amendments.

15           GOVERNOR DESANTIS:   Okay.   So Option 3.

16           And that concludes today's hearing.   So  
17    thanks, everyone, for participating.

18           (Thereupon, the foregoing proceedings  
19    concluded at 11:44 a.m.)  
20  
21  
22  
23  
24  
25


COURT CERTIFICATE

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, ANGIE ADLER, Registered Professional  
Reporter, 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 10th day of October, 2022.

  
ANGIE ADLER, RPR

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